

By Senator Altman

24-00515-11

2011790__

1 A bill to be entitled
2 An act relating to tax credits; amending s. 220.02,
3 F.S.; revising the priority of tax credits that may be
4 taken against the corporate income tax or the
5 franchise tax; amending s. 220.13, F.S.; redefining
6 the term "adjusted federal income" to include the
7 amount of certain tax credits; creating s. 220.1811,
8 F.S.; authorizing aerospace-sector jobs tax credits
9 and tuition reimbursement tax credits; defining terms;
10 authorizing a tax credit to aerospace businesses based
11 on the salary or tuition reimbursed to certain
12 employees; specifying the maximum annual amount of tax
13 credits for an aerospace business; limiting the annual
14 amount of tax credits available; prohibiting a
15 business from claiming an aerospace-sector jobs tax
16 credit and a tuition reimbursement tax credit for the
17 same employee; providing for the Department of Revenue
18 to approve applications for tax credits; prohibiting
19 increases in the amount of unused tax credits carried
20 over in amended tax returns; providing fines and
21 criminal penalties for certain unlawful claims of tax
22 credits; authorizing the Department of Revenue to
23 adopt rules; providing for the expiration of the tax
24 credit program; providing for applicability; providing
25 an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Subsection (8) of section 220.02, Florida

24-00515-11

2011790__

30 Statutes, is amended to read:

31 220.02 Legislative intent.—

32 (8) ~~It is the intent of the Legislature that~~ Credits
33 against ~~either~~ the corporate income tax or the franchise tax
34 shall be applied in the following order: those enumerated in s.
35 631.828, those enumerated in s. 220.191, those enumerated in s.
36 220.181, those enumerated in s. 220.183, those enumerated in s.
37 220.182, those enumerated in s. 220.1895, those enumerated in s.
38 221.02, those enumerated in s. 220.184, those enumerated in s.
39 220.186, those enumerated in s. 220.1845, those enumerated in s.
40 220.19, those enumerated in s. 220.185, those enumerated in s.
41 220.1875, those enumerated in s. 220.192, those enumerated in s.
42 220.193, those enumerated in s. 288.9916, those enumerated in s.
43 220.1899, ~~and~~ those enumerated in s. 220.1896, and those
44 enumerated in s. 220.1811.

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

47 220.13 "Adjusted federal income" defined.—

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

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

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

24-00515-11

2011790__

59 2. The amount of interest which is excluded from taxable
60 income under s. 103(a) of the Internal Revenue Code or any other
61 federal law, less the associated expenses disallowed in the
62 computation of taxable income under s. 265 of the Internal
63 Revenue Code or any other law, excluding 60 percent of any
64 amounts included in alternative minimum taxable income, as
65 defined in s. 55(b)(2) of the Internal Revenue Code, if the
66 taxpayer pays tax under s. 220.11(3).

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

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

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

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

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

24-00515-11

2011790__

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

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

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

98 11. The amount taken as a credit for the taxable year under
99 s. 220.1875. The addition in this subparagraph is intended to
100 ensure that the same amount is not allowed for the tax purposes
101 of this state as both a deduction from income and a credit
102 against the tax. This addition is not intended to result in
103 adding the same expense back to income more than once.

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

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

108 14. Any portion of a qualified investment, as defined in s.
109 288.9913, which is claimed as a deduction by the taxpayer and
110 taken as a credit against income tax pursuant to s. 288.9916.

111 15. The costs to acquire a tax credit pursuant to s.
112 288.1254(5) that are deducted from or otherwise reduce federal
113 taxable income for the taxable year.

114 16. The amount taken as a credit for the taxable year under
115 s. 220.1811.

116 Section 3. Section 220.1811, Florida Statutes, is created

24-00515-11

2011790__

117 to read:

118 220.1811 Aerospace-sector jobs tax credit and tuition
119 reimbursement tax credit.-120 (1) DEFINITIONS.-As used in this section, the term:121 (a) "Aerospace business" means a business located in this
122 state which is engaged in aerospace, as defined in s. 331.303.123 (b) "Qualified employee" means a resident of this state
124 who:125 1. Is first employed or reemployed by an aerospace business
126 on or after January 1, 2012;127 2. Received an undergraduate or graduate degree from a
128 college or university that is accredited by a national
129 accrediting body; a technical degree or certification related to
130 aerospace from a technical training institution; or completed an
131 aerospace development workforce training program coordinated by
132 Workforce Florida, Inc.;133 3. Is not an owner, partner, or majority stockholder of an
134 aerospace business; and135 4. Is employed for at least 6 months.136 (c) "Tuition reimbursed to a qualified employee" means a
137 lump-sum payment by an aerospace business to a qualified
138 employee, which may not exceed the average annual tuition, as
139 reported by the Board of Governors of the State University
140 System, for a Florida resident who is a full-time undergraduate
141 student enrolled in a public college or university. The term
142 does not include the cost of books, fees, or room and board.143 (2) AEROSPACE-SECTOR JOBS TAX CREDIT.-144 (a) A credit against the tax imposed under this chapter may
145 be claimed by an aerospace business for compensation paid to a

24-00515-11

2011790__

146 qualified employee.

147 (b) The credit authorized by this subsection shall equal 10
148 percent of the compensation paid for the first through fifth
149 years of employment in this state by an aerospace business.

150 (c) The credit authorized by this subsection may not exceed
151 \$12,500 annually for each qualified employee.

152 (d) This credit applies only with respect to wages subject
153 to unemployment tax.

154 (e) If the credit is not fully used in any one year, the
155 unused amount may be carried forward for a period not to exceed
156 5 years. The carryover credit may be used in a subsequent year
157 if the tax imposed by this chapter for such year exceeds the
158 credit for such year after applying the other credits and unused
159 credit carryovers in the order provided in s. 220.02(8).

160 (3) TUITION REIMBURSEMENT TAX CREDIT.—

161 (a) A credit against the tax imposed under this chapter may
162 be claimed by an aerospace business for 50 percent of tuition
163 reimbursed to a qualified employee in a tax year.

164 (b) The credit may be claimed only if the qualified
165 employee was awarded an undergraduate or graduate degree, a
166 technical certification, or a certification from a training
167 program coordinated by Workforce Florida, Inc., within 1 year
168 after commencing employment with the business requesting the
169 credit, and may be claimed within 4 years after employment of
170 the qualified employee.

171 (c) If this credit is not fully used in any one year, the
172 unused amount may be carried forward for a period not to exceed
173 5 years. The carryover credit may be used in a subsequent year
174 if the tax imposed under this chapter for such year exceeds the

24-00515-11

2011790__

175 credit for such year after applying the other credits and unused
176 credit carryovers in the order provided in s. 220.02(8).

177 (4) MAXIMUM CREDITS FOR AN AEROSPACE BUSINESS.—The maximum
178 amount of credits under this section which may be claimed by any
179 single aerospace business in a calendar year is \$200,000.

180 (5) ANNUAL LIMIT ON TAX CREDITS.—The total amount of
181 credits that may be granted under this section is \$2 million in
182 any calendar year. A credit that is claimed after the \$2 million
183 limit is reached shall be disallowed.

184 (6) DUPLICATION OF TAX CREDITS.—A business may not claim an
185 aerospace-sector jobs tax credit and a tuition reimbursement tax
186 credit for the same qualified employee.

187 (7) APPLICATION FOR TAX CREDITS.—

188 (a) An aerospace business must apply to the department for
189 authorization to claim an aerospace-sector jobs tax credit or a
190 tuition reimbursement tax credit. The application must be filed
191 under oath and include:

192 1. The name and address of the business and documentation
193 that the business is an aerospace business.

194 2. For each employee for which a tax credit is sought:

195 a. The employee's name and documentation that the employee
196 is a qualified employee.

197 b. The salary or hourly wages, including the hourly wages
198 subject to unemployment tax paid to the qualified employee.

199 c. The location of the community college, college,
200 university, technical institution, or training program
201 coordinated by Workforce Florida, Inc., from which the qualified
202 employee received his or her degree or certification.

203 d. A statement as to whether the applicant is seeking an

24-00515-11

2011790

204 aerospace-sector jobs tax credit or a tuition reimbursement tax
205 credit.

206 (b) The applicant for a tax credit has the burden of
207 demonstrating to the satisfaction of the department that it
208 meets the requirements of this section.

209 (8) LIMITS ON THE CARRY OVER OF TAX CREDITS.—An aerospace
210 business may not carry over more tax credits in an amended
211 return than were claimed on the original return for the taxable
212 year. This subsection does not limit increases in the amount of
213 credit claimed on an amended return due to the use of any credit
214 amount previously carried over pursuant to paragraph (2)(e) or
215 paragraph (3)(c).

216 (9) PENALTIES.—

217 (a) Any person who fraudulently claims a credit under this
218 section is liable for repayment of the credit, plus a mandatory
219 penalty in the amount of 200 percent of the credit, plus
220 interest at the rate provided in s. 220.807, and commits a
221 felony of the third degree, punishable as provided in s.
222 775.082, s. 775.083, or s. 775.084.

223 (b) Any person who makes an underpayment of tax as a result
224 of a grossly overstated claim for this credit commits a felony
225 of the third degree, punishable as provided in s. 775.082, s.
226 775.083, or s. 775.084. As used in this paragraph, the term
227 “grossly overstated claim” means a claim in an amount in excess
228 of 100 percent of the amount of credit allowable under this
229 section.

230 (10) RULEMAKING.—The department may adopt rules to
231 prescribe any necessary forms required to claim a tax credit
232 under this section and to provide guidelines and procedures

24-00515-11

2011790__

233 required to administer this section.

234 (11) EXPIRATION.—This section, except paragraphs (2)(e) and
235 (3)(c) and subsection (8), expires December 31, 2021. An
236 aerospace business may not claim a new tax credit under this
237 section after that date. However, an aerospace business may
238 claim tax credits carried over pursuant to paragraph (2)(e) or
239 paragraph (3)(c).

240 Section 4. This act shall take effect January 1, 2012, and
241 applies to tax years beginning on or after that date.