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CS/HB 7185, Engrossed 1

2011 Legislature

1 A bill to be entitled
 2 An act relating to the corporate income tax; amending s.
 3 220.03, F.S.; providing for the adoption of the 2011
 4 version of the Internal Revenue Code; amending s. 220.13,
 5 F.S.; specifying the treatment by this state of certain
 6 depreciation and expensing of assets that are allowed for
 7 federal income tax purposes; authorizing the executive
 8 director of the Department of Revenue to adopt emergency
 9 rules; providing an appropriation; providing for reversion
 10 and reappropriation; providing for retroactive
 11 application; amending s. 220.14, F.S.; increasing the
 12 amount of income that is exempt from taxation; amending s.
 13 220.63, F.S.; amending the amount of income that is exempt
 14 from the franchise tax imposed on banks and savings
 15 associations; providing effective dates.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Paragraph (n) of subsection (1) and subsection
 20 (2) of section 220.03, Florida Statutes, are amended to read:

21 220.03 Definitions.—

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

26 (n) "Internal Revenue Code" means the United States
 27 Internal Revenue Code of 1986, as amended and in effect on
 28 January 1, 2011 ~~2010~~, except as provided in subsection (3).

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

32 (a) The word "corporation" or "taxpayer" shall be deemed
 33 to include the words "and its successors and assigns" as if
 34 these words, or words of similar import, were expressed;

35 (b) Any term used in any section of this code with respect
 36 to the application of, or in connection with, the provisions of
 37 any other section of this code shall have the same meaning as in
 38 such other section; and

39 (c) Any term used in this code shall have the same meaning
 40 as when used in a comparable context in the Internal Revenue
 41 Code and other statutes of the United States relating to federal
 42 income taxes, as such code and statutes are in effect on January
 43 1, 2011 ~~2010~~. However, if subsection (3) is implemented, the
 44 meaning of any term shall be taken at the time the term is
 45 applied under this code.

46 Section 2. Paragraph (e) of subsection (1) of section
 47 220.13, Florida Statutes, is amended to read:

48 220.13 "Adjusted federal income" defined.—

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

54 (e) *Adjustments related to the Federal Economic Stimulus*
 55 *Act of 2008, ~~and~~ the American Recovery and Reinvestment Act of*
 56 *2009, the Small Business Jobs Act of 2010, and the Tax Relief,*

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57 Unemployment Insurance Reauthorization, and Job Creation Act of
 58 2010.—Taxpayers shall be required to make the adjustments
 59 prescribed in this paragraph for Florida tax purposes in
 60 relation to certain tax benefits received pursuant to the
 61 Economic Stimulus Act of 2008, ~~and~~ the American Recovery and
 62 Reinvestment Act of 2009, the Small Business Jobs Act of 2010,
 63 and the Tax Relief, Unemployment Insurance Reauthorization, and
 64 Job Creation Act of 2010.

65 1. There shall be added to such taxable income an amount
 66 equal to 100 percent of any amount deducted for federal income
 67 tax purposes as bonus depreciation for the taxable year pursuant
 68 to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as
 69 amended by s. 103 of Pub. L. No. 110-185, ~~and~~ s. 1201 of Pub. L.
 70 No. 111-5, s. 2022 of Pub. L. No. 111-240, and s. 401 of Pub. L.
 71 No. 111-312, for property placed in service after December 31,
 72 2007, and before January 1, 2013 ~~2010~~. For the taxable year and
 73 for each of the 6 subsequent taxable years, there shall be
 74 subtracted from such taxable income an amount equal to one-
 75 seventh of the amount by which taxable income was increased
 76 pursuant to this subparagraph, notwithstanding any sale or other
 77 disposition of the property that is the subject of the
 78 adjustments and regardless of whether such property remains in
 79 service in the hands of the taxpayer.

80 2. There shall be added to such taxable income an amount
 81 equal to 100 percent of any amount in excess of \$128,000
 82 deducted for federal income tax purposes for the taxable year
 83 pursuant to s. 179 of the Internal Revenue Code of 1986, as
 84 amended by s. 102 of Pub. L. No. 110-185, ~~and~~ s. 1202 of Pub. L.

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85 No. 111-5, s. 2021 of Pub. L. No. 111-240, and s. 402 of Pub. L.
 86 No. 111-312, for taxable years beginning after December 31,
 87 2007, and before January 1, 2013 ~~2010~~. For the taxable year and
 88 for each of the 6 subsequent taxable years, there shall be
 89 subtracted from such taxable income one-seventh of the amount by
 90 which taxable income was increased pursuant to this
 91 subparagraph, notwithstanding any sale or other disposition of
 92 the property that is the subject of the adjustments and
 93 regardless of whether such property remains in service in the
 94 hands of the taxpayer.

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

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

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

112 Section 3. (1) The executive director of the Department

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113 of Revenue is authorized, and all conditions are deemed met, to
 114 adopt emergency rules under ss. 120.536(1) and 120.54(4),
 115 Florida Statutes, for the purpose of implementing this act.

116 (2) Notwithstanding any other provision of law, the
 117 emergency rules shall remain in effect for 6 months after
 118 adoption and may be renewed during the pendency of procedures to
 119 adopt permanent rules addressing the subject of the emergency
 120 rules.

121 Section 4. For the 2010-2011 fiscal year, the sum of
 122 \$99,740 in nonrecurring funds is appropriated from the General
 123 Revenue Fund to the Department of Revenue for purposes of
 124 implementing this act. Funds remaining unexpended or
 125 unencumbered from this appropriation as of June 30, 2011, shall
 126 revert and be reappropriated for the same purpose in the 2011-
 127 2012 fiscal year.

128 Section 5. Effective January 1, 2012, and applying to tax
 129 years beginning on or after January 1, 2012, subsection (1) of
 130 section 220.14, Florida Statutes, is amended to read

131 220.14 Exemption.—

132 (1) In computing a taxpayer's liability for tax under this
 133 code, there shall be exempt from the tax \$25,000 ~~\$5,000~~ of net
 134 income as defined in s. 220.12 or such lesser amount as will,
 135 without increasing the taxpayer's federal income tax liability,
 136 provide the state with an amount under this code which is equal
 137 to the maximum federal income tax credit which may be available
 138 from time to time under federal law.

139 Section 6. Effective January 1, 2012, and applying to tax
 140 years beginning on or after January 1, 2012, subsection (3) of

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141 section 220.63, Florida Statutes, is amended to read:

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

144 (3) For purposes of this part, the franchise tax base
145 shall be adjusted federal income, as defined in s. 220.13,
146 apportioned to this state, plus nonbusiness income allocated to
147 this state pursuant to s. 220.16, less the deduction allowed in
148 subsection (5) and less \$25,000 ~~\$5,000~~.

149 Section 7. Except as otherwise expressly provided in this
150 act, this act shall take effect upon becoming a law and shall
151 operate retroactively to January 1, 2011.