

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 7, 1998 Revised: _____

Subject: Corporate Income Tax

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Fournier</u>	<u>Smith</u>	<u>WM</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This committee substitute updates references in chapter 220, F.S., the Florida Income Tax Code, to reflect changes in the U.S. Internal Revenue Code for corporate income tax purposes. It also provides that qualified subchapter S subsidiaries are not treated as separate entities from their parent corporations for purposes of Florida income tax. For the year in which an election is made to file as a qualified subchapter S subsidiary under s. 1361 (b) (3) of the IRS Code, the qualified subchapter S subsidiary shall file an informational return with the Department of Revenue. The committee substitute states that the provisions pertaining to qualified subchapter S subsidiaries are intended to clarify the intent of the Legislature under existing law and are effective with respect to tax years beginning on or after January 1, 1997.

This bill substantially amends the following sections of the Florida Statutes: 220.02, 220.03, and 220.22.

II. Present Situation:

Florida's Corporate Income Tax Code follows the Federal Internal Revenue Code by using federal rules and starting with federal taxable income as the tax base for the Florida income tax. Section 220.03, Florida Statutes, defines specific terms as they apply to Florida's corporate income tax code. The term "Internal Revenue Code" is defined to mean those provisions of the United States Internal Revenue Code of 1986, as amended, in effect on January 1, 1997.

Effective January 1, 1997, s. 1361 of the Internal Revenue Code was amended to permit an S corporation to own more than 80 percent of another corporation, which is known as a qualified subchapter S subsidiary. This is done by making an election under s. 1361(a)(3), and the qualified subchapter S subsidiary is not treated as a separate corporation for federal tax purposes. The

Florida Corporate Income Tax Code generally piggybacks the Internal Revenue Code, and subchapter S corporations are generally not taxable. Section 220.13(2)(i), F.S., provides that they are taxable only to the extent they are taxable under the federal code, i.e., on built-in gains and excess passive income under Sections 1374 and 1375. Because s. 220.13(2)(i), F.S., refers to a corporation that makes an election under s. 1362(a) of the Internal Revenue Code, qualified subchapter S subsidiaries are not exempt under Florida tax law.

III. Effect of Proposed Changes:

This committee substitute updates the Florida Income Tax Code to reflect the changes Congress has made to the U.S. Internal Revenue Code of 1986. The definition of "Internal Revenue Code" is updated to include those provisions of the 1986 Code, as amended, in effect on January 1, 1998. This definition provides for "piggybacking" each change made during 1997 in the U.S. Internal Revenue Code.

It also provides that qualified subchapter S subsidiaries are not treated as separate entities from their parent corporations for purposes of Florida income tax. For the year in which an election is made to file as a qualified subchapter S subsidiary under s. 1361(b)(3) of the IRS Code, the qualified subchapter S subsidiary shall file an informational return with the Department of Revenue. The committee substitute states that the provisions pertaining to qualified subchapter S subsidiaries are intended to clarify the intent of the Legislature under existing law and are effective with respect to tax years beginning on or after January 1, 1997.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

This committee substitute insures current administration of the corporate income tax. It also provides that qualified subchapter S subsidiaries are not subject to Florida corporate income tax.

B. Private Sector Impact:

This committee substitute insures that corporations which are subject to Florida corporate income tax can base their calculations on current IRS rules. Failure to pass this bill would mean these corporations would need to keep two sets of accounts, one for Florida and one for IRS purposes. It also provides that it also provides that qualified subchapter S subsidiaries are not subject to Florida corporate income are not subject to Florida corporate income tax, and that it is the intent of the Legislature that such qualified subchapter S subsidiaries have not been taxable since January 1, 1996, when they became available under the IRS Code.

C. Government Sector Impact:

Passage of this bill is necessary to insure the Florida Department of Revenue can share meaningful information with the IRS for law enforcement purposes.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.