

## House Bill No. 5065

An act relating to corporate income tax; amending s. 220.03, F.S.; providing for the adoption of the 2008 version of the Internal Revenue Code; providing for exceptions to adoption; amending s. 220.13, F.S., relating to the determination of adjusted federal income; conforming provisions; amending ss. 220.241 and 220.33, F.S.; revising the due date for filing and paying estimated corporate income tax; authorizing the Department of Revenue to adopt rules; providing for retroactive application; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (n) of subsection (1), paragraph (c) of subsection (2), and subsection (3) of section 220.03, Florida Statutes, are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(n) “Internal Revenue Code” means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, 2008 ~~2007~~, except as provided in subsection (3).

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(c) Any term used in this code shall have the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on January 1, 2008 ~~2007~~. However, if subsection (3) is implemented, the meaning of any term shall be taken at the time the term is applied under this code.

(3) FUTURE FEDERAL AMENDMENTS.—

(a) On or after January 1, 1972, when expressly authorized by law, any amendment to the Internal Revenue Code shall be given effect under this code in such manner and for such periods as are prescribed in the Internal Revenue Code, to the same extent as if such amendment had been adopted by the Legislature of this state. However, any such amendment shall have effect under this code only to the extent that the amended provision of the Internal Revenue Code shall be taken into account in the computation of net income subject to tax hereunder.

(b)1. Section 102 of Pub. L. No. 110-185 amends s. 179(b) of the Internal Revenue Code of 1986, as amended, and provides temporary increases in the limitations of expensing specified depreciable business assets for tax years

beginning after December 31, 2007. The amount of such temporary increases may not be used in computing adjusted federal income for the purpose of determining corporate income tax liability in this state.

2. Section 103 of Pub. L. No. 110-185 amends s. 168(k) of the Internal Revenue Code of 1986, as amended, for specified property acquired after December 31, 2007, and before January 1, 2009. Section 103 provides an additional allowance equal to 50 percent of the adjusted basis of the qualified property entitled to a depreciation deduction by s. 167(a) for the taxable year in which such property is placed in service. The amount of such special depreciation allowances may not be used in computing adjusted federal income for the purpose of determining corporate income tax liability in this state.

3. It is the intent of the Legislature that ss. 102 and 103 of Pub. L. No. 110-185 be construed to disallow a deduction for bonus depreciation allowed under s. 168 of the Internal Revenue Code of 1986, as amended, in computing state net income. The applicable depreciation conventions and recovery periods shall be computed in the same manner as they are computed by the taxpayer in determining federal taxable income. As used in this chapter, the term “bonus depreciation” includes all amounts allowed as a special allowance under s. 168(k) of the Internal Revenue Code of 1986, as amended.

Section 2. Paragraph (a) of subsection (1) of section 220.13, Florida Statutes, is amended to read:

220.13 “Adjusted federal income” defined.—

(1) The term “adjusted federal income” means an amount equal to the taxpayer’s taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(a) Additions.—There shall be added to such taxable income:

1. The amount of any tax upon or measured by income, excluding taxes based on gross receipts or revenues, paid or accrued as a liability to the District of Columbia or any state of the United States which is deductible from gross income in the computation of taxable income for the taxable year.

2. The amount of interest which is excluded from taxable income under s. 103(a) of the Internal Revenue Code or any other federal law, less the associated expenses disallowed in the computation of taxable income under s. 265 of the Internal Revenue Code or any other law, excluding 60 percent of any amounts included in alternative minimum taxable income, as defined in s. 55(b)(2) of the Internal Revenue Code, if the taxpayer pays tax under s. 220.11(3).

3. In the case of a regulated investment company or real estate investment trust, an amount equal to the excess of the net long-term capital gain for the taxable year over the amount of the capital gain dividends attributable to the taxable year.

4. That portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under s. 220.181. This subparagraph shall expire on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act.

5. That portion of the ad valorem school taxes paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under s. 220.182. This subparagraph shall expire on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act.

6. The amount of emergency excise tax paid or accrued as a liability to this state under chapter 221 which tax is deductible from gross income in the computation of taxable income for the taxable year.

7. That portion of assessments to fund a guaranty association incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year.

8. In the case of a nonprofit corporation which holds a pari-mutuel permit and which is exempt from federal income tax as a farmers' cooperative, an amount equal to the excess of the gross income attributable to the pari-mutuel operations over the attributable expenses for the taxable year.

9. The amount taken as a credit for the taxable year under s. 220.1895.

10. Up to nine percent of the eligible basis of any designated project which is equal to the credit allowable for the taxable year under s. 220.185.

11. The amount taken as a credit for the taxable year under s. 220.187.

12. The amount taken as a credit for the taxable year under s. 220.192.

13. The amount taken as a credit for the taxable year under s. 220.193.

14. Any amount in excess of \$25,000 allowable as a deduction for federal income tax purposes under s. 179 of the Internal Revenue Code of 1986, as amended, for the taxable year.

15. Any amount allowable as a deduction for federal income tax purposes under s. 167 or s. 168 of the Internal Revenue Code of 1986, as amended, for the taxable year to the extent that such amount includes bonus depreciation allowable as deduction under s. 168(k).

Section 3. Effective January 1, 2009, section 220.241, Florida Statutes, is amended to read:

220.241 Declaration; time for filing.—A declaration of estimated tax under this code shall be filed ~~on or~~ before the 1st day of the 5th month of each taxable year, except that if the minimum tax requirement of s. 220.24(1) is first met:

(1) After the 3rd month and before the 6th month of the taxable year, the declaration shall be filed ~~on or~~ before the 1st day of the 7th month;

(2) After the 5th month and before the 9th month of the taxable year, the declaration shall be filed ~~on or~~ before the 1st day of the 10th month; or

(3) After the 8th month and before the 12th month of the taxable year, the declaration shall be filed for the taxable year ~~on or~~ before the 1st day of the succeeding taxable year.

Section 4. Effective January 1, 2009, subsections (1), (2), and (3) of section 220.33, Florida Statutes, are amended to read:

220.33 Payments of estimated tax.—A taxpayer required to file a declaration of estimated tax pursuant to s. 220.24 shall pay such estimated tax as follows:

(1) If the declaration is required to be filed ~~on or~~ before the 1st ~~first~~ day of the 5th ~~fifth~~ month of the taxable year, the estimated tax shall be paid in four equal installments. The first installment shall be paid at the time of the required filing of the declaration; the second and third installments shall be paid ~~on or~~ before the 1st day of the 7th month and before the 1st day of the 10th month ~~months~~ of the taxable year, respectively; and the fourth installment shall be paid ~~on or~~ before the 1st day of the next taxable year.

(2) If the declaration is required to be filed ~~on or~~ before the 1st ~~first~~ day of the 7th ~~seventh~~ month of the taxable year, the estimated tax shall be paid in three equal installments. The first installment shall be paid at the time of required filing of the declaration; the second installment shall be paid ~~on or~~ before the 1st day of the 10th month of the taxable year; and the third installment shall be paid ~~on or~~ before the 1st day of the next taxable year.

(3) If the declaration is required to be filed ~~on or~~ before the 1st day of the 10th month of the taxable year, the estimated tax shall be paid in two equal installments: at the time of required filing of the declaration for such taxable year and ~~on or~~ before the 1st day of the next taxable year, respectively.

Section 5. The Department of Revenue may adopt rules necessary to administer the provisions of this act, including rules, forms, and guidelines for computing, claiming, and adding back bonus depreciation under s. 168(k) and deductions under s. 179 of the Internal Revenue Code of 1986, as amended.

Section 6. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law and shall apply retroactively to January 1, 2008.

Approved by the Governor June 17, 2008.

Filed in Office Secretary of State June 17, 2008.