

**By** the Committees on Appropriations; and Finance and Tax; and  
Senators Perry and Flores

576-04596-19

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1                                   A bill to be entitled  
2       An act relating to the corporate income tax; amending  
3       s. 220.03, F.S.; adopting the Internal Revenue Code in  
4       effect on January 1, 2019; providing applicability;  
5       amending s. 220.1105, F.S.; revising definitions;  
6       deleting provisions providing for a rate adjustment;  
7       providing for refunds of certain corporate income tax  
8       receipts in a certain fiscal year; revising  
9       requirements for the Department of Revenue in making  
10      certain determinations and in refunding eligible  
11      taxpayers; amending s. 220.13, F.S.; providing for the  
12      subtraction of global intangible low-taxed income from  
13      taxable income for the purpose of determining adjusted  
14      federal income; specifying the extent to which certain  
15      amounts may be subtracted; providing applicability;  
16      creating s. 220.27, F.S.; requiring taxpayers filing  
17      returns during a certain timeframe to submit specified  
18      information to the department by certain means;  
19      defining the term "NAICS"; requiring the department,  
20      by a certain date, to create a secure online  
21      application for submitting such information; requiring  
22      certain persons to certify the information is true and  
23      correct; specifying deadlines for submitting the  
24      information; authorizing the department to perform  
25      certain audits and investigations; providing a penalty  
26      for failure to provide the information; requiring the  
27      penalty to be deposited into the General Revenue Fund;  
28      authorizing the department to settle or compromise the  
29      penalty under certain circumstances; providing for

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30 expiration; authorizing the department to adopt  
31 emergency rules; providing for expiration of the  
32 authorization; providing an appropriation; providing  
33 an effective date.

34  
35 Be It Enacted by the Legislature of the State of Florida:

36  
37 Section 1. Paragraph (n) of subsection (1) and paragraph  
38 (c) of subsection (2) of section 220.03, Florida Statutes, are  
39 amended to read:

40 220.03 Definitions.—

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

45 (n) "Internal Revenue Code" means the United States  
46 Internal Revenue Code of 1986, as amended and in effect on  
47 January 1, 2019 ~~2018~~, except as provided in subsection (3).

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

51 (c) Any term used in this code has the same meaning as when  
52 used in a comparable context in the Internal Revenue Code and  
53 other statutes of the United States relating to federal income  
54 taxes, as such code and statutes are in effect on January 1,  
55 2019 ~~2018~~. However, if subsection (3) is implemented, the  
56 meaning of a term shall be taken at the time the term is applied  
57 under this code.

58 Section 2. The amendment made by this act to s. 220.03,

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59 Florida Statutes, applies to taxable years beginning on or after  
60 January 1, 2019.

61 Section 3. Section 220.1105, Florida Statutes, is amended  
62 to read:

63 220.1105 ~~Tax imposed; Automatic refunds and downward~~  
64 ~~adjustments to tax rates.-~~

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

66 (a) "Net collections" means the total amount of taxes  
67 collected under this chapter by the department in a the 2018-  
68 2019 fiscal year, including related interest and penalties,  
69 minus the total amount of refunds of taxes levied under this  
70 chapter and issued by the department in that fiscal year, not  
71 including refunds issued pursuant to paragraph (2) (c). No later  
72 than September 1, 2019, and September 1, 2020, the Office of  
73 Economic and Demographic Research shall determine net  
74 collections for the most recent 2018-2019 fiscal year.

75 (b) "Forecasted net collections" means the amount of net  
76 collections forecasted for a the 2018-2019 fiscal year by the  
77 Revenue Estimating Conference on February 23, 2018.

78 (c) "Adjusted forecasted collections" means forecasted net  
79 collections for a the 2018-2019 fiscal year multiplied by 1.07.

80 ~~(d) "Tax rate imposed" is the tax rate as defined in ss.~~  
81 ~~220.11(2) and 220.63(2) adjusted as set forth in this section.~~

82 ~~(2) The tax rate imposed shall be adjusted based on net~~  
83 ~~collections in the 2018-2019 fiscal year. If the net collections~~  
84 ~~exceed the adjusted forecasted collections, the tax rate imposed~~  
85 ~~for taxable years beginning on or after January 1, 2019, shall~~  
86 ~~be the tax rate imposed for taxable years beginning on or after~~  
87 ~~January 1, 2018, multiplied by the quotient of the adjusted~~

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88 ~~forecasted collections divided by the net collections. The~~  
89 ~~resulting tax rate shall be rounded to the nearest thousandth~~  
90 ~~and rounded down if the fourth digit to the right of the decimal~~  
91 ~~point is the number five.~~

92 ~~(3) By October 1, 2019, the Department of Revenue shall~~  
93 ~~calculate the tax rate imposed, if it is to be adjusted pursuant~~  
94 ~~to subsection (2), and shall on that same date report the~~  
95 ~~results of such calculation to the Governor, the President of~~  
96 ~~the Senate, and the Speaker of the House of Representatives.~~

97 (2)(4) For the 2018-2019 and 2019-2020 fiscal years, any  
98 amount by which net collections for the fiscal year exceed  
99 adjusted forecasted collections for the same 2018-2019 fiscal  
100 year shall only be used to provide refunds to corporate income  
101 tax payers as follows:

102 (a) For purposes of this subsection:

103 1. "Eligible taxpayer for a fiscal year" means:

104 a. For the 2018-2019 fiscal year, a taxpayer whose taxable  
105 year begins between April 1, 2017, and March 31, 2018, and whose  
106 final tax liability for such taxable year is greater than zero.

107 b. For the 2019-2020 fiscal year, a taxpayer whose taxable  
108 year begins between April 1, 2018, and March 31, 2019, and whose  
109 final tax liability for such taxable year is greater than zero.

110 2. "Excess collections for a fiscal year" means the amount  
111 by which net collections for a fiscal ~~the 2018-2019~~ year exceed  
112 adjusted forecasted collections for that fiscal year.

113 3. "Final tax liability" means the taxpayer's amount of tax  
114 due under this chapter for a taxable year, reported on a return  
115 filed with the department pursuant to s. 220.222, including a  
116 return filed timely pursuant to a valid extension.

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117 4. "Total eligible tax liability for a fiscal year" means  
118 the sum of final tax liabilities of all eligible taxpayers for a  
119 fiscal year, as such liabilities are shown on the latest return  
120 filed with the department as of the February 1 immediately  
121 following that fiscal year.

122 5. "Taxpayer refund share for a fiscal year" means an  
123 eligible taxpayer's final tax liability as a percentage of the  
124 total eligible tax liability for that fiscal year.

125 6. "Taxpayer refund for a fiscal year" means the taxpayer  
126 refund share for a fiscal year multiplied by the excess  
127 collections for that fiscal year.

128 (b) No later than April 15 following a fiscal year ~~February~~  
129 ~~15, 2020~~, the department shall determine total eligible tax  
130 liability for that fiscal year, the taxpayer refund share for  
131 that fiscal year for each eligible taxpayer, and the taxpayer  
132 refund for that fiscal year for each eligible taxpayer.

133 (c) No later than May 1 following a fiscal year ~~March 1,~~  
134 ~~2020~~, the department shall refund a taxpayer refund for that  
135 fiscal year to each eligible taxpayer.

136 ~~(5) Tax rate adjustments pursuant to this section are~~  
137 ~~repealed for taxable years beginning on or after January 1,~~  
138 ~~2020.~~

139 Section 4. Paragraph (b) of subsection (1) of section  
140 220.13, Florida Statutes, is amended to read:

141 220.13 "Adjusted federal income" defined.—

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

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146 follows:

147 (b) *Subtractions.*—

148 1. There shall be subtracted from such taxable income:

149 a. The net operating loss deduction allowable for federal  
150 income tax purposes under s. 172 of the Internal Revenue Code  
151 for the taxable year, except that any net operating loss that is  
152 transferred pursuant to s. 220.194(6) may not be deducted by the  
153 seller,

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

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

160 d. The excess contributions deductions allowable for  
161 federal income tax purposes under s. 404 of the Internal Revenue  
162 Code for the taxable year.

163

164 However, a net operating loss and a capital loss shall never be  
165 carried back as a deduction to a prior taxable year, but all  
166 deductions attributable to such losses shall be deemed net  
167 operating loss carryovers and capital loss carryovers,  
168 respectively, and treated in the same manner, to the same  
169 extent, and for the same time periods as are prescribed for such  
170 carryovers in ss. 172 and 1212, respectively, of the Internal  
171 Revenue Code.

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

174 a. Dividends treated as received from sources without the

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175 United States, as determined under s. 862 of the Internal  
176 Revenue Code.

177 b. All amounts included in taxable income under s. 78, ~~or~~  
178 s. 951, or s. 951A of the Internal Revenue Code.

179  
180 However, any amount subtracted under this subparagraph shall  
181 only be allowed to the extent that such amount is not deductible  
182 in determining federal taxable income. As to any amount  
183 subtracted under this subparagraph, there shall be added to such  
184 taxable income all expenses deducted on the taxpayer's return  
185 for the taxable year which are attributable, directly or  
186 indirectly, to such subtracted amount. Further, no amount shall  
187 be subtracted with respect to dividends paid or deemed paid by a  
188 Domestic International Sales Corporation.

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

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

197 5. There shall be subtracted any amount of taxes of foreign  
198 countries allowable as credits for taxable years beginning on or  
199 after September 1, 1985, under s. 901 of the Internal Revenue  
200 Code to any corporation which derived less than 20 percent of  
201 its gross income or loss for its taxable year ended in 1984 from  
202 sources within the United States, as described in s.  
203 861(a)(2)(A) of the Internal Revenue Code, not including credits

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204 allowed under ss. 902 and 960 of the Internal Revenue Code,  
205 withholding taxes on dividends within the meaning of sub-  
206 subparagraph 2.a., and withholding taxes on royalties, interest,  
207 technical service fees, and capital gains.

208 6. Notwithstanding any other provision of this code, except  
209 with respect to amounts subtracted pursuant to subparagraphs 1.  
210 and 3., any increment of any apportionment factor which is  
211 directly related to an increment of gross receipts or income  
212 which is deducted, subtracted, or otherwise excluded in  
213 determining adjusted federal income shall be excluded from both  
214 the numerator and denominator of such apportionment factor.  
215 Further, all valuations made for apportionment factor purposes  
216 shall be made on a basis consistent with the taxpayer's method  
217 of accounting for federal income tax purposes.

218 Section 5. The amendment made by this act to s. 220.13,  
219 Florida Statutes, applies to taxable years beginning on or after  
220 January 1, 2018.

221 Section 6. Section 220.27, Florida Statutes, is created to  
222 read:

223 220.27 Additional required information.-

224 (1) (a) Every taxpayer that is required to file a return  
225 under s. 220.22(1) for a taxable year beginning during the 2018  
226 or 2019 calendar years must submit to the department the  
227 following information for those taxable years using the online  
228 application on the department's website:

229 1. The taxpayer's name, federal taxpayer identification  
230 number, taxable year beginning date, taxable year ending date,  
231 and whether a consolidated return for the taxpayer is required  
232 or elected under s. 220.131.

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233       2. The taxpayer's NAICS code for business activity that  
234 generates the greatest proportion of gross receipts of the  
235 taxpayer. As used in this subparagraph, the term "NAICS" means  
236 those classifications contained in the North American Industry  
237 Classification System, as published in 2007 by the Office of  
238 Management and Budget, Executive Office of the President.

239       3. The taxpayer's taxable income, as that term is defined  
240 in s. 220.13(2), and the taxpayer's state apportionment fraction  
241 pursuant to s. 220.15 for the taxable year.

242       4. The amount of global intangible low-taxed income  
243 included in federal taxable income under s. 951A of the Internal  
244 Revenue Code, and the amount of the related deduction under s.  
245 250 of the Internal Revenue Code as it pertains to s. 951A of  
246 the Internal Revenue Code.

247       5. The amount of foreign-derived intangible income computed  
248 for the federal return for the taxable year and the amount of  
249 the related deduction under s. 250 of the Internal Revenue Code,  
250 as it pertains to foreign-derived intangible income.

251       6. The amount of business interest expense deducted on the  
252 federal return under s. 163 of the Internal Revenue Code,  
253 including any carryover; the amount of current year business  
254 interest expense, including any carryover, which was not  
255 deducted due to the limitation in s. 163(j) of the Internal  
256 Revenue Code; and the amount of business interest expense  
257 carried over from previous taxable years.

258       7. The amount of federal net operating loss deduction under  
259 s. 172 of the Internal Revenue Code applied in determining  
260 federal taxable income and the amount of federal net operating  
261 loss carryover that was not applied due to the limitation in s.

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262 172(a)(2) of the Internal Revenue Code.

263 8. The total amount of state net operating loss carryover  
264 available after the filing of the return for the taxable year.

265 9. The total amount of the state alternative minimum tax  
266 credit carryover available after the filing of the return for  
267 the taxable year.

268 (b) By September 3, 2019, the department shall create a  
269 secure online application for use by taxpayers when submitting  
270 the information required under this subsection through the  
271 department's website.

272 (c) An officer of the taxpayer or a person duly authorized  
273 to act on the taxpayer's behalf shall certify that the  
274 information submitted pursuant to this subsection is true and  
275 correct. The required information must be submitted the earlier  
276 of 10 days after the extended due date of the tax return or 10  
277 days after the date such return is filed. For taxpayers that  
278 file returns before September 3, 2019, for taxable years  
279 beginning in calendar year 2018, the required information is  
280 timely if submitted by September 3, 2019.

281 (d) In addition to its existing audit and investigation  
282 authority, the department may perform any additional financial  
283 and technical audits and investigations, including examining the  
284 accounts, books, and financial records of the taxpayer, which  
285 are necessary to verify the accuracy of the information  
286 submitted pursuant to this subsection.

287 (e) A taxpayer who fails to provide the required  
288 information by the required submission date is subject to a  
289 penalty of \$1,000 or 1 percent of the tax determined to be due  
290 under this chapter for the most recent taxable year reported on

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291 a return filed with the department, whichever is greater. Any  
292 such penalty collected must be deposited into the General  
293 Revenue Fund. The department may settle or compromise such  
294 penalty if the department determines that the noncompliance is  
295 due to reasonable cause and not to willful negligence, willful  
296 neglect, or fraud.

297 (2) This section expires January 1, 2023.

298 Section 7. (1) The Department of Revenue is authorized, and  
299 all conditions are deemed to be met, to adopt emergency rules  
300 pursuant to s. 120.54(4), Florida Statutes, for the purpose of  
301 implementing this act.

302 (2) Notwithstanding any other law, emergency rules adopted  
303 pursuant to subsection (1) are effective for 6 months after  
304 adoption and may be renewed during the pendency of procedures to  
305 adopt permanent rules addressing the subject of the emergency  
306 rules.

307 (3) This section expires January 1, 2022.

308 Section 8. For the 2019-2020 fiscal year, the sum of  
309 \$120,000 in nonrecurring funds is appropriated from the General  
310 Revenue Fund to the Department of Revenue for the purpose of  
311 implementing this act.

312 Section 9. This act shall take effect upon becoming a law.