

Committee Substitute for Senate Bill No. 2504

An act relating to the corporate income tax; amending s. 220.03, F.S.; providing for the adoption of the 2009 version of the Internal Revenue Code; providing exceptions; amending s. 220.13, F.S.; revising the definition of the term “adjusted federal income” for purposes of specifying the treatment by this state of certain provisions dealing with depreciation and expensing of assets and deferral of income that are allowed for federal income tax purposes; authorizing the Department of Revenue to adopt rules; providing for retroactive operation; providing an effective date.

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

Section 1. Paragraph (n) of subsection (1) and paragraph (c) of subsection (2) 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, 2009 ~~January 1, 2008~~, 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, 2009 ~~January 1, 2008~~. However, if subsection (3) is implemented, the meaning of any term shall be taken at the time the term is applied under this code.

Section 2. Paragraph (e) of subsection (1) of section 220.13, Florida Statutes, as created by section 2 of chapter 2009-18, Laws of Florida, 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:

(e) Adjustments related to the Federal Economic Stimulus Act of 2008 and the American Recovery and Reinvestment Act of 2009. Taxpayers shall

be required to make the adjustments prescribed in this paragraph for Florida tax purposes in relation to certain tax benefits received pursuant to the Economic Stimulus Act of 2008 and the American Recovery and Reinvestment Act of 2009.

1. There shall be added to such taxable income an amount equal to 100 percent of any amount deducted for federal income tax purposes as bonus depreciation for the taxable year pursuant to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as amended by s. 103 of Pub. L. No. 110-185 and s. 1201 of Pub. L. No. 111-5, for property placed in service after December 31, 2007, and before January 1, 2010 2009. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income an amount equal to one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

2. There shall be added to such taxable income an amount equal to 100 percent of any amount in excess of \$128,000 deducted for federal income tax purposes for the taxable year pursuant to s. 179 of the Internal Revenue Code of 1986, as amended by s. 102 of Pub. L. No. 110-185 and s. 1202 of Pub. L. No. 111-5, for taxable years beginning after December 31, 2007, and before January 1, 2010 2009. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

3. There shall be added to such taxable income an amount equal to the amount of deferred income not included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There shall be subtracted from such taxable income an amount equal to the amount of deferred income included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5.

4.3. Subtractions available under this paragraph may be transferred to the surviving or acquiring entity following a merger or acquisition and used in the same manner and with the same limitations as specified by this paragraph.

5.4. The additions and subtractions specified in this paragraph are intended to adjust taxable income for Florida tax purposes, and, notwithstanding any other provision of this code, such additions and subtractions shall be permitted to change a taxpayer's net operating loss for Florida tax purposes.

Section 3. The Department of Revenue may adopt rules necessary to administer the provisions of this act.

Section 4. This act shall take effect upon becoming a law and shall operate retroactively to January 1, 2009.

Approved by the Governor June 16, 2009.

Filed in Office Secretary of State June 16, 2009.