

By Senator Campbell

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1 A bill to be entitled
2 An act relating to a family caregiver tax credit;
3 amending s. 220.02, F.S.; specifying the order in
4 which the tax credit for businesses employing and
5 providing certain support to employees who serve as
6 family caregivers is applied against the corporate
7 income tax or the franchise tax; amending s. 220.13,
8 F.S.; revising the definition of the term "adjusted
9 federal income" to include the amount of the tax
10 credit taken in adjusting certain taxable income;
11 creating s. 220.197, F.S.; defining terms; providing a
12 tax credit for certain qualified businesses employing
13 and providing mental health support to employees who
14 serve as family caregivers; specifying the calculation
15 of the tax credit; providing that the tax credit is
16 for previously paid taxes, may be taken only as a
17 deduction on a corporate income tax return, and may
18 not be received as a refund; specifying a limit on the
19 credit taken in any taxable year; providing procedures
20 and requirements for tax credit applications to, and
21 the processing of applications by, the Department of
22 Revenue; providing that unused credits may be carried
23 forward for a specified timeframe; providing
24 construction relating to the use of carryover credits;
25 authorizing the department to adopt rules; providing
26 an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Subsection (8) of section 220.02, Florida
31 Statutes, is amended to read:

32 220.02 Legislative intent.—

33 (8) It is the intent of the Legislature that credits
34 against either the corporate income tax or the franchise tax be
35 applied in the following order: those enumerated in s. 631.828,
36 those enumerated in s. 220.191, those enumerated in s. 220.181,
37 those enumerated in s. 220.183, those enumerated in s. 220.182,
38 those enumerated in s. 220.1895, those enumerated in s. 220.195,
39 those enumerated in s. 220.184, those enumerated in s. 220.186,
40 those enumerated in s. 220.1845, those enumerated in s. 220.19,
41 those enumerated in s. 220.185, those enumerated in s. 220.1875,
42 those enumerated in s. 220.192, those enumerated in s. 220.193,
43 those enumerated in s. 288.9916, those enumerated in s.
44 220.1899, those enumerated in s. 220.194, ~~and~~ those enumerated
45 in s. 220.196, and those enumerated in s. 220.197.

46 Section 2. Paragraph (a) 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 (a) *Additions.*—There shall be added to such taxable income:

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

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59 the computation of taxable income for the taxable year.

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

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

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

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

82 6. The amount taken as a credit under s. 220.195 which 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.

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88 8. In the case of a nonprofit corporation that ~~which~~ holds
89 a pari-mutuel permit and that ~~which~~ is exempt from federal
90 income tax as a farmers' cooperative, an amount equal to the
91 excess of the gross income attributable to the pari-mutuel
92 operations over the 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 9 ~~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
115 pursuant to s. 220.194.

116 17. The amount taken as a credit for the taxable year under

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117 s. 220.196. The addition in this subparagraph is intended to
118 ensure that the same amount is not allowed for the tax purposes
119 of this state as both a deduction from income and a credit
120 against the tax. The addition is not intended to result in
121 adding the same expense back to income more than once.

122 18. The amount taken as a credit for the taxable year under
123 s. 220.197.

124 Section 3. Section 220.197, Florida Statutes, is created to
125 read:

126 220.197 Tax credit for employment and support of employees
127 serving as family caregivers.—

128 (1) As used in this section, the term:

129 (a) "Caregiver-friendly employment policy" means a
130 business's written policy that accommodates the employment and
131 personal needs of employees who must serve as family caregivers
132 and that provides both of the following:

133 1. Work flexibility for employees who are family caregivers
134 so they may balance work responsibilities with caring for their
135 disabled family members or elderly family members. Such policy
136 includes, but is not limited to, flexible work schedules and
137 telework. As used in this subparagraph, the term "telework"
138 means a work arrangement allowing an employee to conduct all or
139 some of his or her work away from the worksite during all or a
140 portion of the employee's established work hours on a regular
141 basis.

142 2. Mental health support for family caregivers, which may
143 include, but is not limited to, counseling and psychotherapy
144 services provided at the workplace by a person licensed under
145 chapter 491.

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146 (b) "Disabled family member" means a person who is a
147 relative of a family caregiver and who is diagnosed by a
148 physician licensed under chapter 458 or chapter 459 with a
149 condition of physical or mental incapacitation due to a
150 developmental disability, organic brain damage, or mental
151 illness, or who is diagnosed by the physician as having one or
152 more physical or mental limitations that restrict the person's
153 ability to perform the normal activities of daily living.

154 (c) "Elderly family member" means a person who is a
155 relative of a family caregiver, is 65 years of age or older, and
156 is diagnosed by a physician licensed under chapter 458 or
157 chapter 459 as suffering from the infirmities of aging as
158 manifested by advanced age or organic brain damage or other
159 physical, mental, or emotional dysfunction, to the extent that
160 the ability of the person to provide adequately for his or her
161 own care or protection is impaired.

162 (d) "Family caregiver" means a person who has been
163 entrusted with or who has assumed responsibility for the care of
164 a disabled family member or an elderly family member.

165 (2) Pursuant to this section, a business is qualified for a
166 credit against the tax imposed by this chapter if the business:

167 (a) Is certified by the department as having a caregiver-
168 friendly employment policy; and

169 (b) Has employed, for a minimum of 1 year as of the end of
170 the previous taxable year, at least one employee who is a family
171 caregiver.

172 (3) For taxable years beginning on or after January 1,
173 2019, a qualified business shall receive a tax credit for
174 previously paid corporate income taxes under this chapter equal

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175 to 12.5 percent of the amount of wages paid by the business in
176 the previous taxable year to all employees who were family
177 caregivers and who were employed by the business for at least 1
178 year as of the end of the previous taxable year. The credit may
179 be taken only as a deduction on a corporate income tax return
180 and may not be received as a refund of taxes previously paid.
181 The credit taken in any taxable year may not exceed 50 percent
182 of the qualified business' remaining net income tax liability
183 under this chapter after all other credits have been applied
184 under s. 220.02(8).

185 (4) To qualify for the credit under this section, a
186 business must apply to the department on a form approved by the
187 department. The application must include all information
188 required by the department to verify the business' qualification
189 under subsection (2).

190 (5) Within 30 business days after receipt of the
191 application, the department shall notify the applicant in
192 writing as to whether the application has been approved or
193 deemed insufficient to support the credit. The department shall
194 identify any insufficiency in the written notice. If the
195 application is deemed insufficient, the applicant may reapply
196 for the credit within 90 calendar days after its receipt of the
197 written notice.

198 (6) If the credit approved under this section is not fully
199 used in a taxable year, the unused amount may be carried forward
200 for no more than 5 taxable years. The carryover credit may be
201 used if the tax imposed by this chapter for such taxable year
202 exceeds the credit under this section after the business applies
203 other credits and unused credit carryovers in the order provided

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204 in s. 220.02(8).

205 (7) The department may adopt rules to administer this
206 section.

207 Section 4. This act shall take effect July 1, 2018.