

CHAPTER 2011-229

Committee Substitute for House Bill No. 7185

An act relating to the corporate income tax; amending s. 220.03, F.S.; providing for the adoption of the 2011 version of the Internal Revenue Code; amending s. 220.13, F.S.; specifying the treatment by this state of certain depreciation and expensing of assets that are allowed for federal income tax purposes; authorizing the executive director of the Department of Revenue to adopt emergency rules; providing an appropriation; providing for reversion and reappropriation; providing for retroactive application; amending s. 220.14, F.S.; increasing the amount of income that is exempt from taxation; amending s. 220.63, F.S.; amending the amount of income that is exempt from the franchise tax imposed on banks and savings associations; providing effective dates.

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

Section 1. Paragraph (n) of subsection (1) and 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, 2011 ~~2010~~, 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:

(a) The word “corporation” or “taxpayer” shall be deemed to include the words “and its successors and assigns” as if these words, or words of similar import, were expressed;

(b) Any term used in any section of this code with respect to the application of, or in connection with, the provisions of any other section of this code shall have the same meaning as in such other section; and

(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, 2011 ~~2010~~. 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, 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, the Small Business Jobs Act of 2010, and the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.*—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, the Small Business Jobs Act of 2010, and the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.~~

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, s. 2022 of Pub. L. No. 111-240, and s. 401 of Pub. L. No. 111-312,~~ for property placed in service after December 31, 2007, and before January 1, ~~2013~~ 2010. 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, s. 2021 of Pub. L. No. 111-240, and s. 402 of Pub. L. No. 111-312,~~ for taxable years beginning after December 31, 2007, and before January 1, ~~2013~~ 2010. 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. 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. 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. (1) The executive director of the Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules under ss. 120.536(1) and 120.54(4), Florida Statutes, for the purpose of implementing this act.

(2) Notwithstanding any other provision of law, the emergency rules shall remain in effect for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

Section 4. For the 2010-2011 fiscal year, the sum of \$99,740 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for purposes of implementing this act. Funds remaining unexpended or unencumbered from this appropriation as of June 30, 2011, shall revert and be reappropriated for the same purpose in the 2011-2012 fiscal year.

Section 5. Effective January 1, 2012, and applying to tax years beginning on or after January 1, 2012, subsection (1) of section 220.14, Florida Statutes, is amended to read

220.14 Exemption.—

(1) In computing a taxpayer's liability for tax under this code, there shall be exempt from the tax ~~\$25,000~~ \$5,000 of net income as defined in s. 220.12 or such lesser amount as will, without increasing the taxpayer's federal income tax liability, provide the state with an amount under this code which is equal to the maximum federal income tax credit which may be available from time to time under federal law.

Section 6. Effective January 1, 2012, and applying to tax years beginning on or after January 1, 2012, subsection (3) of section 220.63, Florida Statutes, is amended to read:

220.63 Franchise tax imposed on banks and savings associations.—

(3) For purposes of this part, the franchise tax base shall be adjusted federal income, as defined in s. 220.13, apportioned to this state, plus nonbusiness income allocated to this state pursuant to s. 220.16, less the deduction allowed in subsection (5) and less \$25,000 ~~\$5,000~~.

Section 7. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law and shall operate retroactively to January 1, 2011.

Approved by the Governor June 24, 2011.

Filed in Office Secretary of State June 24, 2011.