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HOUSE OF REPRESENTATIVES
COMMITTEE ON
FISCAL POLICY & RESOURCES
ANALYSIS

BILL #: HB 9E

RELATING TO: Corporate Income Tax

SPONSOR(S): Representative Wallace

TIED BILL(S): none

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

(1) FISCAL POLICY & RESOURCES YEAS 9 NAYS 2
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I. SUMMARY:

Florida's Corporate Income Tax Code follows the Federal Internal Revenue Code by using federal rules and starting with federal taxable income as the tax base for the Florida income tax. Section 220.03, Florida Statutes, defines specific terms as they apply to Florida's corporate income tax code. The term "Internal Revenue Code" is defined to mean those provisions of the United States Internal Revenue Code of 1986, as amended, in effect on January 1, 2001.

This bill updates the Florida Income Tax Code to reflect the changes Congress has made to the U.S. Internal Revenue Code of 1986. The bill states the Legislature intends to adopt the Job Creation and Worker Assistance Act of 2002, to the extent that such provisions take into account in the computation of net income. The bill therefore "piggybacks" each change made during 2001 in the U.S. Internal Revenue Code, as well as changes made by the Job Creation and Worker Assistance Act.

This bill ensures that corporations subject to Florida corporate income tax can base their calculations on current IRS rules. Failure to pass this bill would mean these corporations would need to keep two sets of accounts: one for Florida and one for IRS purposes.

The bill shall take effect upon becoming a law and shall operate retroactively to January 1, 2002.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes []	No []	N/A [X]
2.	Lower Taxes	Yes [X]	No []	N/A []
3.	Individual Freedom	Yes []	No []	N/A [X]
4.	Personal Responsibility	Yes []	No []	N/A [X]
5.	Family Empowerment	Yes []	No []	N/A [X]

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Florida's Corporate Income Tax Code follows the Federal Internal Revenue Code by using federal rules and starting with federal taxable income as the tax base for the Florida income tax. Section 220.03, Florida Statutes, defines specific terms as they apply to Florida's corporate income tax code. The term "Internal Revenue Code" is defined to mean those provisions of the United States Internal Revenue Code of 1986, as amended, in effect on January 1, 2001. Since Florida bases its corporate income tax on federal taxable income, changes to the Internal Revenue Code affect the amount of tax due to Florida.

On March 9, 2002, President Bush signed the Job Creation and Worker Assistance Act of 2002 into law. This act is also known as the Economic Stimulus Package. The Act contains provisions designed to stimulate the economy by granting businesses certain corporate income tax benefits relating back to September 11, 2001. The major portion that would affect Florida is the special depreciation allowance[1]. The provision allows a first-year deprecation deduction equal to 30 percent of the adjusted basis for certain qualified property acquired after September 10, 2001 and before September 11, 2004.

Standard accounting procedure is to depreciate the full cost of property over a prescribed period of time. The special depreciation is applicable to property depreciated under the Modified Accelerated Cost Recovery System (MACRS)[2] over a period of 20 years or less (plus specified other property types such as utility property and computer software).

With special depreciation, 30% of the cost of a new asset is allowed as a first year deduction; then the cost basis of the property is reduced 30 percent and the normal depreciation rules apply to the remaining basis. For example, acquisition of ten-year property costing $1,000,000 would normally create a first year deduction of $100,000. If eligible for bonus depreciation, the total first-year deduction is increased to $370,000: $300,000 of bonus depreciation (which reduces the cost basis to $700,000) and $70,000 deducted under MACRS.

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[1] The Act also contains special provisions for carry-back of net operating losses. However, since Florida does not "piggyback" the federal rules on carry-back and carry-forward of losses, this portion of the Act would not affect Florida corporate income tax and is not adopted by this bill.

[2] MACRS depreciation is based on the classification of property as 3-year, 5-year, 7-year, 10-year, 15-year, or 20-year property. Property with a depreciation period of 10 years or less is depreciated using the double-declining balance method, and unless the taxpayer elects otherwise, all property is assumed, by convention, to be in place for a half-year. The 15-year and 20-year property depreciation calculations are based on the 150 percent declining balance method.

Since a greater deprecation allowance results in less federal taxable income, Florida "piggybacking" the Job Creation and Worker Assistance Act of 2002 would result in less corporate income tax to the state for FY 01-02 through FY 04-05.

C. EFFECT OF PROPOSED CHANGES:

This bill updates the Florida Income Tax Code to reflect the changes Congress has made to the U.S. Internal Revenue Code of 1986. The bill states the Legislature intends to adopt the Job Creation and Worker Assistance Act of 2002, to the extent that such provisions take into account in the computation of net income. The bill therefore "piggybacks" each change made during 2001 in the U.S. Internal Revenue Code, as well as changes made by the Job Creation and Worker Assistance Act.

This bill ensures that corporations which are subject to Florida corporate income tax can base their calculations on current IRS rules. Failure to pass this bill would mean these corporations would need to keep two sets of accounts: one for Florida and one for IRS purposes.

The bill shall take effect upon becoming a law and shall operate retroactively to January 1, 2002.

D. SECTION-BY-SECTION ANALYSIS:

See EFFECT OF PROPOSED CHANGES section above.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This fiscal impact to general revenue is an estimated negative $116 m in FY 01-02, negative $146 m in FY 02-03, negative $124 in FY 03-04, and negative $42 m in FY 04-05. The fiscal impact over these four years total an estimated negative $428 million.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Corporations would pay less corporate income tax to the state of Florida as a direct result of making purchases for use in their businesses. Purchase made between September 11, 2001 and

September 10, 2004, will produce greater tax benefits to corporations than purchases that are delayed. Corporations will have more assets to invest or to pay out in dividends.

D. FISCAL COMMENTS:

Beginning in FY 05-06 it is estimated that some of the losses to general revenue will be recovered, with expected recovery of 70 percent of nominal losses by FY 11-12. Additional recoveries will continue through 2024.

Some revenue will be recovered because the assets subject to the special depreciation will have lower than normal deprecation in the out years. For example, acquisition of ten-year property costing $1,000,000 would have a special deprecation of $370,000 in the first year and then depreciate $70,000 per year for the next nine. Without the special deprecation, the same asset would depreciate $100,000 every year for 10 years. Accordingly, the corporation which used special depreciation would have lower deprecation deductions in the out years, which would increase its corporate income tax liability.

IV. <u>CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION</u>:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require a city or county to expend funds or take any action requiring the expenditure of any funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the revenue raising authority of any city or county.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the amount of state taxes shared with a city or county.

V. <u>COMMENTS</u>:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. <u>AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES</u>:

N/A

VII. SIGNATURES:

COMMITTEE ON FISCAL POLICY & RESOURCES:

Prepared by:	Staff Director:
Lynne Overton	Lynne Overton