HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1791 (PCB FT 04-03) Corporate Income Tax
SPONSOR(S): Finance & Tax
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance & Tax	18 Y, 7 N	Overton	Diez-Arguelles
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

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 currently defined to mean those provisions of the United States Internal Revenue Code of 1986, as amended, in effect on January 1, 2003.

This bill updates the Florida Income Tax Code to reflect the changes Congress made to the U.S. Internal Revenue Code of 1986. This definition provides for “piggybacking” each change made during 2003 in the U.S. Internal Revenue Code.

The bill takes effect upon becoming a law and operates retroactively to January 1, 2004.

The bill is estimated to have a fiscal impact of negative $124.8 million to General Revenue in FY 2004-05 and a fiscal impact of positive $6.9 million to General Revenue in FY 2005-06. For more details, see Fiscal Comments below.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

1. Reduce government?	Yes[]	No[]	N/A[X]
2. Lower taxes?	Yes[X]	No[]	N/A[]
3. Expand individual freedom?	Yes[]	No[]	N/A[X]
4. Increase personal responsibility?	Yes[]	No[]	N/A[X]
5. Empower families?	Yes[]	No[]	N/A[X]

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

B. EFFECT OF PROPOSED CHANGES:

Florida's Corporate Income Tax Code follows the Federal Internal Revenue Code (IRC) 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, 2003.

Florida’s Constitution forbids the Legislature from delegating its legislative authority to another body, such as Congress. While the Legislature may adopt by reference a federal law, the Legislature may only adopt a law that is in existence when the legislation is passed. Since the IRC usually changes every year, it is necessary for Florida to adopt the most recent version of the IRC each year.

This bill updates the Florida Income Tax Code to reflect the changes Congress has made to the IRC. This definition provides for “piggybacking” each change made during 2003 in the IRC.

This bill insures 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 takes effect upon becoming a law and operates retroactively to January 1, 2004

C. SECTION DIRECTORY:

Section 1: Amends s. 220.03(1)(n), F.S., to update references to the Internal Revenue Code.

Section 2: Provides that the bill shall take effect upon becoming a law and shall operate retroactively to January 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: The bill is estimated to have a fiscal impact of negative $124.8 million to General Revenue in FY 2004-05 and a fiscal impact of positive $6.9 million to General Revenue in FY 2005-06. For more details, see Fiscal Comments below.

2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill insures 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.

D. FISCAL COMMENTS:

Florida's "piggybacking" of the changes make to the IRC each year usually is revenue neutral. However, adopting changes made to the IRC in 2002 had a negative fiscal impact to state revenues and adopting changes made in 2003 will have a negative fiscal impact.

The Job Creation and Worker Assistance Act of 2002 contained provisions designed to stimulate the economy by granting businesses certain corporate income tax benefits relating back to September 11, 2001. The bonus depreciation provisions allowed a business to claim an immediate additional deduction of 30 percent of the cost of new equipment placed into use on or after September 11, 2001, but before September 11, 2004. 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 and $70,000 deducted under normal depreciation.

The 2002 bonus depreciation provisions were incorporated into Florida law in the "piggyback" process during Special Session E in 2002. (SB 18E; Ch. 2002-395, L.O.F.) The fiscal impact was an estimated $116 million in FY 2001-02 and $146 million in FY 2002-03, and the fiscal impact is estimated to be $85.8 million in FY 2003-04, and $31.8 million in FY 2004-05 as a result of the 2002 changes.

The Jobs and Growth Tax Relief Reconciliation Act of 2003 provides an additional first-year depreciation deduction equal to 50 percent of cost of qualified property acquired after May 5, 2003 and before January 1, 2005. Taxpayers who qualify for both the 30% and 50% depreciation deduction may choose between them, but cannot claim both.

Beginning in FY 05-06 most of the losses to general revenue will be recovered. Additional recoveries will continue through 2024.

Revenue will be recovered because the assets subject to the special depreciation will have lower than normal depreciation in future 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 depreciation, the same asset would depreciate $100,000 every year for 10 years. Accordingly, the corporation which used special depreciation will have lower depreciation deductions in the out years, which will increase its corporate income tax liability

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: N/A

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES