

By the Committees on Appropriations; and Finance and Tax

576-04419-21

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1 A bill to be entitled
2 An act relating to the corporate income tax; amending
3 s. 220.03, F.S.; adopting the 2021 version of the
4 Internal Revenue Code and other federal statutes
5 relating to federal income taxes for purposes of the
6 state corporate income tax code; providing for
7 retroactive operation; amending s. 220.13, F.S.;
8 requiring additions to taxable income of certain
9 amounts relating to federal deductions for business
10 interest expense, business meals, and charitable
11 contributions; specifying a limitation on net
12 operating loss subtractions applied during certain
13 taxable years; specifying that Florida bonus
14 depreciation treatment does not apply to certain
15 qualified improvement property; defining the term
16 "qualified improvement property"; specifying required
17 additions and subtractions relating to qualified
18 improvement property; providing that certain federal
19 changes relating to expensing rules for qualified
20 film, television, and live theatrical productions do
21 not apply to the state corporate income tax; providing
22 an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Paragraph (n) of subsection (1) and paragraph
27 (c) of subsection (2) of section 220.03, Florida Statutes, are
28 amended to read:

29 220.03 Definitions.—

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

34 (n) “Internal Revenue Code” means the United States
35 Internal Revenue Code of 1986, as amended and in effect on
36 January 1, 2021 ~~2020~~, except as provided in subsection (3).

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

40 (c) Any term used in this code has the same meaning as when
41 used in a comparable context in the Internal Revenue Code and
42 other statutes of the United States relating to federal income
43 taxes, as such code and statutes are in effect on January 1,
44 2021 ~~2020~~. However, if subsection (3) is implemented, the
45 meaning of a term shall be taken at the time the term is applied
46 under this code.

47 Section 2. The amendment to s. 220.03, Florida Statutes,
48 made by this act operates retroactively to January 1, 2021.

49 Section 3. Paragraphs (a), (b), and (e) of subsection (1)
50 of section 220.13, Florida Statutes, are amended to read:

51 220.13 “Adjusted federal income” defined.—

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

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

58 1.a. The amount of any tax upon or measured by income,

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59 excluding taxes based on gross receipts or revenues, paid or
60 accrued as a liability to the District of Columbia or any state
61 of the United States which is deductible from gross income in
62 the computation of taxable income for the taxable year.

63 b. Notwithstanding sub-subparagraph a., if a credit taken
64 under s. 220.1875 is added to taxable income in a previous
65 taxable year under subparagraph 11. and is taken as a deduction
66 for federal tax purposes in the current taxable year, the amount
67 of the deduction allowed shall not be added to taxable income in
68 the current year. The exception in this sub-subparagraph is
69 intended to ensure that the credit under s. 220.1875 is added in
70 the applicable taxable year and does not result in a duplicate
71 addition in a subsequent year.

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

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

84 4. That portion of the wages or salaries paid or incurred
85 for the taxable year which is equal to the amount of the credit
86 allowable for the taxable year under s. 220.181. This
87 subparagraph shall expire on the date specified in s. 290.016

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88 for the expiration of the Florida Enterprise Zone Act.

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

94 6. The amount taken as a credit under s. 220.195 which is
95 deductible from gross income in the computation of taxable
96 income for the taxable year.

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

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

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

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

110 11. The amount taken as a credit for the taxable year under
111 s. 220.1875. The addition in this subparagraph is intended to
112 ensure that the same amount is not allowed for the tax purposes
113 of this state as both a deduction from income and a credit
114 against the tax. This addition is not intended to result in
115 adding the same expense back to income more than once.

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

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117 s. 220.193.

118 13. Any portion of a qualified investment, as defined in s.
119 288.9913, which is claimed as a deduction by the taxpayer and
120 taken as a credit against income tax pursuant to s. 288.9916.

121 14. The costs to acquire a tax credit pursuant to s.
122 288.1254(5) that are deducted from or otherwise reduce federal
123 taxable income for the taxable year.

124 15. The amount taken as a credit for the taxable year
125 pursuant to s. 220.194.

126 16. The amount taken as a credit for the taxable year under
127 s. 220.196. The addition in this subparagraph is intended to
128 ensure that the same amount is not allowed for the tax purposes
129 of this state as both a deduction from income and a credit
130 against the tax. The addition is not intended to result in
131 adding the same expense back to income more than once.

132 17. For taxable years beginning after December 31, 2018,
133 and before January 1, 2021, there shall be added to such taxable
134 income an amount equal to the excess, if any, of:

135 a. One hundred percent of any amount deducted for federal
136 income tax purposes as business interest expense for the taxable
137 year pursuant to s. 163(j) of the Internal Revenue Code of 1986,
138 as amended by s. 2306 of Pub. L. No. 116-136; over

139 b. One hundred percent of the amount that would be
140 deductible for federal income tax purposes as business interest
141 expense for the taxable year if calculated pursuant to s. 163(j)
142 of the Internal Revenue Code of 1986, as amended by s. 13301 of
143 Pub. L. No. 115-97.

144
145 Any expense added back pursuant to this subparagraph shall be

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146 treated as a disallowed business expense carryforward from prior
147 years for the year or years following such addition, until such
148 time as the expense has been used.

149 18. For taxable years beginning after December 31, 2020,
150 and before January 1, 2023, there shall be added to such taxable
151 income an amount equal to the excess, if any, of:

152 a. One hundred percent of any amount deducted for federal
153 income tax purposes for business meals in the taxable year
154 pursuant to s. 274 of the Internal Revenue Code of 1986, as
155 amended by s. 210 of Division EE of Pub. L. No. 116-260; over

156 b. One hundred percent of the amount that would be
157 deductible for federal income tax purposes for business meals in
158 the taxable year if calculated pursuant to s. 274 of the
159 Internal Revenue Code of 1986, as amended by ss. 13304 and 13310
160 of Pub. L. No. 115-97.

161 19. For taxable years beginning after December 31, 2019,
162 and before January 1, 2022, there shall be added to such taxable
163 income an amount equal to the excess, if any, of:

164 a. One hundred percent of any amount deducted for federal
165 income tax purposes for charitable contributions made in the
166 taxable year pursuant to s. 170 of the Internal Revenue Code of
167 1986, as amended by s. 2205 of Pub. L. No. 116-136, as amended
168 by s. 213 of Division EE of Pub. L. No. 116-260; over

169 b. One hundred percent of the amount that would be
170 deductible for federal income tax purposes for charitable
171 contributions made in the taxable year if calculated pursuant to
172 s. 170 of the Internal Revenue Code of 1986, as amended by s.
173 11023 of Pub. L. No. 115-97.

174 (b) *Subtractions.-*

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- 175 1. There shall be subtracted from such taxable income:
- 176 a. The net operating loss deduction allowable for federal
- 177 income tax purposes under s. 172 of the Internal Revenue Code
- 178 for the taxable year, except that any net operating loss that is
- 179 transferred pursuant to s. 220.194(6) may not be deducted by the
- 180 seller,
- 181 b. The net capital loss allowable for federal income tax
- 182 purposes under s. 1212 of the Internal Revenue Code for the
- 183 taxable year,
- 184 c. The excess charitable contribution deduction allowable
- 185 for federal income tax purposes under s. 170(d)(2) of the
- 186 Internal Revenue Code for the taxable year, and
- 187 d. The excess contributions deductions allowable for
- 188 federal income tax purposes under s. 404 of the Internal Revenue
- 189 Code for the taxable year.

190

191 However, a net operating loss and a capital loss shall never be

192 carried back as a deduction to a prior taxable year, but all

193 deductions attributable to such losses shall be deemed net

194 operating loss carryovers and capital loss carryovers,

195 respectively, and treated in the same manner, to the same

196 extent, and for the same time periods as are prescribed for such

197 carryovers in ss. 172 and 1212, respectively, of the Internal

198 Revenue Code. For taxable years beginning after December 31,

199 2017, and before January 1, 2021, the net operating loss

200 subtracted pursuant to this subparagraph shall be limited by the

201 percentage limitation pursuant to s. 172(a)(2) of the Internal

202 Revenue Code of 1986, as amended by s. 13302 of Pub. L. No. 115-

203 97.

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204 2. There shall be subtracted from such taxable income any
205 amount to the extent included therein the following:

206 a. Dividends treated as received from sources without the
207 United States, as determined under s. 862 of the Internal
208 Revenue Code.

209 b. All amounts included in taxable income under s. 78, s.
210 951, or s. 951A of the Internal Revenue Code.

211
212 However, any amount subtracted under this subparagraph is
213 allowed only to the extent such amount is not deductible in
214 determining federal taxable income. As to any amount subtracted
215 under this subparagraph, there shall be added to such taxable
216 income all expenses deducted on the taxpayer's return for the
217 taxable year which are attributable, directly or indirectly, to
218 such subtracted amount. Further, no amount shall be subtracted
219 with respect to dividends paid or deemed paid by a Domestic
220 International Sales Corporation.

221 3. In computing "adjusted federal income" for taxable years
222 beginning after December 31, 1976, there shall be allowed as a
223 deduction the amount of wages and salaries paid or incurred
224 within this state for the taxable year for which no deduction is
225 allowed pursuant to s. 280C(a) of the Internal Revenue Code
226 (relating to credit for employment of certain new employees).

227 4. There shall be subtracted from such taxable income any
228 amount of nonbusiness income included therein.

229 5. There shall be subtracted any amount of taxes of foreign
230 countries allowable as credits for taxable years beginning on or
231 after September 1, 1985, under s. 901 of the Internal Revenue
232 Code to any corporation which derived less than 20 percent of

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233 its gross income or loss for its taxable year ended in 1984 from
234 sources within the United States, as described in s.
235 861(a)(2)(A) of the Internal Revenue Code, not including credits
236 allowed under ss. 902 and 960 of the Internal Revenue Code,
237 withholding taxes on dividends within the meaning of sub-
238 subparagraph 2.a., and withholding taxes on royalties, interest,
239 technical service fees, and capital gains.

240 6. Notwithstanding any other provision of this code, except
241 with respect to amounts subtracted pursuant to subparagraphs 1.
242 and 3., any increment of any apportionment factor which is
243 directly related to an increment of gross receipts or income
244 which is deducted, subtracted, or otherwise excluded in
245 determining adjusted federal income shall be excluded from both
246 the numerator and denominator of such apportionment factor.
247 Further, all valuations made for apportionment factor purposes
248 shall be made on a basis consistent with the taxpayer's method
249 of accounting for federal income tax purposes.

250 (e) *Adjustments related to federal acts.*—Taxpayers shall be
251 required to make the adjustments prescribed in this paragraph
252 for Florida tax purposes with respect to certain tax benefits
253 received pursuant to the Economic Stimulus Act of 2008, the
254 American Recovery and Reinvestment Act of 2009, the Small
255 Business Jobs Act of 2010, the Tax Relief, Unemployment
256 Insurance Reauthorization, and Job Creation Act of 2010, the
257 American Taxpayer Relief Act of 2012, the Tax Increase
258 Prevention Act of 2014, the Consolidated Appropriations Act,
259 2016, ~~and~~ the Tax Cuts and Jobs Act of 2017, the Coronavirus
260 Aid, Relief, and Economic Security Act of 2020, and the
261 Consolidated Appropriations Act, 2021.

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262 1.a. There shall be added to such taxable income an amount
263 equal to 100 percent of any amount deducted for federal income
264 tax purposes as bonus depreciation for the taxable year pursuant
265 to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as
266 amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No.
267 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No.
268 111-312, s. 331 of Pub. L. No. 112-240, s. 125 of Pub. L. No.
269 113-295, s. 143 of Division Q of Pub. L. No. 114-113, and s.
270 13201 of Pub. L. No. 115-97, for property placed in service
271 after December 31, 2007, and before January 1, 2027. For the
272 taxable year and for each of the 6 subsequent taxable years,
273 there shall be subtracted from such taxable income an amount
274 equal to one-seventh of the amount by which taxable income was
275 increased pursuant to this subparagraph, notwithstanding any
276 sale or other disposition of the property that is the subject of
277 the adjustments and regardless of whether such property remains
278 in service in the hands of the taxpayer.

279 b. Sub-subparagraph a. does not apply to qualified
280 improvement property that was placed in service on or after
281 January 1, 2018. As used in this paragraph, the term "qualified
282 improvement property" has the same meaning as in s. 168(e)(6) of
283 the Internal Revenue Code of 1986.

284 2. There shall be added to such taxable income an amount
285 equal to 100 percent of any amount in excess of \$128,000
286 deducted for federal income tax purposes for the taxable year
287 pursuant to s. 179 of the Internal Revenue Code of 1986, as
288 amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No.
289 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No.
290 111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L.

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291 No. 113-295, for taxable years beginning after December 31,
292 2007, and before January 1, 2015. For the taxable year and for
293 each of the 6 subsequent taxable years, there shall be
294 subtracted from such taxable income one-seventh of the amount by
295 which taxable income was increased pursuant to this
296 subparagraph, notwithstanding any sale or other disposition of
297 the property that is the subject of the adjustments and
298 regardless of whether such property remains in service in the
299 hands of the taxpayer.

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

308 4. There shall be added to such taxable income an amount
309 equal to 100 percent of any federal income tax depreciation
310 deducted for qualified improvement property. There shall be
311 subtracted an amount equal to the amount of depreciation that
312 would have been deductible for federal income tax purposes if
313 calculated pursuant to s. 168(b)(3) of the Internal Revenue Code
314 using the applicable recovery period in s. 168(c) of the
315 Internal Revenue Code for nonresidential real property,
316 notwithstanding any sale or other disposition of the property
317 that is the subject of the adjustments, and regardless of
318 whether such property remains in service in the hands of the
319 taxpayer.

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320 5. For taxable years beginning after December 31, 2020, and
321 before January 1, 2026, the changes made to the Internal Revenue
322 Code by s. 116 of Division EE of Pub. L. No. 116-260, relating
323 to the extension of expensing rules for qualified film,
324 television, and live theatrical productions under s. 181 of the
325 Internal Revenue Code of 1986, do not apply to this chapter.
326 Taxable income under this section shall be calculated as though
327 changes made by that section were not made to the Internal
328 Revenue Code.

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

333 ~~7.5.~~ The additions and subtractions specified in this
334 paragraph are intended to adjust taxable income for Florida tax
335 purposes, and, notwithstanding any other provision of this code,
336 such additions and subtractions shall be permitted to change a
337 taxpayer's net operating loss for Florida tax purposes.

338 Section 4. This act shall take effect upon becoming a law.