

By Senator Richter

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1 A bill to be entitled
2 An act relating to state revenues; amending s. 220.11,
3 F.S.; providing for the gradual reduction of the
4 corporate income tax rate and the termination of the
5 tax over a specified time; providing that the
6 termination of the corporate income tax applies to
7 taxable years of a taxpayer which begin on or after
8 January 1, 2018; amending s. 210.011, F.S.; providing
9 for the revenue from the cigarette surcharge to be
10 deposited into the General Revenue Fund; amending s.
11 210.276, F.S.; providing for the revenue from the
12 surcharge on tobacco products to be deposited into the
13 General Revenue Fund; amending s. 213.053, F.S.;
14 authorizing the Department of Revenue to provide the
15 Department of Education and the Division of Alcoholic
16 Beverages and Tobacco of the Department of Business
17 and Professional Regulation with information relative
18 to tax credits against taxes or surcharges on tobacco
19 products for contributions to eligible nonprofit
20 scholarship-funding organizations; amending s. 220.63,
21 F.S.; providing for the gradual reduction of the rate
22 of the franchise tax imposed on banks and savings
23 associations and the termination of the tax over a
24 specified time; providing that the termination of the
25 franchise tax applies to taxable years of a taxpayer
26 which begin on or after January 1, 2018; amending s.
27 1002.395, F.S.; specifying additional taxes against
28 which a taxpayer may claim a credit for an eligible
29 contribution to an eligible nonprofit scholarship-

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funding organization to include taxes or surcharges on tobacco products; authorizing a taxpayer to receive a tax credit against taxes or surcharges on tobacco products for an eligible contribution to an eligible nonprofit scholarship-funding organization; limiting the amount of the tax credit to 90 percent of the taxpayer's tax liability for taxes or surcharges on tobacco products; providing that the distribution of tax revenues to the General Revenue Fund is the only distribution that is reduced as a result of the tax credits; authorizing a taxpayer to exchange unused corporate income tax credits or franchise tax credits for other tax credits under certain circumstances; authorizing a taxpayer to sell or transfer unused corporate income tax credits or franchise tax credits under certain circumstances; authorizing the Department of Revenue to adopt emergency rules relating to the exchange, sale, or transfer of corporate income tax credits or franchise tax credits; authorizing the Department of Revenue to adopt emergency rules to administer the act; providing an effective date.

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

Section 1. Section 220.11, Florida Statutes, is amended to read:

220.11 Tax imposed.—

(1) A tax measured by net income is hereby imposed on every

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taxpayer for each taxable year commencing on or after January 1, 1972, and for each taxable year which begins before and ends after January 1, 1972, for the privilege of conducting business, earning or receiving income in this state, or being a resident or citizen of this state. Such tax shall be in addition to all other occupation, excise, privilege, and property taxes imposed by this state or by any political subdivision thereof, including any municipality or other district, jurisdiction, or authority of this state.

(2) The tax imposed by this section on a taxpayer's net income for a taxable year shall be:

(a) For a taxable year beginning before January 1, 2012, an amount equal to 5.5 5-1/2 percent.

(b) For a taxable year beginning on or after January 1, 2012, an amount equal to 3 percent.

(c) For a taxable year beginning on or after January 1, 2013, an amount equal to 2.5 percent.

(d) For a taxable year beginning on or after January 1, 2014, an amount equal to 2 percent.

(e) For a taxable year beginning on or after January 1, 2015, an amount equal to 1.5 percent.

(f) For a taxable year beginning on or after January 1, 2016, an amount equal to 1 percent.

(g) For a taxable year beginning on or after January 1, 2017, an amount equal to 0.5 percent ~~of the taxpayer's net income for the taxable year.~~

(3) The tax imposed by this section on a taxpayer's net income for a taxable year, for taxpayers determining taxable income under s. 220.13(2)(k), shall be:

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88 (a) For a taxable year beginning before January 1, 2012, an
89 amount equal to 3.3 percent.

90 (b) For a taxable year beginning on or after January 1,
91 2012, an amount equal to 1.8 percent.

92 (c) For a taxable year beginning on or after January 1,
93 2013, an amount equal to 1.5 percent.

94 (d) For a taxable year beginning on or after January 1,
95 2014, an amount equal to 1.2 percent.

96 (e) For a taxable year beginning on or after January 1,
97 2015, an amount equal 0.9 percent.

98 (f) For a taxable year beginning on or after January 1,
99 2016, an amount equal to 0.6 percent.

100 (g) For a taxable year beginning on or after January 1,
101 2017, an amount equal to 0.3 percent ~~of the taxpayer's net~~
102 ~~income for the taxable year.~~

103 (4) In the case of a taxpayer to which s. 55 of the
104 Internal Revenue Code is applied for the taxable year, the
105 amount of tax determined under this section shall be the greater
106 of the tax determined under subsection (2) without the
107 application of s. 55 of the Internal Revenue Code or the tax
108 determined under subsection (3).

109 (5) This section expires December 31, 2018, and the
110 expiration of the tax in this section first applies to the
111 taxable year of a taxpayer beginning on or after January 1,
112 2018.

113 Section 2. Subsection (9) of section 210.011, Florida
114 Statutes, is amended to read:

115 210.011 Cigarette surcharge levied; collection.—

116 (9) Revenue produced from the surcharge levied under this

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117 section shall be deposited into the General Revenue Fund ~~Health~~
118 ~~Care Trust Fund within the Agency for Health Care~~
119 ~~Administration.~~

120 Section 3. Subsection (7) of section 210.276, Florida
121 Statutes, is amended to read:

122 210.276 Surcharge on tobacco products.—

123 (7) Revenue produced from the surcharge levied under this
124 section shall be deposited into the General Revenue Fund ~~Health~~
125 ~~Care Trust Fund within the Agency for Health Care~~
126 ~~Administration.~~

127 Section 4. Paragraph (u) of subsection (8) of section
128 213.053, Florida Statutes, as amended by section 3 of chapter
129 2010-280, Laws of Florida, is amended to read:

130 213.053 Confidentiality and information sharing.—

131 (8) Notwithstanding any other provision of this section,
132 the department may provide:

133 (u) Information relative to section 7 of this act and ss.
134 211.0251, 212.1831, 220.1875, 561.1211, 624.51055, and 1002.395
135 ~~ss. 211.0251, 212.1831, 220.1875, 561.1211, 624.51055, and~~
136 ~~1002.395~~ to the Department of Education and the Division of
137 Alcoholic Beverages and Tobacco in the conduct of official
138 business.

139 Section 5. Subsection (2) of section 220.63, Florida
140 Statutes, is amended, and subsection (6) is added to that
141 section, to read:

142 220.63 Franchise tax imposed on banks and savings
143 associations.—

144 (2) The tax imposed by this section on a taxpayer's net
145 income for a taxable year shall be:

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146 (a) For a taxable year beginning before January 1, 2012, an
147 amount equal to 5.5 ~~5-1/2~~ percent of the franchise tax base of
148 the bank or savings association.

149 (b) For a taxable year beginning on or after January 1,
150 2012, an amount equal to 3 percent.

151 (c) For a taxable year beginning on or after January 1,
152 2013, an amount equal to 2.5 percent.

153 (d) For a taxable year beginning on or after January 1,
154 2014, an amount equal to 2 percent.

155 (e) For a taxable year beginning on or after January 1,
156 2015, an amount equal to 1.5 percent.

157 (f) For a taxable year beginning on or after January 1,
158 2016, an amount equal to 1 percent.

159 (g) For a taxable year beginning on or after January 1,
160 2017, an amount equal to 0.5 percent ~~for the taxable year.~~

161 (6) This section expires December 31, 2018, and the
162 expiration of the tax in this section first applies to the
163 taxable year of a taxpayer beginning on or after January 1,
164 2018.

165 Section 6. Paragraphs (b) and (c) of subsection (5),
166 paragraphs (b) and (c) of subsection (13), and subsection (15)
167 of section 1002.395, Florida Statutes, are amended to read:

168 1002.395 Florida Tax Credit Scholarship Program.—

169 (5) SCHOLARSHIP FUNDING TAX CREDITS; LIMITATIONS.—

170 (b) A taxpayer may submit an application to the department
171 for a tax credit or credits under one or more of section 7 of
172 this act, s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211, or
173 s. 624.51055. The taxpayer shall specify in the application each
174 tax for which the taxpayer requests a credit and the applicable

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taxable year for a credit under s. 220.1875 or s. 624.51055 or the applicable state fiscal year for a credit under section 7 of this act, s. 211.0251, s. 212.1831, or s. 561.1211. The department shall approve tax credits on a first-come, first-served basis and must obtain the division's approval prior to approving a tax credit under section 7 of this act or s. 561.1211.

(c) If a tax credit approved under paragraph (b) is not fully used within the specified state fiscal year for credits under section 7 of this act, s. 211.0251, s. 212.1831, or s. 561.1211 or against taxes due for the specified taxable year for credits under s. 220.1875 or s. 624.51055 because of insufficient tax liability on the part of the taxpayer, the unused amount may be carried forward for a period not to exceed 3 years. However, any taxpayer that seeks to carry forward an unused amount of tax credit must submit an application to the department for approval of the carryforward tax credit in the year that the taxpayer intends to use the carryforward. The department must obtain the division's approval prior to approving the carryforward of a tax credit under s. 561.1211.

(13) ADMINISTRATION; RULES.—

(b) The department shall adopt rules necessary to administer this section, section 7 of this act, and ss. 211.0251, 212.1831, 220.1875, 561.1211, and 624.51055, including rules establishing application forms, procedures governing the approval of tax credits and carryforward tax credits under subsection (5), and procedures to be followed by taxpayers when claiming approved tax credits on their returns.

(c) The division shall adopt rules necessary to administer

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its responsibilities under this section, section 7 of this act,
and s. 561.1211.

(15) PRESERVATION OF CREDIT.—If any provision or portion of
this section, section 7 of this act, s. 211.0251, s. 212.1831,
s. 220.1875, s. 561.1211, or s. 624.51055 or the application
thereof to any person or circumstance is held unconstitutional
by any court or is otherwise declared invalid, the
unconstitutionality or invalidity shall not affect any credit
earned under section 7 of this act, s. 211.0251, s. 212.1831, s.
220.1875, s. 561.1211, or s. 624.51055 by any taxpayer with
respect to any contribution paid to an eligible nonprofit
scholarship-funding organization before the date of a
determination of unconstitutionality or invalidity. Such credit
shall be allowed at such time and in such a manner as if a
determination of unconstitutionality or invalidity had not been
made, provided that nothing in this subsection by itself or in
combination with any other provision of law shall result in the
allowance of any credit to any taxpayer in excess of one dollar
of credit for each dollar paid to an eligible nonprofit
scholarship-funding organization.

Section 7. Credit for contributions to eligible nonprofit
scholarship-funding organizations.—There is allowed a credit of
100 percent of an eligible contribution made to an eligible
nonprofit scholarship-funding organization under s. 1002.395,
Florida Statutes, against any tax or surcharge due under chapter
210, Florida Statutes. However, a credit allowed under this
section may not exceed 90 percent of the tax due on the return
on which the credit is taken. For purposes of determining the
distribution of tax revenue under chapter 210, Florida Statutes,

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the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation shall disregard any tax credits allowed under this section to ensure that the distribution of tax revenues to the General Revenue Fund is the only distribution that is reduced as a result of the tax credits. The provisions of s. 1002.395, Florida Statutes, apply to the credits authorized under this section.

Section 8. (1) Notwithstanding the limitations in s. 1002.395(5)(d), Florida Statutes, a taxpayer who has an unused amount of corporate income tax credits or franchise tax credits which will not be used by the taxpayer as a result of this act is entitled to:

(a) Exchange the unused amount of corporate income tax credits or franchise tax credits for credits against other taxes which were allowed by the statute allowing the credit against the corporate income tax; or

(b) Sell or transfer the unused amount of corporate income tax credits or franchise tax credits to one or more taxpayers who may then use or exchange the credits.

(2) This act does not alter the tax credit cap amount that would otherwise apply in a state fiscal year.

(3) 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, to administer this section. The emergency rules shall remain in effect for 6 months after adoption and may be renewed during the pendency of procedures to adopt rules addressing the subject of the emergency rules. Such rules may include, but are not limited to, rules establishing the process for exchanging, selling, or

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transferring unused credit amounts, including notice and
tracking requirements.

Section 9. The Department of Revenue is authorized, and all
conditions are deemed met, to adopt emergency rules pursuant to
ss. 120.536(1) and 120.54, Florida Statutes, to administer this
act. 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 10. This act shall take effect July 1, 2011.