Amendment No. 6

Committee/Subcommittee hearing bill:  Ways & Means Committee
Representative Eskamani offered the following:

Amendment (with title amendment)
Between lines 2393 and 2394, insert:
Section 44.  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 Cooperation 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
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 on 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 45. 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 and s. 220.131, for the taxable year, adjusted as follows:

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

1.a. 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.

b. Notwithstanding sub-subparagraph a., if a credit taken under s. 220.1875 is added to taxable income in a previous taxable year under subparagraph 11. and is taken as a deduction for federal tax purposes in the current taxable year, the amount of the deduction allowed shall not be added to taxable income in the current year. The exception in this sub-subparagraph is intended to ensure that the credit under s. 220.1875 is added in the applicable taxable year and does not result in a duplicate addition in a subsequent year.

2. The amount of interest which is excluded from taxable income under s. 103(a) of the Internal Revenue Code or any other

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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 taken as a credit under s. 220.195 which 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. 220.1875. The addition in this subparagraph is intended to ensure that the same amount is not allowed for the tax purposes of this state as both a deduction from income and a credit against the tax. This addition is not intended to result in adding the same expense back to income more than once.

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.

15. The costs to acquire a tax credit pursuant to s. 288.9916.
288.1254(5) that are deducted from or otherwise reduce federal taxable income for the taxable year.

16. The amount taken as a credit for the taxable year pursuant to s. 220.194.

17. The amount taken as a credit for the taxable year under s. 220.196. The addition in this subparagraph is intended to ensure that the same amount is not allowed for the tax purposes of this state as both a deduction from income and a credit against the tax. The addition is not intended to result in adding the same expense back to income more than once.

(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, except that any net operating loss that is transferred pursuant to s. 220.194(6) may not be deducted by the seller,
   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.
167 Code for the taxable year.

168 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 who 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 who 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, s.
951, or s. 951A of the Internal Revenue Code.
However, any amount subtracted under this subparagraph is allowed only to the extent such amount is not deductible in determining federal taxable income. 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 must be subtracted from the taxable income if the dividends are included in the taxable income.

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

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. Notwithstanding any other provision of this code, except with respect to amounts subtracted pursuant to subparagraphs 1. and 4., 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.


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, s. 1201 of Pub. L. No. 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No. 111-312, s. 331 of Pub. L. No. 112-240, s. 125 of Pub. L. No. 113-295, s. 143 of Division Q of Pub. L. No. 114-113, and s. 13201 of Pub. L. No. 115-97, for property placed in service after December 31, 2007, and before January 1, 2027. 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, s. 1202 of Pub. L. No. 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No. 111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L. No. 113-295, for taxable years beginning after December 31, 2007, and before January 1, 2015. 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 paragraph.
Paragraph, 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.

(2) For purposes of this section, a taxpayer's taxable
income for the taxable year means taxable income as defined in
s. 63 of the Internal Revenue Code and properly reportable for
federal income tax purposes for the taxable year, but subject to
the limitations set forth in paragraph (1)(b) with respect to
the deductions provided by ss. 172 (relating to net operating
losses), 170(d)(2) (relating to excess charitable
contributions), 404(a)(1)(D) (relating to excess pension trust
contributions), 404(a)(3)(A) and (B) (to the extent relating to
excess stock bonus and profit-sharing trust contributions), and
1212 (relating to capital losses) of the Internal Revenue Code,
except that, subject to the same limitations, the term:

(a) "Taxable income," in the case of a life insurance
company subject to the tax imposed by s. 801 of the Internal
Revenue Code, means life insurance company taxable income;
however, for purposes of this code, the total of any amounts
subject to tax under s. 815(a)(2) of the Internal Revenue Code
pursuant to s. 801(c) of the Internal Revenue Code shall not
exceed, cumulatively, the total of any amounts determined under
s. 815(c)(2) of the Internal Revenue Code of 1954, as amended,
from January 1, 1972, to December 31, 1983;

(b) "Taxable income," in the case of an insurance company
subject to the tax imposed by s. 831(b) of the Internal Revenue
Code, means taxable investment income;

(c) "Taxable income," in the case of an insurance company
subject to the tax imposed by s. 831(a) of the Internal Revenue
Code, means insurance company taxable income;

(d) "Taxable income," in the case of a regulated
investment company subject to the tax imposed by s. 852 of the
Internal Revenue Code, means investment company taxable income;

(e) "Taxable income," in the case of a real estate investment trust subject to the tax imposed by s. 857 of the Internal Revenue Code, means the income subject to tax, computed as provided in s. 857 of the Internal Revenue Code;

(f) "Taxable income," in the case of a corporation which is a member of an affiliated group of corporations filing a consolidated income tax return for the taxable year for federal income tax purposes, means taxable income of such corporation for federal income tax purposes as if such corporation had filed a separate federal income tax return for the taxable year and each preceding taxable year for which it was a member of an affiliated group, unless a consolidated return for the taxpayer and others is required or elected under s. 220.131;

(g) "Taxable income," in the case of a cooperative corporation or association, means the taxable income of such organization determined in accordance with the provisions of ss. 1381-1388 of the Internal Revenue Code;

(h) "Taxable income," in the case of an organization which is exempt from the federal income tax by reason of s. 501(a) of the Internal Revenue Code, means its unrelated business taxable income as determined under s. 512 of the Internal Revenue Code;

(i) "Taxable income," in the case of a corporation for which there is in effect for the taxable year an election under s. 1362(a) of the Internal Revenue Code, means the amounts
subject to tax under s. 1374 or s. 1375 of the Internal Revenue Code for each taxable year;

(j) "Taxable income," in the case of a limited liability company, other than a limited liability company classified as a partnership for federal income tax purposes, as defined in and organized pursuant to chapter 605 or qualified to do business in this state as a foreign limited liability company or other than a similar limited liability company classified as a partnership for federal income tax purposes and created as an artificial entity pursuant to the statutes of the United States or any other state, territory, possession, or jurisdiction, if such limited liability company or similar entity is taxable as a corporation for federal income tax purposes, means taxable income determined as if such limited liability company were required to file or had filed a federal corporate income tax return under the Internal Revenue Code;

(k) "Taxable income," in the case of a taxpayer liable for the alternative minimum tax as defined in s. 55 of the Internal Revenue Code, means the alternative minimum taxable income as defined in s. 55(b)(2) of the Internal Revenue Code, less the exemption amount computed under s. 55(d) of the Internal Revenue Code. A taxpayer is not liable for the alternative minimum tax unless the taxpayer's federal tax return, or related federal consolidated tax return, if included in a consolidated return for federal tax purposes, reflect a liability on the return.
filed for the alternative minimum tax as defined in s. 55(b)(2) of the Internal Revenue Code;

(1) "Taxable income," in the case of a taxpayer whose taxable income is not otherwise defined in this subsection, means the sum of amounts to which a tax rate specified in s. 11 of the Internal Revenue Code plus the amount to which a tax rate specified in s. 1201(a)(2) of the Internal Revenue Code are applied for federal income tax purposes.

Section 46. Section 220.131, Florida Statutes, is repealed.

Section 47. Section 220.136, Florida Statutes, is created to read:

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

(1) 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 water's edge group. A corporation having less than 50 percent of its outstanding voting stock directly or indirectly owned or controlled by a water's edge group is a member of the water's edge group if the businesses activities of the corporation show that the corporation is a member of the water's edge group. All of the income of a corporation that is a member of a water's edge group is presumed to be unitary. For purposes of this subsection, the attribution rules of 26 U.S.C. s. 318...
must be used to determine whether voting stock is indirectly owned.

(2)(a) 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 of 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 subsection (1). This subsection does not exempt a corporation that is not a member of a water's edge group from this chapter.

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

(c) The apportionment factors described in ss. 220.1363 and 220.15 must be used to determine whether a special industry corporation has engaged in a sufficient amount of activities outside of the United States to exclude it from treatment as a member of a water's edge group.
together, along with the additions and subtractions under s. 220.13 and apportioned to this state as a single taxpayer under ss. 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 special industry members. 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) All members of a water's edge group must use the water's edge reporting method, under which:

(a) Adjusted federal income, for purposes of s. 220.12, means the sum of adjusted federal income of all members of the water's edge group as determined for a concurrent taxable year.

(b) The numerators and denominators of the apportionment factors must be calculated for all members of the water's edge group combined.

(c) Intercompany sales transactions between members of the water's edge group are not included in the numerator or denominator of the sales factor under ss. 220.15 and 220.151,
regardless of whether indicia of a sale exist.

(d) For sales of intangibles, including accounts receivable, notes, bonds, and stock, which are made to entities outside 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 Florida activities of a corporation that is exempt from taxation under the Interstate Income Act of 1959, 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.

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.

(3)(a) If a parent corporation is a member of the water's edge group and has nexus with this state, a single water's edge group return must be filed in the name and under the federal employer identification number of the parent corporation. If the water's edge group does not have a parent corporation, if the parent corporation is not a member of the water's edge group, or if the parent corporation does not have nexus with this state,
then the members of the water's edge group must choose a member
subject to the tax imposed by this chapter to file the return.
The members of the water's edge 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 does not remain a member of the water's edge group. The
return must be signed by an authorized officer of the filing
member as the agent for the water's edge group.

(b) If members of a water's edge group have different
taxable years, the taxable year of a majority of the members of
the water's edge group is the taxable year of the water's edge
group. If the taxable years of a majority of the members do not
correspond, the taxable year of the member that files the return
for the water's edge group is the taxable year of the water's
edge group.

(c)1. A member of a water's edge group having a taxable
year that does not correspond to the taxable year of the water's
edge group shall determine its income for inclusion on the tax
return for the water's edge group. The member shall use:
   a. The precise amount of taxable income received during
      the months corresponding to the taxable year of the water's edge
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 taxable year of the water's edge group on the basis of
the number of months falling within the taxable year of the water's edge group, such that, if the taxable 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 must include 8/12 of the income from the current taxable year and 4/12 of the income from the preceding taxable 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 taxable year of the water's edge group.

c. The taxable income of the member during its taxable year that ends within the taxable year of the water's edge group.

2. The method of determining the income of a member of a water's edge group whose taxable year does not correspond to the taxable year of the water's edge group may not change as long as the member remains a member of the water's edge group. The apportionment factors for the member must be applied to the income of the member for the taxable year of the water's edge group.

(4)(a) A water's edge group return must 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) In addition to its return, a water's edge group shall also file a domestic disclosure spreadsheet. The spreadsheet must 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; and
4. Other information required by department rule to determine the proper amount of tax due to each state and to identify the water's edge group.

(5) 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 49. 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 $50,000 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 must be prorated on the basis of the number of days in such year to 365 days, or, in a leap year, 366 days.

(3) Only one exemption shall be allowed to taxpayers filing a water’s edge group 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 50. Paragraph (c) of 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
(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 51. Paragraph (f) of 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.—

(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.

Section 52. Paragraphs (b), (c), and (d) of subsection (2)
of section 220.1845, Florida Statutes, are amended to read:

220.1845 Contaminated site rehabilitation tax credit.—

(2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—

(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.

Section 53. Subsection (2) of section 220.1875, Florida Statutes, is amended to read:

220.1875 Credit for contributions to eligible nonprofit scholarship-funding organizations.—

(2) 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 subsection (1).

Section 54. Paragraphs (a) and (c) of subsection (3) of section 220.191, Florida Statutes, are 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)(g)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.

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

220.192 Renewable energy technologies investment tax credit.—

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(2) TAX CREDIT.—For tax years beginning on or after January 1, 2013, 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, 2013, and ending December 31, 2016, 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, 2013, and ending December 31, 2018, 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 56. Paragraphs (c) and (e) of subsection (3) of section 220.193, Florida Statutes, are 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, 2012.

(c) If the amount of credits applied for each year exceeds the amount authorized in paragraph (f) (g), the Department of Agriculture and Consumer Services shall allocate credits to qualified applicants based on the following priority:

1. An applicant who places a new facility in operation after May 1, 2012, shall be allocated credits first, up to a maximum of $250,000 each, with any remaining credits to be granted pursuant to subparagraph 3., but if the claims for credits under this subparagraph exceed the state fiscal year cap in paragraph (f) (g), credits shall be allocated pursuant to this subparagraph on a prorated basis based upon each applicant's qualified production and sales as a percentage of total production and sales for all applicants in this category for the fiscal year.

2. An applicant who does not qualify under subparagraph 1. but who claims a credit of $50,000 or less shall be allocated credits next, but if the claims for credits under this subparagraph, combined with credits allocated in subparagraph 1., exceed the state fiscal year cap in paragraph (f) (g), credits shall be allocated pursuant to this subparagraph on a prorated basis based upon each applicant's qualified production and sales as a percentage of total qualified production and
sales for all applicants in this category for the fiscal year.

3. An applicant who does not qualify under subparagraph 1. or subparagraph 2. and an applicant whose credits have not been fully allocated under subparagraph 1. shall be allocated credits next. If there is insufficient capacity within the amount authorized for the state fiscal year in paragraph (f), and after allocations pursuant to subparagraphs 1. and 2., the credits allocated under this subparagraph shall be prorated based upon each applicant's unallocated claims for qualified production and sales as a percentage of total unallocated claims for qualified production and sales of all applicants in this category, up to a maximum of $1 million per taxpayer per state fiscal year. If, after application of this $1 million cap, there is excess capacity under the state fiscal year cap in paragraph (f), in any state fiscal year, that remaining capacity shall be used to allocate additional credits with priority given in the order set forth in this subparagraph and without regard to the $1 million per taxpayer cap.

(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.

Section 57. Section 220.51, Florida Statutes, is amended to read:

220.51 Adoption of rules and regulations.—In...
accordance with the Administrative Procedure Act, chapter 120, the department is authorized to make, adopt 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 58. 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 apply to the franchise tax imposed by this part. Under rules prescribed by the department 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 corporations
corporation, and any nonbank or nonsavings subsidiaries of such
parent corporations corporation.

Section 59. Paragraph (f) of subsection (4) and paragraph
(a) of subsection (5) of section 288.1254, Florida Statutes, are
amended to read:

288.1254 Entertainment industry financial incentive
program.—

(4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES;
ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS;
PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND
ACQUISITIONS.—

(f) Consolidated returns. A certified production company
that files a Florida consolidated return 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 the tax
imposed upon the consolidated group under chapter 220.

(5) TRANSFER OF TAX CREDITS.—

(a) Authorization.—Upon application to the Office of Film
and Entertainment and approval by the department, a certified
production company, or a partner or member that has received a
distribution under paragraph (4)(f) (4)(g), may elect to
transfer, in whole or in part, any unused credit amount granted
under this section. An election to transfer any unused tax
credit amount under chapter 212 or chapter 220 must be made no
later than 5 years after the date the credit is awarded, after
which period the credit expires and may not be used. The
department shall notify the Department of Revenue of the
election and transfer.

Section 60. 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(2)(f) or
s. 220.1845(2)(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(2)(f) and s. 220.1845(2)(g). Credits may not result in the payment of refunds if total credits exceed the amount of tax owed.

Section 61. Transitional rules.—

(1) For the first taxable year beginning on or after January 1, 2021, a taxpayer that filed a Florida corporate income tax return in the preceding taxable year and that 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 2018, shall cease filing a Florida consolidated return for taxable years beginning on or after January 1, 2021, 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 was later, shall cease filing a Florida consolidated corporate income tax return using that method for taxable years beginning on or after January 1, 2021, and shall file a combined Florida corporate income tax return with all members of its water's edge group.

(4) A taxpayer that is not a member of a water's edge group remains subject to chapter 220, Florida Statutes, and shall file a separate Florida corporate income tax return as previously required.

(5) For taxable years beginning on or after January 1, 2021, 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.
T I T L E  A M E N D M E N T

Remove line 150 and insert:
applicability; amending s. 220.03, F.S.; revising the
definition of the term "taxpayer"; providing
definitions; amending s. 220.13, F.S.; revising the
definition of the term "adjusted federal income" to
prohibit specified deductions, to limit certain
carryovers, and to require subtractions of certain
dividends paid and received within a water's edge
group for the purpose of determining subtractions from
taxable income; conforming provisions to changes made
by the act; repealing s. 220.131, F.S., relating to
the adjusted federal income of affiliated groups;
creating s. 220.136, F.S.; specifying circumstances
under which a corporation is presumed to be, deemed to
be, or deemed not to be a member of a water's edge
group; providing construction; defining the term
"United States"; creating s. 220.1363, F.S.; defining
the term "water's edge reporting method"; specifying
requirements for, limitations on, and prohibitions in
calculating and reporting income in a water's edge
group return; requiring all members of a water's edge
group to use the water's edge reporting method;
defining the term "sale"; specifying requirements for
designating the filing member and the taxable year of
the water's edge group; specifying income reporting
requirements for certain members of the water's edge
group; requiring that a water's edge group return
include a specified computational schedule and
domestic disclosure spreadsheet; authorizing the
Department of Revenue to adopt rules; providing
legislative intent regarding the adoption of rules;
amending s. 220.14, F.S.; revising the calculation for
prorating a certain corporate income tax exemption to
reflect leap years; conforming a provision to changes
made by the act; amending ss. 220.15, 220.183,
220.1845, 220.1875, 220.191, 220.192, 220.193, and
220.51, F.S.; conforming provisions to changes made by
the act; amending s. 220.64, F.S.; providing
applicability of water's edge group provisions to the
franchise tax; conforming provisions to changes made
by the act; amending ss. 288.1254 and 376.30781, F.S.;
conforming provisions to changes made by the act;
specifying, beginning on a specified date,
requirements for corporate income tax return filings
for certain taxpayers; providing sales tax exemptions
for