By Senator Lawson

6-01386-10 20101406__

A bill to be entitled

An act relating to taxation; creating ss. 199.0125, 199.0235, 199.0325, 199.0335, 199.0425, 199.0525, 199.0575, 199.0625, 199.1035, 199.10555, 199.1065, 199.1755, and 199.1855, F.S.; recreating the annual intangible personal property tax; providing a short title; providing definitions; providing for imposition of the annual tax; specifying a separate tax rate for securities in a Florida's Future Investment Fund; specifying nonapplication; specifying due date of annual tax; providing for a discount for early payments; providing requirements and procedures for annual tax returns and payment of the annual tax; providing for corporate election to pay stockholders' annual tax; providing requirements for annual tax information reports; providing requirements for the basis of assessments and valuation of intangible personal property; providing for a contaminated site rehabilitation tax credit; providing requirements, procedures, and limitations; providing for a credit for taxes imposed by other states; specifying requirements for taxable situs of intangible personal property; exempting certain property from the annual and nonrecurring intangible taxes; amending ss. 28.35, 192.0105, 192.032, 192.042, 192.091, 193.114, 196.015, 196.199, 199.133, 199.183, 199.218, 199.232, 199.282, 199.292, 199.303, 212.02, 213.053, 213.054, 213.27, 650.05, and 733.702, F.S., to conform provisions to the creation of the annual intangible personal

property tax; providing for application of certain collection, administration, and enforcement provisions to taxation of certain leaseholds; authorizing the Department of Revenue to adopt emergency implementing rules for a certain time; providing legislative findings and intent; amending s. 220.03, F.S.; revising a definition; defining the terms "tax haven" and "water's edge group"; amending s. 220.13, F.S.; conforming a cross-reference; redefining the term "adjusted federal income" to limit the subtraction of certain deductions and certain carryovers; requiring the subtraction of certain dividends from taxable income; creating s. 220.136, F.S.; providing rules and criteria to determine if a corporation is a member of a water's edge group; creating s. 220.1363, F.S.; providing a reporting method for a water's edge group; providing for the apportionment of income to the state; requiring a member of a water's edge group having nexus with this state to file a single return for the water's edge group; providing for the determination of income for a member of a water's edge group having a different tax year than the water's edge group; requiring a water's edge group return to include a computational schedule; requiring a water's edge group to file a domestic disclosure spreadsheet along with its return; authorizing the Department of Revenue to adopt rules; amending s. 220.14, F.S.; providing for the proration of an exemption during a leap year; limiting a water's edge group to a single

claim of a specified exemption; amending s. 220.15, F.S.; deleting provisions relating to affiliated groups with respect to certain sales of a financial institution; amending s. 220.183, F.S.; deleting provisions relating to affiliated groups with respect to community contribution tax credits; amending s. 220.1845, F.S.; deleting provisions relating to affiliated groups with respect to the contaminated site rehabilitation tax credit; amending s. 220.187, F.S.; deleting provisions relating to affiliated groups with respect to the tax credit for contributions to nonprofit scholarship funding organizations; amending s. 220.191, F.S.; deleting provisions relating to affiliated groups with respect to the capital investment tax credit; amending s. 220.192, F.S.; deleting provisions relating to affiliated groups with respect to the renewable energy technologies investment tax credit; amending s. 220.193, F.S.; deleting provisions relating to affiliated groups with respect to the Florida renewable energy production tax credit; amending s. 220.51, F.S.; deleting provisions relating to the rulemaking authority of the Department of Revenue with respect to consolidated reporting for affiliated groups; amending ss. 220.1845, 220.64, and 376.30781, F.S.; conforming cross-references and conforming provisions to the creation of the annual intangible personal property tax; providing transitional rules for corporate income tax returns filed by water’s edge

groups and affiliated groups of corporations; specifying the allocation of funds that are recaptured under the act; repealing s. 220.131, F.S., relating to adjusted federal income for affiliated groups; requiring deposit of certain funds into the Educational Enhancement Trust Fund; specifying certain allocations of appropriations from the fund; providing legislative intent relating to uses of funds; providing authority for certain entities as to how best to use certain funds; providing effective dates.

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

Section 1. Effective January 1, 2011, sections 199.0125, 199.0235, 199.0325, 199.0335, 199.0425, 199.0525, 199.0575, 199.0625, 199.1035, 199.10555, 199.1065, 199.1755, and 199.1855, Florida Statutes, are created to read:

199.0125 Short title.—Sections 199.0125-199.1855 may be cited as the "Millionaire's Tax Act."

199.0235 Definitions.—As used in this chapter:

(1) "Abroad" means in one or more foreign nations; in the colonies, dependencies, possessions, or territories of a foreign nation or of the United States; or in the Commonwealth of Puerto Rico.

(2)(a) "Affiliated group" means one or more chains of corporations or limited liability companies connected through stock ownership or membership interest in a limited liability company with a common parent corporation or limited liability company, for which:

1. Stock or membership interest in a limited liability company possessing at least 80 percent of the voting power of all classes of stock or membership interest in a limited liability company and at least 80 percent of each class of the nonvoting stock or membership interest in a limited liability company of each corporation or limited liability company, except for the common parent corporation or limited liability company, is owned directly by one or more of the other corporations or limited liability companies.

2. The common parent corporation or limited liability company directly owns stock or membership interest in a limited liability company possessing at least 80 percent of the voting power of all classes of stock or membership interest in a limited liability company and at least 80 percent of each class of the nonvoting stock or membership interest in a limited liability company of at least one of the other corporations or limited liability companies.

(b) As used in this subsection, the terms "nonvoting stock" and "membership interest in a limited liability company" do not include nonvoting stock or membership interest in a limited liability company which is limited and preferred as to dividends. For purposes of this chapter, a common parent may be a corporation or a limited liability company.

(3) "Banking organization" means:

(a) A bank organized and existing under the laws of this state;

(b) A national bank organized and existing pursuant to the provisions of the National Bank Act, 12 U.S.C. ss. 21 et seq., and maintaining its principal office in this state;

(c) An Edge Act corporation organized pursuant to the provisions of s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq., and maintaining an office in this state;

(d) An international bank agency licensed pursuant to the laws of this state;

(e) A federal agency licensed pursuant to ss. 4 and 5 of the International Banking Act of 1978 to maintain an office in this state;

(f) A savings association organized and existing under the laws of this state;

(g) A federal association organized and existing pursuant to the provisions of the Home Owners' Loan Act of 1933, 12 U.S.C. ss. 1461 et seq., and maintaining its principal office in this state; or

(h) An export finance corporation organized in this state and existing pursuant to the provisions of part V of chapter 288.

(4) A resident has a "beneficial interest" in a trust if the resident has a vested interest, even if subject to divestment, which includes at least a current right to income and either a power to revoke the trust or a general power of appointment, as defined in 26 U.S.C. s. 2041(b)(1).

(5) "Department" means the Department of Revenue.

(6) "Intangible personal property" means all personal property that is not in itself intrinsically valuable, but that derives its chief value from that which it represents, including, but not limited to:

(a) All stocks or shares of incorporated or unincorporated companies, business trusts, and mutual funds.

(b) All notes, bonds, and other obligations for the payment of money.

(c) All condominium and cooperative apartment leases of recreation facilities, land leases, and leases of other commonly used facilities.

(d) Except for any leasehold or other possessory interest described in s. 4(a), Art. VII of the State Constitution or s. 196.199(7), all leasehold or other possessory interests in real property owned by the United States, the state, any political subdivision of the state, any municipality of the state, or any agency, authority, or other public body corporate of the state, which are undeveloped or predominantly used for residential or commercial purposes and upon which rental payments are due.

(7) "International banking facility" means a set of asset and liability accounts segregated on the books and records of a banking organization that includes only international banking facility deposits, borrowings, and extensions of credit as those terms are defined pursuant to s. 655.071(2).

(8) "International banking transaction" means:

(a) The financing of the exportation from, or the importation into, the United States or between jurisdictions abroad of tangible personal property or services;

(b) The financing of the production, preparation, storage, or transportation of tangible personal property or services which are identifiable as being directly and solely for export from, or import into, the United States or between jurisdictions abroad;

(c) The financing of contracts, projects, or activities to be performed substantially abroad, except those transactions

secured by a mortgage, deed of trust, or other lien upon real property located in this state;

(d) The receipt of deposits or borrowings or the extensions of credit by an international banking facility, except the loan or deposit of funds secured by mortgage, deed of trust, or other lien upon real property located in this state; or

(e) Entering into foreign exchange trading or hedging transactions in connection with the activities described in paragraph (d).

(9) "Ministerial function" means an act the performance of which does not involve the use of discretion or judgment.

(10) "Money" includes, without limitation, United States legal tender, certificates of deposit, cashier's and certified checks, bills of exchange, drafts, the cash equivalent of annuities and life insurance policies, and similar instruments, which are held by a taxpayer, or deposited with or held by a banking organization or any other person.

(11) "Person" means any individual, firm, partnership, joint adventure, syndicate, or other group or combination acting as a unit, association, corporation, estate, trust, business trust, trustee, personal representative, receiver, or other fiduciary and includes the plural as well as the singular.

(12) "Processing activity" means an activity undertaken to administer or service intangible personal property in accordance with such terms, guidelines, criteria, or directions as are provided solely by the owner of the property. Methods, systems, or techniques chosen by the processor to implement such terms, guidelines, criteria, or directions are not considered the exercise of management or control.

(13) "Taxpayer" means any person liable for taxes imposed under this chapter and any heir, successor, assignee, and transferee of any such person.

199.0325 Levy of annual tax.—An annual tax of 2 mills is imposed on each dollar of the just valuation of all intangible personal property that has a taxable situs in this state, except for notes and other obligations for the payment of money, other than bonds, that are secured by a mortgage, deed of trust, or other lien upon real property situated in this state. This tax shall be assessed and collected as provided in this chapter.

199.0335 Securities in a Florida's Future Investment Fund; tax rate.—

(1) Notwithstanding the provisions of this chapter, the tax imposed under s. 199.0325 on securities in a Florida's Future Investment Fund applies at a rate of 0.85 mill when the average daily balance in such funds exceeds $2 billion and at a rate of 0.70 mill when the average daily balance in such funds exceeds $5 billion.

(2) This section shall not apply in any year in which the revenues of the foundation in the previous calendar year are less than the tax savings allowed by this section. The term "tax savings" means the difference between the tax that would be imposed pursuant to s. 199.0325 and the tax rate specified in subsection (1).

199.0425 Due date of annual tax.—

(1) The annual tax on intangible personal property shall be due and payable on June 30 of each year. Payment of the tax shall be made to the department upon filing of the return required by s. 199.0525. A return mailed to the department shall

be considered timely filed if the return bears a postmark no later than the due date.

(2) A discount for early payment of the annual tax shall be allowed as follows: for payment on or before the last day of February, 4 percent; for payment on or before March 31, 3 percent; for payment on or before April 30, 2 percent; and for payment after April 30 but on or before May 31, 1 percent.

199.0525 Annual tax returns; payment of annual tax.—

(1) An annual intangible tax return must be filed with the department by each corporation authorized to do business in this state or doing business in this state and by each person, regardless of domicile, who on January 1 owns, controls, or manages intangible personal property which has a taxable situs in this state. For purposes of this chapter, the terms "control" or "manage" do not include any ministerial function or any processing activity. The return shall be due on June 30 of each year. It shall list separately the character, description, and just valuation of all such property.

(2) A person, corporation, agent, or fiduciary is not required to pay the annual tax in any year when the aggregate annual tax upon the intangible personal property, after exemptions but before application of any discount for early filing, would be less than $60. In such case, an annual return is not required. Agents and fiduciaries shall report for each person for whom they hold intangible personal property if the aggregate annual tax on such person is $60 or more.

(3) A corporation having no intangible tax liability, and required to file an annual report pursuant to s. 607.1622, is not required to file the annual intangible tax return required

by this section.

(4) A husband and wife may file a joint return with regard to all intangible personal property held jointly or individually by them. They shall then be jointly liable for the payment of the annual tax.

(5) A trustee of a trust is not responsible for filing returns for the trust's intangible personal property and is not required to pay any annual tax on such property, although the department may require the trustee to file an informational return.

(6) Each resident of this state with a beneficial interest as defined in s. 199.0235(4) in a trust is responsible for filing an annual return for the resident's equitable share of the trust's intangible personal property and paying the annual tax on such property. The trustee of a trust may file an annual return and pay the tax on the equitable shares of all residents of this state having beneficial interests, in which case the residents need not file an annual return for such property or pay such tax.

(7) The personal representative or curator of an estate in this state is primarily responsible for filing an annual return for the estate's intangible personal property and paying the annual tax on it. The heirs or devisees, however, may individually file an annual return for their equitable shares of the estate's intangible personal property and pay the tax on such shares, in which case the personal representative or curator need not file an annual return on such property or pay such tax, although the department may require the personal representative or curator to file an informational return.

(8) The guardian of the property of an incompetent resident of this state shall file an annual return for the incompetent's intangible personal property and pay the annual tax on such property. The custodian of a minor resident of this state under a gifts-to-minors or similar act shall file an annual return for the minor's intangible personal property which is subject to the custodianship and pay the annual tax on such property.

(9) If an agent other than a trustee has control or management of intangible personal property, the principal is primarily responsible for filing an annual return for such property and paying the annual tax on such property, but the agent shall file an annual return for property on behalf of the principal and pay the annual tax on such property if the principal fails to do so. The department may in any case require the agent to file an informational return.

(10) An affiliated group may elect to file a consolidated return for any year. The election shall be made by timely filing a consolidated return. Once made, an election may not be revoked and is binding for the tax year. The mere filing of a consolidated return does not in itself provide a business situs in this state for intangible personal property held by a corporation. The fact that members of an affiliated group own stock in corporations or membership interest in limited liability companies that do not qualify under the stock ownership or membership interest in a limited liability company requirements as members of an affiliated group shall not preclude the filing of a consolidated return on behalf of the qualified members. If a consolidated return is filed, intercompany accounts, including the capital stock or membership

interest in a limited liability company of an includable corporation or limited liability company, other than the parent, owned by another includable corporation or limited liability company, are not subject to the annual tax. However, capital stock, or membership interest in a limited liability company, and other intercompany accounts of a nonqualified member of the affiliated group are subject to the annual tax. Each consolidated return must be accompanied by documentation identifying all intercompany accounts and containing such other information as the department may require. Failure to timely file a consolidated return shall not prejudice the taxpayer's right to file a consolidated return, provided the failure to file a consolidated return is limited to 1 year and the taxpayer's intent to file a consolidated return is evidenced by the taxpayer having filed a consolidated return for the 3 years prior to the year the return was not timely filed.

(11) An annual return for securities held in margin accounts by a security broker not acting as a fiduciary shall be filed, and the annual tax on such securities shall be paid, by the customer owning them. The security broker is not required to file an annual return or pay the tax on such securities.

(12) Except as otherwise provided in this section, the owner of intangible personal property is liable for the payment of annual tax on such property, and any other person required to file an annual return for such property is liable for the tax if the owner fails to pay the tax.

(13) If a bank or savings association, as defined in s. 220.62, acts as a fiduciary or agent of a trust other than as a trustee, the bank or savings association is not responsible for

filing an annual return for the trust's intangible personal property and is not required to pay any annual tax on such property, and the management or control of the bank or savings association shall not be used as the basis for imposing any annual tax on any person or any assets of the trust. If a person acts as a fiduciary or agent for purposes of managing intangible assets owned by another person, such intangible assets shall not have a taxable situs in this state pursuant to s. 199.1755 solely by virtue of the management or control of such assets by the person who is not the owner of the assets.

(14)(a) Except as provided in paragraph (b), each bank and financial organization filing annual intangible tax returns for its customers shall file return information for taxes due January 1, 2011, and thereafter using machine-sensible media. The information required by this subsection must be reported by banks or financial organizations on machine-sensible media, using specifications and instructions of the department. A bank or financial organization that demonstrates to the satisfaction of the department that a hardship exists is not required to file intangible tax returns for its customers using machine-sensible media. The department shall adopt rules necessary to administer this paragraph.

(b) A taxpayer may choose to file an annual intangible personal property tax return in a form initiated through an electronic data interchange using an advanced encrypted transmission by means of the Internet or other suitable transmission. The department shall prescribe by rule the format and instructions necessary for such filing to ensure a full collection of taxes due. The acceptable method of transfer, the

method, form, and content of the electronic data interchange, and the means, if any, by which the taxpayer will be provided with an acknowledgment shall be prescribed by the department.

199.0575 Corporate election to pay stockholders' annual tax.—

(1) Each corporation incorporated or qualified to do business in this state may elect each tax year to pay the annual tax on any class of its stock, as agent for its stockholders in this state holding such stock.

(2) To make the election, the corporation shall:

(a) File written notice with the department on or before June 30 of the year for which the election is made.

(b) File an annual return with respect to such stock and its own intangible personal property.

(c) Furnish its stockholders in this state with written notice, on or before April 1 of the year for which the election is made, that the election is being made, including a description of the class or classes of stock which are affected. A corporation making the election under this subsection shall certify on its notice to the department that its stockholders were timely notified of the election.

(3) An election is not valid unless timely notice of the election is given to the department under paragraph (2)(a). Once made, an election may not be amended or revoked and is binding for the tax year.

199.0625 Annual tax information reports.—

(1)(a) On or before June 30 of each year, each security dealer and investment adviser registered under the laws of this state shall file with the department a position statement as of

December 31 of the preceding year for each customer whose mailing address is in this state or a statement that the security dealer or investment adviser does not hold securities on account for any customer whose mailing address is in this state. The position statement shall include the customer's name, address, social security number, or federal identification number; the number of units, value, and description, including the Committee on Uniform Security Identification Procedures (CUSIP) number, if any, of all securities held by the dealer or adviser for the customer; and such other information as the department may reasonably require. The dealer or adviser shall report the information required by this paragraph on magnetic media, using specifications and instructions of the department, unless the dealer or adviser demonstrates that an undue hardship exists.

(b)1. The department may require security dealers and investment advisers registered in this state to transmit once every 2 years a copy of the department's intangible tax brochure to each customer of the dealer or advisor whose mailing address is in this state.

2. The department may require property appraisers to send, at such times and in such manner as the department and the property appraisers jointly determine, a copy of the department's intangible tax brochure to each owner of property in this state.

(2) Each fiduciary shall serve the department with a copy of each inventory required to be prepared or filed in the circuit court under general law or rules adopted by the Supreme Court relating to decedent's estates, trusts, or guardianships.

Any such inventory required to be filed in the circuit court may not be approved by the court until such copy as required by this subsection has been filed with the department. When an inventory is not required to be filed in the circuit court, the personal representative of a decedent's estate shall serve the department with a copy of one inventory as provided in s. 733.604, and each other fiduciary shall file a return relating to such information as shall be prescribed by rule of the department.

199.1035 Basis of assessment; valuation.—All intangible personal property shall be subject to the annual tax at its just valuation as of January 1 of each year. Such property shall be valued in the following manner:

(1) Shares of stock of corporations, or any interest of a limited partner in any limited partnership, regularly listed on any public stock exchange or regularly traded over-the-counter shall be valued at their closing prices on the last business day of the previous calendar year.

(2) Shares or units of companies or trusts registered under the Investment Company Act of 1940, as amended, including mutual funds, money market funds, and unit investment trusts where such shares or units are not exempt under s. 199.1855, shall be valued at the net asset value of such shares or units on the last business day of the previous calendar year.

(3) Bonds regularly listed on any public stock exchange or regularly traded over-the-counter shall be valued at their closing bid prices on the last business day of the previous calendar year.

(4) Shares of stocks, bonds, or similar instruments of corporations not listed on any public stock exchange or not

regularly traded over-the-counter shall be valued as of January 1 of each year on the basis of those factors customarily considered in determining fair market value.

(5) Accounts receivable shall be valued at their face value as of January 1 of each year, less a reasonable allowance for uncollectible accounts.

(6) All notes and other obligations shall have a value equal to their unpaid balance as of January 1 of each year, unless the taxpayer can establish a lesser value upon proof satisfactory to the department.

(7) All other forms of intangible personal property shall be valued on the basis of factors customarily considered in determining fair market value.

(8) Stocks or shares of a savings association or middle tier stock holding company, held by a parent mutual holding company, the depositors of which are members of the mutual holding company, which converted from a mutual savings association to a mutual holding company pursuant to 12 U.S.C. s. 1467a.(o), shall be valued as of January 1 each year on the same basis as ownership in the mutual savings association was valued for intangible tax purposes prior to the conversion. Stocks or shares of such a converted association which are held by individuals or entities other than the parent mutual holding company shall be valued pursuant to subsection (1) or subsection (4).

199.10555 Contaminated site rehabilitation tax credit.—

(1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—

(a) A credit equal to 35 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the

following sites is available against any tax due for a taxable year under s. 199.0325, less any credit allowed by former s. 220.68 for that year:

1. A drycleaning-solvent-contaminated site eligible for state-funded site rehabilitation under s. 376.3078;

2. A drycleaning-solvent-contaminated site at which voluntary cleanup is undertaken by the real property owner pursuant to s. 376.3078, if the real property owner is not also, and has never been, the owner or operator of the drycleaning facility where the contamination exists; or

3. A brownfield site in a designated brownfield area under s. 376.80.

(b) A tax credit applicant, or multiple tax credit applicants working jointly to clean up a single site, may not be granted more than $250,000 per year in tax credits for each site voluntarily rehabilitated. Multiple tax credit applicants shall be granted tax credits in the same proportion as their contribution to payment of cleanup costs. Subject to the same conditions and limitations as provided in this section, a municipality, county, or other tax credit applicant which voluntarily rehabilitates a site may receive not more than $250,000 per year in tax credits which it can subsequently transfer subject to the provisions in paragraph (g).

(c) If the credit granted under this section is not fully used in any one year because of insufficient tax liability on the part of the tax credit applicant, the unused amount may be carried forward for a period not to exceed 5 years. Five years after the date a credit is granted under this section, such credit expires and may not be used. However, if during the 5-

year period the credit is transferred, in whole or in part, pursuant to paragraph (g), each transferee has 5 years after the date of transfer to use the transferred credit.

(d) A taxpayer that receives a credit under s. 220.1845 is ineligible to receive credit under this section in a given tax year.

(e) A tax credit applicant that receives state-funded site rehabilitation pursuant to s. 376.3078 for rehabilitation of a drycleaning-solvent-contaminated site is ineligible to receive credit under this section for costs incurred by the tax credit applicant in conjunction with the rehabilitation of that site during the same time period that state-administered site rehabilitation was underway.

(f) The total amount of the tax credits which may be granted under this section and s. 220.1845 is $2 million annually.

(g)1. Tax credits that may be available under this section to an entity eligible under s. 376.30781 may be transferred after a merger or acquisition to the surviving or acquiring entity and used in the same manner with the same limitations.

2. The entity, or its surviving or acquiring entity as described in subparagraph 1., may transfer any unused credit in whole or in units of no less than 25 percent of the remaining credit. The entity acquiring such credit may use it in the same manner and with the same limitation as described in this section. Such transferred credits may not be transferred again, although such credits may succeed to a surviving or acquiring entity subject to the same conditions and limitations as described in this section.

3. If the credit provided for under this section is reduced as a result of a determination by the Department of Environmental Protection or an examination or audit by the Department of Revenue, such tax deficiency shall be recovered from the first entity, or the surviving or acquiring entity, to have claimed such credit up to the amount of credit taken. Any subsequent deficiencies shall be assessed against any entity acquiring and claiming such credit or, in the case of multiple succeeding entities, in the order of credit succession.

(h) In order to encourage completion of site rehabilitation at contaminated sites being voluntarily cleaned up and eligible for a tax credit under this section, the tax credit applicant may claim an additional 10 percent of the total cleanup costs, not to exceed $50,000, in the final year of cleanup as evidenced by the Department of Environmental Protection issuing a "No Further Action" order for that site.

(2) FILING REQUIREMENTS.—Any taxpayer that wishes to obtain credit under this section must submit with the taxpayer's return a tax credit certificate approving partial tax credits issued by the Department of Environmental Protection under s. 376.30781.

(3) ADMINISTRATION; AUDIT AUTHORITY; TAX CREDIT FORFEITURE.—

(a) The Department of Revenue may adopt rules to prescribe any necessary forms required to claim a tax credit under this section and to provide the administrative guidelines and procedures required to administer this section.

(b) In addition to its existing audit and investigation authority relating to chapters 199 and 220, the Department of Revenue may perform any additional financial and technical

audits and investigations, including examining the accounts, books, or records of the tax credit applicant, which are necessary to verify the site rehabilitation costs included in a tax credit return and to ensure compliance with this section. The Department of Environmental Protection shall provide technical assistance, when requested by the Department of Revenue, on any technical audits performed under this section.

(c) It is grounds for forfeiture of previously claimed and received tax credits if the Department of Revenue determines, as a result of either an audit or information received from the Department of Environmental Protection, that a taxpayer received tax credits under this section to which the taxpayer was not entitled. In the case of fraud, the taxpayer shall be prohibited from claiming any future tax credits under this section or s. 220.1845.

1. The taxpayer is responsible for returning forfeited tax credits to the Department of Revenue, and such funds shall be paid into the General Revenue Fund of the state.

2. The taxpayer shall file with the Department of Revenue an amended tax return or such other report as the Department of Revenue prescribes by rule and shall pay any required tax within 60 days after the taxpayer receives notification from the Department of Environmental Protection pursuant to s. 376.30781 that previously approved tax credits have been revoked or modified, if uncontested, or within 60 days after a final order is issued following proceedings involving a contested revocation or modification order.

3. A notice of deficiency may be issued by the Department of Revenue at any time within 5 years after the date the

taxpayer receives notification from the Department of Environmental Protection pursuant to s. 376.30781 that previously approved tax credits have been revoked or modified. If a taxpayer fails to notify the Department of Revenue of any change in its tax credit claimed, a notice of deficiency may be issued at any time. In either case, the amount of any proposed assessment set forth in such notice of deficiency shall be limited to the amount of any deficiency resulting under this section from the recomputation of the taxpayer's tax for the taxable year.

4. Any taxpayer that fails to report and timely pay any tax due as a result of the forfeiture of its tax credit is in violation of this section and is subject to applicable penalty and interest.

199.1065 Credit for taxes imposed by other states.—

(1) For intangible personal property that has been deemed to have a taxable situs in this state solely pursuant to s. 199.1755(2) or any similar predecessor statute, a credit against the tax imposed by s. 199.0325 is allowed to a taxpayer in an amount equal to a like tax lawfully imposed and paid by that taxpayer on the same property in another state, territory of the United States, or the District of Columbia. For purposes of this subsection, the term "like tax" means an ad valorem tax on intangible personal property that is also subject to tax under s. 199.0325. The credit may not exceed the tax imposed on the property under s. 199.0325. Proof of entitlement to such a credit must be made pursuant to rules and forms adopted by the department.

(2) For intangible personal property that has a taxable

situs in this state under s. 199.1755(1) or any similar predecessor statute, a credit against the tax imposed by s. 199.0325 is allowed to a taxpayer in an amount equal to a like tax lawfully imposed and paid by that taxpayer on the same property in another state, territory of the United States, or the District of Columbia when the other taxing authority is also claiming situs under provisions similar or identical to those in s. 199.1755(1) or any similar predecessor statute. For purposes of this subsection, the term "like tax" means an ad valorem tax on intangible personal property which is also subject to tax under s. 199.0325. The credit may not exceed the tax imposed on the property under s. 199.0325. Proof of entitlement to such a credit must be made pursuant to rules and forms adopted by the department.

(3) The credits provided by this section apply retroactively. However, notwithstanding the retroactivity of these credit provisions, this section does not reopen a closed period of nonclaim under s. 215.26 or any other statute or extend the period of nonclaim under s. 215.26 or any other statute.

199.1755 Taxable situs.—For purposes of the annual tax imposed under this chapter:

(1) Intangible personal property has a taxable situs in this state when it is owned, managed, or controlled by any person domiciled in this state on January 1 of the tax year. Such intangibles shall be subject to annual taxation under this chapter, unless the person who owns, manages, or controls them is specifically exempt or unless the property is specifically exempt. This provision applies regardless of where the evidence

of the intangible property is kept; where the intangible is created, approved, or paid; or where business may be conducted from which the intangible arises. The fact that a corporation in this state owns the stock of an out-of-state corporation and manages and controls such corporation from a location in this state shall not operate to give a taxable situs in this state to the intangibles owned by the out-of-state corporation, which intangibles arise out of business transacted outside this state.

(a) For the purposes of this chapter, the term "any person domiciled in this state" means:

1. Any natural person who is a legal resident of this state;

2. Any business, business trust as described in chapter 609, company, corporation, partnership, or other artificial entity organized or created under the law of this state, except a trust; or

3. Any person, including a business trust, that has established a commercial domicile in this state.

(b) A business or other artificial entity acquires its commercial domicile in this state when it maintains its chief or principal office in this state where executive or management functions are performed or where the course of business operations is determined.

(c) Notwithstanding the provisions of this subsection, intangibles that are credit card receivables or charge card receivables or related lines of credit or loans that would otherwise be deemed to have taxable situs in this state solely because they are owned, managed, or controlled by a bank or savings association as defined in s. 220.62, or an affiliate or

subsidiary thereof, which is domiciled in this state shall be treated as having a taxable situs in this state only when the debt represented by the intangible is owed by a customer who is domiciled in this state. As used in this paragraph, the terms "credit card receivables" and "charge card receivables" do not include trade or service receivables as defined in s. 864 of the Internal Revenue Code of 1986, as amended.

(2) Intangible personal property has a taxable situs in this state when it is deemed to have a business situs in this state and it is owned, managed, or controlled by a person transacting business in this state, even though the owner may claim a domicile elsewhere. This provision applies regardless of where the evidence of the intangible is kept or where the intangible is created, approved, or paid.

(a) Intangibles shall be deemed to have a business situs in this state when the intangibles receive the benefit and protection of the laws and courts of this state and are derived from, arise out of, or are issued in connection with the business transacted in this state with a customer in this state. For purposes of this paragraph:

1. Business is transacted in this state when any occupation, profession, or commercial activity, including financing, leasing, selling, or servicing activities, is regularly conducted with customers in this state from an office, plant, home, or any other business location in this state.

2. Business is transacted in this state when any occupation, profession, or commercial activity, including, but not limited to, financing, leasing, selling, or servicing activities, is regularly conducted with customers in this state

by or through agents, employees, or representatives of any kind in this state, whether or not such persons are vested with discretionary authority.

(b) Notwithstanding the provisions of this subsection:

1.a. Intangible personal property that is credit card or charge card receivables or related lines of credit or loans shall be deemed to have business situs in this state only when the debt represented by such intangible property is owed by a customer who is domiciled in this state.

b. The performance of ministerial functions relating to, or the processing of, credit card or charge card receivables in this state for the owner of such receivables is not sufficient to support a finding that the owner is transacting business in this state.

c. The term "credit card or charge card receivables" does not include trade or service receivables as defined in s. 864 of the Internal Revenue Code of 1986, as amended.

2. Intangible personal property owned by a real estate mortgage investment conduit, a real estate investment trust, or a regulated investment company, as those terms are defined in the United States Internal Revenue Code of 1986, as amended, shall not be deemed to have a taxable situs in this state unless such entity has its legal or commercial domicile in this state.

3. The ownership of any interest in a participation or syndication loan or pool of loans, notes, or receivables is not sufficient to support a finding that the owner of such interest is transacting business in this state. For purposes of this subparagraph, a participation or syndication loan is a loan in which more than one lender is a creditor to a common borrower,

and a participation or syndication interest in a pool of loans, notes, or receivables is an interest acquired from the originator or initial creditor with respect to the loans, notes, or receivables constituting the pool.

(c) It is the intent of this subsection that a nonresident may not transact business in this state without paying the same tax which the state imposes on residents transacting the same business.

199.1855 Property exempted from annual and nonrecurring taxes.—

(1) The following intangible personal property is exempt from the annual and nonrecurring taxes imposed by this chapter:

(a) Money.

(b) Franchises.

(c) Any interest as a partner in a partnership, general or limited, other than any interest as a limited partner in a limited partnership registered with the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended.

(d) Notes, bonds, and other obligations issued by the State of Florida or its municipalities, counties, and other taxing districts, or by the United States Government and its agencies.

(e) Intangible personal property held in trust pursuant to any stock bonus, pension, or profit-sharing plan or any individual retirement account which is qualified under s. 530, s. 401, s. 408, or s. 408A of the United States Internal Revenue Code, 26 U.S.C. ss. 530, 401, 408, and 408A, as amended.

(f) Intangible personal property held under a retirement plan of a Florida-based corporation exempt from federal income tax under s. 501(c)(6) of the United States Internal Revenue

Code, 26 U.S.C., if the primary purpose of the corporation is to support the promotion of professional sports and the retirement plan is either a qualified plan under s. 457 of the United States Internal Revenue Code or the contributions to the plan, pursuant to a ruling by the United States Internal Revenue Service, are not taxable to plan participants until actual receipt or withdrawal by the participant.

(g) Notes and other obligations, except bonds, to the extent that such notes and obligations are secured by mortgage, deed of trust, or other lien upon real property situated outside the state.

(h) The assets of a corporation registered under the Investment Company Act of 1940, 15 U.S.C. s. 80a-1-52, as amended.

(i) All intangible personal property issued in or arising out of any international banking transaction and owned by a banking organization.

(j) Units of a unit investment trust and shares or units of, or other undivided interest in, a business trust organized under an agreement, indenture, or declaration of trust and registered under the Investment Company Act of 1940, as amended, shall be exempt if at least 90 percent of the net asset value of the portfolio of assets corresponding to such shares, units, or undivided interests is invested in assets that are exempt from the tax imposed by s. 199.0325.

(k) Interests in real estate securitizations, including, but not limited to, real estate mortgage investment conduits (REMIC) and financial asset securitization trusts (FASITS), which are directly or indirectly secured by or payable from

notes and obligations that are in turn secured solely by a mortgage, deed of trust, or other lien upon real property situated in or outside the state, including, but not limited to, mortgage pools, participations, and derivatives.

(l) All accounts receivable arising or acquired in the ordinary course of a trade or business which are owned, controlled, or managed by a taxpayer. This exemption does not apply to accounts receivable that arise outside the taxpayer's ordinary course of trade or business. For the purposes of this chapter, the term "accounts receivable" means a business debt that is owed by another to the taxpayer or the taxpayer's assignee in the ordinary course of trade or business and is not supported by negotiable instruments. Accounts receivable include, but are not limited to, credit card receivables, charge card receivables, credit receivables, margin receivables, inventory or other floor plan financing, lease payments past due, conditional sales contracts, retail installment sales agreements, financing lease contracts, and a claim against a debtor usually arising from sales or services rendered and which is not necessarily due or past due. The examples specified in this paragraph shall be deemed not to be supported by negotiable instruments. The term "negotiable instrument" means a written document that is legally capable of being transferred by endorsement or delivery. The term "endorsement" means the act of a payee or holder in writing his or her name on the back of an instrument without further qualifying words other than "pay to the order of" or "pay to" whereby the property is assigned and transferred to another.

(m) Stock options granted to employees by their employer

pursuant to an incentive plan, if the employees cannot transfer, sell, or mortgage the options. Stock purchased by an employee from an employer pursuant to an incentive plan shall be treated as a nontaxable stock option if part of the purchase price of the stock is nonrecourse debt secured by the stock and the stock cannot be sold, transferred, or assigned by the employee until the nonrecourse debt is discharged. Such stock becomes taxable stock when it can be sold, transferred, or assigned by the employee.

(n)1. A leasehold estate in governmental property in which the lessee is required to furnish space on the leasehold estate for public use by governmental agencies at no charge to the governmental agencies.

2. The provisions of this exemption apply retroactively. However, notwithstanding the retroactivity of the exemption, it does not reopen a closed period of nonclaim under s. 215.26 or any other law or extend the period of nonclaim under s. 215.26 or any other statute.

(2)(a) Each natural person is entitled each year to an exemption of the first $1 million of the value of property otherwise subject to the annual tax. A husband and wife filing jointly shall have an exemption of $2 million. Every taxpayer that is not a natural person is entitled each year to an exemption of the first $250,000 of the value of property otherwise subject to the tax. Agents and fiduciaries, other than guardians and custodians under a gifts-to-minors act, filing as such may not claim this exemption on behalf of their principals or beneficiaries; however, if the principal or beneficiary returns the property held by the agent or fiduciary and is a

natural person, the principal or beneficiary may claim the exemption. A taxpayer is not entitled to more than one exemption under this subsection. This exemption shall not apply to intangible personal property described in s. 199.0235(6)(d).

(b) For purposes of this chapter, a resident shall be deemed to have a beneficial interest in a trust if the resident is the grantor of an irrevocable trust formed under any arrangement, verbal or written, that provides for more than 25 per cent of the assets of the trust to be transferred within 10 years after the agreement is executed back to the grantor or to the beneficiary other than as a result of the death of the grantor. Assets in any trust designated as a Florida Intangible Tax Exempt Trust or a similar arrangement are considered beneficial interests.

(3) Each natural person who is a widow or widower, or who is blind or totally and permanently disabled, is entitled each year to an additional exemption of $500 of property otherwise subject to the annual or nonrecurring tax. This exemption is afforded by s. 3, Art. VII of the State Constitution and is available only to the extent not used against real property or tangible personal property taxes.

(4) Charitable trusts, 95 percent of the income of which is paid to organizations exempt from federal income tax pursuant to s. 501(c)3 of the Internal Revenue Code, are exempt from the tax imposed in s. 199.0325.

(5) Any organization defined in s. 220.62(1), (2), (3), or (4) is exempt from the tax imposed by s. 199.0325.

(6) Each liquor distributor that is domiciled in this state, that is authorized to do business under the Beverage Law,

and that has paid the license taxes required by s. 565.03(2) is exempt from paying tax on accounts receivable owned by the taxpayer which are derived from, arise out of, or are issued in connection with a sale of alcoholic beverages transacted in another state with a customer in another state.

(7) A national bank that has its principal place of business in another state, processes credit card credit applications in this state or performs customer service or collection operations in this state, and is not a bank under 12 U.S.C. s. 1941(c)(2)(F), is exempt from paying tax on credit card receivables owed to the bank by a credit card holder domiciled outside this state.

(8) Each insurer, as defined in s. 624.03, whether the insurer is authorized or unauthorized as defined in s. 624.09, is exempt from the tax imposed by s. 199.0325.

Section 2. Effective January 1, 2011, paragraph (c) of subsection (1) of section 28.35, Florida Statutes, is amended to read:

28.35 Florida Clerks of Court Operations Corporation.—

(1)

(c) For purposes of s. 199.183(1), the corporation shall be considered a political subdivision of the state and shall be exempt from the corporate income tax. The corporation is not subject to the procurement provisions of chapter 287, and policies and decisions of the corporation relating to incurring debt, levying assessments, and the sale, issuance, continuation, terms, and claims under corporation policies, and all services relating thereto, are not subject to the provisions of chapter 120.

Section 3. Effective January 1, 2011, paragraph (a) of subsection (4) of section 192.0105, Florida Statutes, is amended to read:

192.0105 Taxpayer rights.—There is created a Florida Taxpayer's Bill of Rights for property taxes and assessments to guarantee that the rights, privacy, and property of the taxpayers of this state are adequately safeguarded and protected during tax levy, assessment, collection, and enforcement processes administered under the revenue laws of this state. The Taxpayer's Bill of Rights compiles, in one document, brief but comprehensive statements that summarize the rights and obligations of the property appraisers, tax collectors, clerks of the court, local governing boards, the Department of Revenue, and taxpayers. Additional rights afforded to payors of taxes and assessments imposed under the revenue laws of this state are provided in s. 213.015. The rights afforded taxpayers to assure that their privacy and property are safeguarded and protected during tax levy, assessment, and collection are available only insofar as they are implemented in other parts of the Florida Statutes or rules of the Department of Revenue. The rights so guaranteed to state taxpayers in the Florida Statutes and the departmental rules include:

(4) THE RIGHT TO CONFIDENTIALITY.—

(a) The right to have information kept confidential, including federal tax information, ad valorem tax returns, social security numbers, all financial records produced by the taxpayer, Form DR-219 returns for documentary stamp tax information, and sworn statements of gross income, copies of federal income tax returns for the prior year, wage and earnings

statements (W-2 forms), and other documents (see ss. 192.105, 193.074, 193.114(6) ~~(5)~~, 195.027(3) and (6), and 196.101(4)(c)).

Section 4. Effective January 1, 2011, subsections (5) and (6) of section 192.032, Florida Statutes, are renumbered as subsections (6) and (7), respectively, and a new subsection (5) is added to that section, to read:

192.032 Situs of property for assessment purposes.—All property shall be assessed according to its situs as follows:

(5) Intangible personal property, according to the rules laid down in chapter 199.

Section 5. Effective January 1, 2011, subsection (3) is added to section 192.042, Florida Statutes, to read:

192.042 Date of assessment.—All property shall be assessed according to its just value as follows:

(3) Intangible personal property, according to the rules laid down in chapter 199.

Section 6. Effective January 1, 2011, subsection (5) of section 192.091, Florida Statutes, is amended to read:

192.091 Commissions of property appraisers and tax collectors.—

(5) The provisions of this section shall not apply to commissions on intangible property taxes or drainage district or drainage subdistrict taxes.

Section 7. Effective January 1, 2011, subsections (4), (5), and (6) of section 193.114, Florida Statutes, are renumbered as subsections (5), (6), and (7), respectively, and a new subsection (4) is added to that section to read:

193.114 Preparation of assessment rolls.—

(4) The department shall adopt regulations and forms for

the preparation of the intangible personal property tax roll to comply with chapter 199.

Section 8. Effective January 1, 2011, subsection (11) is added to section 196.015, Florida Statutes, to read:

196.015 Permanent residency; factual determination by property appraiser.—Intention to establish a permanent residence in this state is a factual determination to be made, in the first instance, by the property appraiser. Although any one factor is not conclusive of the establishment or nonestablishment of permanent residence, the following are relevant factors that may be considered by the property appraiser in making his or her determination as to the intent of a person claiming a homestead exemption to establish a permanent residence in this state:

(11) The previous filing of Florida intangible tax returns by the applicant.

Section 9. Effective January 1, 2011, paragraph (b) of subsection (2) of section 196.199, Florida Statutes, is amended to read:

196.199 Government property exemption.—

(2) Property owned by the following governmental units but used by nongovernmental lessees shall only be exempt from taxation under the following conditions:

(b) Except as provided in paragraph (c), the exemption provided by this subsection shall not apply to those portions of a leasehold or other interest defined by s. 199.0235(6)(d) ~~199.023(1)(d), Florida Statutes 2005~~, subject to the provisions of subsection (7). Such leasehold or other interest shall be taxed only as intangible personal property pursuant to chapter

199, ~~Florida Statutes 2005,~~ if rental payments are due in consideration of such leasehold or other interest. ~~All applicable collection, administration, and enforcement provisions of chapter 199, Florida Statutes 2005, shall apply to taxation of such leaseholds.~~ If no rental payments are due pursuant to the agreement creating such leasehold or other interest, the leasehold or other interest shall be taxed as real property. Nothing in this paragraph shall be deemed to exempt personal property, buildings, or other real property improvements owned by the lessee from ad valorem taxation.

Section 10. Effective January 1, 2011, subsection (2) of section 199.133, Florida Statutes, is amended to read:

199.133 Levy of nonrecurring tax<u>; relationship to annual tax</u>.—

(2) The nonrecurring tax shall apply to a note, bond, or other obligation for payment of money only to the extent it is secured by mortgage, deed of trust, or other lien upon real property situated in this state. Where a note, bond, or other obligation is secured by personal property or by real property situated outside this state, as well as by mortgage, deed of trust, or other lien upon real property situated in this state, then the nonrecurring tax shall apply to that portion of the note, bond, or other obligation which bears the same ratio to the entire principal balance of the note, bond, or other obligation as the value of the real property situated in this state bears to the value of all of the security; however, if the security is solely made up of personal property and real property situated in this state, the taxpayer may elect to apportion the taxes based upon the value of the collateral, if

any, to which the taxpayer by law or contract must look first for collection. In no event shall the portion of the note, bond, or other obligation which is subject to the nonrecurring tax exceed in value the value of the real property situated in this state which is the security. The portion of a note, bond, or other obligation that is not subject to the nonrecurring tax shall be subject to the annual tax unless otherwise exempt.

Section 11. Effective January 1, 2011, paragraph (a) of subsection (1) of section 199.183, Florida Statutes, is amended, and subsections (3) and (4) are added to that section, to read:

199.183 Taxpayers exempt from annual and nonrecurring taxes.—

(1) Intangible personal property owned by this state or any of its political subdivisions or municipalities shall be exempt from taxation under this chapter. This exemption does not apply to:

(a) Any leasehold or other interest that is described in s. 199.0235(6)(d) ~~199.023(1)(d), Florida Statutes 2005~~; or

(b) Property related to the provision of two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(15), and for which a certificate is required under chapter 364, when the service is provided by any county, municipality, or other political subdivision of the state. Any immunity of any political subdivision of the state or other entity of local government from taxation of the property used to provide telecommunication services that is taxed as a result of this paragraph is hereby waived. However, intangible personal property related to the provision of telecommunications services

provided by the operator of a public-use airport, as defined in s. 332.004, for the operator's provision of telecommunications services for the airport or its tenants, concessionaires, or licensees, and intangible personal property related to the provision of telecommunications services provided by a public hospital, are exempt from taxation under this chapter.

(3) Every national bank having its principal place of business in another state, but operating a credit card credit application processing, customer service, or collection operation in this state, that is not considered a bank under the provisions of 12 U.S.C. s. 1841(c)(2)(F), is exempt from paying the tax imposed by this chapter on credit card receivables owed to the bank by credit card holders domiciled outside this state.

(4) Intangible personal property that is owned, managed, or controlled by a trustee of a trust is exempt from annual tax under this chapter. This exemption does not exempt from annual tax a resident of this state who has a taxable beneficial interest, as defined in s. 199.0235(4), in a trust.

Section 12. Effective January 1, 2011, section 199.218, Florida Statutes, is amended to read:

199.218 Books and records.—

(1) Each taxpayer shall retain all books and other records necessary to identify the taxpayer's intangible personal property and to determine any tax due under this chapter, as well as all books and other records otherwise required by rule of the department with respect to any such tax, until the department's power to make an assessment with respect to such tax has terminated under s. 95.091(3).

(2) Each broker subject to the provisions of s. 199.0625

shall preserve all books and other records relating to the information reported under s. 199.0625 or otherwise required by rule of the department for a period of 3 years from the due date of the report.

Section 13. Effective January 1, 2011, paragraph (a) of subsection (1) and subsection (3) of section 199.232, Florida Statutes, are amended to read:

199.232 Powers of department.—

(1)(a) The department may audit the books and records of any person to determine whether an annual tax or a nonrecurring tax has been properly paid.

(3) With or without an audit, the department may assess any tax deficiency resulting from nonpayment or underpayment of the tax, as well as any applicable interest and penalties. The department shall assess on the basis of the best information available to it, including estimates based on the best information available to it if the taxpayer fails to permit inspection of the taxpayer's records, fails to file an annual return, files a grossly incorrect return, or files a false and fraudulent return.

Section 14. Effective January 1, 2011, section 199.282, Florida Statutes, is amended to read:

199.282 Penalties for violation of this chapter.—

(1) Any person willfully violating or failing to comply with any of the provisions of this chapter shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) If any annual or nonrecurring tax is not paid by the statutory due date, then despite any extension granted under s.

199.232(6), interest shall run on the unpaid balance from such due date until paid at the rate of 12 percent per year.

(3)(a) If any annual or nonrecurring tax is not paid by the due date, a delinquency penalty shall be charged. The delinquency penalty shall be 10 percent of the delinquent tax for each calendar month or portion thereof from the due date until paid, up to a limit of 50 percent of the total tax not timely paid.

(b) If any annual tax return required by this chapter is not filed by the due date, a penalty of 10 percent of the tax due with the return shall be charged for each calendar month or portion thereof during which the return remains unfiled, up to a limit of 50 percent of the total tax due.

For any penalty assessed under this subsection, the combined total for all penalties assessed under paragraphs (a) and (b) shall not exceed 10 percent per calendar month, up to a limit of 50 percent of the total tax due.

(4) If an annual tax return is filed and property is either omitted from it or undervalued, then a specific penalty shall be charged. The specific penalty shall be 10 percent of the tax attributable to each omitted item or to each undervaluation. No delinquency or late filing penalty shall be charged with respect to any undervaluation.

(5)~~(4)~~ No mortgage, deed of trust, or other lien upon real property situated in this state shall be enforceable in any Florida court, nor shall any written evidence of such mortgage, deed of trust, or other lien be recorded in any public record of the state, until the nonrecurring tax imposed by this chapter,

including any taxes due on future advances, has been paid and the clerk of circuit court collecting the tax has noted its payment on the instrument or given other receipt for it. However, failure to pay the correct amount of tax or failure of the clerk to note payment of the tax on the instrument shall not affect the constructive notice given by recording of the instrument.

(6) Late reporting penalties shall be imposed as follows:

(a) A penalty of $100 upon any corporation that does not timely file a written notice required under s. 199.0575(2)(c).

(b) An initial penalty of $10 per customer position statement, plus an additional penalty of the greater of 1 percent of the initial penalty or $50 for each month or portion of a month, from the date due until filing is made, upon any security dealer or investment adviser who does not timely file or fails to file the statements required by s. 199.0625(1). The submission of a position statement that does not comply with the department's specifications and instructions or the submission of an inaccurate position statement is not a timely filing. The department shall notify any security dealer or investment adviser who fails to timely file the required statements. The minimum penalty imposed upon a security dealer or investment adviser under this paragraph is $100.

(7)~~(5)~~ Interest and penalties attributable to any tax shall be deemed assessed when the tax is assessed. Interest and penalties shall be assessed and collected by the department as provided in this chapter. The department may settle or compromise tax, interest, or penalties under the provisions of s. 213.21.

(8)~~(6)~~ Any person who fails or refuses to file an annual return, or who fails or refuses to make records available for inspection, when requested to do so by the department is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(9)~~(7)~~ Any officer or director of a corporation who has administrative control over the filing of a return or payment of any tax due under this chapter and who willfully directs any employee of the corporation to fail to file the return or pay the tax due or to evade, defeat, or improperly account for the tax due, in addition to any other penalties provided by law, shall be liable for a penalty equal to the amount of tax not paid as required by this chapter. The filing of a protest based upon doubt as to liability for the tax shall not be deemed an attempt to evade or defeat the tax under this subsection. The penalty imposed hereunder shall be abated to the extent the tax is paid and may be compromised by the executive director of the department as provided in s. 213.21. An assessment of penalty made pursuant to this section shall be deemed prima facie correct in any judicial or quasi-judicial proceeding brought to collect this penalty.

Section 15. Effective January 1, 2011, section 199.292, Florida Statutes, is amended to read:

199.292 Disposition of intangible personal property taxes.—All intangible personal property taxes collected pursuant to this chapter, except for revenues derived from the annual tax on a leasehold described in s. 199.0235(6)(d) ~~199.023(1)(d), Florida Statutes 2005,~~ shall be deposited into the General Revenue Fund. Revenues derived from the annual tax on a

leasehold described in s. 199.0235(6)(d) ~~199.023(1)(d), Florida Statutes 2005,~~ shall be returned to the local school board for the county in which the property subject to the leasehold is situated.

Section 16. Effective January 1, 2011, subsection (3) of section 199.303, Florida Statutes, is amended to read:

199.303 Declaration of legislative intent.—

~~(3) It is hereby declared to be the specific intent of the Legislature that all annual intangible personal property taxes imposed as provided by law for calendar years 2006 and prior shall remain in full force and effect during the period specified by s. 95.091 for the year in which the tax was due. It is further the intent of the Legislature that the department continue to assess and collect all taxes due to the state under such provisions for all periods available for assessment, as provided for the year in which tax was due by s. 95.091.~~

Section 17. Effective January 1, 2011, subsection (19) of section 212.02, Florida Statutes, is amended to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(19) "Tangible personal property" means and includes personal property which may be seen, weighed, measured, or touched or is in any manner perceptible to the senses, including electric power or energy, boats, motor vehicles and mobile homes as defined in s. 320.01(1) and (2), aircraft as defined in s. 330.27, and all other types of vehicles. The term "tangible personal property" does not include stocks, bonds, notes,

insurance, or other obligations or securities; intangibles as defined by the intangible tax law of the state; or pari-mutuel tickets sold or issued under the racing laws of the state.

Section 18. Effective January 1, 2011, paragraph (p) of subsection (8) and paragraph (a) of subsection (15) of section 213.053, Florida Statutes, are amended to read:

213.053 Confidentiality and information sharing.—

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

(p) Information relative to ss. 199.10555, 220.1845, and 376.30781 to the Department of Environmental Protection in the conduct of its official business.

Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director and the agency. Such agencies, governmental or nongovernmental, shall be bound by the same requirements of confidentiality as the Department of Revenue. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.

(15)(a) Notwithstanding any other provision of this section, the department shall, subject to the safeguards specified in paragraph (c), disclose to the Division of Corporations of the Department of State the name, address, federal employer identification number, and duration of tax filings with this state of all corporate or partnership entities which are not on file or have a dissolved status with the Division of Corporations and which have filed tax returns pursuant to chapter 199 or chapter 220.

Section 19. Effective January 1, 2011, section 213.054, Florida Statutes, is amended to read:

213.054 Persons claiming tax exemptions or deductions; annual report.—The Department of Revenue shall be responsible for monitoring the utilization of tax exemptions and tax deductions authorized pursuant to chapter 81-179, Laws of Florida. On or before September 1 of each year, the department shall report to the Chief Financial Officer the names and addresses of all persons who have claimed an exemption pursuant to s. 199.1855(1)(i) or a deduction pursuant to s. 220.63(5).

Section 20. Effective January 1, 2011, section 213.27, Florida Statutes, is amended to read:

213.27 Contracts with debt collection agencies and certain vendors.—

(1) The Department of Revenue may, for the purpose of collecting any delinquent taxes due from a taxpayer, including taxes for which a bill or notice has been generated, contract with any debt collection agency or attorney doing business within or without this state for the collection of such delinquent taxes, including penalties and interest thereon. The department may also share confidential information pursuant to the contract necessary for the collection of delinquent taxes and taxes for which a billing or notice has been generated. Contracts will be made pursuant to chapter 287. The taxpayer must be notified by mail by the department, its employees, or its authorized representative at least 30 days prior to commencing any litigation to recover any delinquent taxes. The taxpayer must be notified by mail by the department at least 30 days prior to the initial assignment by the department of the

taxpayer's account for the collection of any taxes by the debt collection agency.

(2) The department may enter into contracts with any individual or business for the purpose of identifying intangible personal property tax liability. Contracts may provide for the identification of assets subject to the tax on intangible personal property, the determination of value of such property, the requirement for filing a tax return and the collection of taxes due, including applicable penalties and interest thereon. The department may share confidential information pursuant to the contract necessary for the identification of taxable intangible personal property. Contracts shall be made pursuant to chapter 287. The taxpayer must be notified by mail by the department at least 30 days prior to the department assigning identification of intangible personal property to an individual or business.

(3) ~~(2)~~ Any contract may provide, in the discretion of the executive director of the Department of Revenue, the manner in which the compensation for such services will be paid. Under standards established by the department, such compensation shall be added to the amount of the tax and collected as a part thereof by the agency or deducted from the amount of tax, penalty, and interest actually collected.

(4) ~~(3)~~ All funds collected under the terms of the contract, less the fees provided in the contract, shall be remitted to the department within 30 days from the date of collection from a taxpayer. Forms to be used for such purpose shall be prescribed by the department.

(5) ~~(4)~~ The department shall require a bond from the debt

collection agency or the individual or business contracted with under subsection (2) not in excess of $100,000 guaranteeing compliance with the terms of the contract. However, a bond of $10,000 is required from a debt collection agency if the agency does not actually collect and remit delinquent funds to the department.

(6) ~~(5)~~ The department may, for the purpose of ascertaining the amount of or collecting any taxes due from a person doing mail order business in this state, contract with any auditing agency doing business within or without this state for the purpose of conducting an audit of such mail order business; however, such audit agency may not conduct an audit on behalf of the department of any person domiciled in this state, person registered for sales and use tax purposes in this state, or corporation filing a Florida corporate tax return, if any such person or corporation objects to such audit in writing to the department and the auditing agency. The department shall notify the taxpayer by mail at least 30 days before the department assigns the collection of such taxes.

(7) ~~(6)~~ Confidential information shared by the department with debt collection or auditing agencies or individuals or businesses with which the department has contracted under subsection (2) is exempt from the provisions of s. 119.07(1), and debt collection or auditing agencies and individuals or businesses with which the department has contracted under subsection (2) shall be bound by the same requirements of confidentiality as the Department of Revenue. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by ss. 775.082 and 775.083.

(8)~~(7)~~(a) The executive director of the department may enter into contracts with private vendors to develop and implement systems to enhance tax collections where compensation to the vendors is funded through increased tax collections. The amount of compensation paid to a vendor shall be based on a percentage of increased tax collections attributable to the system after all administrative and judicial appeals are exhausted, and the total amount of compensation paid to a vendor shall not exceed the maximum amount stated in the contract.

(b) A person acting on behalf of the department under a contract authorized by this subsection does not exercise any of the powers of the department, except that the person is an agent of the department for the purposes of developing and implementing a system to enhance tax collection.

(c) Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director and the private vendors. The vendors shall be bound by the same requirements of confidentiality as the department. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 21. Effective January 1, 2011, paragraph (b) of subsection (4) of section 650.05, Florida Statutes, is amended to read:

650.05 Plans for coverage of employees of political subdivisions.—

(4)

(b) The grants-in-aid and other revenue referred to in paragraph (a) specifically include, but are not limited to, minimum foundation program grants to public school districts and

community colleges; gasoline, motor fuel, intangible, cigarette, racing, and insurance premium taxes distributed to political subdivisions; and amounts specifically appropriated as grants-in-aid for mental health, mental retardation, and mosquito control programs.

Section 22. Effective January 1, 2011, subsection (5) of section 733.702, Florida Statutes, is renumbered as subsection (6), and a new subsection (5) is added to that section to read:

733.702 Limitations on presentation of claims.—

(5) The Department of Revenue may file a claim against the estate of a decedent for taxes due under chapter 199 after the expiration of the time for filing claims provided in subsection (1), if the department files its claim within 30 days after the service of the inventory. Upon filing of the estate tax return with the department as provided in s. 198.13, or to the extent the inventory or estate tax return is amended or supplemented, the department has the right to file a claim or to amend its previously filed claim within 30 days after service of the estate tax return, or an amended or supplemented inventory or filing of an amended or supplemental estate tax return, as to the additional information disclosed.

Section 23. Effective upon this act becoming a law, the executive director of the Department of Revenue may adopt emergency rules under ss. 120.536(1) and 120.54, Florida Statutes, to implement chapter 199, Florida Statutes, and all conditions are deemed met for the adoption of such rules. Notwithstanding any other provision of law, such emergency rules shall remain effective for 6 months after the date of adoption and may be renewed during the pendency of procedures to adopt

rules addressing the subject of the emergency rules.

Section 24. Legislative findings and intent.—The Legislature finds that the separate accounting system used to measure the income of multistate and multinational corporations for tax purposes often places corporations in this state at a competitive disadvantage. Moreover, corporate business is increasingly conducted through groups of commonly owned corporations. Therefore, the Legislature intends to more accurately measure the business activities of corporations by adopting a combined system of income tax reporting.

Section 25. Paragraph (z) of subsection (1) of section 220.03, Florida Statutes, is amended, and paragraphs (gg) and (hh) are added to that subsection, to read:

220.03 Definitions.—

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

(z) "Taxpayer" means any corporation subject to the tax imposed by this code, and includes all corporations that are members of a water's edge group ~~for which a consolidated return is filed under s. 220.131~~. However, "taxpayer" does not include a corporation having no individuals (including individuals employed by an affiliate) receiving compensation in this state as defined in s. 220.15 when the only property owned or leased by said corporation (including an affiliate) in this state is located at the premises of a printer with which it has contracted for printing, if such property consists of the final printed product, property which becomes a part of the final

printed product, or property from which the printed product is produced.

(gg) "Tax haven" means a jurisdiction that, for a particular tax year:

1. Is identified by the Organization for Economic Co-operation and Development as a tax haven or as having a harmful preferential tax regime; or

2.a. Is a jurisdiction that does not impose or imposes only a nominal, effective tax on relevant income;

b. Has laws or practices that prevent the effective exchange of information for tax purposes with other governments regarding taxpayers who are subject to, or benefiting from, the tax regime;

c. Lacks transparency;

d. Facilitates the establishment of foreign-owned entities without the need for a local substantive presence or prohibits these entities from having any commercial impact on the local economy;

e. Explicitly or implicitly excludes the jurisdiction's resident taxpayers from taking advantage of the tax regime's benefits or prohibits enterprises that benefit from the regime from operating in the jurisdiction's domestic market; or

f. Has created a tax regime that is favorable for tax avoidance, based upon an overall assessment of relevant factors, including whether the jurisdiction has a significant untaxed offshore financial or other services sector relative to its overall economy.

For purposes of this paragraph, a tax regime lacks transparency

if the details of legislative, legal, or administrative requirements are not open to public scrutiny and apparent, or are not consistently applied among similarly situated taxpayers. As used in this paragraph, the term "tax regime" means a set or system of rules, laws, regulations, or practices by which taxes are imposed on any person, corporation, or entity, or on any income, property, incident, indicia, or activity pursuant to government authority.

(hh) "Water's edge group" means a group of corporations related through common ownership whose business activities are integrated with, dependent upon, or contribute to a flow of value among members of the group.

Section 26. Subsection (1) of section 220.13, Florida Statutes, is amended to read:

220.13 "Adjusted federal income" defined.—

(1) The term "adjusted federal income" means an amount equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.1363 ~~s. 220.131~~, for the taxable year, adjusted as follows:

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

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

2. The amount of interest which is excluded from taxable income under s. 103(a) of the Internal Revenue Code or any other federal law, less the associated expenses disallowed in the

computation of taxable income under s. 265 of the Internal Revenue Code or any other law, excluding 60 percent of any amounts included in alternative minimum taxable income, as defined in s. 55(b)(2) of the Internal Revenue Code, if the taxpayer pays tax under s. 220.11(3).

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

4. That portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under s. 220.181. This subparagraph shall expire on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act.

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

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

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

8. In the case of a nonprofit corporation which holds a pari-mutuel permit and which is exempt from federal income tax as a farmers' cooperative, an amount equal to the excess of the

gross income attributable to the pari-mutuel operations over the attributable expenses for the taxable year.

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

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

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

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

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

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

(b) *Subtractions.*—

1. There shall be subtracted from such taxable income:

a. The net operating loss deduction allowable for federal income tax purposes under s. 172 of the Internal Revenue Code for the taxable year,

b. The net capital loss allowable for federal income tax purposes under s. 1212 of the Internal Revenue Code for the taxable year,

c. The excess charitable contribution deduction allowable for federal income tax purposes under s. 170(d)(2) of the Internal Revenue Code for the taxable year, and

d. The excess contributions deductions allowable for federal income tax purposes under s. 404 of the Internal Revenue

Code for the taxable year.

However, a net operating loss and a capital loss shall never be carried back as a deduction to a prior taxable year, but all deductions attributable to such losses shall be deemed net operating loss carryovers and capital loss carryovers, respectively, and treated in the same manner, to the same extent, and for the same time periods as are prescribed for such carryovers in ss. 172 and 1212, respectively, of the Internal Revenue Code. A deduction is not allowed for net operating losses, net capital losses, or excess contribution deductions under 26 U.S.C. ss. 170(d)(2), 172, 1212, and 404 for a member of a water's edge group that is not a United States member. Carryovers of net operating losses, net capital losses, or excess contribution deductions under 26 U.S.C. ss. 170(d)(2), 172, 1212, and 404 may be subtracted only by the member of the water's edge group that generates a carryover.

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

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

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

However, as to any amount subtracted under this subparagraph, there shall be added to such taxable income all expenses deducted on the taxpayer's return for the taxable year which are attributable, directly or indirectly, to such subtracted amount.

Further, no amount shall be subtracted with respect to dividends paid or deemed paid by a Domestic International Sales Corporation.

3. Amounts received by a member of a water's edge group as dividends paid by another member of the water's edge group shall be subtracted from the taxable income to the extent that the dividends are included in the taxable income.

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

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

6.~~5.~~ There shall be subtracted any amount of taxes of foreign countries allowable as credits for taxable years beginning on or after September 1, 1985, under s. 901 of the Internal Revenue Code to any corporation which derived less than 20 percent of its gross income or loss for its taxable year ended in 1984 from sources within the United States, as described in s. 861(a)(2)(A) of the Internal Revenue Code, not including credits allowed under ss. 902 and 960 of the Internal Revenue Code, withholding taxes on dividends within the meaning of sub-subparagraph 2.a., and withholding taxes on royalties, interest, technical service fees, and capital gains.

7.~~6.~~ Notwithstanding any other provision of this code, except with respect to amounts subtracted pursuant to subparagraphs 1. and 4. ~~3.~~, any increment of any apportionment

factor which is directly related to an increment of gross receipts or income which is deducted, subtracted, or otherwise excluded in determining adjusted federal income shall be excluded from both the numerator and denominator of such apportionment factor. Further, all valuations made for apportionment factor purposes shall be made on a basis consistent with the taxpayer's method of accounting for federal income tax purposes.

(c) *Installment sales occurring after October 19, 1980.*—

1. In the case of any disposition made after October 19, 1980, the income from an installment sale shall be taken into account for the purposes of this code in the same manner that such income is taken into account for federal income tax purposes.

2. Any taxpayer who regularly sells or otherwise disposes of personal property on the installment plan and reports the income therefrom on the installment method for federal income tax purposes under s. 453(a) of the Internal Revenue Code shall report such income in the same manner under this code.

(d) *Nonallowable deductions.*—A deduction for net operating losses, net capital losses, or excess contributions deductions under ss. 170(d)(2), 172, 1212, and 404 of the Internal Revenue Code which has been allowed in a prior taxable year for Florida tax purposes shall not be allowed for Florida tax purposes, notwithstanding the fact that such deduction has not been fully utilized for federal tax purposes.

(e) *Adjustments related to the Federal Economic Stimulus Act of 2008 and the American Recovery and Reinvestment Act of 2009.*—Taxpayers shall be required to make the adjustments

prescribed in this paragraph for Florida tax purposes in relation to certain tax benefits received pursuant to the Economic Stimulus Act of 2008 and the American Recovery and Reinvestment Act of 2009.

1. There shall be added to such taxable income an amount equal to 100 percent of any amount deducted for federal income tax purposes as bonus depreciation for the taxable year pursuant to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as amended by s. 103 of Pub. L. No. 110-185 and s. 1201 of Pub. L. No. 111-5, for property placed in service after December 31, 2007, and before January 1, 2010. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income an amount equal to one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

2. There shall be added to such taxable income an amount equal to 100 percent of any amount in excess of $128,000 deducted for federal income tax purposes for the taxable year pursuant to s. 179 of the Internal Revenue Code of 1986, as amended by s. 102 of Pub. L. No. 110-185 and s. 1202 of Pub. L. No. 111-5, for taxable years beginning after December 31, 2007, and before January 1, 2010. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property

that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

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

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

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

Section 27. Section 220.136, Florida Statutes, is created to read:

220.136 Determination of the members of a water's edge group.—

(1) MEMBERSHIP RULES.—

(a) A corporation having 50 percent or more of its outstanding voting stock directly or indirectly owned or controlled by a water's edge group is presumed to be a member of the group. A corporation having less than 50 percent of its outstanding voting stock directly or indirectly controlled by a

water's edge group is a member of the group if the businesses activities of the corporation show that the corporation is a member of the group. All of the income of a corporation that is a member of a water's edge group is presumed to be unitary.

(b) A corporation that conducts business outside the United States is not a member of a water's edge group if 80 percent or more of the corporation's property and payroll, as determined by the apportionment factors described in ss. 220.15 and 220.1363, may be assigned to locations outside the United States. However, such corporations that are incorporated in a tax haven may be a member of a water's edge group pursuant to paragraph (a). This paragraph does not exempt a corporation that is not a member of a water's edge group from the provisions of this chapter.

(2) MEMBERSHIP EVALUATION CRITERIA.—

(a) The attribution rules of 26 U.S.C. 318 shall be used to determine whether voting stock is owned indirectly.

(b) As used in this paragraph, the term "United States" means the 50 states, the District of Columbia, and Puerto Rico.

(c) The apportionment factors described in ss. 220.15 and 220.1363 shall be used to determine whether a special industry corporation has engaged in a sufficient amount of activities outside the United States to exclude it from treatment as a member of a water's edge group.

Section 28. Section 220.1363, Florida Statutes, is created to read:

220.1363 Water's edge groups; special requirements.—

(1) All members of a water's edge group must use the water's edge reporting method. Under the water's edge reporting method:

(a) Adjusted federal income for purposes of s. 220.12 means the sum of adjusted federal income for all members of the group as determined for a concurrent tax year.

(b) The numerators and denominators of the apportionment factors shall be calculated for all members of the group combined.

(c) Intercompany sales transactions between members of the group are not included in the numerator or denominator of the sales factor pursuant to ss. 220.15 and 220.151, regardless of whether indicia of a sale exist. As used in this subsection, the term "sale" includes, but is not limited to, loans, payments for the use of intangibles, dividends, and management fees.

(d) For sales of intangibles, including, but not limited to, accounts receivable, notes, bonds, and stock, which are made to entities outside of the group, only the net proceeds are included in the numerator and denominator of the sales factor.

(e) Sales that are not allocated or apportioned to any taxing jurisdiction, otherwise known as "nowhere sales," may not be included in the numerator or denominator of the sales factor.

(f) The income attributable to the activities in this state of a corporation that is exempt from taxation under Pub. L. No. 86-272 is excluded from the apportionment factor numerators in the calculation of corporate income tax even if another member of the water's edge group has nexus with this state and is subject to tax.

(g) For purposes of this section, the term "water's edge reporting method" is a method to determine the taxable business profits of a group of entities conducting a unitary business. Under this method, the net income of the entities must be added

together along with the additions and subtractions under s. 220.13 and apportioned to this state as a single taxpayer under s. 220.15 and 220.151. However, each special industry member included in a water's edge group return, which would otherwise be permitted to use a special method of apportionment under s. 220.151, shall convert its single-factor apportionment to a three-factor apportionment of property, payroll, and sales. The special industry member shall calculate the denominator of its property, payroll, and sales factors in the same manner as those denominators are calculated by members that are not a special industry member. The numerator of its sales, property, and payroll factors is the product of the denominator of each factor multiplied by the premiums or revenue-miles-factor ratio otherwise applicable under s. 220.151.

(2)(a) A single water's edge group return must be filed in the name and federal employer identification number of the parent corporation if the parent is a member of the group and has nexus with this state. If the group does not have a parent corporation, if the parent corporation is not a member of the group, or if the parent corporation does not have nexus with this state, the members of the group must choose a member subject to the Florida corporate income tax to file the return. The members of the group may not choose another member to file a corporate income tax return in subsequent years unless the filing member does not maintain nexus with this state or remain a member of that group. The return must be signed by an authorized officer of the filing member as the agent for the group.

(b) If members of a water's edge group have different tax

years, the tax year of a majority of the members of the group is the tax year of the group. If the tax years of a majority of the members of a group do not correspond, the tax year of the member that must file the return for the group is the tax year of the group.

(c)1. A member of a water's edge group having a tax year that does not correspond to the tax year of the group shall determine its income for inclusion on the tax return for the group. The member shall use:

a. The precise amount of taxable income received during the months corresponding to the tax year of the group, if the precise amount can be readily determined from the member's books and records.

b. The taxable income of the member converted to conform to the tax year of the group on the basis of the number of months falling within the tax year of the group. For example, if the tax year of the water's edge group is a calendar year and a member operates on a fiscal year ending on April 30, the income of the member shall include 8/12 of the income from the current tax year and 4/12 of the income from the preceding tax year. This method to determine the income of a member may be used only if the return can be timely filed after the end of the tax year of the group.

c. The taxable income of the member during its tax year that ends within the tax year of the group.

2. The method of determining the income of a member of a group whose tax year does not correspond to the tax year of the group may not change as long as the member remains a member of the group. The apportionment factors for the member must be

applied to the income of the member for the tax year of the group.

(3)(a) A water's edge group return shall include a computational schedule that:

1. Combines the federal income of all members of the water's edge group;

2. Shows all intercompany eliminations;

3. Shows Florida additions and subtractions under s. 220.13; and

4. Shows the calculation of the combined apportionment factors.

(b) A water's edge group shall also file a domestic disclosure spreadsheet in addition to its return. The spreadsheet shall fully disclose:

1. The income reported to each state.

2. The state tax liability.

3. The method used for apportioning or allocating income to the various states.

4. Other information required by the department by rule in order to determine the proper amount of tax due to each state and to identify the water's edge group.

(4) The department may adopt rules and forms to administer this section. The Legislature intends to grant the department extensive authority to adopt rules and forms describing and defining principles for determining the existence of a water's edge business, definitions of common control, methods of reporting, and related forms, principles, and other definitions.

Section 29. Section 220.14, Florida Statutes, is amended to read:

220.14 Exemption.—

(1) In computing a taxpayer's liability for tax under this code, there shall be exempt from the tax $5,000 of net income as defined in s. 220.12 or such lesser amount as will, without increasing the taxpayer's federal income tax liability, provide the state with an amount under this code which is equal to the maximum federal income tax credit which may be available from time to time under federal law.

(2) In the case of a taxable year for a period of less than 12 months, the exemption allowed by this section shall be prorated on the basis of the number of days in such year to 365, or in the case of a leap year, to 366.

(3) Only one exemption shall be allowed to taxpayers filing a water's edge group ~~a consolidated~~ return under this code.

(4) Notwithstanding any other provision of this code, not more than one exemption under this section may be allowed to the Florida members of a controlled group of corporations, as defined in s. 1563 of the Internal Revenue Code with respect to taxable years ending on or after December 31, 1970, filing separate returns under this code. The exemption described in this section shall be divided equally among such Florida members of the group, unless all of such members consent, at such time and in such manner as the department shall by regulation prescribe, to an apportionment plan providing for an unequal allocation of such exemption.

Section 30. Subsection (5) of section 220.15, Florida Statutes, is amended to read:

220.15 Apportionment of adjusted federal income.—

(5) The sales factor is a fraction the numerator of which

is the total sales of the taxpayer in this state during the taxable year or period and the denominator of which is the total sales of the taxpayer everywhere during the taxable year or period.

(a) As used in this subsection, the term "sales" means all gross receipts of the taxpayer except interest, dividends, rents, royalties, and gross receipts from the sale, exchange, maturity, redemption, or other disposition of securities. However:

1. Rental income is included in the term if a significant portion of the taxpayer's business consists of leasing or renting real or tangible personal property; and

2. Royalty income is included in the term if a significant portion of the taxpayer's business consists of dealing in or with the production, exploration, or development of minerals.

(b)1. Sales of tangible personal property occur in this state if the property is delivered or shipped to a purchaser within this state, regardless of the f.o.b. point, other conditions of the sale, or ultimate destination of the property, unless shipment is made via a common or contract carrier. However, for industries in NAICS National Number 311411, if the ultimate destination of the product is to a location outside this state, regardless of the method of shipment or f.o.b. point, the sale shall not be deemed to occur in this state. As used in this paragraph, "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

2. When citrus fruit is delivered by a cooperative for a

grower-member, by a grower-member to a cooperative, or by a grower-participant to a Florida processor, the sales factor for the growers for such citrus fruit delivered to such processor shall be the same as the sales factor for the most recent taxable year of that processor. That sales factor, expressed only as a percentage and not in terms of the dollar volume of sales, so as to protect the confidentiality of the sales of the processor, shall be furnished on the request of such a grower promptly after it has been determined for that taxable year.

3. Reimbursement of expenses under an agency contract between a cooperative, a grower-member of a cooperative, or a grower and a processor is not a sale within this state.

(c) Sales of a financial organization, including, but not limited to, banking and savings institutions, investment companies, real estate investment trusts, and brokerage companies, occur in this state if derived from:

1. Fees, commissions, or other compensation for financial services rendered within this state;

2. Gross profits from trading in stocks, bonds, or other securities managed within this state;

3. Interest received within this state, other than interest from loans secured by mortgages, deeds of trust, or other liens upon real or tangible personal property located without this state, and dividends received within this state;

4. Interest charged to customers at places of business maintained within this state for carrying debit balances of margin accounts, without deduction of any costs incurred in carrying such accounts;

5. Interest, fees, commissions, or other charges or gains

from loans secured by mortgages, deeds of trust, or other liens upon real or tangible personal property located in this state or from installment sale agreements originally executed by a taxpayer or the taxpayer's agent to sell real or tangible personal property located in this state;

6. Rents from real or tangible personal property located in this state; or

7. Any other gross income, including other interest, resulting from the operation as a financial organization within this state.

~~In computing the amounts under this paragraph, any amount received by a member of an affiliated group (determined under s. 1504(a) of the Internal Revenue Code, but without reference to whether any such corporation is an "includable corporation" under s. 1504(b) of the Internal Revenue Code) from another member of such group shall be included only to the extent such amount exceeds expenses of the recipient directly related thereto.~~

Section 31. Subsection (1) of section 220.183, Florida Statutes, is amended to read:

220.183 Community contribution tax credit.—

(1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM SPENDING.—

(a) There shall be allowed a credit of 50 percent of a community contribution against any tax due for a taxable year under this chapter.

(b) No business firm shall receive more than $200,000 in

annual tax credits for all approved community contributions made in any one year.

(c) The total amount of tax credit which may be granted for all programs approved under this section, s. 212.08(5)(p), and s. 624.5105 is $10.5 million annually for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) and $3.5 million annually for all other projects.

(d) All proposals for the granting of the tax credit shall require the prior approval of the Office of Tourism, Trade, and Economic Development.

(e) If the credit granted pursuant to this section is not fully used in any one year because of insufficient tax liability on the part of the business firm, the unused amount may be carried forward for a period not to exceed 5 years. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for such year exceeds the credit for such year under this section after applying the other credits and unused credit carryovers in the order provided in s. 220.02(8).

~~(f) A taxpayer who files a Florida consolidated return as a member of an affiliated group pursuant to s. 220.131(1) may be allowed the credit on a consolidated return basis.~~

(f)~~(g)~~ A taxpayer who is eligible to receive the credit provided for in s. 624.5105 is not eligible to receive the credit provided by this section.

(g)~~(h)~~ Notwithstanding paragraph (c), and for the 2008-2009 fiscal year only, the total amount of tax credit which may be granted for all programs approved under this section, s.

212.08(5)(p), and s. 624.5105 is $13 million annually for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) and $3.5 million annually for all other projects. This paragraph expires June 30, 2009.

Section 32. Subsection (1) of section 220.1845, Florida Statutes, is amended to read:

220.1845 Contaminated site rehabilitation tax credit.—

(1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—

(a) A credit in the amount of 50 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites is available against any tax due for a taxable year under this chapter:

1. A drycleaning-solvent-contaminated site eligible for state-funded site rehabilitation under s. 376.3078(3);

2. A drycleaning-solvent-contaminated site at which site rehabilitation is undertaken by the real property owner pursuant to s. 376.3078(11), if the real property owner is not also, and has never been, the owner or operator of the drycleaning facility where the contamination exists; or

3. A brownfield site in a designated brownfield area under s. 376.80.

(b) A tax credit applicant, or multiple tax credit applicants working jointly to clean up a single site, may not be granted more than $500,000 per year in tax credits for each site voluntarily rehabilitated. Multiple tax credit applicants shall be granted tax credits in the same proportion as their contribution to payment of cleanup costs. Subject to the same conditions and limitations as provided in this section, a

municipality, county, or other tax credit applicant which voluntarily rehabilitates a site may receive not more than $500,000 per year in tax credits which it can subsequently transfer subject to the provisions in paragraph (f) ~~(g)~~.

(c) If the credit granted under this section is not fully used in any one year because of insufficient tax liability on the part of the corporation, the unused amount may be carried forward for up to 5 years. The carryover credit may be used in a subsequent year if the tax imposed by this chapter for that year exceeds the credit for which the corporation is eligible in that year after applying the other credits and unused carryovers in the order provided by s. 220.02(8). If during the 5-year period the credit is transferred, in whole or in part, pursuant to paragraph (f) ~~(g)~~, each transferee has 5 years after the date of transfer to use its credit.

~~(d) A taxpayer that files a consolidated return in this state as a member of an affiliated group under s. 220.131(1) may be allowed the credit on a consolidated return basis up to the amount of tax imposed upon the consolidated group.~~

(d)~~(e)~~ A tax credit applicant that receives state-funded site rehabilitation under s. 376.3078(3) for rehabilitation of a drycleaning-solvent-contaminated site is ineligible to receive credit under this section for costs incurred by the tax credit applicant in conjunction with the rehabilitation of that site during the same time period that state-administered site rehabilitation was underway.

(e)~~(f)~~ The total amount of the tax credits which may be granted under this section is $2 million annually.

(f)~~(g)~~1. Tax credits that may be available under this

section to an entity eligible under s. 376.30781 may be transferred after a merger or acquisition to the surviving or acquiring entity and used in the same manner and with the same limitations.

2. The entity or its surviving or acquiring entity as described in subparagraph 1., may transfer any unused credit in whole or in units of at least 25 percent of the remaining credit. The entity acquiring such credit may use it in the same manner and with the same limitation as described in this section. Such transferred credits may not be transferred again although they may succeed to a surviving or acquiring entity subject to the same conditions and limitations as described in this section.

3. If the credit is reduced due to a determination by the Department of Environmental Protection or an examination or audit by the Department of Revenue, the tax deficiency shall be recovered from the first entity, or the surviving or acquiring entity that claimed the credit up to the amount of credit taken. Any subsequent deficiencies shall be assessed against the entity acquiring and claiming the credit, or in the case of multiple succeeding entities in the order of credit succession.

(g) ~~(h)~~ In order to encourage completion of site rehabilitation at contaminated sites being voluntarily cleaned up and eligible for a tax credit under this section, the tax credit applicant may claim an additional 25 percent of the total cleanup costs, not to exceed $500,000, in the final year of cleanup as evidenced by the Department of Environmental Protection issuing a "No Further Action" order for that site.

(h) ~~(i)~~ In order to encourage the construction of housing

that meets the definition of affordable provided in s. 420.0004, an applicant for the tax credit may claim an additional 25 percent of the total site rehabilitation costs that are eligible for tax credits under this section, not to exceed $500,000. In order to receive this additional tax credit, the applicant must provide a certification letter from the Florida Housing Finance Corporation, the local housing authority, or other governmental agency that is a party to the use agreement indicating that the construction on the brownfield site has received a certificate of occupancy and the brownfield site has a properly recorded instrument that limits the use of the property to housing that meets the definition of affordable provided in s. 420.0004.

(i) ~~(j)~~ In order to encourage the redevelopment of a brownfield site, as defined in the brownfield site rehabilitation agreement, that is hindered by the presence of solid waste, as defined in s. 403.703, a tax credit applicant, or multiple tax credit applicants working jointly to clean up a single brownfield site, may also claim costs required to address solid waste removal as defined in this paragraph in accordance with rules of the Department of Environmental Protection. Multiple tax credit applicants shall be granted tax credits in the same proportion as each applicant's contribution to payment of solid waste removal costs. These costs are eligible for a tax credit provided the applicant submits an affidavit stating that, after consultation with appropriate local government officials and the Department of Environmental Protection, to the best of the applicant's knowledge according to such consultation and available historical records, the brownfield site was never operated as a permitted solid waste disposal area or was never

operated for monetary compensation and the applicant submits all other documentation and certifications required by this section. Under this section, wherever reference is made to "site rehabilitation," the Department of Environmental Protection shall instead consider whether or not the costs claimed are for solid waste removal. Tax credit applications claiming costs pursuant to this paragraph shall not be subject to the calendar-year limitation and January 31 annual application deadline, and the Department of Environmental Protection shall accept a one-time application filed subsequent to the completion by the tax credit applicant of the applicable requirements listed in this section. A tax credit applicant may claim 50 percent of the cost for solid waste removal, not to exceed $500,000, after the applicant has determined solid waste removal is completed for the brownfield site. A solid waste removal tax credit application may be filed only once per brownfield site. For the purposes of this section, the term:

1. "Solid waste disposal area" means a landfill, dump, or other area where solid waste has been disposed of.

2. "Monetary compensation" means the fees that were charged or the assessments that were levied for the disposal of solid waste at a solid waste disposal area.

3. "Solid waste removal" means removal of solid waste from the land surface or excavation of solid waste from below the land surface and removal of the solid waste from the brownfield site. The term also includes:

a. Transportation of solid waste to a licensed or exempt solid waste management facility or to a temporary storage area.

b. Sorting or screening of solid waste prior to removal

from the site.

c. Deposition of solid waste at a permitted or exempt solid waste management facility, whether the solid waste is disposed of or recycled.

(j) ~~(k)~~ In order to encourage the construction and operation of a new health care facility as defined in s. 408.032 or s. 408.07, or a health care provider as defined in s. 408.07 or s. 408.7056, on a brownfield site, an applicant for a tax credit may claim an additional 25 percent of the total site rehabilitation costs, not to exceed $500,000, if the applicant meets the requirements of this paragraph. In order to receive this additional tax credit, the applicant must provide documentation indicating that the construction of the health care facility or health care provider by the applicant on the brownfield site has received a certificate of occupancy or a license or certificate has been issued for the operation of the health care facility or health care provider.

Section 33. Effective January 1, 2011, subsection (1) of section 220.1845, Florida Statutes, as amended by this act, and subsection (3) of that section, are amended to read:

220.1845 Contaminated site rehabilitation tax credit.—

(1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—

(a) A credit in the amount of 50 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites is available against any tax due for a taxable year under this chapter:

1. A drycleaning-solvent-contaminated site eligible for state-funded site rehabilitation under s. 376.3078(3);

2. A drycleaning-solvent-contaminated site at which site

rehabilitation is undertaken by the real property owner pursuant to s. 376.3078(11), if the real property owner is not also, and has never been, the owner or operator of the drycleaning facility where the contamination exists; or

3. A brownfield site in a designated brownfield area under s. 376.80.

(b) A tax credit applicant, or multiple tax credit applicants working jointly to clean up a single site, may not be granted more than $500,000 per year in tax credits for each site voluntarily rehabilitated. Multiple tax credit applicants shall be granted tax credits in the same proportion as their contribution to payment of cleanup costs. Subject to the same conditions and limitations as provided in this section, a municipality, county, or other tax credit applicant which voluntarily rehabilitates a site may receive not more than $500,000 per year in tax credits which it can subsequently transfer subject to the provisions in paragraph (g) ~~(f)~~.

(c) If the credit granted under this section is not fully used in any one year because of insufficient tax liability on the part of the corporation, the unused amount may be carried forward for up to 5 years. The carryover credit may be used in a subsequent year if the tax imposed by this chapter for that year exceeds the credit for which the corporation is eligible in that year after applying the other credits and unused carryovers in the order provided by s. 220.02(8). If during the 5-year period the credit is transferred, in whole or in part, pursuant to paragraph (g) ~~(f)~~, each transferee has 5 years after the date of transfer to use its credit.

(d) A taxpayer that receives credit under s. 199.10555 is

ineligible to receive credit under this section in a given tax year.

(e) ~~(d)~~ A tax credit applicant that receives state-funded site rehabilitation under s. 376.3078(3) for rehabilitation of a drycleaning-solvent-contaminated site is ineligible to receive credit under this section for costs incurred by the tax credit applicant in conjunction with the rehabilitation of that site during the same time period that state-administered site rehabilitation was underway.

(f) ~~(e)~~ The total amount of the tax credits which may be granted under this section and s. 199.10555 is $2 million annually.

(g) ~~(f)~~1. Tax credits that may be available under this section to an entity eligible under s. 376.30781 may be transferred after a merger or acquisition to the surviving or acquiring entity and used in the same manner and with the same limitations.

2. The entity or its surviving or acquiring entity as described in subparagraph 1., may transfer any unused credit in whole or in units of at least 25 percent of the remaining credit. The entity acquiring such credit may use it in the same manner and with the same limitation as described in this section. Such transferred credits may not be transferred again although they may succeed to a surviving or acquiring entity subject to the same conditions and limitations as described in this section.

3. If the credit is reduced due to a determination by the Department of Environmental Protection or an examination or audit by the Department of Revenue, the tax deficiency shall be

recovered from the first entity, or the surviving or acquiring entity that claimed the credit up to the amount of credit taken. Any subsequent deficiencies shall be assessed against the entity acquiring and claiming the credit, or in the case of multiple succeeding entities in the order of credit succession.

(h) ~~(g)~~ In order to encourage completion of site rehabilitation at contaminated sites being voluntarily cleaned up and eligible for a tax credit under this section, the tax credit applicant may claim an additional 25 percent of the total cleanup costs, not to exceed $500,000, in the final year of cleanup as evidenced by the Department of Environmental Protection issuing a "No Further Action" order for that site.

(i) ~~(h)~~ In order to encourage the construction of housing that meets the definition of affordable provided in s. 420.0004, an applicant for the tax credit may claim an additional 25 percent of the total site rehabilitation costs that are eligible for tax credits under this section, not to exceed $500,000. In order to receive this additional tax credit, the applicant must provide a certification letter from the Florida Housing Finance Corporation, the local housing authority, or other governmental agency that is a party to the use agreement indicating that the construction on the brownfield site has received a certificate of occupancy and the brownfield site has a properly recorded instrument that limits the use of the property to housing that meets the definition of affordable provided in s. 420.0004.

(j) ~~(i)~~ In order to encourage the redevelopment of a brownfield site, as defined in the brownfield site rehabilitation agreement, that is hindered by the presence of solid waste, as defined in s. 403.703, a tax credit applicant,

or multiple tax credit applicants working jointly to clean up a single brownfield site, may also claim costs required to address solid waste removal as defined in this paragraph in accordance with rules of the Department of Environmental Protection. Multiple tax credit applicants shall be granted tax credits in the same proportion as each applicant's contribution to payment of solid waste removal costs. These costs are eligible for a tax credit provided the applicant submits an affidavit stating that, after consultation with appropriate local government officials and the Department of Environmental Protection, to the best of the applicant's knowledge according to such consultation and available historical records, the brownfield site was never operated as a permitted solid waste disposal area or was never operated for monetary compensation and the applicant submits all other documentation and certifications required by this section. Under this section, wherever reference is made to "site rehabilitation," the Department of Environmental Protection shall instead consider whether or not the costs claimed are for solid waste removal. Tax credit applications claiming costs pursuant to this paragraph shall not be subject to the calendar-year limitation and January 31 annual application deadline, and the Department of Environmental Protection shall accept a one-time application filed subsequent to the completion by the tax credit applicant of the applicable requirements listed in this section. A tax credit applicant may claim 50 percent of the cost for solid waste removal, not to exceed $500,000, after the applicant has determined solid waste removal is completed for the brownfield site. A solid waste removal tax credit application may be filed only once per brownfield site. For the

purposes of this section, the term:

1. "Solid waste disposal area" means a landfill, dump, or other area where solid waste has been disposed of.

2. "Monetary compensation" means the fees that were charged or the assessments that were levied for the disposal of solid waste at a solid waste disposal area.

3. "Solid waste removal" means removal of solid waste from the land surface or excavation of solid waste from below the land surface and removal of the solid waste from the brownfield site. The term also includes:

a. Transportation of solid waste to a licensed or exempt solid waste management facility or to a temporary storage area.

b. Sorting or screening of solid waste prior to removal from the site.

c. Deposition of solid waste at a permitted or exempt solid waste management facility, whether the solid waste is disposed of or recycled.

(k) ~~(j)~~ In order to encourage the construction and operation of a new health care facility as defined in s. 408.032 or s. 408.07, or a health care provider as defined in s. 408.07 or s. 408.7056, on a brownfield site, an applicant for a tax credit may claim an additional 25 percent of the total site rehabilitation costs, not to exceed $500,000, if the applicant meets the requirements of this paragraph. In order to receive this additional tax credit, the applicant must provide documentation indicating that the construction of the health care facility or health care provider by the applicant on the brownfield site has received a certificate of occupancy or a license or certificate has been issued for the operation of the

health care facility or health care provider.

(3) ADMINISTRATION; AUDIT AUTHORITY; TAX CREDIT FORFEITURE.—

(a) The Department of Revenue may adopt rules to prescribe any necessary forms required to claim a tax credit under this section and to provide the administrative guidelines and procedures required to administer this section.

(b) In addition to its existing audit and investigation authority relating to chapter 199 and this chapter, the Department of Revenue may perform any additional financial and technical audits and investigations, including examining the accounts, books, or records of the tax credit applicant, which are necessary to verify the site rehabilitation costs included in a tax credit return and to ensure compliance with this section. The Department of Environmental Protection shall provide technical assistance, when requested by the Department of Revenue, on any technical audits performed pursuant to this section.

(c) It is grounds for forfeiture of previously claimed and received tax credits if the Department of Revenue determines, as a result of either an audit or information received from the Department of Environmental Protection, that a taxpayer received tax credits pursuant to this section to which the taxpayer was not entitled. In the case of fraud, the taxpayer shall be prohibited from claiming any future tax credits under this section or s. 199.10555.

1. The taxpayer is responsible for returning forfeited tax credits to the Department of Revenue, and such funds shall be paid into the General Revenue Fund of the state.

2. The taxpayer shall file with the Department of Revenue an amended tax return or such other report as the Department of Revenue prescribes by rule and shall pay any required tax within 60 days after the taxpayer receives notification from the Department of Environmental Protection pursuant to s. 376.30781 that previously approved tax credits have been revoked or modified, if uncontested, or within 60 days after a final order is issued following proceedings involving a contested revocation or modification order.

3. A notice of deficiency may be issued by the Department of Revenue at any time within 5 years after the date the taxpayer receives notification from the Department of Environmental Protection pursuant to s. 376.30781 that previously approved tax credits have been revoked or modified. If a taxpayer fails to notify the Department of Revenue of any change in its tax credit claimed, a notice of deficiency may be issued at any time. In either case, the amount of any proposed assessment set forth in such notice of deficiency shall be limited to the amount of any deficiency resulting under this section from the recomputation of the taxpayer's tax for the taxable year.

4. Any taxpayer that fails to report and timely pay any tax due as a result of the forfeiture of its tax credit is in violation of this section and is subject to applicable penalty and interest.

Section 34. Subsection (5) of section 220.187, Florida Statutes, is amended to read:

220.187 Credits for contributions to nonprofit scholarship-funding organizations.—

(5) AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.—

(a) There is allowed a credit of 100 percent of an eligible contribution against any tax due for a taxable year under this chapter. However, such a credit may not exceed 75 percent of the tax due under this chapter for the taxable year, after the application of any other allowable credits by the taxpayer. The credit granted by this section shall be reduced by the difference between the amount of federal corporate income tax taking into account the credit granted by this section and the amount of federal corporate income tax without application of the credit granted by this section.

(b) For each state fiscal year, the total amount of tax credits and carryforward of tax credits which may be granted under this section and s. 624.51055 is $118 million.

~~(c) A taxpayer who files a Florida consolidated return as a member of an affiliated group pursuant to s. 220.131(1) may be allowed the credit on a consolidated return basis; however, the total credit taken by the affiliated group is subject to the limitation established under paragraph (a).~~

(c)~~(d)~~ Effective for tax years beginning January 1, 2006, a taxpayer may rescind all or part of its allocated tax credit under this section. The amount rescinded shall become available for purposes of the cap for that state fiscal year under this section to an eligible taxpayer as approved by the department if the taxpayer receives notice from the department that the rescindment has been accepted by the department and the taxpayer has not previously rescinded any or all of its tax credit allocation under this section more than once in the previous 3

tax years. Any amount rescinded under this paragraph shall become available to an eligible taxpayer on a first-come, first-served basis based on tax credit applications received after the date the rescindment is accepted by the department.

(d) ~~(c)~~ A taxpayer who is eligible to receive the credit provided for in s. 624.51055 is not eligible to receive the credit provided by this section.

Section 35. Subsection (3) of section 220.191, Florida Statutes, is amended to read:

220.191 Capital investment tax credit.—

(3)(a) Notwithstanding subsection (2), an annual credit against the tax imposed by this chapter shall be granted to a qualifying business which establishes a qualifying project pursuant to subparagraph (1)(h)3., in an amount equal to the lesser of $15 million or 5 percent of the eligible capital costs made in connection with a qualifying project, for a period not to exceed 20 years beginning with the commencement of operations of the project. The tax credit shall be granted against the corporate income tax liability of the qualifying business and as further provided in paragraph (c). The total tax credit provided pursuant to this subsection shall be equal to no more than 100 percent of the eligible capital costs of the qualifying project.

(b) If the credit granted under this subsection is not fully used in any one year because of insufficient tax liability on the part of the qualifying business, the unused amount may be carried forward for a period not to exceed 20 years after the commencement of operations of the project. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for that year exceeds the credit for which the

qualifying business is eligible in that year under this subsection after applying the other credits and unused carryovers in the order provided by s. 220.02(8).

(c) The credit granted under this subsection may be used in whole or in part by the qualifying business ~~or any corporation that is either a member of that qualifying business's affiliated group of corporations, is a related entity taxable as a cooperative under subchapter T of the Internal Revenue Code, or, if the qualifying business is an entity taxable as a cooperative under subchapter T of the Internal Revenue Code, is related to the qualifying business~~. ~~Any entity related to the qualifying business may continue to file as a member of a Florida-nexus consolidated group pursuant to a prior election made under s. 220.131(1), Florida Statutes (1985), even if the parent of the group changes due to a direct or indirect acquisition of the former common parent of the group. Any credit can be used by any of the affiliated companies or related entities referenced in this paragraph to the same extent as it could have been used by the qualifying business. However, any such use shall not operate to increase the amount of the credit or extend the period within which the credit must be used.~~

Section 36. Subsection (2) of section 220.192, Florida Statutes, is amended to read:

220.192 Renewable energy technologies investment tax credit.—

(2) TAX CREDIT.—For tax years beginning on or after January 1, 2007, a credit against the tax imposed by this chapter shall be granted in an amount equal to the eligible costs. Credits may be used in tax years beginning January 1, 2007, and ending

December 31, 2010, after which the credit shall expire. If the credit is not fully used in any one tax year because of insufficient tax liability on the part of the corporation, the unused amount may be carried forward and used in tax years beginning January 1, 2007, and ending December 31, 2012, after which the credit carryover expires and may not be used. ~~A taxpayer that files a consolidated return in this state as a member of an affiliated group under s. 220.131(1) may be allowed the credit on a consolidated return basis up to the amount of tax imposed upon the consolidated group.~~ Any eligible cost for which a credit is claimed and which is deducted or otherwise reduces federal taxable income shall be added back in computing adjusted federal income under s. 220.13.

Section 37. Subsection (3) of section 220.193, Florida Statutes, is amended to read:

220.193 Florida renewable energy production credit.—

(3) An annual credit against the tax imposed by this section shall be allowed to a taxpayer, based on the taxpayer's production and sale of electricity from a new or expanded Florida renewable energy facility. For a new facility, the credit shall be based on the taxpayer's sale of the facility's entire electrical production. For an expanded facility, the credit shall be based on the increases in the facility's electrical production that are achieved after May 1, 2006.

(a) The credit shall be $0.01 for each kilowatt-hour of electricity produced and sold by the taxpayer to an unrelated party during a given tax year.

(b) The credit may be claimed for electricity produced and sold on or after January 1, 2007. Beginning in 2008 and

continuing until 2011, each taxpayer claiming a credit under this section must first apply to the department by February 1 of each year for an allocation of available credit. The department, in consultation with the commission, shall develop an application form. The application form shall, at a minimum, require a sworn affidavit from each taxpayer certifying the increase in production and sales that form the basis of the application and certifying that all information contained in the application is true and correct.

(c) If the amount of credits applied for each year exceeds $5 million, the department shall award to each applicant a prorated amount based on each applicant's increased production and sales and the increased production and sales of all applicants.

(d) If the credit granted pursuant to this section is not fully used in one year because of insufficient tax liability on the part of the taxpayer, the unused amount may be carried forward for a period not to exceed 5 years. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for such year exceeds the credit for such year, after applying the other credits and unused credit carryovers in the order provided in s. 220.02(8).

~~(e) A taxpayer that files a consolidated return in this state as a member of an affiliated group under s. 220.131(1) may be allowed the credit on a consolidated return basis up to the amount of tax imposed upon the consolidated group.~~

(e)~~(f)~~1. Tax credits that may be available under this section to an entity eligible under this section may be transferred after a merger or acquisition to the surviving or

acquiring entity and used in the same manner with the same limitations.

2. The entity or its surviving or acquiring entity as described in subparagraph 1. may transfer any unused credit in whole or in units of no less than 25 percent of the remaining credit. The entity acquiring such credit may use it in the same manner and with the same limitations under this section. Such transferred credits may not be transferred again although they may succeed to a surviving or acquiring entity subject to the same conditions and limitations as described in this section.

3. In the event the credit provided for under this section is reduced as a result of an examination or audit by the department, such tax deficiency shall be recovered from the first entity or the surviving or acquiring entity to have claimed such credit up to the amount of credit taken. Any subsequent deficiencies shall be assessed against any entity acquiring and claiming such credit, or in the case of multiple succeeding entities in the order of credit succession.

(f) ~~(g)~~ Notwithstanding any other provision of this section, credits for the production and sale of electricity from a new or expanded Florida renewable energy facility may be earned between January 1, 2007, and June 30, 2010. The combined total amount of tax credits which may be granted for all taxpayers under this section is limited to $5 million per state fiscal year.

(g) ~~(h)~~ A taxpayer claiming a credit under this section shall be required to add back to net income that portion of its business deductions claimed on its federal return paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under this section.

(h) ~~(i)~~ A taxpayer claiming credit under this section may not claim a credit under s. 220.192. A taxpayer claiming credit under s. 220.192 may not claim a credit under this section.

(i) ~~(j)~~ When an entity treated as a partnership or a disregarded entity under this chapter produces and sells electricity from a new or expanded renewable energy facility, the credit earned by such entity shall pass through in the same manner as items of income and expense pass through for federal income tax purposes. When an entity applies for the credit and the entity has received the credit by a pass-through, the application must identify the taxpayer that passed the credit through, all taxpayers that received the credit, and the percentage of the credit that passes through to each recipient and must provide other information that the department requires.

(j) ~~(k)~~ A taxpayer's use of the credit granted pursuant to this section does not reduce the amount of any credit available to such taxpayer under s. 220.186.

Section 38. Section 220.51, Florida Statutes, is amended to read:

220.51 Promulgation of rules and regulations.—In accordance with the Administrative Procedure Act, chapter 120, the department is authorized to make, promulgate, and enforce such reasonable rules and regulations, and to prescribe such forms relating to the administration and enforcement of the provisions of this code, as it may deem appropriate, including:

(1) Rules for initial implementation of this code and for taxpayers' transitional taxable years commencing before and ending after January 1, 1972; and

(2) Rules or regulations to clarify whether certain groups,

organizations, or associations formed under the laws of this state or any other state, country, or jurisdiction shall be deemed "taxpayers" for the purposes of this code, in accordance with the legislative declarations of intent in s. 220.02.~~; and~~

~~(3) Regulations relating to consolidated reporting for affiliated groups of corporations, in order to provide for an equitable and just administration of this code with respect to multicorporate taxpayers.~~

Section 39. Section 220.64, Florida Statutes, is amended to read:

220.64 Other provisions applicable to franchise tax.—To the extent that they are not manifestly incompatible with the provisions of this part, parts I, III, IV, V, VI, VIII, IX, and X of this code and ss. 220.12, 220.13, 220.136, 220.1363, 220.15, and 220.16 ~~ss. 220.12, 220.13, 220.15, and 220.16~~ apply to the franchise tax imposed by this part. Under rules prescribed in s. 220.131, a consolidated return may be filed by any affiliated group of corporations composed of one or more banks or savings associations, its or their Florida parent corporation, and any nonbank or nonsavings subsidiaries of such parent corporation.

Section 40. Subsections (9) and (10) of section 376.30781, Florida Statutes, are amended to read:

376.30781 Tax credits for rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas; application process; rulemaking authority; revocation authority.—

(9) On or before May 1, the Department of Environmental Protection shall inform each tax credit applicant that is

subject to the January 31 annual application deadline of the applicant's eligibility status and the amount of any tax credit due. The department shall provide each eligible tax credit applicant with a tax credit certificate that must be submitted with its tax return to the Department of Revenue to claim the tax credit or be transferred pursuant to s. 220.1845(1)(f)~~(g)~~. The May 1 deadline for annual site rehabilitation tax credit certificate awards shall not apply to any tax credit application for which the department has issued a notice of deficiency pursuant to subsection (8). The department shall respond within 90 days after receiving a response from the tax credit applicant to such a notice of deficiency. Credits may not result in the payment of refunds if total credits exceed the amount of tax owed.

(10) For solid waste removal, new health care facility or health care provider, and affordable housing tax credit applications, the Department of Environmental Protection shall inform the applicant of the department's determination within 90 days after the application is deemed complete. Each eligible tax credit applicant shall be informed of the amount of its tax credit and provided with a tax credit certificate that must be submitted with its tax return to the Department of Revenue to claim the tax credit or be transferred pursuant to s. 220.1845(1)(f)~~(g)~~. Credits may not result in the payment of refunds if total credits exceed the amount of tax owed.

Section 41. Effective January 1, 2011, paragraph (a) of subsection (3), subsection (4), and paragraph (a) of subsection (14) of section 376.30781, Florida Statutes, are amended, and subsections (9) and (10) of that section, as amended by this

act, are amended, to read:

376.30781 Tax credits for rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas; application process; rulemaking authority; revocation authority.—

(3)(a) A credit in the amount of 50 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites is allowed pursuant to ss. 199.10555 and ~~s.~~ 220.1845:

1. A drycleaning-solvent-contaminated site eligible for state-funded site rehabilitation under s. 376.3078(3);

2. A drycleaning-solvent-contaminated site at which site rehabilitation is undertaken by the real property owner pursuant to s. 376.3078(11), if the real property owner is not also, and has never been, the owner or operator of the drycleaning facility where the contamination exists; or

3. A brownfield site in a designated brownfield area under s. 376.80.

(4) The Department of Environmental Protection is responsible for allocating the tax credits provided for in ss. 199.10555 and ~~s.~~ 220.1845, which may not exceed a total of $2 million in tax credits annually.

(9) On or before May 1, the Department of Environmental Protection shall inform each tax credit applicant that is subject to the January 31 annual application deadline of the applicant’s eligibility status and the amount of any tax credit due. The department shall provide each eligible tax credit applicant with a tax credit certificate that must be submitted with its tax return to the Department of Revenue to claim the

tax credit or be transferred pursuant to s. 199.10555(1)(g) or s. 220.1845(1)(g) ~~(f)~~. The May 1 deadline for annual site rehabilitation tax credit certificate awards shall not apply to any tax credit application for which the department has issued a notice of deficiency pursuant to subsection (8). The department shall respond within 90 days after receiving a response from the tax credit applicant to such a notice of deficiency. Credits may not result in the payment of refunds if total credits exceed the amount of tax owed.

(10) For solid waste removal, new health care facility or health care provider, and affordable housing tax credit applications, the Department of Environmental Protection shall inform the applicant of the department's determination within 90 days after the application is deemed complete. Each eligible tax credit applicant shall be informed of the amount of its tax credit and provided with a tax credit certificate that must be submitted with its tax return to the Department of Revenue to claim the tax credit or be transferred pursuant to s. 199.10555(1)(g) or s. 220.1845(1)(g) ~~(f)~~. Credits may not result in the payment of refunds if total credits exceed the amount of tax owed.

(14)(a) A tax credit applicant who receives state-funded site rehabilitation under s. 376.3078(3) for rehabilitation of a drycleaning-solvent-contaminated site is ineligible to receive a tax credit under s. 199.10555 or s. 220.1845 for costs incurred by the tax credit applicant in conjunction with the rehabilitation of that site during the same time period that state-administered site rehabilitation was underway.

Section 42. Transitional rules.—

(1) For the first tax year beginning on or after January 1, 2011, a taxpayer that filed a Florida corporate income tax return in the preceding tax year and is a member of a water's edge group shall compute its income together with all members of its water's edge group and file a combined Florida corporate income tax return with all members of its water's edge group.

(2) An affiliated group of corporations that filed a Florida consolidated corporate income tax return pursuant to an election provided in s. 220.131, Florida Statutes, shall cease filing a Florida consolidated return for tax years beginning on or after January 1, 2011, and shall file a combined Florida corporate income tax return with all members of its water's edge group.

(3) An affiliated group of corporations that filed a Florida consolidated corporate income tax return pursuant to the election in s. 220.131(1), Florida Statutes (1985), which allowed the affiliated group to make an election within 90 days after December 20, 1984, or upon filing the taxpayer's first return after December 20, 1984, whichever is later, shall cease filing a Florida consolidated corporate income tax return using that method for tax years beginning on or after January 1, 2011, and shall file a combined Florida corporate income tax return with all members of its water's edge group.

(4) Taxpayers that are not members of a water's edge group remain subject to chapter 220, Florida Statutes, and shall file a separate Florida corporate income tax return as previously required.

(5) For the tax years beginning on or after January 1, 2011, a tax return for a member of a water's edge group must be

a combined Florida corporate income tax return that includes tax information for all members of the water's edge group. The tax return must be filed by a member that has a nexus with this state.

Section 43. Of the funds recaptured pursuant to this act, the sum of $50 million is appropriated from the General Revenue Fund to the State University System for workforce education, to be allocated by the Board of Governors; the sum of $50 million is appropriated from the General Revenue Fund to community colleges for workforce education, to be allocated by the State Board of Education; and the remainder of such funds, as determined by the Revenue Estimating Conference, shall be appropriated from the General Revenue Fund and allocated as provided in the General Appropriations Act to the various school districts to reduce the required local effort millage.

Section 44. Section 220.131, Florida Statutes, is repealed.

Section 45. (1) The funds provided from the implementation of this act shall be deposited annually into the Educational Enhancement Trust Fund and appropriated from the fund as follows:

(a) Twenty-five percent to the Board of Governors of the State University System for allocation to state universities.

(b) Twenty-five percent to the Department of Education for allocation to community colleges.

(c) Twenty-five percent to the Department of Education for allocation to school districts for K-12 education.

(d) Twenty-five percent to the Agency for Workforce Innovation for allocation to early learning coalitions under the Voluntary Prekindergarten Education Program.

(2) It is the intent of the Legislature that the revenue generated from collections derived from the Millionaire's Tax Act shall be used specifically for enhancements to higher education, K-12 education, and prekindergarten education in this state and shall not supplant any general revenue appropriations for such higher education, K-12 education, and prekindergarten education.

(3) Each entity allocated funds pursuant to this section shall determine how best to expend the additional enhancement funds appropriated to such entity pursuant to this section.

Section 46. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2010.