

PCB GEAC 08-29

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1                                   A bill to be entitled  
 2       An act relating to the corporate income tax; amending s.  
 3       220.03, F.S.; providing for the adoption of the 2008  
 4       version of the Internal Revenue Code; providing for  
 5       exceptions to the adoption; providing retroactivity;  
 6       amending s. 220.13(1)(a), F.S., to apply the exceptions and  
 7       authorizing rules; amending s. 220.241, F.S.; changing one  
 8       due date for filing of estimated corporate income taxes;  
 9       providing an effective date.

10

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

12

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

15           220.03 Definitions.--

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

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

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

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

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

33 (c) Any term used in this code shall have the same meaning  
 34 as when used in a comparable context in the Internal Revenue  
 35 Code and other statutes of the United States relating to federal  
 36 income taxes, as such code and statutes are in effect on January  
 37 1, 2008 ~~2007~~. However, if subsection (3) is implemented, the  
 38 meaning of any term shall be taken at the time the term is  
 39 applied under this code.

40 Section 2. Subsection (3) of section 220.03, Florida  
 41 Statutes, is amended to read:

42 220.03 Definitions.--

43 (3) FUTURE FEDERAL AMENDMENTS.--

44 (a) General application of section. On or after January  
 45 1, 1972, when expressly authorized by law, any amendment to the  
 46 Internal Revenue Code shall be given effect under this code in  
 47 such manner and for such periods as are prescribed in the  
 48 Internal Revenue Code, to the same extent as if such amendment  
 49 had been adopted by the Legislature of this state.

50 (b) Section 102 of Public Law 110-185 amends sub-section  
 51 179(b), Internal Revenue Code of 1986, as amended, and provides  
 52 temporary increases in the limitations of expensing of certain  
 53 depreciable business assets for tax years beginning after  
 54 December 31, 2007. These temporary increases are disallowed  
 55 amounts in computing adjusted federal income for the purpose of  
 56 determining corporate income tax liability in Florida.

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57           (c) Section 103 of Public Law 110-185 amends subsection  
 58 (k) of Section 168, Internal Revenue Code of 1986, as amended,  
 59 for certain property acquired after December 31, 2007, and  
 60 before January 1, 2009. Section 103 provides an additional  
 61 allowance equal to 50 percent of the adjusted basis of the  
 62 qualified property entitled to a depreciation deduction by  
 63 section 167(a) for the taxable year in which such property is  
 64 placed in service. These special depreciation allowances are  
 65 disallowed amounts in computing adjusted federal income for the  
 66 purpose of determining corporate income tax liability in  
 67 Florida.

68           (d) It is the intent of the Legislature that these  
 69 provisions be construed to disallow a deduction for bonus  
 70 depreciation allowed under s. 168 of the Internal Revenue Code  
 71 in computing Florida net income. The applicable depreciation  
 72 conventions and recovery periods shall be computed in the same  
 73 manner as they are computed by the taxpayer in determining  
 74 federal taxable income. As used in this chapter, the term  
 75 "bonus depreciation" includes all amounts allowed as a special  
 76 allowance under s. 168(k) of the Internal Revenue Code.

77  
 78 However, any such amendment shall have effect under this code  
 79 only to the extent that the amended provision of the Internal  
 80 Revenue Code shall be taken into account in the computation of  
 81 net income subject to tax hereunder.

82           Section 3. Paragraph (a) of subsection (1) of section  
 83 220.13, Florida Statutes, is amended to read:

84           220.13 "Adjusted federal income" defined.--

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85 (1) The term "adjusted federal income" means an amount  
 86 equal to the taxpayer's taxable income as defined in subsection  
 87 (2), or such taxable income of more than one taxpayer as  
 88 provided in s. 220.131, for the taxable year, adjusted as  
 89 follows:

90 (a) Additions.--There shall be added to such taxable  
 91 income:

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

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

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

109 4. That portion of the wages or salaries paid or incurred  
 110 for the taxable year which is equal to the amount of the credit  
 111 allowable for the taxable year under s. 220.181. This

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112 subparagraph shall expire on the date specified in s. 290.016  
 113 for the expiration of the Florida Enterprise Zone Act.

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

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

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

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

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

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

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

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

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

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

145           15. Any amount allowable as a deduction for federal income  
146 tax purposes under ss. 167 or 168 of the Internal Revenue Code  
147 for the taxable year to the extent that such amount includes  
148 bonus depreciation allowable as deduction under s. 168(k) of the  
149 Internal Revenue Code.

150           Section 4. The Department of Revenue is authorized to adopt  
151 rules necessary to administer these provisions, including rules,  
152 forms, guidelines for computing, claiming, and adding back bonus  
153 depreciation under section 168(k) and deductions under section  
154 179 of the Internal Revenue Code.

155           Section 5. Subsection (1) of section 220.241, Florida  
156 Statutes, is amended to read:

157           220.241 Declaration; time for filing.--A declaration of  
158 estimated tax under this code shall be filed on or before the  
159 1st day of the 5th month of each taxable year, except that if  
160 the minimum tax requirement of s. 220.24(1) is first met:

161           (1) After the 3rd month and before the 6th month of the  
162 taxable year, the declaration shall be filed on or before the  
163 last ~~1st~~ day of the 67th month;

164           Section 6. Subsection (1), subsection (2) of section  
165 220.33, Florida Statutes, are amended to read:

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166           220.33 Payments of estimated tax.--A taxpayer required to  
 167 file a declaration of estimated tax pursuant to s. 220.24 shall  
 168 pay such estimated tax as follows:

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

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

186           Section 7. Sections 1, 2, 3, and 4 are effective upon  
 187 coming law and shall apply to tax years ending on or after  
 188 December 31, 2008. The remaining sections of this bill shall  
 189 take effect January 1, 2009.