

By Senator Lawson

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1                                   A bill to be entitled  
2       An act relating to taxation; creating ss. 199.0125,  
3       199.0235, 199.0325, 199.0335, 199.0425, 199.0525,  
4       199.0575, 199.0625, 199.1035, 199.10555, 199.1065,  
5       199.1755, and 199.1855, F.S.; recreating the annual  
6       intangible personal property tax; providing a short  
7       title; providing definitions; providing for imposition  
8       of the annual tax; specifying a separate tax rate for  
9       securities in a Florida's Future Investment Fund;  
10      specifying nonapplication; specifying due date of  
11      annual tax; providing for a discount for early  
12      payments; providing requirements and procedures for  
13      annual tax returns and payment of the annual tax;  
14      providing for corporate election to pay stockholders'  
15      annual tax; providing requirements for annual tax  
16      information reports; providing requirements for the  
17      basis of assessments and valuation of intangible  
18      personal property; providing for a contaminated site  
19      rehabilitation tax credit; providing requirements,  
20      procedures, and limitations; providing for a credit  
21      for taxes imposed by other states; specifying  
22      requirements for taxable situs of intangible personal  
23      property; exempting certain property from the annual  
24      and nonrecurring intangible taxes; amending ss. 28.35,  
25      192.0105, 192.032, 192.042, 192.091, 193.114, 196.015,  
26      196.199, 199.133, 199.183, 199.218, 199.232, 199.282,  
27      199.292, 199.303, 212.02, 213.053, 213.054, 213.27,  
28      650.05, and 733.702, F.S., to conform provisions to  
29      the creation of the annual intangible personal

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30 property tax; providing for application of certain  
31 collection, administration, and enforcement provisions  
32 to taxation of certain leaseholds; authorizing the  
33 Department of Revenue to adopt emergency implementing  
34 rules for a certain time; providing legislative  
35 findings and intent; amending s. 220.03, F.S.;

36 revising a definition; defining the terms "tax haven"  
37 and "water's edge group"; amending s. 220.13, F.S.;

38 conforming a cross-reference; redefining the term  
39 "adjusted federal income" to limit the subtraction of  
40 certain deductions and certain carryovers; requiring  
41 the subtraction of certain dividends from taxable  
42 income; creating s. 220.136, F.S.; providing rules and  
43 criteria to determine if a corporation is a member of  
44 a water's edge group; creating s. 220.1363, F.S.;

45 providing a reporting method for a water's edge group;  
46 providing for the apportionment of income to the  
47 state; requiring a member of a water's edge group  
48 having nexus with this state to file a single return  
49 for the water's edge group; providing for the  
50 determination of income for a member of a water's edge  
51 group having a different tax year than the water's  
52 edge group; requiring a water's edge group return to  
53 include a computational schedule; requiring a water's  
54 edge group to file a domestic disclosure spreadsheet  
55 along with its return; authorizing the Department of  
56 Revenue to adopt rules; amending s. 220.14, F.S.;

57 providing for the proration of an exemption during a  
58 leap year; limiting a water's edge group to a single

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59 claim of a specified exemption; amending s. 220.15,  
60 F.S.; deleting provisions relating to affiliated  
61 groups with respect to certain sales of a financial  
62 institution; amending s. 220.183, F.S.; deleting  
63 provisions relating to affiliated groups with respect  
64 to community contribution tax credits; amending s.  
65 220.1845, F.S.; deleting provisions relating to  
66 affiliated groups with respect to the contaminated  
67 site rehabilitation tax credit; amending s. 220.187,  
68 F.S.; deleting provisions relating to affiliated  
69 groups with respect to the tax credit for  
70 contributions to nonprofit scholarship funding  
71 organizations; amending s. 220.191, F.S.; deleting  
72 provisions relating to affiliated groups with respect  
73 to the capital investment tax credit; amending s.  
74 220.192, F.S.; deleting provisions relating to  
75 affiliated groups with respect to the renewable energy  
76 technologies investment tax credit; amending s.  
77 220.193, F.S.; deleting provisions relating to  
78 affiliated groups with respect to the Florida  
79 renewable energy production tax credit; amending s.  
80 220.51, F.S.; deleting provisions relating to the  
81 rulemaking authority of the Department of Revenue with  
82 respect to consolidated reporting for affiliated  
83 groups; amending ss. 220.1845, 220.64, and 376.30781,  
84 F.S.; conforming cross-references and conforming  
85 provisions to the creation of the annual intangible  
86 personal property tax; providing transitional rules  
87 for corporate income tax returns filed by water's edge

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88 groups and affiliated groups of corporations;  
89 specifying the allocation of funds that are recaptured  
90 under the act; repealing s. 220.131, F.S., relating to  
91 adjusted federal income for affiliated groups;  
92 requiring deposit of certain funds into the  
93 Educational Enhancement Trust Fund; specifying certain  
94 allocations of appropriations from the fund; providing  
95 legislative intent relating to uses of funds;  
96 providing authority for certain entities as to how  
97 best to use certain funds; providing effective dates.

98

99 Be It Enacted by the Legislature of the State of Florida:

100

101 Section 1. Effective January 1, 2011, sections 199.0125,  
102 199.0235, 199.0325, 199.0335, 199.0425, 199.0525, 199.0575,  
103 199.0625, 199.1035, 199.10555, 199.1065, 199.1755, and 199.1855,  
104 Florida Statutes, are created to read:

105 199.0125 Short title.—Sections 199.0125-199.1855 may be  
106 cited as the "Millionaire's Tax Act."

107 199.0235 Definitions.—As used in this chapter:

108 (1) "Abroad" means in one or more foreign nations; in the  
109 colonies, dependencies, possessions, or territories of a foreign  
110 nation or of the United States; or in the Commonwealth of Puerto  
111 Rico.

112 (2) (a) "Affiliated group" means one or more chains of  
113 corporations or limited liability companies connected through  
114 stock ownership or membership interest in a limited liability  
115 company with a common parent corporation or limited liability  
116 company, for which:

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117       1. Stock or membership interest in a limited liability  
118 company possessing at least 80 percent of the voting power of  
119 all classes of stock or membership interest in a limited  
120 liability company and at least 80 percent of each class of the  
121 nonvoting stock or membership interest in a limited liability  
122 company of each corporation or limited liability company, except  
123 for the common parent corporation or limited liability company,  
124 is owned directly by one or more of the other corporations or  
125 limited liability companies.

126       2. The common parent corporation or limited liability  
127 company directly owns stock or membership interest in a limited  
128 liability company possessing at least 80 percent of the voting  
129 power of all classes of stock or membership interest in a  
130 limited liability company and at least 80 percent of each class  
131 of the nonvoting stock or membership interest in a limited  
132 liability company of at least one of the other corporations or  
133 limited liability companies.

134       (b) As used in this subsection, the terms "nonvoting stock"  
135 and "membership interest in a limited liability company" do not  
136 include nonvoting stock or membership interest in a limited  
137 liability company which is limited and preferred as to  
138 dividends. For purposes of this chapter, a common parent may be  
139 a corporation or a limited liability company.

140       (3) "Banking organization" means:

141       (a) A bank organized and existing under the laws of this  
142 state;

143       (b) A national bank organized and existing pursuant to the  
144 provisions of the National Bank Act, 12 U.S.C. ss. 21 et seq.,  
145 and maintaining its principal office in this state;

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146 (c) An Edge Act corporation organized pursuant to the  
147 provisions of s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss.  
148 611 et seq., and maintaining an office in this state;

149 (d) An international bank agency licensed pursuant to the  
150 laws of this state;

151 (e) A federal agency licensed pursuant to ss. 4 and 5 of  
152 the International Banking Act of 1978 to maintain an office in  
153 this state;

154 (f) A savings association organized and existing under the  
155 laws of this state;

156 (g) A federal association organized and existing pursuant  
157 to the provisions of the Home Owners' Loan Act of 1933, 12  
158 U.S.C. ss. 1461 et seq., and maintaining its principal office in  
159 this state; or

160 (h) An export finance corporation organized in this state  
161 and existing pursuant to the provisions of part V of chapter  
162 288.

163 (4) A resident has a "beneficial interest" in a trust if  
164 the resident has a vested interest, even if subject to  
165 divestment, which includes at least a current right to income  
166 and either a power to revoke the trust or a general power of  
167 appointment, as defined in 26 U.S.C. s. 2041(b)(1).

168 (5) "Department" means the Department of Revenue.

169 (6) "Intangible personal property" means all personal  
170 property that is not in itself intrinsically valuable, but that  
171 derives its chief value from that which it represents,  
172 including, but not limited to:

173 (a) All stocks or shares of incorporated or unincorporated  
174 companies, business trusts, and mutual funds.

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175 (b) All notes, bonds, and other obligations for the payment  
176 of money.

177 (c) All condominium and cooperative apartment leases of  
178 recreation facilities, land leases, and leases of other commonly  
179 used facilities.

180 (d) Except for any leasehold or other possessory interest  
181 described in s. 4(a), Art. VII of the State Constitution or s.  
182 196.199(7), all leasehold or other possessory interests in real  
183 property owned by the United States, the state, any political  
184 subdivision of the state, any municipality of the state, or any  
185 agency, authority, or other public body corporate of the state,  
186 which are undeveloped or predominantly used for residential or  
187 commercial purposes and upon which rental payments are due.

188 (7) "International banking facility" means a set of asset  
189 and liability accounts segregated on the books and records of a  
190 banking organization that includes only international banking  
191 facility deposits, borrowings, and extensions of credit as those  
192 terms are defined pursuant to s. 655.071(2).

193 (8) "International banking transaction" means:

194 (a) The financing of the exportation from, or the  
195 importation into, the United States or between jurisdictions  
196 abroad of tangible personal property or services;

197 (b) The financing of the production, preparation, storage,  
198 or transportation of tangible personal property or services  
199 which are identifiable as being directly and solely for export  
200 from, or import into, the United States or between jurisdictions  
201 abroad;

202 (c) The financing of contracts, projects, or activities to  
203 be performed substantially abroad, except those transactions

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204 secured by a mortgage, deed of trust, or other lien upon real  
205 property located in this state;

206 (d) The receipt of deposits or borrowings or the extensions  
207 of credit by an international banking facility, except the loan  
208 or deposit of funds secured by mortgage, deed of trust, or other  
209 lien upon real property located in this state; or

210 (e) Entering into foreign exchange trading or hedging  
211 transactions in connection with the activities described in  
212 paragraph (d).

213 (9) "Ministerial function" means an act the performance of  
214 which does not involve the use of discretion or judgment.

215 (10) "Money" includes, without limitation, United States  
216 legal tender, certificates of deposit, cashier's and certified  
217 checks, bills of exchange, drafts, the cash equivalent of  
218 annuities and life insurance policies, and similar instruments,  
219 which are held by a taxpayer, or deposited with or held by a  
220 banking organization or any other person.

221 (11) "Person" means any individual, firm, partnership,  
222 joint adventure, syndicate, or other group or combination acting  
223 as a unit, association, corporation, estate, trust, business  
224 trust, trustee, personal representative, receiver, or other  
225 fiduciary and includes the plural as well as the singular.

226 (12) "Processing activity" means an activity undertaken to  
227 administer or service intangible personal property in accordance  
228 with such terms, guidelines, criteria, or directions as are  
229 provided solely by the owner of the property. Methods, systems,  
230 or techniques chosen by the processor to implement such terms,  
231 guidelines, criteria, or directions are not considered the  
232 exercise of management or control.



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233 (13) "Taxpayer" means any person liable for taxes imposed  
234 under this chapter and any heir, successor, assignee, and  
235 transferee of any such person.

236 199.0325 Levy of annual tax.—An annual tax of 2 mills is  
237 imposed on each dollar of the just valuation of all intangible  
238 personal property that has a taxable situs in this state, except  
239 for notes and other obligations for the payment of money, other  
240 than bonds, that are secured by a mortgage, deed of trust, or  
241 other lien upon real property situated in this state. This tax  
242 shall be assessed and collected as provided in this chapter.

243 199.0335 Securities in a Florida's Future Investment Fund;  
244 tax rate.—

245 (1) Notwithstanding the provisions of this chapter, the tax  
246 imposed under s. 199.0325 on securities in a Florida's Future  
247 Investment Fund applies at a rate of 0.85 mill when the average  
248 daily balance in such funds exceeds \$2 billion and at a rate of  
249 0.70 mill when the average daily balance in such funds exceeds  
250 \$5 billion.

251 (2) This section shall not apply in any year in which the  
252 revenues of the foundation in the previous calendar year are  
253 less than the tax savings allowed by this section. The term "tax  
254 savings" means the difference between the tax that would be  
255 imposed pursuant to s. 199.0325 and the tax rate specified in  
256 subsection (1).

257 199.0425 Due date of annual tax.—

258 (1) The annual tax on intangible personal property shall be  
259 due and payable on June 30 of each year. Payment of the tax  
260 shall be made to the department upon filing of the return  
261 required by s. 199.0525. A return mailed to the department shall

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262 be considered timely filed if the return bears a postmark no  
263 later than the due date.

264 (2) A discount for early payment of the annual tax shall be  
265 allowed as follows: for payment on or before the last day of  
266 February, 4 percent; for payment on or before March 31, 3  
267 percent; for payment on or before April 30, 2 percent; and for  
268 payment after April 30 but on or before May 31, 1 percent.

269 199.0525 Annual tax returns; payment of annual tax.-

270 (1) An annual intangible tax return must be filed with the  
271 department by each corporation authorized to do business in this  
272 state or doing business in this state and by each person,  
273 regardless of domicile, who on January 1 owns, controls, or  
274 manages intangible personal property which has a taxable situs  
275 in this state. For purposes of this chapter, the terms "control"  
276 or "manage" do not include any ministerial function or any  
277 processing activity. The return shall be due on June 30 of each  
278 year. It shall list separately the character, description, and  
279 just valuation of all such property.

280 (2) A person, corporation, agent, or fiduciary is not  
281 required to pay the annual tax in any year when the aggregate  
282 annual tax upon the intangible personal property, after  
283 exemptions but before application of any discount for early  
284 filing, would be less than \$60. In such case, an annual return  
285 is not required. Agents and fiduciaries shall report for each  
286 person for whom they hold intangible personal property if the  
287 aggregate annual tax on such person is \$60 or more.

288 (3) A corporation having no intangible tax liability, and  
289 required to file an annual report pursuant to s. 607.1622, is  
290 not required to file the annual intangible tax return required

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291 by this section.

292 (4) A husband and wife may file a joint return with regard  
293 to all intangible personal property held jointly or individually  
294 by them. They shall then be jointly liable for the payment of  
295 the annual tax.

296 (5) A trustee of a trust is not responsible for filing  
297 returns for the trust's intangible personal property and is not  
298 required to pay any annual tax on such property, although the  
299 department may require the trustee to file an informational  
300 return.

301 (6) Each resident of this state with a beneficial interest  
302 as defined in s. 199.0235(4) in a trust is responsible for  
303 filing an annual return for the resident's equitable share of  
304 the trust's intangible personal property and paying the annual  
305 tax on such property. The trustee of a trust may file an annual  
306 return and pay the tax on the equitable shares of all residents  
307 of this state having beneficial interests, in which case the  
308 residents need not file an annual return for such property or  
309 pay such tax.

310 (7) The personal representative or curator of an estate in  
311 this state is primarily responsible for filing an annual return  
312 for the estate's intangible personal property and paying the  
313 annual tax on it. The heirs or devisees, however, may  
314 individually file an annual return for their equitable shares of  
315 the estate's intangible personal property and pay the tax on  
316 such shares, in which case the personal representative or  
317 curator need not file an annual return on such property or pay  
318 such tax, although the department may require the personal  
319 representative or curator to file an informational return.

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320       (8) The guardian of the property of an incompetent resident  
321 of this state shall file an annual return for the incompetent's  
322 intangible personal property and pay the annual tax on such  
323 property. The custodian of a minor resident of this state under  
324 a gifts-to-minors or similar act shall file an annual return for  
325 the minor's intangible personal property which is subject to the  
326 custodianship and pay the annual tax on such property.

327       (9) If an agent other than a trustee has control or  
328 management of intangible personal property, the principal is  
329 primarily responsible for filing an annual return for such  
330 property and paying the annual tax on such property, but the  
331 agent shall file an annual return for property on behalf of the  
332 principal and pay the annual tax on such property if the  
333 principal fails to do so. The department may in any case require  
334 the agent to file an informational return.

335       (10) An affiliated group may elect to file a consolidated  
336 return for any year. The election shall be made by timely filing  
337 a consolidated return. Once made, an election may not be revoked  
338 and is binding for the tax year. The mere filing of a  
339 consolidated return does not in itself provide a business situs  
340 in this state for intangible personal property held by a  
341 corporation. The fact that members of an affiliated group own  
342 stock in corporations or membership interest in limited  
343 liability companies that do not qualify under the stock  
344 ownership or membership interest in a limited liability company  
345 requirements as members of an affiliated group shall not  
346 preclude the filing of a consolidated return on behalf of the  
347 qualified members. If a consolidated return is filed,  
348 intercompany accounts, including the capital stock or membership

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349 interest in a limited liability company of an includable  
350 corporation or limited liability company, other than the parent,  
351 owned by another includable corporation or limited liability  
352 company, are not subject to the annual tax. However, capital  
353 stock, or membership interest in a limited liability company,  
354 and other intercompany accounts of a nonqualified member of the  
355 affiliated group are subject to the annual tax. Each  
356 consolidated return must be accompanied by documentation  
357 identifying all intercompany accounts and containing such other  
358 information as the department may require. Failure to timely  
359 file a consolidated return shall not prejudice the taxpayer's  
360 right to file a consolidated return, provided the failure to  
361 file a consolidated return is limited to 1 year and the  
362 taxpayer's intent to file a consolidated return is evidenced by  
363 the taxpayer having filed a consolidated return for the 3 years  
364 prior to the year the return was not timely filed.

365 (11) An annual return for securities held in margin  
366 accounts by a security broker not acting as a fiduciary shall be  
367 filed, and the annual tax on such securities shall be paid, by  
368 the customer owning them. The security broker is not required to  
369 file an annual return or pay the tax on such securities.

370 (12) Except as otherwise provided in this section, the  
371 owner of intangible personal property is liable for the payment  
372 of annual tax on such property, and any other person required to  
373 file an annual return for such property is liable for the tax if  
374 the owner fails to pay the tax.

375 (13) If a bank or savings association, as defined in s.  
376 220.62, acts as a fiduciary or agent of a trust other than as a  
377 trustee, the bank or savings association is not responsible for

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378 filing an annual return for the trust's intangible personal  
379 property and is not required to pay any annual tax on such  
380 property, and the management or control of the bank or savings  
381 association shall not be used as the basis for imposing any  
382 annual tax on any person or any assets of the trust. If a person  
383 acts as a fiduciary or agent for purposes of managing intangible  
384 assets owned by another person, such intangible assets shall not  
385 have a taxable situs in this state pursuant to s. 199.1755  
386 solely by virtue of the management or control of such assets by  
387 the person who is not the owner of the assets.

388 (14) (a) Except as provided in paragraph (b), each bank and  
389 financial organization filing annual intangible tax returns for  
390 its customers shall file return information for taxes due  
391 January 1, 2011, and thereafter using machine-sensible media.  
392 The information required by this subsection must be reported by  
393 banks or financial organizations on machine-sensible media,  
394 using specifications and instructions of the department. A bank  
395 or financial organization that demonstrates to the satisfaction  
396 of the department that a hardship exists is not required to file  
397 intangible tax returns for its customers using machine-sensible  
398 media. The department shall adopt rules necessary to administer  
399 this paragraph.

400 (b) A taxpayer may choose to file an annual intangible  
401 personal property tax return in a form initiated through an  
402 electronic data interchange using an advanced encrypted  
403 transmission by means of the Internet or other suitable  
404 transmission. The department shall prescribe by rule the format  
405 and instructions necessary for such filing to ensure a full  
406 collection of taxes due. The acceptable method of transfer, the

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407 method, form, and content of the electronic data interchange,  
408 and the means, if any, by which the taxpayer will be provided  
409 with an acknowledgment shall be prescribed by the department.

410 199.0575 Corporate election to pay stockholders' annual  
411 tax.-

412 (1) Each corporation incorporated or qualified to do  
413 business in this state may elect each tax year to pay the annual  
414 tax on any class of its stock, as agent for its stockholders in  
415 this state holding such stock.

416 (2) To make the election, the corporation shall:

417 (a) File written notice with the department on or before  
418 June 30 of the year for which the election is made.

419 (b) File an annual return with respect to such stock and  
420 its own intangible personal property.

421 (c) Furnish its stockholders in this state with written  
422 notice, on or before April 1 of the year for which the election  
423 is made, that the election is being made, including a  
424 description of the class or classes of stock which are affected.

425 A corporation making the election under this subsection shall  
426 certify on its notice to the department that its stockholders  
427 were timely notified of the election.

428 (3) An election is not valid unless timely notice of the  
429 election is given to the department under paragraph (2) (a). Once  
430 made, an election may not be amended or revoked and is binding  
431 for the tax year.

432 199.0625 Annual tax information reports.-

433 (1) (a) On or before June 30 of each year, each security  
434 dealer and investment adviser registered under the laws of this  
435 state shall file with the department a position statement as of

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436 December 31 of the preceding year for each customer whose  
437 mailing address is in this state or a statement that the  
438 security dealer or investment adviser does not hold securities  
439 on account for any customer whose mailing address is in this  
440 state. The position statement shall include the customer's name,  
441 address, social security number, or federal identification  
442 number; the number of units, value, and description, including  
443 the Committee on Uniform Security Identification Procedures  
444 (CUSIP) number, if any, of all securities held by the dealer or  
445 adviser for the customer; and such other information as the  
446 department may reasonably require. The dealer or adviser shall  
447 report the information required by this paragraph on magnetic  
448 media, using specifications and instructions of the department,  
449 unless the dealer or adviser demonstrates that an undue hardship  
450 exists.

451 (b)1. The department may require security dealers and  
452 investment advisers registered in this state to transmit once  
453 every 2 years a copy of the department's intangible tax brochure  
454 to each customer of the dealer or advisor whose mailing address  
455 is in this state.

456 2. The department may require property appraisers to send,  
457 at such times and in such manner as the department and the  
458 property appraisers jointly determine, a copy of the  
459 department's intangible tax brochure to each owner of property  
460 in this state.

461 (2) Each fiduciary shall serve the department with a copy  
462 of each inventory required to be prepared or filed in the  
463 circuit court under general law or rules adopted by the Supreme  
464 Court relating to decedent's estates, trusts, or guardianships.



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465 Any such inventory required to be filed in the circuit court may  
466 not be approved by the court until such copy as required by this  
467 subsection has been filed with the department. When an inventory  
468 is not required to be filed in the circuit court, the personal  
469 representative of a decedent's estate shall serve the department  
470 with a copy of one inventory as provided in s. 733.604, and each  
471 other fiduciary shall file a return relating to such information  
472 as shall be prescribed by rule of the department.

473 199.1035 Basis of assessment; valuation.—All intangible  
474 personal property shall be subject to the annual tax at its just  
475 valuation as of January 1 of each year. Such property shall be  
476 valued in the following manner:

477 (1) Shares of stock of corporations, or any interest of a  
478 limited partner in any limited partnership, regularly listed on  
479 any public stock exchange or regularly traded over-the-counter  
480 shall be valued at their closing prices on the last business day  
481 of the previous calendar year.

482 (2) Shares or units of companies or trusts registered under  
483 the Investment Company Act of 1940, as amended, including mutual  
484 funds, money market funds, and unit investment trusts where such  
485 shares or units are not exempt under s. 199.1855, shall be  
486 valued at the net asset value of such shares or units on the  
487 last business day of the previous calendar year.

488 (3) Bonds regularly listed on any public stock exchange or  
489 regularly traded over-the-counter shall be valued at their  
490 closing bid prices on the last business day of the previous  
491 calendar year.

492 (4) Shares of stocks, bonds, or similar instruments of  
493 corporations not listed on any public stock exchange or not

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494 regularly traded over-the-counter shall be valued as of January  
495 1 of each year on the basis of those factors customarily  
496 considered in determining fair market value.

497 (5) Accounts receivable shall be valued at their face value  
498 as of January 1 of each year, less a reasonable allowance for  
499 uncollectible accounts.

500 (6) All notes and other obligations shall have a value  
501 equal to their unpaid balance as of January 1 of each year,  
502 unless the taxpayer can establish a lesser value upon proof  
503 satisfactory to the department.

504 (7) All other forms of intangible personal property shall  
505 be valued on the basis of factors customarily considered in  
506 determining fair market value.

507 (8) Stocks or shares of a savings association or middle  
508 tier stock holding company, held by a parent mutual holding  
509 company, the depositors of which are members of the mutual  
510 holding company, which converted from a mutual savings  
511 association to a mutual holding company pursuant to 12 U.S.C. s.  
512 1467a.(o), shall be valued as of January 1 each year on the same  
513 basis as ownership in the mutual savings association was valued  
514 for intangible tax purposes prior to the conversion. Stocks or  
515 shares of such a converted association which are held by  
516 individuals or entities other than the parent mutual holding  
517 company shall be valued pursuant to subsection (1) or subsection  
518 (4).

519 199.10555 Contaminated site rehabilitation tax credit.-

520 (1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.-

521 (a) A credit equal to 35 percent of the costs of voluntary  
522 cleanup activity that is integral to site rehabilitation at the

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523 following sites is available against any tax due for a taxable  
524 year under s. 199.0325, less any credit allowed by former s.  
525 220.68 for that year:

526 1. A drycleaning-solvent-contaminated site eligible for  
527 state-funded site rehabilitation under s. 376.3078;

528 2. A drycleaning-solvent-contaminated site at which  
529 voluntary cleanup is undertaken by the real property owner  
530 pursuant to s. 376.3078, if the real property owner is not also,  
531 and has never been, the owner or operator of the drycleaning  
532 facility where the contamination exists; or

533 3. A brownfield site in a designated brownfield area under  
534 s. 376.80.

535 (b) A tax credit applicant, or multiple tax credit  
536 applicants working jointly to clean up a single site, may not be  
537 granted more than \$250,000 per year in tax credits for each site  
538 voluntarily rehabilitated. Multiple tax credit applicants shall  
539 be granted tax credits in the same proportion as their  
540 contribution to payment of cleanup costs. Subject to the same  
541 conditions and limitations as provided in this section, a  
542 municipality, county, or other tax credit applicant which  
543 voluntarily rehabilitates a site may receive not more than  
544 \$250,000 per year in tax credits which it can subsequently  
545 transfer subject to the provisions in paragraph (g).

546 (c) If the credit granted under this section is not fully  
547 used in any one year because of insufficient tax liability on  
548 the part of the tax credit applicant, the unused amount may be  
549 carried forward for a period not to exceed 5 years. Five years  
550 after the date a credit is granted under this section, such  
551 credit expires and may not be used. However, if during the 5-

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552 year period the credit is transferred, in whole or in part,  
553 pursuant to paragraph (g), each transferee has 5 years after the  
554 date of transfer to use the transferred credit.

555 (d) A taxpayer that receives a credit under s. 220.1845 is  
556 ineligible to receive credit under this section in a given tax  
557 year.

558 (e) A tax credit applicant that receives state-funded site  
559 rehabilitation pursuant to s. 376.3078 for rehabilitation of a  
560 drycleaning-solvent-contaminated site is ineligible to receive  
561 credit under this section for costs incurred by the tax credit  
562 applicant in conjunction with the rehabilitation of that site  
563 during the same time period that state-administered site  
564 rehabilitation was underway.

565 (f) The total amount of the tax credits which may be  
566 granted under this section and s. 220.1845 is \$2 million  
567 annually.

568 (g)1. Tax credits that may be available under this section  
569 to an entity eligible under s. 376.30781 may be transferred  
570 after a merger or acquisition to the surviving or acquiring  
571 entity and used in the same manner with the same limitations.

572 2. The entity, or its surviving or acquiring entity as  
573 described in subparagraph 1., may transfer any unused credit in  
574 whole or in units of no less than 25 percent of the remaining  
575 credit. The entity acquiring such credit may use it in the same  
576 manner and with the same limitation as described in this  
577 section. Such transferred credits may not be transferred again,  
578 although such credits may succeed to a surviving or acquiring  
579 entity subject to the same conditions and limitations as  
580 described in this section.

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581 3. If the credit provided for under this section is reduced  
582 as a result of a determination by the Department of  
583 Environmental Protection or an examination or audit by the  
584 Department of Revenue, such tax deficiency shall be recovered  
585 from the first entity, or the surviving or acquiring entity, to  
586 have claimed such credit up to the amount of credit taken. Any  
587 subsequent deficiencies shall be assessed against any entity  
588 acquiring and claiming such credit or, in the case of multiple  
589 succeeding entities, in the order of credit succession.

590 (h) In order to encourage completion of site rehabilitation  
591 at contaminated sites being voluntarily cleaned up and eligible  
592 for a tax credit under this section, the tax credit applicant  
593 may claim an additional 10 percent of the total cleanup costs,  
594 not to exceed \$50,000, in the final year of cleanup as evidenced  
595 by the Department of Environmental Protection issuing a "No  
596 Further Action" order for that site.

597 (2) FILING REQUIREMENTS.—Any taxpayer that wishes to obtain  
598 credit under this section must submit with the taxpayer's return  
599 a tax credit certificate approving partial tax credits issued by  
600 the Department of Environmental Protection under s. 376.30781.

601 (3) ADMINISTRATION; AUDIT AUTHORITY; TAX CREDIT  
602 FORFEITURE.—

603 (a) The Department of Revenue may adopt rules to prescribe  
604 any necessary forms required to claim a tax credit under this  
605 section and to provide the administrative guidelines and  
606 procedures required to administer this section.

607 (b) In addition to its existing audit and investigation  
608 authority relating to chapters 199 and 220, the Department of  
609 Revenue may perform any additional financial and technical

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610 audits and investigations, including examining the accounts,  
611 books, or records of the tax credit applicant, which are  
612 necessary to verify the site rehabilitation costs included in a  
613 tax credit return and to ensure compliance with this section.  
614 The Department of Environmental Protection shall provide  
615 technical assistance, when requested by the Department of  
616 Revenue, on any technical audits performed under this section.

617 (c) It is grounds for forfeiture of previously claimed and  
618 received tax credits if the Department of Revenue determines, as  
619 a result of either an audit or information received from the  
620 Department of Environmental Protection, that a taxpayer received  
621 tax credits under this section to which the taxpayer was not  
622 entitled. In the case of fraud, the taxpayer shall be prohibited  
623 from claiming any future tax credits under this section or s.  
624 220.1845.

625 1. The taxpayer is responsible for returning forfeited tax  
626 credits to the Department of Revenue, and such funds shall be  
627 paid into the General Revenue Fund of the state.

628 2. The taxpayer shall file with the Department of Revenue  
629 an amended tax return or such other report as the Department of  
630 Revenue prescribes by rule and shall pay any required tax within  
631 60 days after the taxpayer receives notification from the  
632 Department of Environmental Protection pursuant to s. 376.30781  
633 that previously approved tax credits have been revoked or  
634 modified, if uncontested, or within 60 days after a final order  
635 is issued following proceedings involving a contested revocation  
636 or modification order.

637 3. A notice of deficiency may be issued by the Department  
638 of Revenue at any time within 5 years after the date the

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639 taxpayer receives notification from the Department of  
640 Environmental Protection pursuant to s. 376.30781 that  
641 previously approved tax credits have been revoked or modified.  
642 If a taxpayer fails to notify the Department of Revenue of any  
643 change in its tax credit claimed, a notice of deficiency may be  
644 issued at any time. In either case, the amount of any proposed  
645 assessment set forth in such notice of deficiency shall be  
646 limited to the amount of any deficiency resulting under this  
647 section from the recomputation of the taxpayer's tax for the  
648 taxable year.

649 4. Any taxpayer that fails to report and timely pay any tax  
650 due as a result of the forfeiture of its tax credit is in  
651 violation of this section and is subject to applicable penalty  
652 and interest.

653 199.1065 Credit for taxes imposed by other states.—

654 (1) For intangible personal property that has been deemed  
655 to have a taxable situs in this state solely pursuant to s.  
656 199.1755(2) or any similar predecessor statute, a credit against  
657 the tax imposed by s. 199.0325 is allowed to a taxpayer in an  
658 amount equal to a like tax lawfully imposed and paid by that  
659 taxpayer on the same property in another state, territory of the  
660 United States, or the District of Columbia. For purposes of this  
661 subsection, the term "like tax" means an ad valorem tax on  
662 intangible personal property that is also subject to tax under  
663 s. 199.0325. The credit may not exceed the tax imposed on the  
664 property under s. 199.0325. Proof of entitlement to such a  
665 credit must be made pursuant to rules and forms adopted by the  
666 department.

667 (2) For intangible personal property that has a taxable

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668 situs in this state under s. 199.1755(1) or any similar  
669 predecessor statute, a credit against the tax imposed by s.  
670 199.0325 is allowed to a taxpayer in an amount equal to a like  
671 tax lawfully imposed and paid by that taxpayer on the same  
672 property in another state, territory of the United States, or  
673 the District of Columbia when the other taxing authority is also  
674 claiming situs under provisions similar or identical to those in  
675 s. 199.1755(1) or any similar predecessor statute. For purposes  
676 of this subsection, the term "like tax" means an ad valorem tax  
677 on intangible personal property which is also subject to tax  
678 under s. 199.0325. The credit may not exceed the tax imposed on  
679 the property under s. 199.0325. Proof of entitlement to such a  
680 credit must be made pursuant to rules and forms adopted by the  
681 department.

682 (3) The credits provided by this section apply  
683 retroactively. However, notwithstanding the retroactivity of  
684 these credit provisions, this section does not reopen a closed  
685 period of nonclaim under s. 215.26 or any other statute or  
686 extend the period of nonclaim under s. 215.26 or any other  
687 statute.

688 199.1755 Taxable situs.—For purposes of the annual tax  
689 imposed under this chapter:

690 (1) Intangible personal property has a taxable situs in  
691 this state when it is owned, managed, or controlled by any  
692 person domiciled in this state on January 1 of the tax year.  
693 Such intangibles shall be subject to annual taxation under this  
694 chapter, unless the person who owns, manages, or controls them  
695 is specifically exempt or unless the property is specifically  
696 exempt. This provision applies regardless of where the evidence



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697 of the intangible property is kept; where the intangible is  
698 created, approved, or paid; or where business may be conducted  
699 from which the intangible arises. The fact that a corporation in  
700 this state owns the stock of an out-of-state corporation and  
701 manages and controls such corporation from a location in this  
702 state shall not operate to give a taxable situs in this state to  
703 the intangibles owned by the out-of-state corporation, which  
704 intangibles arise out of business transacted outside this state.

705 (a) For the purposes of this chapter, the term "any person  
706 domiciled in this state" means:

707 1. Any natural person who is a legal resident of this  
708 state;

709 2. Any business, business trust as described in chapter  
710 609, company, corporation, partnership, or other artificial  
711 entity organized or created under the law of this state, except  
712 a trust; or

713 3. Any person, including a business trust, that has  
714 established a commercial domicile in this state.

715 (b) A business or other artificial entity acquires its  
716 commercial domicile in this state when it maintains its chief or  
717 principal office in this state where executive or management  
718 functions are performed or where the course of business  
719 operations is determined.

720 (c) Notwithstanding the provisions of this subsection,  
721 intangibles that are credit card receivables or charge card  
722 receivables or related lines of credit or loans that would  
723 otherwise be deemed to have taxable situs in this state solely  
724 because they are owned, managed, or controlled by a bank or  
725 savings association as defined in s. 220.62, or an affiliate or

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726 subsidiary thereof, which is domiciled in this state shall be  
727 treated as having a taxable situs in this state only when the  
728 debt represented by the intangible is owed by a customer who is  
729 domiciled in this state. As used in this paragraph, the terms  
730 "credit card receivables" and "charge card receivables" do not  
731 include trade or service receivables as defined in s. 864 of the  
732 Internal Revenue Code of 1986, as amended.

733 (2) Intangible personal property has a taxable situs in  
734 this state when it is deemed to have a business situs in this  
735 state and it is owned, managed, or controlled by a person  
736 transacting business in this state, even though the owner may  
737 claim a domicile elsewhere. This provision applies regardless of  
738 where the evidence of the intangible is kept or where the  
739 intangible is created, approved, or paid.

740 (a) Intangibles shall be deemed to have a business situs in  
741 this state when the intangibles receive the benefit and  
742 protection of the laws and courts of this state and are derived  
743 from, arise out of, or are issued in connection with the  
744 business transacted in this state with a customer in this state.  
745 For purposes of this paragraph:

746 1. Business is transacted in this state when any  
747 occupation, profession, or commercial activity, including  
748 financing, leasing, selling, or servicing activities, is  
749 regularly conducted with customers in this state from an office,  
750 plant, home, or any other business location in this state.

751 2. Business is transacted in this state when any  
752 occupation, profession, or commercial activity, including, but  
753 not limited to, financing, leasing, selling, or servicing  
754 activities, is regularly conducted with customers in this state

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755 by or through agents, employees, or representatives of any kind  
756 in this state, whether or not such persons are vested with  
757 discretionary authority.

758 (b) Notwithstanding the provisions of this subsection:

759 1.a. Intangible personal property that is credit card or  
760 charge card receivables or related lines of credit or loans  
761 shall be deemed to have business situs in this state only when  
762 the debt represented by such intangible property is owed by a  
763 customer who is domiciled in this state.

764 b. The performance of ministerial functions relating to, or  
765 the processing of, credit card or charge card receivables in  
766 this state for the owner of such receivables is not sufficient  
767 to support a finding that the owner is transacting business in  
768 this state.

769 c. The term "credit card or charge card receivables" does  
770 not include trade or service receivables as defined in s. 864 of  
771 the Internal Revenue Code of 1986, as amended.

772 2. Intangible personal property owned by a real estate  
773 mortgage investment conduit, a real estate investment trust, or  
774 a regulated investment company, as those terms are defined in  
775 the United States Internal Revenue Code of 1986, as amended,  
776 shall not be deemed to have a taxable situs in this state unless  
777 such entity has its legal or commercial domicile in this state.

778 3. The ownership of any interest in a participation or  
779 syndication loan or pool of loans, notes, or receivables is not  
780 sufficient to support a finding that the owner of such interest  
781 is transacting business in this state. For purposes of this  
782 subparagraph, a participation or syndication loan is a loan in  
783 which more than one lender is a creditor to a common borrower,

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784 and a participation or syndication interest in a pool of loans,  
785 notes, or receivables is an interest acquired from the  
786 originator or initial creditor with respect to the loans, notes,  
787 or receivables constituting the pool.

788 (c) It is the intent of this subsection that a nonresident  
789 may not transact business in this state without paying the same  
790 tax which the state imposes on residents transacting the same  
791 business.

792 199.1855 Property exempted from annual and nonrecurring  
793 taxes.-

794 (1) The following intangible personal property is exempt  
795 from the annual and nonrecurring taxes imposed by this chapter:

796 (a) Money.

797 (b) Franchises.

798 (c) Any interest as a partner in a partnership, general or  
799 limited, other than any interest as a limited partner in a  
800 limited partnership registered with the Securities and Exchange  
801 Commission pursuant to the Securities Act of 1933, as amended.

802 (d) Notes, bonds, and other obligations issued by the State  
803 of Florida or its municipalities, counties, and other taxing  
804 districts, or by the United States Government and its agencies.

805 (e) Intangible personal property held in trust pursuant to  
806 any stock bonus, pension, or profit-sharing plan or any  
807 individual retirement account which is qualified under s. 530,  
808 s. 401, s. 408, or s. 408A of the United States Internal Revenue  
809 Code, 26 U.S.C. ss. 530, 401, 408, and 408A, as amended.

810 (f) Intangible personal property held under a retirement  
811 plan of a Florida-based corporation exempt from federal income  
812 tax under s. 501(c)(6) of the United States Internal Revenue

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813 Code, 26 U.S.C., if the primary purpose of the corporation is to  
814 support the promotion of professional sports and the retirement  
815 plan is either a qualified plan under s. 457 of the United  
816 States Internal Revenue Code or the contributions to the plan,  
817 pursuant to a ruling by the United States Internal Revenue  
818 Service, are not taxable to plan participants until actual  
819 receipt or withdrawal by the participant.

820 (g) Notes and other obligations, except bonds, to the  
821 extent that such notes and obligations are secured by mortgage,  
822 deed of trust, or other lien upon real property situated outside  
823 the state.

824 (h) The assets of a corporation registered under the  
825 Investment Company Act of 1940, 15 U.S.C. s. 80a-1-52, as  
826 amended.

827 (i) All intangible personal property issued in or arising  
828 out of any international banking transaction and owned by a  
829 banking organization.

830 (j) Units of a unit investment trust and shares or units  
831 of, or other undivided interest in, a business trust organized  
832 under an agreement, indenture, or declaration of trust and  
833 registered under the Investment Company Act of 1940, as amended,  
834 shall be exempt if at least 90 percent of the net asset value of  
835 the portfolio of assets corresponding to such shares, units, or  
836 undivided interests is invested in assets that are exempt from  
837 the tax imposed by s. 199.0325.

838 (k) Interests in real estate securitizations, including,  
839 but not limited to, real estate mortgage investment conduits  
840 (REMIC) and financial asset securitization trusts (FASITS),  
841 which are directly or indirectly secured by or payable from

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842 notes and obligations that are in turn secured solely by a  
843 mortgage, deed of trust, or other lien upon real property  
844 situated in or outside the state, including, but not limited to,  
845 mortgage pools, participations, and derivatives.

846 (l) All accounts receivable arising or acquired in the  
847 ordinary course of a trade or business which are owned,  
848 controlled, or managed by a taxpayer. This exemption does not  
849 apply to accounts receivable that arise outside the taxpayer's  
850 ordinary course of trade or business. For the purposes of this  
851 chapter, the term "accounts receivable" means a business debt  
852 that is owed by another to the taxpayer or the taxpayer's  
853 assignee in the ordinary course of trade or business and is not  
854 supported by negotiable instruments. Accounts receivable  
855 include, but are not limited to, credit card receivables, charge  
856 card receivables, credit receivables, margin receivables,  
857 inventory or other floor plan financing, lease payments past  
858 due, conditional sales contracts, retail installment sales  
859 agreements, financing lease contracts, and a claim against a  
860 debtor usually arising from sales or services rendered and which  
861 is not necessarily due or past due. The examples specified in  
862 this paragraph shall be deemed not to be supported by negotiable  
863 instruments. The term "negotiable instrument" means a written  
864 document that is legally capable of being transferred by  
865 endorsement or delivery. The term "endorsement" means the act of  
866 a payee or holder in writing his or her name on the back of an  
867 instrument without further qualifying words other than "pay to  
868 the order of" or "pay to" whereby the property is assigned and  
869 transferred to another.

870 (m) Stock options granted to employees by their employer

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871 pursuant to an incentive plan, if the employees cannot transfer,  
872 sell, or mortgage the options. Stock purchased by an employee  
873 from an employer pursuant to an incentive plan shall be treated  
874 as a nontaxable stock option if part of the purchase price of  
875 the stock is nonrecourse debt secured by the stock and the stock  
876 cannot be sold, transferred, or assigned by the employee until  
877 the nonrecourse debt is discharged. Such stock becomes taxable  
878 stock when it can be sold, transferred, or assigned by the  
879 employee.

880 (n)1. A leasehold estate in governmental property in which  
881 the lessee is required to furnish space on the leasehold estate  
882 for public use by governmental agencies at no charge to the  
883 governmental agencies.

884 2. The provisions of this exemption apply retroactively.  
885 However, notwithstanding the retroactivity of the exemption, it  
886 does not reopen a closed period of nonclaim under s. 215.26 or  
887 any other law or extend the period of nonclaim under s. 215.26  
888 or any other statute.

889 (2) (a) Each natural person is entitled each year to an  
890 exemption of the first \$1 million of the value of property  
891 otherwise subject to the annual tax. A husband and wife filing  
892 jointly shall have an exemption of \$2 million. Every taxpayer  
893 that is not a natural person is entitled each year to an  
894 exemption of the first \$250,000 of the value of property  
895 otherwise subject to the tax. Agents and fiduciaries, other than  
896 guardians and custodians under a gifts-to-minors act, filing as  
897 such may not claim this exemption on behalf of their principals  
898 or beneficiaries; however, if the principal or beneficiary  
899 returns the property held by the agent or fiduciary and is a

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900 natural person, the principal or beneficiary may claim the  
901 exemption. A taxpayer is not entitled to more than one exemption  
902 under this subsection. This exemption shall not apply to  
903 intangible personal property described in s. 199.0235(6)(d).

904 (b) For purposes of this chapter, a resident shall be  
905 deemed to have a beneficial interest in a trust if the resident  
906 is the grantor of an irrevocable trust formed under any  
907 arrangement, verbal or written, that provides for more than 25  
908 per cent of the assets of the trust to be transferred within 10  
909 years after the agreement is executed back to the grantor or to  
910 the beneficiary other than as a result of the death of the  
911 grantor. Assets in any trust designated as a Florida Intangible  
912 Tax Exempt Trust or a similar arrangement are considered  
913 beneficial interests.

914 (3) Each natural person who is a widow or widower, or who  
915 is blind or totally and permanently disabled, is entitled each  
916 year to an additional exemption of \$500 of property otherwise  
917 subject to the annual or nonrecurring tax. This exemption is  
918 afforded by s. 3, Art. VII of the State Constitution and is  
919 available only to the extent not used against real property or  
920 tangible personal property taxes.

921 (4) Charitable trusts, 95 percent of the income of which is  
922 paid to organizations exempt from federal income tax pursuant to  
923 s. 501(c)3 of the Internal Revenue Code, are exempt from the tax  
924 imposed in s. 199.0325.

925 (5) Any organization defined in s. 220.62(1), (2), (3), or  
926 (4) is exempt from the tax imposed by s. 199.0325.

927 (6) Each liquor distributor that is domiciled in this  
928 state, that is authorized to do business under the Beverage Law,



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929 and that has paid the license taxes required by s. 565.03(2) is  
930 exempt from paying tax on accounts receivable owned by the  
931 taxpayer which are derived from, arise out of, or are issued in  
932 connection with a sale of alcoholic beverages transacted in  
933 another state with a customer in another state.

934 (7) A national bank that has its principal place of  
935 business in another state, processes credit card credit  
936 applications in this state or performs customer service or  
937 collection operations in this state, and is not a bank under 12  
938 U.S.C. s. 1941(c) (2) (F), is exempt from paying tax on credit  
939 card receivables owed to the bank by a credit card holder  
940 domiciled outside this state.

941 (8) Each insurer, as defined in s. 624.03, whether the  
942 insurer is authorized or unauthorized as defined in s. 624.09,  
943 is exempt from the tax imposed by s. 199.0325.

944 Section 2. Effective January 1, 2011, paragraph (c) of  
945 subsection (1) of section 28.35, Florida Statutes, is amended to  
946 read:

947 28.35 Florida Clerks of Court Operations Corporation.—

948 (1)

949 (c) For purposes of s. 199.183(1), the corporation shall be  
950 considered a political subdivision of the state and shall be  
951 exempt from the corporate income tax. The corporation is not  
952 subject to the procurement provisions of chapter 287, and  
953 policies and decisions of the corporation relating to incurring  
954 debt, levying assessments, and the sale, issuance, continuation,  
955 terms, and claims under corporation policies, and all services  
956 relating thereto, are not subject to the provisions of chapter  
957 120.

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958 Section 3. Effective January 1, 2011, paragraph (a) of  
959 subsection (4) of section 192.0105, Florida Statutes, is amended  
960 to read:

961 192.0105 Taxpayer rights.—There is created a Florida  
962 Taxpayer's Bill of Rights for property taxes and assessments to  
963 guarantee that the rights, privacy, and property of the  
964 taxpayers of this state are adequately safeguarded and protected  
965 during tax levy, assessment, collection, and enforcement  
966 processes administered under the revenue laws of this state. The  
967 Taxpayer's Bill of Rights compiles, in one document, brief but  
968 comprehensive statements that summarize the rights and  
969 obligations of the property appraisers, tax collectors, clerks  
970 of the court, local governing boards, the Department of Revenue,  
971 and taxpayers. Additional rights afforded to payors of taxes and  
972 assessments imposed under the revenue laws of this state are  
973 provided in s. 213.015. The rights afforded taxpayers to assure  
974 that their privacy and property are safeguarded and protected  
975 during tax levy, assessment, and collection are available only  
976 insofar as they are implemented in other parts of the Florida  
977 Statutes or rules of the Department of Revenue. The rights so  
978 guaranteed to state taxpayers in the Florida Statutes and the  
979 departmental rules include:

980 (4) THE RIGHT TO CONFIDENTIALITY.—

981 (a) The right to have information kept confidential,  
982 including federal tax information, ad valorem tax returns,  
983 social security numbers, all financial records produced by the  
984 taxpayer, Form DR-219 returns for documentary stamp tax  
985 information, and sworn statements of gross income, copies of  
986 federal income tax returns for the prior year, wage and earnings

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987 statements (W-2 forms), and other documents (see ss. 192.105,  
 988 193.074, 193.114~~(6)-(5)~~, 195.027(3) and (6), and 196.101(4)(c)).

989 Section 4. Effective January 1, 2011, subsections (5) and  
 990 (6) of section 192.032, Florida Statutes, are renumbered as  
 991 subsections (6) and (7), respectively, and a new subsection (5)  
 992 is added to that section, to read:

993 192.032 Situs of property for assessment purposes.—All  
 994 property shall be assessed according to its situs as follows:

995 (5) Intangible personal property, according to the rules  
 996 laid down in chapter 199.

997 Section 5. Effective January 1, 2011, subsection (3) is  
 998 added to section 192.042, Florida Statutes, to read:

999 192.042 Date of assessment.—All property shall be assessed  
 1000 according to its just value as follows:

1001 (3) Intangible personal property, according to the rules  
 1002 laid down in chapter 199.

1003 Section 6. Effective January 1, 2011, subsection (5) of  
 1004 section 192.091, Florida Statutes, is amended to read:

1005 192.091 Commissions of property appraisers and tax  
 1006 collectors.—

1007 (5) The provisions of this section shall not apply to  
 1008 commissions on intangible property taxes or drainage district or  
 1009 drainage subdistrict taxes.

1010 Section 7. Effective January 1, 2011, subsections (4), (5),  
 1011 and (6) of section 193.114, Florida Statutes, are renumbered as  
 1012 subsections (5), (6), and (7), respectively, and a new  
 1013 subsection (4) is added to that section to read:

1014 193.114 Preparation of assessment rolls.—

1015 (4) The department shall adopt regulations and forms for

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1016 the preparation of the intangible personal property tax roll to  
1017 comply with chapter 199.

1018 Section 8. Effective January 1, 2011, subsection (11) is  
1019 added to section 196.015, Florida Statutes, to read:

1020 196.015 Permanent residency; factual determination by  
1021 property appraiser.—Intention to establish a permanent residence  
1022 in this state is a factual determination to be made, in the  
1023 first instance, by the property appraiser. Although any one  
1024 factor is not conclusive of the establishment or  
1025 nonestablishment of permanent residence, the following are  
1026 relevant factors that may be considered by the property  
1027 appraiser in making his or her determination as to the intent of  
1028 a person claiming a homestead exemption to establish a permanent  
1029 residence in this state:

1030 (11) The previous filing of Florida intangible tax returns  
1031 by the applicant.

1032 Section 9. Effective January 1, 2011, paragraph (b) of  
1033 subsection (2) of section 196.199, Florida Statutes, is amended  
1034 to read:

1035 196.199 Government property exemption.—

1036 (2) Property owned by the following governmental units but  
1037 used by nongovernmental lessees shall only be exempt from  
1038 taxation under the following conditions:

1039 (b) Except as provided in paragraph (c), the exemption  
1040 provided by this subsection shall not apply to those portions of  
1041 a leasehold or other interest defined by s. 199.0235(6)(d)  
1042 ~~199.023(1)(d), Florida Statutes 2005~~, subject to the provisions  
1043 of subsection (7). Such leasehold or other interest shall be  
1044 taxed only as intangible personal property pursuant to chapter

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1045 199, ~~Florida Statutes 2005~~, if rental payments are due in  
1046 consideration of such leasehold or other interest. ~~All~~  
1047 ~~applicable collection, administration, and enforcement~~  
1048 ~~provisions of chapter 199, Florida Statutes 2005, shall apply to~~  
1049 ~~taxation of such leaseholds.~~ If no rental payments are due  
1050 pursuant to the agreement creating such leasehold or other  
1051 interest, the leasehold or other interest shall be taxed as real  
1052 property. Nothing in this paragraph shall be deemed to exempt  
1053 personal property, buildings, or other real property  
1054 improvements owned by the lessee from ad valorem taxation.

1055 Section 10. Effective January 1, 2011, subsection (2) of  
1056 section 199.133, Florida Statutes, is amended to read:

1057 199.133 Levy of nonrecurring tax; relationship to annual  
1058 tax.—

1059 (2) The nonrecurring tax shall apply to a note, bond, or  
1060 other obligation for payment of money only to the extent it is  
1061 secured by mortgage, deed of trust, or other lien upon real  
1062 property situated in this state. Where a note, bond, or other  
1063 obligation is secured by personal property or by real property  
1064 situated outside this state, as well as by mortgage, deed of  
1065 trust, or other lien upon real property situated in this state,  
1066 then the nonrecurring tax shall apply to that portion of the  
1067 note, bond, or other obligation which bears the same ratio to  
1068 the entire principal balance of the note, bond, or other  
1069 obligation as the value of the real property situated in this  
1070 state bears to the value of all of the security; however, if the  
1071 security is solely made up of personal property and real  
1072 property situated in this state, the taxpayer may elect to  
1073 apportion the taxes based upon the value of the collateral, if

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1074 any, to which the taxpayer by law or contract must look first  
1075 for collection. In no event shall the portion of the note, bond,  
1076 or other obligation which is subject to the nonrecurring tax  
1077 exceed in value the value of the real property situated in this  
1078 state which is the security. The portion of a note, bond, or  
1079 other obligation that is not subject to the nonrecurring tax  
1080 shall be subject to the annual tax unless otherwise exempt.

1081 Section 11. Effective January 1, 2011, paragraph (a) of  
1082 subsection (1) of section 199.183, Florida Statutes, is amended,  
1083 and subsections (3) and (4) are added to that section, to read:

1084 199.183 Taxpayers exempt from annual and nonrecurring  
1085 taxes.—

1086 (1) Intangible personal property owned by this state or any  
1087 of its political subdivisions or municipalities shall be exempt  
1088 from taxation under this chapter. This exemption does not apply  
1089 to:

1090 (a) Any leasehold or other interest that is described in s.  
1091 199.0235(6)(d) ~~199.023(1)(d)~~, ~~Florida Statutes 2005~~; or

1092 (b) Property related to the provision of two-way  
1093 telecommunications services to the public for hire by the use of  
1094 a telecommunications facility, as defined in s. 364.02(15), and  
1095 for which a certificate is required under chapter 364, when the  
1096 service is provided by any county, municipality, or other  
1097 political subdivision of the state. Any immunity of any  
1098 political subdivision of the state or other entity of local  
1099 government from taxation of the property used to provide  
1100 telecommunication services that is taxed as a result of this  
1101 paragraph is hereby waived. However, intangible personal  
1102 property related to the provision of telecommunications services

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1103 provided by the operator of a public-use airport, as defined in  
1104 s. 332.004, for the operator's provision of telecommunications  
1105 services for the airport or its tenants, concessionaires, or  
1106 licensees, and intangible personal property related to the  
1107 provision of telecommunications services provided by a public  
1108 hospital, are exempt from taxation under this chapter.

1109 (3) Every national bank having its principal place of  
1110 business in another state, but operating a credit card credit  
1111 application processing, customer service, or collection  
1112 operation in this state, that is not considered a bank under the  
1113 provisions of 12 U.S.C. s. 1841(c) (2) (F), is exempt from paying  
1114 the tax imposed by this chapter on credit card receivables owed  
1115 to the bank by credit card holders domiciled outside this state.

1116 (4) Intangible personal property that is owned, managed, or  
1117 controlled by a trustee of a trust is exempt from annual tax  
1118 under this chapter. This exemption does not exempt from annual  
1119 tax a resident of this state who has a taxable beneficial  
1120 interest, as defined in s. 199.0235(4), in a trust.

1121 Section 12. Effective January 1, 2011, section 199.218,  
1122 Florida Statutes, is amended to read:

1123 199.218 Books and records.—

1124 (1) Each taxpayer shall retain all books and other records  
1125 necessary to identify the taxpayer's intangible personal  
1126 property and to determine any tax due under this chapter, as  
1127 well as all books and other records otherwise required by rule  
1128 of the department with respect to any such tax, until the  
1129 department's power to make an assessment with respect to such  
1130 tax has terminated under s. 95.091(3).

1131 (2) Each broker subject to the provisions of s. 199.0625

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1132 shall preserve all books and other records relating to the  
1133 information reported under s. 199.0625 or otherwise required by  
1134 rule of the department for a period of 3 years from the due date  
1135 of the report.

1136 Section 13. Effective January 1, 2011, paragraph (a) of  
1137 subsection (1) and subsection (3) of section 199.232, Florida  
1138 Statutes, are amended to read:

1139 199.232 Powers of department.—

1140 (1) (a) The department may audit the books and records of  
1141 any person to determine whether an annual tax or a nonrecurring  
1142 tax has been properly paid.

1143 (3) With or without an audit, the department may assess any  
1144 tax deficiency resulting from nonpayment or underpayment of the  
1145 tax, as well as any applicable interest and penalties. The  
1146 department shall assess on the basis of the best information  
1147 available to it, including estimates based on the best  
1148 information available to it if the taxpayer fails to permit  
1149 inspection of the taxpayer's records, fails to file an annual  
1150 return, files a grossly incorrect return, or files a false and  
1151 fraudulent return.

1152 Section 14. Effective January 1, 2011, section 199.282,  
1153 Florida Statutes, is amended to read:

1154 199.282 Penalties for violation of this chapter.—

1155 (1) Any person willfully violating or failing to comply  
1156 with any of the provisions of this chapter shall be guilty of a  
1157 felony of the third degree, punishable as provided in s.  
1158 775.082, s. 775.083, or s. 775.084.

1159 (2) If any annual or nonrecurring tax is not paid by the  
1160 statutory due date, then despite any extension granted under s.



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1161 199.232(6), interest shall run on the unpaid balance from such  
1162 due date until paid at the rate of 12 percent per year.

1163 (3) (a) If any annual or nonrecurring tax is not paid by the  
1164 due date, a delinquency penalty shall be charged. The  
1165 delinquency penalty shall be 10 percent of the delinquent tax  
1166 for each calendar month or portion thereof from the due date  
1167 until paid, up to a limit of 50 percent of the total tax not  
1168 timely paid.

1169 (b) If any annual tax return required by this chapter is  
1170 not filed by the due date, a penalty of 10 percent of the tax  
1171 due with the return shall be charged for each calendar month or  
1172 portion thereof during which the return remains unfiled, up to a  
1173 limit of 50 percent of the total tax due.

1174  
1175 For any penalty assessed under this subsection, the combined  
1176 total for all penalties assessed under paragraphs (a) and (b)  
1177 shall not exceed 10 percent per calendar month, up to a limit of  
1178 50 percent of the total tax due.

1179 (4) If an annual tax return is filed and property is either  
1180 omitted from it or undervalued, then a specific penalty shall be  
1181 charged. The specific penalty shall be 10 percent of the tax  
1182 attributable to each omitted item or to each undervaluation. No  
1183 delinquency or late filing penalty shall be charged with respect  
1184 to any undervaluation.

1185 (5)~~(4)~~ No mortgage, deed of trust, or other lien upon real  
1186 property situated in this state shall be enforceable in any  
1187 Florida court, nor shall any written evidence of such mortgage,  
1188 deed of trust, or other lien be recorded in any public record of  
1189 the state, until the nonrecurring tax imposed by this chapter,

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1190 including any taxes due on future advances, has been paid and  
1191 the clerk of circuit court collecting the tax has noted its  
1192 payment on the instrument or given other receipt for it.  
1193 However, failure to pay the correct amount of tax or failure of  
1194 the clerk to note payment of the tax on the instrument shall not  
1195 affect the constructive notice given by recording of the  
1196 instrument.

1197 (6) Late reporting penalties shall be imposed as follows:

1198 (a) A penalty of \$100 upon any corporation that does not  
1199 timely file a written notice required under s. 199.0575(2) (c).

1200 (b) An initial penalty of \$10 per customer position  
1201 statement, plus an additional penalty of the greater of 1  
1202 percent of the initial penalty or \$50 for each month or portion  
1203 of a month, from the date due until filing is made, upon any  
1204 security dealer or investment adviser who does not timely file  
1205 or fails to file the statements required by s. 199.0625(1). The  
1206 submission of a position statement that does not comply with the  
1207 department's specifications and instructions or the submission  
1208 of an inaccurate position statement is not a timely filing. The  
1209 department shall notify any security dealer or investment  
1210 adviser who fails to timely file the required statements. The  
1211 minimum penalty imposed upon a security dealer or investment  
1212 adviser under this paragraph is \$100.

1213 (7)~~(5)~~ Interest and penalties attributable to any tax shall  
1214 be deemed assessed when the tax is assessed. Interest and  
1215 penalties shall be assessed and collected by the department as  
1216 provided in this chapter. The department may settle or  
1217 compromise tax, interest, or penalties under the provisions of  
1218 s. 213.21.

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1219        (8)~~(6)~~ Any person who fails or refuses to file an annual  
1220 return, or who fails or refuses to make records available for  
1221 inspection, when requested to do so by the department is guilty  
1222 of a misdemeanor of the first degree, punishable as provided in  
1223 s. 775.082 or s. 775.083.

1224        (9)~~(7)~~ Any officer or director of a corporation who has  
1225 administrative control over the filing of a return or payment of  
1226 any tax due under this chapter and who willfully directs any  
1227 employee of the corporation to fail to file the return or pay  
1228 the tax due or to evade, defeat, or improperly account for the  
1229 tax due, in addition to any other penalties provided by law,  
1230 shall be liable for a penalty equal to the amount of tax not  
1231 paid as required by this chapter. The filing of a protest based  
1232 upon doubt as to liability for the tax shall not be deemed an  
1233 attempt to evade or defeat the tax under this subsection. The  
1234 penalty imposed hereunder shall be abated to the extent the tax  
1235 is paid and may be compromised by the executive director of the  
1236 department as provided in s. 213.21. An assessment of penalty  
1237 made pursuant to this section shall be deemed prima facie  
1238 correct in any judicial or quasi-judicial proceeding brought to  
1239 collect this penalty.

1240        Section 15. Effective January 1, 2011, section 199.292,  
1241 Florida Statutes, is amended to read:

1242        199.292 Disposition of intangible personal property taxes.—  
1243 All intangible personal property taxes collected pursuant to  
1244 this chapter, except for revenues derived from the annual tax on  
1245 a leasehold described in s. 199.0235(6)(d) ~~199.023(1)(d)~~,  
1246 ~~Florida Statutes 2005~~, shall be deposited into the General  
1247 Revenue Fund. Revenues derived from the annual tax on a

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1248 leasehold described in s. 199.0235(6)(d) ~~199.023(1)(d)~~, Florida  
1249 Statutes ~~2005~~, shall be returned to the local school board for  
1250 the county in which the property subject to the leasehold is  
1251 situated.

1252 Section 16. Effective January 1, 2011, subsection (3) of  
1253 section 199.303, Florida Statutes, is amended to read:

1254 199.303 Declaration of legislative intent.—

1255 ~~(3) It is hereby declared to be the specific intent of the~~  
1256 ~~Legislature that all annual intangible personal property taxes~~  
1257 ~~imposed as provided by law for calendar years 2006 and prior~~  
1258 ~~shall remain in full force and effect during the period~~  
1259 ~~specified by s. 95.091 for the year in which the tax was due. It~~  
1260 ~~is further the intent of the Legislature that the department~~  
1261 ~~continue to assess and collect all taxes due to the state under~~  
1262 ~~such provisions for all periods available for assessment, as~~  
1263 ~~provided for the year in which tax was due by s. 95.091.~~

1264 Section 17. Effective January 1, 2011, subsection (19) of  
1265 section 212.02, Florida Statutes, is amended to read:

1266 212.02 Definitions.—The following terms and phrases when  
1267 used in this chapter have the meanings ascribed to them in this  
1268 section, except where the context clearly indicates a different  
1269 meaning:

1270 (19) "Tangible personal property" means and includes  
1271 personal property which may be seen, weighed, measured, or  
1272 touched or is in any manner perceptible to the senses, including  
1273 electric power or energy, boats, motor vehicles and mobile homes  
1274 as defined in s. 320.01(1) and (2), aircraft as defined in s.  
1275 330.27, and all other types of vehicles. The term "tangible  
1276 personal property" does not include stocks, bonds, notes,

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1277 insurance, or other obligations or securities; intangibles as  
1278 defined by the intangible tax law of the state; or pari-mutuel  
1279 tickets sold or issued under the racing laws of the state.

1280 Section 18. Effective January 1, 2011, paragraph (p) of  
1281 subsection (8) and paragraph (a) of subsection (15) of section  
1282 213.053, Florida Statutes, are amended to read:

1283 213.053 Confidentiality and information sharing.—

1284 (8) Notwithstanding any other provision of this section,  
1285 the department may provide:

1286 (p) Information relative to ss. 199.10555, 220.1845, and  
1287 376.30781 to the Department of Environmental Protection in the  
1288 conduct of its official business.

1289  
1290 Disclosure of information under this subsection shall be  
1291 pursuant to a written agreement between the executive director  
1292 and the agency. Such agencies, governmental or nongovernmental,  
1293 shall be bound by the same requirements of confidentiality as  
1294 the Department of Revenue. Breach of confidentiality is a  
1295 misdemeanor of the first degree, punishable as provided by s.  
1296 775.082 or s. 775.083.

1297 (15) (a) Notwithstanding any other provision of this  
1298 section, the department shall, subject to the safeguards  
1299 specified in paragraph (c), disclose to the Division of  
1300 Corporations of the Department of State the name, address,  
1301 federal employer identification number, and duration of tax  
1302 filings with this state of all corporate or partnership entities  
1303 which are not on file or have a dissolved status with the  
1304 Division of Corporations and which have filed tax returns  
1305 pursuant to chapter 199 or chapter 220.

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1306 Section 19. Effective January 1, 2011, section 213.054,  
1307 Florida Statutes, is amended to read:

1308 213.054 Persons claiming tax exemptions or deductions;  
1309 annual report.—The Department of Revenue shall be responsible  
1310 for monitoring the utilization of tax exemptions and tax  
1311 deductions authorized pursuant to chapter 81-179, Laws of  
1312 Florida. On or before September 1 of each year, the department  
1313 shall report to the Chief Financial Officer the names and  
1314 addresses of all persons who have claimed an exemption pursuant  
1315 to s. 199.1855(1)(i) or a deduction pursuant to s. 220.63(5).

1316 Section 20. Effective January 1, 2011, section 213.27,  
1317 Florida Statutes, is amended to read:

1318 213.27 Contracts with debt collection agencies and certain  
1319 vendors.—

1320 (1) The Department of Revenue may, for the purpose of  
1321 collecting any delinquent taxes due from a taxpayer, including  
1322 taxes for which a bill or notice has been generated, contract  
1323 with any debt collection agency or attorney doing business  
1324 within or without this state for the collection of such  
1325 delinquent taxes, including penalties and interest thereon. The  
1326 department may also share confidential information pursuant to  
1327 the contract necessary for the collection of delinquent taxes  
1328 and taxes for which a billing or notice has been generated.  
1329 Contracts will be made pursuant to chapter 287. The taxpayer  
1330 must be notified by mail by the department, its employees, or  
1331 its authorized representative at least 30 days prior to  
1332 commencing any litigation to recover any delinquent taxes. The  
1333 taxpayer must be notified by mail by the department at least 30  
1334 days prior to the initial assignment by the department of the

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1335 taxpayer's account for the collection of any taxes by the debt  
1336 collection agency.

1337 (2) The department may enter into contracts with any  
1338 individual or business for the purpose of identifying intangible  
1339 personal property tax liability. Contracts may provide for the  
1340 identification of assets subject to the tax on intangible  
1341 personal property, the determination of value of such property,  
1342 the requirement for filing a tax return and the collection of  
1343 taxes due, including applicable penalties and interest thereon.  
1344 The department may share confidential information pursuant to  
1345 the contract necessary for the identification of taxable  
1346 intangible personal property. Contracts shall be made pursuant  
1347 to chapter 287. The taxpayer must be notified by mail by the  
1348 department at least 30 days prior to the department assigning  
1349 identification of intangible personal property to an individual  
1350 or business.

1351 (3)~~(2)~~ Any contract may provide, in the discretion of the  
1352 executive director of the Department of Revenue, the manner in  
1353 which the compensation for such services will be paid. Under  
1354 standards established by the department, such compensation shall  
1355 be added to the amount of the tax and collected as a part  
1356 thereof by the agency or deducted from the amount of tax,  
1357 penalty, and interest actually collected.

1358 (4)~~(3)~~ All funds collected under the terms of the contract,  
1359 less the fees provided in the contract, shall be remitted to the  
1360 department within 30 days from the date of collection from a  
1361 taxpayer. Forms to be used for such purpose shall be prescribed  
1362 by the department.

1363 (5)~~(4)~~ The department shall require a bond from the debt

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1364 collection agency or the individual or business contracted with  
1365 under subsection (2) not in excess of \$100,000 guaranteeing  
1366 compliance with the terms of the contract. However, a bond of  
1367 \$10,000 is required from a debt collection agency if the agency  
1368 does not actually collect and remit delinquent funds to the  
1369 department.

1370 (6)~~(5)~~ The department may, for the purpose of ascertaining  
1371 the amount of or collecting any taxes due from a person doing  
1372 mail order business in this state, contract with any auditing  
1373 agency doing business within or without this state for the  
1374 purpose of conducting an audit of such mail order business;  
1375 however, such audit agency may not conduct an audit on behalf of  
1376 the department of any person domiciled in this state, person  
1377 registered for sales and use tax purposes in this state, or  
1378 corporation filing a Florida corporate tax return, if any such  
1379 person or corporation objects to such audit in writing to the  
1380 department and the auditing agency. The department shall notify  
1381 the taxpayer by mail at least 30 days before the department  
1382 assigns the collection of such taxes.

1383 (7)~~(6)~~ Confidential information shared by the department  
1384 with debt collection or auditing agencies or individuals or  
1385 businesses with which the department has contracted under  
1386 subsection (2) is exempt from the provisions of s. 119.07(1),  
1387 and debt collection or auditing agencies and individuals or  
1388 businesses with which the department has contracted under  
1389 subsection (2) shall be bound by the same requirements of  
1390 confidentiality as the Department of Revenue. Breach of  
1391 confidentiality is a misdemeanor of the first degree, punishable  
1392 as provided by ss. 775.082 and 775.083.



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1393        (8)~~(7)~~(a) The executive director of the department may  
1394 enter into contracts with private vendors to develop and  
1395 implement systems to enhance tax collections where compensation  
1396 to the vendors is funded through increased tax collections. The  
1397 amount of compensation paid to a vendor shall be based on a  
1398 percentage of increased tax collections attributable to the  
1399 system after all administrative and judicial appeals are  
1400 exhausted, and the total amount of compensation paid to a vendor  
1401 shall not exceed the maximum amount stated in the contract.

1402        (b) A person acting on behalf of the department under a  
1403 contract authorized by this subsection does not exercise any of  
1404 the powers of the department, except that the person is an agent  
1405 of the department for the purposes of developing and  
1406 implementing a system to enhance tax collection.

1407        (c) Disclosure of information under this subsection shall  
1408 be pursuant to a written agreement between the executive  
1409 director and the private vendors. The vendors shall be bound by  
1410 the same requirements of confidentiality as the department.  
1411 Breach of confidentiality is a misdemeanor of the first degree,  
1412 punishable as provided in s. 775.082 or s. 775.083.

1413        Section 21. Effective January 1, 2011, paragraph (b) of  
1414 subsection (4) of section 650.05, Florida Statutes, is amended  
1415 to read:

1416        650.05 Plans for coverage of employees of political  
1417 subdivisions.—

1418        (4)

1419        (b) The grants-in-aid and other revenue referred to in  
1420 paragraph (a) specifically include, but are not limited to,  
1421 minimum foundation program grants to public school districts and

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1422 community colleges; gasoline, motor fuel, intangible, cigarette,  
1423 racing, and insurance premium taxes distributed to political  
1424 subdivisions; and amounts specifically appropriated as grants-  
1425 in-aid for mental health, mental retardation, and mosquito  
1426 control programs.

1427 Section 22. Effective January 1, 2011, subsection (5) of  
1428 section 733.702, Florida Statutes, is renumbered as subsection  
1429 (6), and a new subsection (5) is added to that section to read:  
1430 733.702 Limitations on presentation of claims.—

1431 (5) The Department of Revenue may file a claim against the  
1432 estate of a decedent for taxes due under chapter 199 after the  
1433 expiration of the time for filing claims provided in subsection  
1434 (1), if the department files its claim within 30 days after the  
1435 service of the inventory. Upon filing of the estate tax return  
1436 with the department as provided in s. 198.13, or to the extent  
1437 the inventory or estate tax return is amended or supplemented,  
1438 the department has the right to file a claim or to amend its  
1439 previously filed claim within 30 days after service of the  
1440 estate tax return, or an amended or supplemented inventory or  
1441 filing of an amended or supplemental estate tax return, as to  
1442 the additional information disclosed.

1443 Section 23. Effective upon this act becoming a law, the  
1444 executive director of the Department of Revenue may adopt  
1445 emergency rules under ss. 120.536(1) and 120.54, Florida  
1446 Statutes, to implement chapter 199, Florida Statutes, and all  
1447 conditions are deemed met for the adoption of such rules.  
1448 Notwithstanding any other provision of law, such emergency rules  
1449 shall remain effective for 6 months after the date of adoption  
1450 and may be renewed during the pendency of procedures to adopt

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1451 rules addressing the subject of the emergency rules.

1452 Section 24. Legislative findings and intent.—The  
1453 Legislature finds that the separate accounting system used to  
1454 measure the income of multistate and multinational corporations  
1455 for tax purposes often places corporations in this state at a  
1456 competitive disadvantage. Moreover, corporate business is  
1457 increasingly conducted through groups of commonly owned  
1458 corporations. Therefore, the Legislature intends to more  
1459 accurately measure the business activities of corporations by  
1460 adopting a combined system of income tax reporting.

1461 Section 25. Paragraph (z) of subsection (1) of section  
1462 220.03, Florida Statutes, is amended, and paragraphs (gg) and  
1463 (hh) are added to that subsection, to read:

1464 220.03 Definitions.—

1465 (1) SPECIFIC TERMS.—When used in this code, and when not  
1466 otherwise distinctly expressed or manifestly incompatible with  
1467 the intent thereof, the following terms shall have the following  
1468 meanings:

1469 (z) "Taxpayer" means any corporation subject to the tax  
1470 imposed by this code, and includes all corporations that are  
1471 members of a water's edge group ~~for which a consolidated return~~  
1472 ~~is filed under s. 220.131.~~ However, "taxpayer" does not include  
1473 a corporation having no individuals (including individuals  
1474 employed by an affiliate) receiving compensation in this state  
1475 as defined in s. 220.15 when the only property owned or leased  
1476 by said corporation (including an affiliate) in this state is  
1477 located at the premises of a printer with which it has  
1478 contracted for printing, if such property consists of the final  
1479 printed product, property which becomes a part of the final

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1480 printed product, or property from which the printed product is  
1481 produced.

1482 (gg) "Tax haven" means a jurisdiction that, for a  
1483 particular tax year:

1484 1. Is identified by the Organization for Economic Co-  
1485 operation and Development as a tax haven or as having a harmful  
1486 preferential tax regime; or

1487 2.a. Is a jurisdiction that does not impose or imposes only  
1488 a nominal, effective tax on relevant income;

1489 b. Has laws or practices that prevent the effective  
1490 exchange of information for tax purposes with other governments  
1491 regarding taxpayers who are subject to, or benefiting from, the  
1492 tax regime;

1493 c. Lacks transparency;

1494 d. Facilitates the establishment of foreign-owned entities  
1495 without the need for a local substantive presence or prohibits  
1496 these entities from having any commercial impact on the local  
1497 economy;

1498 e. Explicitly or implicitly excludes the jurisdiction's  
1499 resident taxpayers from taking advantage of the tax regime's  
1500 benefits or prohibits enterprises that benefit from the regime  
1501 from operating in the jurisdiction's domestic market; or

1502 f. Has created a tax regime that is favorable for tax  
1503 avoidance, based upon an overall assessment of relevant factors,  
1504 including whether the jurisdiction has a significant untaxed  
1505 offshore financial or other services sector relative to its  
1506 overall economy.

1507  
1508 For purposes of this paragraph, a tax regime lacks transparency

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1509 if the details of legislative, legal, or administrative  
1510 requirements are not open to public scrutiny and apparent, or  
1511 are not consistently applied among similarly situated taxpayers.  
1512 As used in this paragraph, the term "tax regime" means a set or  
1513 system of rules, laws, regulations, or practices by which taxes  
1514 are imposed on any person, corporation, or entity, or on any  
1515 income, property, incident, indicia, or activity pursuant to  
1516 government authority.

1517 (hh) "Water's edge group" means a group of corporations  
1518 related through common ownership whose business activities are  
1519 integrated with, dependent upon, or contribute to a flow of  
1520 value among members of the group.

1521 Section 26. Subsection (1) of section 220.13, Florida  
1522 Statutes, is amended to read:

1523 220.13 "Adjusted federal income" defined.—

1524 (1) The term "adjusted federal income" means an amount  
1525 equal to the taxpayer's taxable income as defined in subsection  
1526 (2), or such taxable income of more than one taxpayer as  
1527 provided in s. 220.1363 ~~s. 220.131~~, for the taxable year,  
1528 adjusted as follows:

1529 (a) *Additions.*—There shall be added to such taxable income:

1530 1. The amount of any tax upon or measured by income,  
1531 excluding taxes based on gross receipts or revenues, paid or  
1532 accrued as a liability to the District of Columbia or any state  
1533 of the United States which is deductible from gross income in  
1534 the computation of taxable income for the taxable year.

1535 2. The amount of interest which is excluded from taxable  
1536 income under s. 103(a) of the Internal Revenue Code or any other  
1537 federal law, less the associated expenses disallowed in the

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1538 computation of taxable income under s. 265 of the Internal  
1539 Revenue Code or any other law, excluding 60 percent of any  
1540 amounts included in alternative minimum taxable income, as  
1541 defined in s. 55(b)(2) of the Internal Revenue Code, if the  
1542 taxpayer pays tax under s. 220.11(3).

1543 3. In the case of a regulated investment company or real  
1544 estate investment trust, an amount equal to the excess of the  
1545 net long-term capital gain for the taxable year over the amount  
1546 of the capital gain dividends attributable to the taxable year.

1547 4. That portion of the wages or salaries paid or incurred  
1548 for the taxable year which is equal to the amount of the credit  
1549 allowable for the taxable year under s. 220.181. This  
1550 subparagraph shall expire on the date specified in s. 290.016  
1551 for the expiration of the Florida Enterprise Zone Act.

1552 5. That portion of the ad valorem school taxes paid or  
1553 incurred for the taxable year which is equal to the amount of  
1554 the credit allowable for the taxable year under s. 220.182. This  
1555 subparagraph shall expire on the date specified in s. 290.016  
1556 for the expiration of the Florida Enterprise Zone Act.

1557 6. The amount of emergency excise tax paid or accrued as a  
1558 liability to this state under chapter 221 which tax is  
1559 deductible from gross income in the computation of taxable  
1560 income for the taxable year.

1561 7. That portion of assessments to fund a guaranty  
1562 association incurred for the taxable year which is equal to the  
1563 amount of the credit allowable for the taxable year.

1564 8. In the case of a nonprofit corporation which holds a  
1565 pari-mutuel permit and which is exempt from federal income tax  
1566 as a farmers' cooperative, an amount equal to the excess of the

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1567 gross income attributable to the pari-mutuel operations over the  
1568 attributable expenses for the taxable year.

1569 9. The amount taken as a credit for the taxable year under  
1570 s. 220.1895.

1571 10. Up to nine percent of the eligible basis of any  
1572 designated project which is equal to the credit allowable for  
1573 the taxable year under s. 220.185.

1574 11. The amount taken as a credit for the taxable year under  
1575 s. 220.187.

1576 12. The amount taken as a credit for the taxable year under  
1577 s. 220.192.

1578 13. The amount taken as a credit for the taxable year under  
1579 s. 220.193.

1580 14. Any portion of a qualified investment, as defined in s.  
1581 288.9913, which is claimed as a deduction by the taxpayer and  
1582 taken as a credit against income tax pursuant to s. 288.9916.

1583 (b) *Subtractions.*—

1584 1. There shall be subtracted from such taxable income:

1585 a. The net operating loss deduction allowable for federal  
1586 income tax purposes under s. 172 of the Internal Revenue Code  
1587 for the taxable year,

1588 b. The net capital loss allowable for federal income tax  
1589 purposes under s. 1212 of the Internal Revenue Code for the  
1590 taxable year,

1591 c. The excess charitable contribution deduction allowable  
1592 for federal income tax purposes under s. 170(d)(2) of the  
1593 Internal Revenue Code for the taxable year, and

1594 d. The excess contributions deductions allowable for  
1595 federal income tax purposes under s. 404 of the Internal Revenue

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1596 Code for the taxable year.

1597

1598 However, a net operating loss and a capital loss shall never be  
1599 carried back as a deduction to a prior taxable year, but all  
1600 deductions attributable to such losses shall be deemed net  
1601 operating loss carryovers and capital loss carryovers,  
1602 respectively, and treated in the same manner, to the same  
1603 extent, and for the same time periods as are prescribed for such  
1604 carryovers in ss. 172 and 1212, respectively, of the Internal  
1605 Revenue Code. A deduction is not allowed for net operating  
1606 losses, net capital losses, or excess contribution deductions  
1607 under 26 U.S.C. ss. 170(d)(2), 172, 1212, and 404 for a member  
1608 of a water's edge group that is not a United States member.  
1609 Carryovers of net operating losses, net capital losses, or  
1610 excess contribution deductions under 26 U.S.C. ss. 170(d)(2),  
1611 172, 1212, and 404 may be subtracted only by the member of the  
1612 water's edge group that generates a carryover.

1613 2. There shall be subtracted from such taxable income any  
1614 amount to the extent included therein the following:

1615 a. Dividends treated as received from sources without the  
1616 United States, as determined under s. 862 of the Internal  
1617 Revenue Code.

1618 b. All amounts included in taxable income under s. 78 or s.  
1619 951 of the Internal Revenue Code.

1620

1621 However, as to any amount subtracted under this subparagraph,  
1622 there shall be added to such taxable income all expenses  
1623 deducted on the taxpayer's return for the taxable year which are  
1624 attributable, directly or indirectly, to such subtracted amount.



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1625 Further, no amount shall be subtracted with respect to dividends  
1626 paid or deemed paid by a Domestic International Sales  
1627 Corporation.

1628 3. Amounts received by a member of a water's edge group as  
1629 dividends paid by another member of the water's edge group shall  
1630 be subtracted from the taxable income to the extent that the  
1631 dividends are included in the taxable income.

1632 ~~4.3.~~ In computing "adjusted federal income" for taxable  
1633 years beginning after December 31, 1976, there shall be allowed  
1634 as a deduction the amount of wages and salaries paid or incurred  
1635 within this state for the taxable year for which no deduction is  
1636 allowed pursuant to s. 280C(a) of the Internal Revenue Code  
1637 (relating to credit for employment of certain new employees).

1638 ~~5.4.~~ There shall be subtracted from such taxable income any  
1639 amount of nonbusiness income included therein.

1640 ~~6.5.~~ There shall be subtracted any amount of taxes of  
1641 foreign countries allowable as credits for taxable years  
1642 beginning on or after September 1, 1985, under s. 901 of the  
1643 Internal Revenue Code to any corporation which derived less than  
1644 20 percent of its gross income or loss for its taxable year  
1645 ended in 1984 from sources within the United States, as  
1646 described in s. 861(a)(2)(A) of the Internal Revenue Code, not  
1647 including credits allowed under ss. 902 and 960 of the Internal  
1648 Revenue Code, withholding taxes on dividends within the meaning  
1649 of sub-subparagraph 2.a., and withholding taxes on royalties,  
1650 interest, technical service fees, and capital gains.

1651 ~~7.6.~~ Notwithstanding any other provision of this code,  
1652 except with respect to amounts subtracted pursuant to  
1653 subparagraphs 1. and ~~4. 3.~~, any increment of any apportionment

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1654 factor which is directly related to an increment of gross  
1655 receipts or income which is deducted, subtracted, or otherwise  
1656 excluded in determining adjusted federal income shall be  
1657 excluded from both the numerator and denominator of such  
1658 apportionment factor. Further, all valuations made for  
1659 apportionment factor purposes shall be made on a basis  
1660 consistent with the taxpayer's method of accounting for federal  
1661 income tax purposes.

1662 (c) *Installment sales occurring after October 19, 1980.*—

1663 1. In the case of any disposition made after October 19,  
1664 1980, the income from an installment sale shall be taken into  
1665 account for the purposes of this code in the same manner that  
1666 such income is taken into account for federal income tax  
1667 purposes.

1668 2. Any taxpayer who regularly sells or otherwise disposes  
1669 of personal property on the installment plan and reports the  
1670 income therefrom on the installment method for federal income  
1671 tax purposes under s. 453(a) of the Internal Revenue Code shall  
1672 report such income in the same manner under this code.

1673 (d) *Nonallowable deductions.*—A deduction for net operating  
1674 losses, net capital losses, or excess contributions deductions  
1675 under ss. 170(d)(2), 172, 1212, and 404 of the Internal Revenue  
1676 Code which has been allowed in a prior taxable year for Florida  
1677 tax purposes shall not be allowed for Florida tax purposes,  
1678 notwithstanding the fact that such deduction has not been fully  
1679 utilized for federal tax purposes.

1680 (e) *Adjustments related to the Federal Economic Stimulus*  
1681 *Act of 2008 and the American Recovery and Reinvestment Act of*  
1682 *2009.*—Taxpayers shall be required to make the adjustments

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1683 prescribed in this paragraph for Florida tax purposes in  
1684 relation to certain tax benefits received pursuant to the  
1685 Economic Stimulus Act of 2008 and the American Recovery and  
1686 Reinvestment Act of 2009.

1687       1. There shall be added to such taxable income an amount  
1688 equal to 100 percent of any amount deducted for federal income  
1689 tax purposes as bonus depreciation for the taxable year pursuant  
1690 to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as  
1691 amended by s. 103 of Pub. L. No. 110-185 and s. 1201 of Pub. L.  
1692 No. 111-5, for property placed in service after December 31,  
1693 2007, and before January 1, 2010. For the taxable year and for  
1694 each of the 6 subsequent taxable years, there shall be  
1695 subtracted from such taxable income an amount equal to one-  
1696 seventh of the amount by which taxable income was increased  
1697 pursuant to this subparagraph, notwithstanding any sale or other  
1698 disposition of the property that is the subject of the  
1699 adjustments and regardless of whether such property remains in  
1700 service in the hands of the taxpayer.

1701       2. There shall be added to such taxable income an amount  
1702 equal to 100 percent of any amount in excess of \$128,000  
1703 deducted for federal income tax purposes for the taxable year  
1704 pursuant to s. 179 of the Internal Revenue Code of 1986, as  
1705 amended by s. 102 of Pub. L. No. 110-185 and s. 1202 of Pub. L.  
1706 No. 111-5, for taxable years beginning after December 31, 2007,  
1707 and before January 1, 2010. For the taxable year and for each of  
1708 the 6 subsequent taxable years, there shall be subtracted from  
1709 such taxable income one-seventh of the amount by which taxable  
1710 income was increased pursuant to this subparagraph,  
1711 notwithstanding any sale or other disposition of the property

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1712 that is the subject of the adjustments and regardless of whether  
1713 such property remains in service in the hands of the taxpayer.

1714 3. There shall be added to such taxable income an amount  
1715 equal to the amount of deferred income not included in such  
1716 taxable income pursuant to s. 108(i)(1) of the Internal Revenue  
1717 Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There  
1718 shall be subtracted from such taxable income an amount equal to  
1719 the amount of deferred income included in such taxable income  
1720 pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986,  
1721 as amended by s. 1231 of Pub. L. No. 111-5.

1722 4. Subtractions available under this paragraph may be  
1723 transferred to the surviving or acquiring entity following a  
1724 merger or acquisition and used in the same manner and with the  
1725 same limitations as specified by this paragraph.

1726 5. The additions and subtractions specified in this  
1727 paragraph are intended to adjust taxable income for Florida tax  
1728 purposes, and, notwithstanding any other provision of this code,  
1729 such additions and subtractions shall be permitted to change a  
1730 taxpayer's net operating loss for Florida tax purposes.

1731 Section 27. Section 220.136, Florida Statutes, is created  
1732 to read:

1733 220.136 Determination of the members of a water's edge  
1734 group.-

1735 (1) MEMBERSHIP RULES.-

1736 (a) A corporation having 50 percent or more of its  
1737 outstanding voting stock directly or indirectly owned or  
1738 controlled by a water's edge group is presumed to be a member of  
1739 the group. A corporation having less than 50 percent of its  
1740 outstanding voting stock directly or indirectly controlled by a

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1741 water's edge group is a member of the group if the businesses  
1742 activities of the corporation show that the corporation is a  
1743 member of the group. All of the income of a corporation that is  
1744 a member of a water's edge group is presumed to be unitary.

1745 (b) A corporation that conducts business outside the United  
1746 States is not a member of a water's edge group if 80 percent or  
1747 more of the corporation's property and payroll, as determined by  
1748 the apportionment factors described in ss. 220.15 and 220.1363,  
1749 may be assigned to locations outside the United States. However,  
1750 such corporations that are incorporated in a tax haven may be a  
1751 member of a water's edge group pursuant to paragraph (a). This  
1752 paragraph does not exempt a corporation that is not a member of  
1753 a water's edge group from the provisions of this chapter.

1754 (2) MEMBERSHIP EVALUATION CRITERIA.—

1755 (a) The attribution rules of 26 U.S.C. 318 shall be used to  
1756 determine whether voting stock is owned indirectly.

1757 (b) As used in this paragraph, the term "United States"  
1758 means the 50 states, the District of Columbia, and Puerto Rico.

1759 (c) The apportionment factors described in ss. 220.15 and  
1760 220.1363 shall be used to determine whether a special industry  
1761 corporation has engaged in a sufficient amount of activities  
1762 outside the United States to exclude it from treatment as a  
1763 member of a water's edge group.

1764 Section 28. Section 220.1363, Florida Statutes, is created  
1765 to read:

1766 220.1363 Water's edge groups; special requirements.—

1767 (1) All members of a water's edge group must use the  
1768 water's edge reporting method. Under the water's edge reporting  
1769 method:

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1770 (a) Adjusted federal income for purposes of s. 220.12 means  
1771 the sum of adjusted federal income for all members of the group  
1772 as determined for a concurrent tax year.

1773 (b) The numerators and denominators of the apportionment  
1774 factors shall be calculated for all members of the group  
1775 combined.

1776 (c) Intercompany sales transactions between members of the  
1777 group are not included in the numerator or denominator of the  
1778 sales factor pursuant to ss. 220.15 and 220.151, regardless of  
1779 whether indicia of a sale exist. As used in this subsection, the  
1780 term "sale" includes, but is not limited to, loans, payments for  
1781 the use of intangibles, dividends, and management fees.

1782 (d) For sales of intangibles, including, but not limited  
1783 to, accounts receivable, notes, bonds, and stock, which are made  
1784 to entities outside of the group, only the net proceeds are  
1785 included in the numerator and denominator of the sales factor.

1786 (e) Sales that are not allocated or apportioned to any  
1787 taxing jurisdiction, otherwise known as "nowhere sales," may not  
1788 be included in the numerator or denominator of the sales factor.

1789 (f) The income attributable to the activities in this state  
1790 of a corporation that is exempt from taxation under Pub. L. No.  
1791 86-272 is excluded from the apportionment factor numerators in  
1792 the calculation of corporate income tax even if another member  
1793 of the water's edge group has nexus with this state and is  
1794 subject to tax.

1795 (g) For purposes of this section, the term "water's edge  
1796 reporting method" is a method to determine the taxable business  
1797 profits of a group of entities conducting a unitary business.  
1798 Under this method, the net income of the entities must be added

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1799 together along with the additions and subtractions under s.  
1800 220.13 and apportioned to this state as a single taxpayer under  
1801 s. 220.15 and 220.151. However, each special industry member  
1802 included in a water's edge group return, which would otherwise  
1803 be permitted to use a special method of apportionment under s.  
1804 220.151, shall convert its single-factor apportionment to a  
1805 three-factor apportionment of property, payroll, and sales. The  
1806 special industry member shall calculate the denominator of its  
1807 property, payroll, and sales factors in the same manner as those  
1808 denominators are calculated by members that are not a special  
1809 industry member. The numerator of its sales, property, and  
1810 payroll factors is the product of the denominator of each factor  
1811 multiplied by the premiums or revenue-miles-factor ratio  
1812 otherwise applicable under s. 220.151.

1813 (2) (a) A single water's edge group return must be filed in  
1814 the name and federal employer identification number of the  
1815 parent corporation if the parent is a member of the group and  
1816 has nexus with this state. If the group does not have a parent  
1817 corporation, if the parent corporation is not a member of the  
1818 group, or if the parent corporation does not have nexus with  
1819 this state, the members of the group must choose a member  
1820 subject to the Florida corporate income tax to file the return.  
1821 The members of the group may not choose another member to file a  
1822 corporate income tax return in subsequent years unless the  
1823 filing member does not maintain nexus with this state or remain  
1824 a member of that group. The return must be signed by an  
1825 authorized officer of the filing member as the agent for the  
1826 group.

1827 (b) If members of a water's edge group have different tax

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1828 years, the tax year of a majority of the members of the group is  
1829 the tax year of the group. If the tax years of a majority of the  
1830 members of a group do not correspond, the tax year of the member  
1831 that must file the return for the group is the tax year of the  
1832 group.

1833 (c)1. A member of a water's edge group having a tax year  
1834 that does not correspond to the tax year of the group shall  
1835 determine its income for inclusion on the tax return for the  
1836 group. The member shall use:

1837 a. The precise amount of taxable income received during the  
1838 months corresponding to the tax year of the group, if the  
1839 precise amount can be readily determined from the member's books  
1840 and records.

1841 b. The taxable income of the member converted to conform to  
1842 the tax year of the group on the basis of the number of months  
1843 falling within the tax year of the group. For example, if the  
1844 tax year of the water's edge group is a calendar year and a  
1845 member operates on a fiscal year ending on April 30, the income  
1846 of the member shall include 8/12 of the income from the current  
1847 tax year and 4/12 of the income from the preceding tax year.  
1848 This method to determine the income of a member may be used only  
1849 if the return can be timely filed after the end of the tax year  
1850 of the group.

1851 c. The taxable income of the member during its tax year  
1852 that ends within the tax year of the group.

1853 2. The method of determining the income of a member of a  
1854 group whose tax year does not correspond to the tax year of the  
1855 group may not change as long as the member remains a member of  
1856 the group. The apportionment factors for the member must be



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1857 applied to the income of the member for the tax year of the  
1858 group.

1859 (3) (a) A water's edge group return shall include a  
1860 computational schedule that:

1861 1. Combines the federal income of all members of the  
1862 water's edge group;

1863 2. Shows all intercompany eliminations;

1864 3. Shows Florida additions and subtractions under s.  
1865 220.13; and

1866 4. Shows the calculation of the combined apportionment  
1867 factors.

1868 (b) A water's edge group shall also file a domestic  
1869 disclosure spreadsheet in addition to its return. The  
1870 spreadsheet shall fully disclose:

1871 1. The income reported to each state.

1872 2. The state tax liability.

1873 3. The method used for apportioning or allocating income to  
1874 the various states.

1875 4. Other information required by the department by rule in  
1876 order to determine the proper amount of tax due to each state  
1877 and to identify the water's edge group.

1878 (4) The department may adopt rules and forms to administer  
1879 this section. The Legislature intends to grant the department  
1880 extensive authority to adopt rules and forms describing and  
1881 defining principles for determining the existence of a water's  
1882 edge business, definitions of common control, methods of  
1883 reporting, and related forms, principles, and other definitions.

1884 Section 29. Section 220.14, Florida Statutes, is amended to  
1885 read:

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1886 220.14 Exemption.—

1887 (1) In computing a taxpayer's liability for tax under this  
1888 code, there shall be exempt from the tax \$5,000 of net income as  
1889 defined in s. 220.12 or such lesser amount as will, without  
1890 increasing the taxpayer's federal income tax liability, provide  
1891 the state with an amount under this code which is equal to the  
1892 maximum federal income tax credit which may be available from  
1893 time to time under federal law.

1894 (2) In the case of a taxable year for a period of less than  
1895 12 months, the exemption allowed by this section shall be  
1896 prorated on the basis of the number of days in such year to 365,  
1897 or in the case of a leap year, to 366.

1898 (3) Only one exemption shall be allowed to taxpayers filing  
1899 a water's edge group ~~a consolidated~~ return under this code.

1900 (4) Notwithstanding any other provision of this code, not  
1901 more than one exemption under this section may be allowed to the  
1902 Florida members of a controlled group of corporations, as  
1903 defined in s. 1563 of the Internal Revenue Code with respect to  
1904 taxable years ending on or after December 31, 1970, filing  
1905 separate returns under this code. The exemption described in  
1906 this section shall be divided equally among such Florida members  
1907 of the group, unless all of such members consent, at such time  
1908 and in such manner as the department shall by regulation  
1909 prescribe, to an apportionment plan providing for an unequal  
1910 allocation of such exemption.

1911 Section 30. Subsection (5) of section 220.15, Florida  
1912 Statutes, is amended to read:

1913 220.15 Apportionment of adjusted federal income.—

1914 (5) The sales factor is a fraction the numerator of which

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1915 is the total sales of the taxpayer in this state during the  
1916 taxable year or period and the denominator of which is the total  
1917 sales of the taxpayer everywhere during the taxable year or  
1918 period.

1919 (a) As used in this subsection, the term "sales" means all  
1920 gross receipts of the taxpayer except interest, dividends,  
1921 rents, royalties, and gross receipts from the sale, exchange,  
1922 maturity, redemption, or other disposition of securities.

1923 However:

1924 1. Rental income is included in the term if a significant  
1925 portion of the taxpayer's business consists of leasing or  
1926 renting real or tangible personal property; and

1927 2. Royalty income is included in the term if a significant  
1928 portion of the taxpayer's business consists of dealing in or  
1929 with the production, exploration, or development of minerals.

1930 (b)1. Sales of tangible personal property occur in this  
1931 state if the property is delivered or shipped to a purchaser  
1932 within this state, regardless of the f.o.b. point, other  
1933 conditions of the sale, or ultimate destination of the property,  
1934 unless shipment is made via a common or contract carrier.

1935 However, for industries in NAICS National Number 311411, if the  
1936 ultimate destination of the product is to a location outside  
1937 this state, regardless of the method of shipment or f.o.b.

1938 point, the sale shall not be deemed to occur in this state. As  
1939 used in this paragraph, "NAICS" means those classifications  
1940 contained in the North American Industry Classification System,  
1941 as published in 2007 by the Office of Management and Budget,  
1942 Executive Office of the President.

1943 2. When citrus fruit is delivered by a cooperative for a

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1944 grower-member, by a grower-member to a cooperative, or by a  
1945 grower-participant to a Florida processor, the sales factor for  
1946 the growers for such citrus fruit delivered to such processor  
1947 shall be the same as the sales factor for the most recent  
1948 taxable year of that processor. That sales factor, expressed  
1949 only as a percentage and not in terms of the dollar volume of  
1950 sales, so as to protect the confidentiality of the sales of the  
1951 processor, shall be furnished on the request of such a grower  
1952 promptly after it has been determined for that taxable year.

1953 3. Reimbursement of expenses under an agency contract  
1954 between a cooperative, a grower-member of a cooperative, or a  
1955 grower and a processor is not a sale within this state.

1956 (c) Sales of a financial organization, including, but not  
1957 limited to, banking and savings institutions, investment  
1958 companies, real estate investment trusts, and brokerage  
1959 companies, occur in this state if derived from:

1960 1. Fees, commissions, or other compensation for financial  
1961 services rendered within this state;

1962 2. Gross profits from trading in stocks, bonds, or other  
1963 securities managed within this state;

1964 3. Interest received within this state, other than interest  
1965 from loans secured by mortgages, deeds of trust, or other liens  
1966 upon real or tangible personal property located without this  
1967 state, and dividends received within this state;

1968 4. Interest charged to customers at places of business  
1969 maintained within this state for carrying debit balances of  
1970 margin accounts, without deduction of any costs incurred in  
1971 carrying such accounts;

1972 5. Interest, fees, commissions, or other charges or gains

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1973 from loans secured by mortgages, deeds of trust, or other liens  
 1974 upon real or tangible personal property located in this state or  
 1975 from installment sale agreements originally executed by a  
 1976 taxpayer or the taxpayer's agent to sell real or tangible  
 1977 personal property located in this state;

1978 6. Rents from real or tangible personal property located in  
 1979 this state; or

1980 7. Any other gross income, including other interest,  
 1981 resulting from the operation as a financial organization within  
 1982 this state.

1983  
 1984 ~~In computing the amounts under this paragraph, any amount~~  
 1985 ~~received by a member of an affiliated group (determined under s.~~  
 1986 ~~1504(a) of the Internal Revenue Code, but without reference to~~  
 1987 ~~whether any such corporation is an "includable corporation"~~  
 1988 ~~under s. 1504(b) of the Internal Revenue Code) from another~~  
 1989 ~~member of such group shall be included only to the extent such~~  
 1990 ~~amount exceeds expenses of the recipient directly related~~  
 1991 ~~thereto.~~

1992 Section 31. Subsection (1) of section 220.183, Florida  
 1993 Statutes, is amended to read:

1994 220.183 Community contribution tax credit.—

1995 (1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX  
 1996 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM  
 1997 SPENDING.—

1998 (a) There shall be allowed a credit of 50 percent of a  
 1999 community contribution against any tax due for a taxable year  
 2000 under this chapter.

2001 (b) No business firm shall receive more than \$200,000 in

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2002 annual tax credits for all approved community contributions made  
2003 in any one year.

2004 (c) The total amount of tax credit which may be granted for  
2005 all programs approved under this section, s. 212.08(5)(p), and  
2006 s. 624.5105 is \$10.5 million annually for projects that provide  
2007 homeownership opportunities for low-income or very-low-income  
2008 households as defined in s. 420.9071(19) and (28) and \$3.5  
2009 million annually for all other projects.

2010 (d) All proposals for the granting of the tax credit shall  
2011 require the prior approval of the Office of Tourism, Trade, and  
2012 Economic Development.

2013 (e) If the credit granted pursuant to this section is not  
2014 fully used in any one year because of insufficient tax liability  
2015 on the part of the business firm, the unused amount may be  
2016 carried forward for a period not to exceed 5 years. The  
2017 carryover credit may be used in a subsequent year when the tax  
2018 imposed by this chapter for such year exceeds the credit for  
2019 such year under this section after applying the other credits  
2020 and unused credit carryovers in the order provided in s.  
2021 220.02(8).

2022 ~~(f) A taxpayer who files a Florida consolidated return as a~~  
2023 ~~member of an affiliated group pursuant to s. 220.131(1) may be~~  
2024 ~~allowed the credit on a consolidated return basis.~~

2025 (f)(g) A taxpayer who is eligible to receive the credit  
2026 provided for in s. 624.5105 is not eligible to receive the  
2027 credit provided by this section.

2028 (g)(h) Notwithstanding paragraph (c), and for the 2008-2009  
2029 fiscal year only, the total amount of tax credit which may be  
2030 granted for all programs approved under this section, s.

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2031 212.08(5)(p), and s. 624.5105 is \$13 million annually for  
2032 projects that provide homeownership opportunities for low-income  
2033 or very-low-income households as defined in s. 420.9071(19) and  
2034 (28) and \$3.5 million annually for all other projects. This  
2035 paragraph expires June 30, 2009.

2036 Section 32. Subsection (1) of section 220.1845, Florida  
2037 Statutes, is amended to read:

2038 220.1845 Contaminated site rehabilitation tax credit.—

2039 (1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—

2040 (a) A credit in the amount of 50 percent of the costs of  
2041 voluntary cleanup activity that is integral to site  
2042 rehabilitation at the following sites is available against any  
2043 tax due for a taxable year under this chapter:

2044 1. A drycleaning-solvent-contaminated site eligible for  
2045 state-funded site rehabilitation under s. 376.3078(3);

2046 2. A drycleaning-solvent-contaminated site at which site  
2047 rehabilitation is undertaken by the real property owner pursuant  
2048 to s. 376.3078(11), if the real property owner is not also, and  
2049 has never been, the owner or operator of the drycleaning  
2050 facility where the contamination exists; or

2051 3. A brownfield site in a designated brownfield area under  
2052 s. 376.80.

2053 (b) A tax credit applicant, or multiple tax credit  
2054 applicants working jointly to clean up a single site, may not be  
2055 granted more than \$500,000 per year in tax credits for each site  
2056 voluntarily rehabilitated. Multiple tax credit applicants shall  
2057 be granted tax credits in the same proportion as their  
2058 contribution to payment of cleanup costs. Subject to the same  
2059 conditions and limitations as provided in this section, a

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2060 municipality, county, or other tax credit applicant which  
2061 voluntarily rehabilitates a site may receive not more than  
2062 \$500,000 per year in tax credits which it can subsequently  
2063 transfer subject to the provisions in paragraph (f) ~~(g)~~.

2064 (c) If the credit granted under this section is not fully  
2065 used in any one year because of insufficient tax liability on  
2066 the part of the corporation, the unused amount may be carried  
2067 forward for up to 5 years. The carryover credit may be used in a  
2068 subsequent year if the tax imposed by this chapter for that year  
2069 exceeds the credit for which the corporation is eligible in that  
2070 year after applying the other credits and unused carryovers in  
2071 the order provided by s. 220.02(8). If during the 5-year period  
2072 the credit is transferred, in whole or in part, pursuant to  
2073 paragraph (f) ~~(g)~~, each transferee has 5 years after the date of  
2074 transfer to use its credit.

2075 ~~(d) A taxpayer that files a consolidated return in this~~  
2076 ~~state as a member of an affiliated group under s. 220.131(1) may~~  
2077 ~~be allowed the credit on a consolidated return basis up to the~~  
2078 ~~amount of tax imposed upon the consolidated group.~~

2079 (d)~~(e)~~ A tax credit applicant that receives state-funded  
2080 site rehabilitation under s. 376.3078(3) for rehabilitation of a  
2081 drycleaning-solvent-contaminated site is ineligible to receive  
2082 credit under this section for costs incurred by the tax credit  
2083 applicant in conjunction with the rehabilitation of that site  
2084 during the same time period that state-administered site  
2085 rehabilitation was underway.

2086 (e)~~(f)~~ The total amount of the tax credits which may be  
2087 granted under this section is \$2 million annually.

2088 (f)~~(g)~~1. Tax credits that may be available under this



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2089 section to an entity eligible under s. 376.30781 may be  
2090 transferred after a merger or acquisition to the surviving or  
2091 acquiring entity and used in the same manner and with the same  
2092 limitations.

2093         2. The entity or its surviving or acquiring entity as  
2094 described in subparagraph 1., may transfer any unused credit in  
2095 whole or in units of at least 25 percent of the remaining  
2096 credit. The entity acquiring such credit may use it in the same  
2097 manner and with the same limitation as described in this  
2098 section. Such transferred credits may not be transferred again  
2099 although they may succeed to a surviving or acquiring entity  
2100 subject to the same conditions and limitations as described in  
2101 this section.

2102         3. If the credit is reduced due to a determination by the  
2103 Department of Environmental Protection or an examination or  
2104 audit by the Department of Revenue, the tax deficiency shall be  
2105 recovered from the first entity, or the surviving or acquiring  
2106 entity that claimed the credit up to the amount of credit taken.  
2107 Any subsequent deficiencies shall be assessed against the entity  
2108 acquiring and claiming the credit, or in the case of multiple  
2109 succeeding entities in the order of credit succession.

2110         (g)~~(h)~~ In order to encourage completion of site  
2111 rehabilitation at contaminated sites being voluntarily cleaned  
2112 up and eligible for a tax credit under this section, the tax  
2113 credit applicant may claim an additional 25 percent of the total  
2114 cleanup costs, not to exceed \$500,000, in the final year of  
2115 cleanup as evidenced by the Department of Environmental  
2116 Protection issuing a "No Further Action" order for that site.

2117         (h)~~(i)~~ In order to encourage the construction of housing

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2118 that meets the definition of affordable provided in s. 420.0004,  
2119 an applicant for the tax credit may claim an additional 25  
2120 percent of the total site rehabilitation costs that are eligible  
2121 for tax credits under this section, not to exceed \$500,000. In  
2122 order to receive this additional tax credit, the applicant must  
2123 provide a certification letter from the Florida Housing Finance  
2124 Corporation, the local housing authority, or other governmental  
2125 agency that is a party to the use agreement indicating that the  
2126 construction on the brownfield site has received a certificate  
2127 of occupancy and the brownfield site has a properly recorded  
2128 instrument that limits the use of the property to housing that  
2129 meets the definition of affordable provided in s. 420.0004.

2130 (i)~~(j)~~ In order to encourage the redevelopment of a  
2131 brownfield site, as defined in the brownfield site  
2132 rehabilitation agreement, that is hindered by the presence of  
2133 solid waste, as defined in s. 403.703, a tax credit applicant,  
2134 or multiple tax credit applicants working jointly to clean up a  
2135 single brownfield site, may also claim costs required to address  
2136 solid waste removal as defined in this paragraph in accordance  
2137 with rules of the Department of Environmental Protection.  
2138 Multiple tax credit applicants shall be granted tax credits in  
2139 the same proportion as each applicant's contribution to payment  
2140 of solid waste removal costs. These costs are eligible for a tax  
2141 credit provided the applicant submits an affidavit stating that,  
2142 after consultation with appropriate local government officials  
2143 and the Department of Environmental Protection, to the best of  
2144 the applicant's knowledge according to such consultation and  
2145 available historical records, the brownfield site was never  
2146 operated as a permitted solid waste disposal area or was never

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2147 operated for monetary compensation and the applicant submits all  
2148 other documentation and certifications required by this section.  
2149 Under this section, wherever reference is made to "site  
2150 rehabilitation," the Department of Environmental Protection  
2151 shall instead consider whether or not the costs claimed are for  
2152 solid waste removal. Tax credit applications claiming costs  
2153 pursuant to this paragraph shall not be subject to the calendar-  
2154 year limitation and January 31 annual application deadline, and  
2155 the Department of Environmental Protection shall accept a one-  
2156 time application filed subsequent to the completion by the tax  
2157 credit applicant of the applicable requirements listed in this  
2158 section. A tax credit applicant may claim 50 percent of the cost  
2159 for solid waste removal, not to exceed \$500,000, after the  
2160 applicant has determined solid waste removal is completed for  
2161 the brownfield site. A solid waste removal tax credit  
2162 application may be filed only once per brownfield site. For the  
2163 purposes of this section, the term:

2164 1. "Solid waste disposal area" means a landfill, dump, or  
2165 other area where solid waste has been disposed of.

2166 2. "Monetary compensation" means the fees that were charged  
2167 or the assessments that were levied for the disposal of solid  
2168 waste at a solid waste disposal area.

2169 3. "Solid waste removal" means removal of solid waste from  
2170 the land surface or excavation of solid waste from below the  
2171 land surface and removal of the solid waste from the brownfield  
2172 site. The term also includes:

2173 a. Transportation of solid waste to a licensed or exempt  
2174 solid waste management facility or to a temporary storage area.

2175 b. Sorting or screening of solid waste prior to removal

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2176 from the site.

2177 c. Deposition of solid waste at a permitted or exempt solid  
2178 waste management facility, whether the solid waste is disposed  
2179 of or recycled.

2180 (j)~~(k)~~ In order to encourage the construction and operation  
2181 of a new health care facility as defined in s. 408.032 or s.  
2182 408.07, or a health care provider as defined in s. 408.07 or s.  
2183 408.7056, on a brownfield site, an applicant for a tax credit  
2184 may claim an additional 25 percent of the total site  
2185 rehabilitation costs, not to exceed \$500,000, if the applicant  
2186 meets the requirements of this paragraph. In order to receive  
2187 this additional tax credit, the applicant must provide  
2188 documentation indicating that the construction of the health  
2189 care facility or health care provider by the applicant on the  
2190 brownfield site has received a certificate of occupancy or a  
2191 license or certificate has been issued for the operation of the  
2192 health care facility or health care provider.

2193 Section 33. Effective January 1, 2011, subsection (1) of  
2194 section 220.1845, Florida Statutes, as amended by this act, and  
2195 subsection (3) of that section, are amended to read:

2196 220.1845 Contaminated site rehabilitation tax credit.—

2197 (1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—

2198 (a) A credit in the amount of 50 percent of the costs of  
2199 voluntary cleanup activity that is integral to site  
2200 rehabilitation at the following sites is available against any  
2201 tax due for a taxable year under this chapter:

2202 1. A drycleaning-solvent-contaminated site eligible for  
2203 state-funded site rehabilitation under s. 376.3078(3);

2204 2. A drycleaning-solvent-contaminated site at which site

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2205 rehabilitation is undertaken by the real property owner pursuant  
2206 to s. 376.3078(11), if the real property owner is not also, and  
2207 has never been, the owner or operator of the drycleaning  
2208 facility where the contamination exists; or

2209 3. A brownfield site in a designated brownfield area under  
2210 s. 376.80.

2211 (b) A tax credit applicant, or multiple tax credit  
2212 applicants working jointly to clean up a single site, may not be  
2213 granted more than \$500,000 per year in tax credits for each site  
2214 voluntarily rehabilitated. Multiple tax credit applicants shall  
2215 be granted tax credits in the same proportion as their  
2216 contribution to payment of cleanup costs. Subject to the same  
2217 conditions and limitations as provided in this section, a  
2218 municipality, county, or other tax credit applicant which  
2219 voluntarily rehabilitates a site may receive not more than  
2220 \$500,000 per year in tax credits which it can subsequently  
2221 transfer subject to the provisions in paragraph (g) ~~(f)~~.

2222 (c) If the credit granted under this section is not fully  
2223 used in any one year because of insufficient tax liability on  
2224 the part of the corporation, the unused amount may be carried  
2225 forward for up to 5 years. The carryover credit may be used in a  
2226 subsequent year if the tax imposed by this chapter for that year  
2227 exceeds the credit for which the corporation is eligible in that  
2228 year after applying the other credits and unused carryovers in  
2229 the order provided by s. 220.02(8). If during the 5-year period  
2230 the credit is transferred, in whole or in part, pursuant to  
2231 paragraph (g) ~~(f)~~, each transferee has 5 years after the date of  
2232 transfer to use its credit.

2233 (d) A taxpayer that receives credit under s. 199.10555 is

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2234 ineligible to receive credit under this section in a given tax  
2235 year.

2236 (e)~~(d)~~ A tax credit applicant that receives state-funded  
2237 site rehabilitation under s. 376.3078(3) for rehabilitation of a  
2238 drycleaning-solvent-contaminated site is ineligible to receive  
2239 credit under this section for costs incurred by the tax credit  
2240 applicant in conjunction with the rehabilitation of that site  
2241 during the same time period that state-administered site  
2242 rehabilitation was underway.

2243 (f)~~(e)~~ The total amount of the tax credits which may be  
2244 granted under this section and s. 199.10555 is \$2 million  
2245 annually.

2246 (g)~~(f)~~ 1. Tax credits that may be available under this  
2247 section to an entity eligible under s. 376.30781 may be  
2248 transferred after a merger or acquisition to the surviving or  
2249 acquiring entity and used in the same manner and with the same  
2250 limitations.

2251 2. The entity or its surviving or acquiring entity as  
2252 described in subparagraph 1., may transfer any unused credit in  
2253 whole or in units of at least 25 percent of the remaining  
2254 credit. The entity acquiring such credit may use it in the same  
2255 manner and with the same limitation as described in this  
2256 section. Such transferred credits may not be transferred again  
2257 although they may succeed to a surviving or acquiring entity  
2258 subject to the same conditions and limitations as described in  
2259 this section.

2260 3. If the credit is reduced due to a determination by the  
2261 Department of Environmental Protection or an examination or  
2262 audit by the Department of Revenue, the tax deficiency shall be

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2263 recovered from the first entity, or the surviving or acquiring  
2264 entity that claimed the credit up to the amount of credit taken.  
2265 Any subsequent deficiencies shall be assessed against the entity  
2266 acquiring and claiming the credit, or in the case of multiple  
2267 succeeding entities in the order of credit succession.

2268 (h)~~(g)~~ In order to encourage completion of site  
2269 rehabilitation at contaminated sites being voluntarily cleaned  
2270 up and eligible for a tax credit under this section, the tax  
2271 credit applicant may claim an additional 25 percent of the total  
2272 cleanup costs, not to exceed \$500,000, in the final year of  
2273 cleanup as evidenced by the Department of Environmental  
2274 Protection issuing a "No Further Action" order for that site.

2275 (i)~~(h)~~ In order to encourage the construction of housing  
2276 that meets the definition of affordable provided in s. 420.0004,  
2277 an applicant for the tax credit may claim an additional 25  
2278 percent of the total site rehabilitation costs that are eligible  
2279 for tax credits under this section, not to exceed \$500,000. In  
2280 order to receive this additional tax credit, the applicant must  
2281 provide a certification letter from the Florida Housing Finance  
2282 Corporation, the local housing authority, or other governmental  
2283 agency that is a party to the use agreement indicating that the  
2284 construction on the brownfield site has received a certificate  
2285 of occupancy and the brownfield site has a properly recorded  
2286 instrument that limits the use of the property to housing that  
2287 meets the definition of affordable provided in s. 420.0004.

2288 (j)~~(i)~~ In order to encourage the redevelopment of a  
2289 brownfield site, as defined in the brownfield site  
2290 rehabilitation agreement, that is hindered by the presence of  
2291 solid waste, as defined in s. 403.703, a tax credit applicant,

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2292 or multiple tax credit applicants working jointly to clean up a  
2293 single brownfield site, may also claim costs required to address  
2294 solid waste removal as defined in this paragraph in accordance  
2295 with rules of the Department of Environmental Protection.  
2296 Multiple tax credit applicants shall be granted tax credits in  
2297 the same proportion as each applicant's contribution to payment  
2298 of solid waste removal costs. These costs are eligible for a tax  
2299 credit provided the applicant submits an affidavit stating that,  
2300 after consultation with appropriate local government officials  
2301 and the Department of Environmental Protection, to the best of  
2302 the applicant's knowledge according to such consultation and  
2303 available historical records, the brownfield site was never  
2304 operated as a permitted solid waste disposal area or was never  
2305 operated for monetary compensation and the applicant submits all  
2306 other documentation and certifications required by this section.  
2307 Under this section, wherever reference is made to "site  
2308 rehabilitation," the Department of Environmental Protection  
2309 shall instead consider whether or not the costs claimed are for  
2310 solid waste removal. Tax credit applications claiming costs  
2311 pursuant to this paragraph shall not be subject to the calendar-  
2312 year limitation and January 31 annual application deadline, and  
2313 the Department of Environmental Protection shall accept a one-  
2314 time application filed subsequent to the completion by the tax  
2315 credit applicant of the applicable requirements listed in this  
2316 section. A tax credit applicant may claim 50 percent of the cost  
2317 for solid waste removal, not to exceed \$500,000, after the  
2318 applicant has determined solid waste removal is completed for  
2319 the brownfield site. A solid waste removal tax credit  
2320 application may be filed only once per brownfield site. For the



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2321 purposes of this section, the term:

2322 1. "Solid waste disposal area" means a landfill, dump, or  
2323 other area where solid waste has been disposed of.

2324 2. "Monetary compensation" means the fees that were charged  
2325 or the assessments that were levied for the disposal of solid  
2326 waste at a solid waste disposal area.

2327 3. "Solid waste removal" means removal of solid waste from  
2328 the land surface or excavation of solid waste from below the  
2329 land surface and removal of the solid waste from the brownfield  
2330 site. The term also includes:

2331 a. Transportation of solid waste to a licensed or exempt  
2332 solid waste management facility or to a temporary storage area.

2333 b. Sorting or screening of solid waste prior to removal  
2334 from the site.

2335 c. Deposition of solid waste at a permitted or exempt solid  
2336 waste management facility, whether the solid waste is disposed  
2337 of or recycled.

2338 (k)~~(j)~~ In order to encourage the construction and operation  
2339 of a new health care facility as defined in s. 408.032 or s.  
2340 408.07, or a health care provider as defined in s. 408.07 or s.  
2341 408.7056, on a brownfield site, an applicant for a tax credit  
2342 may claim an additional 25 percent of the total site  
2343 rehabilitation costs, not to exceed \$500,000, if the applicant  
2344 meets the requirements of this paragraph. In order to receive  
2345 this additional tax credit, the applicant must provide  
2346 documentation indicating that the construction of the health  
2347 care facility or health care provider by the applicant on the  
2348 brownfield site has received a certificate of occupancy or a  
2349 license or certificate has been issued for the operation of the

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2350 health care facility or health care provider.

2351 (3) ADMINISTRATION; AUDIT AUTHORITY; TAX CREDIT  
2352 FORFEITURE.—

2353 (a) The Department of Revenue may adopt rules to prescribe  
2354 any necessary forms required to claim a tax credit under this  
2355 section and to provide the administrative guidelines and  
2356 procedures required to administer this section.

2357 (b) In addition to its existing audit and investigation  
2358 authority relating to chapter 199 and this chapter, the  
2359 Department of Revenue may perform any additional financial and  
2360 technical audits and investigations, including examining the  
2361 accounts, books, or records of the tax credit applicant, which  
2362 are necessary to verify the site rehabilitation costs included  
2363 in a tax credit return and to ensure compliance with this  
2364 section. The Department of Environmental Protection shall  
2365 provide technical assistance, when requested by the Department  
2366 of Revenue, on any technical audits performed pursuant to this  
2367 section.

2368 (c) It is grounds for forfeiture of previously claimed and  
2369 received tax credits if the Department of Revenue determines, as  
2370 a result of either an audit or information received from the  
2371 Department of Environmental Protection, that a taxpayer received  
2372 tax credits pursuant to this section to which the taxpayer was  
2373 not entitled. In the case of fraud, the taxpayer shall be  
2374 prohibited from claiming any future tax credits under this  
2375 section or s. 199.10555.

2376 1. The taxpayer is responsible for returning forfeited tax  
2377 credits to the Department of Revenue, and such funds shall be  
2378 paid into the General Revenue Fund of the state.

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2379           2. The taxpayer shall file with the Department of Revenue  
2380 an amended tax return or such other report as the Department of  
2381 Revenue prescribes by rule and shall pay any required tax within  
2382 60 days after the taxpayer receives notification from the  
2383 Department of Environmental Protection pursuant to s. 376.30781  
2384 that previously approved tax credits have been revoked or  
2385 modified, if uncontested, or within 60 days after a final order  
2386 is issued following proceedings involving a contested revocation  
2387 or modification order.

2388           3. A notice of deficiency may be issued by the Department  
2389 of Revenue at any time within 5 years after the date the  
2390 taxpayer receives notification from the Department of  
2391 Environmental Protection pursuant to s. 376.30781 that  
2392 previously approved tax credits have been revoked or modified.  
2393 If a taxpayer fails to notify the Department of Revenue of any  
2394 change in its tax credit claimed, a notice of deficiency may be  
2395 issued at any time. In either case, the amount of any proposed  
2396 assessment set forth in such notice of deficiency shall be  
2397 limited to the amount of any deficiency resulting under this  
2398 section from the recomputation of the taxpayer's tax for the  
2399 taxable year.

2400           4. Any taxpayer that fails to report and timely pay any tax  
2401 due as a result of the forfeiture of its tax credit is in  
2402 violation of this section and is subject to applicable penalty  
2403 and interest.

2404           Section 34. Subsection (5) of section 220.187, Florida  
2405 Statutes, is amended to read:

2406           220.187 Credits for contributions to nonprofit scholarship-  
2407 funding organizations.-

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2408 (5) AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX CREDITS;  
2409 LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.—

2410 (a) There is allowed a credit of 100 percent of an eligible  
2411 contribution against any tax due for a taxable year under this  
2412 chapter. However, such a credit may not exceed 75 percent of the  
2413 tax due under this chapter for the taxable year, after the  
2414 application of any other allowable credits by the taxpayer. The  
2415 credit granted by this section shall be reduced by the  
2416 difference between the amount of federal corporate income tax  
2417 taking into account the credit granted by this section and the  
2418 amount of federal corporate income tax without application of  
2419 the credit granted by this section.

2420 (b) For each state fiscal year, the total amount of tax  
2421 credits and carryforward of tax credits which may be granted  
2422 under this section and s. 624.51055 is \$118 million.

2423 ~~(c) A taxpayer who files a Florida consolidated return as a~~  
2424 ~~member of an affiliated group pursuant to s. 220.131(1) may be~~  
2425 ~~allowed the credit on a consolidated return basis; however, the~~  
2426 ~~total credit taken by the affiliated group is subject to the~~  
2427 ~~limitation established under paragraph (a).~~

2428 (c) ~~(d)~~ Effective for tax years beginning January 1, 2006, a  
2429 taxpayer may rescind all or part of its allocated tax credit  
2430 under this section. The amount rescinded shall become available  
2431 for purposes of the cap for that state fiscal year under this  
2432 section to an eligible taxpayer as approved by the department if  
2433 the taxpayer receives notice from the department that the  
2434 rescindment has been accepted by the department and the taxpayer  
2435 has not previously rescinded any or all of its tax credit  
2436 allocation under this section more than once in the previous 3

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2437 tax years. Any amount rescinded under this paragraph shall  
2438 become available to an eligible taxpayer on a first-come, first-  
2439 served basis based on tax credit applications received after the  
2440 date the rescindment is accepted by the department.

2441 (d)~~(e)~~ A taxpayer who is eligible to receive the credit  
2442 provided for in s. 624.51055 is not eligible to receive the  
2443 credit provided by this section.

2444 Section 35. Subsection (3) of section 220.191, Florida  
2445 Statutes, is amended to read:

2446 220.191 Capital investment tax credit.—

2447 (3) (a) Notwithstanding subsection (2), an annual credit  
2448 against the tax imposed by this chapter shall be granted to a  
2449 qualifying business which establishes a qualifying project  
2450 pursuant to subparagraph (1) (h) 3., in an amount equal to the  
2451 lesser of \$15 million or 5 percent of the eligible capital costs  
2452 made in connection with a qualifying project, for a period not  
2453 to exceed 20 years beginning with the commencement of operations  
2454 of the project. The tax credit shall be granted against the  
2455 corporate income tax liability of the qualifying business and as  
2456 further provided in paragraph (c). The total tax credit provided  
2457 pursuant to this subsection shall be equal to no more than 100  
2458 percent of the eligible capital costs of the qualifying project.

2459 (b) If the credit granted under this subsection is not  
2460 fully used in any one year because of insufficient tax liability  
2461 on the part of the qualifying business, the unused amount may be  
2462 carried forward for a period not to exceed 20 years after the  
2463 commencement of operations of the project. The carryover credit  
2464 may be used in a subsequent year when the tax imposed by this  
2465 chapter for that year exceeds the credit for which the

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2466 qualifying business is eligible in that year under this  
2467 subsection after applying the other credits and unused  
2468 carryovers in the order provided by s. 220.02(8).

2469 (c) The credit granted under this subsection may be used in  
2470 whole or in part by the qualifying business ~~or any corporation~~  
2471 ~~that is either a member of that qualifying business's affiliated~~  
2472 ~~group of corporations, is a related entity taxable as a~~  
2473 ~~cooperative under subchapter T of the Internal Revenue Code, or,~~  
2474 ~~if the qualifying business is an entity taxable as a cooperative~~  
2475 ~~under subchapter T of the Internal Revenue Code, is related to~~  
2476 ~~the qualifying business. Any entity related to the qualifying~~  
2477 ~~business may continue to file as a member of a Florida-nexus~~  
2478 ~~consolidated group pursuant to a prior election made under s.~~  
2479 ~~220.131(1), Florida Statutes (1985), even if the parent of the~~  
2480 ~~group changes due to a direct or indirect acquisition of the~~  
2481 ~~former common parent of the group. Any credit can be used by any~~  
2482 ~~of the affiliated companies or related entities referenced in~~  
2483 ~~this paragraph to the same extent as it could have been used by~~  
2484 ~~the qualifying business. However, any such use shall not operate~~  
2485 ~~to increase the amount of the credit or extend the period within~~  
2486 ~~which the credit must be used.~~

2487 Section 36. Subsection (2) of section 220.192, Florida  
2488 Statutes, is amended to read:

2489 220.192 Renewable energy technologies investment tax  
2490 credit.—

2491 (2) TAX CREDIT.—For tax years beginning on or after January  
2492 1, 2007, a credit against the tax imposed by this chapter shall  
2493 be granted in an amount equal to the eligible costs. Credits may  
2494 be used in tax years beginning January 1, 2007, and ending

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2495 December 31, 2010, after which the credit shall expire. If the  
2496 credit is not fully used in any one tax year because of  
2497 insufficient tax liability on the part of the corporation, the  
2498 unused amount may be carried forward and used in tax years  
2499 beginning January 1, 2007, and ending December 31, 2012, after  
2500 which the credit carryover expires and may not be used. A  
2501 ~~taxpayer that files a consolidated return in this state as a~~  
2502 ~~member of an affiliated group under s. 220.131(1) may be allowed~~  
2503 ~~the credit on a consolidated return basis up to the amount of~~  
2504 ~~tax imposed upon the consolidated group.~~ Any eligible cost for  
2505 which a credit is claimed and which is deducted or otherwise  
2506 reduces federal taxable income shall be added back in computing  
2507 adjusted federal income under s. 220.13.

2508 Section 37. Subsection (3) of section 220.193, Florida  
2509 Statutes, is amended to read:

2510 220.193 Florida renewable energy production credit.—

2511 (3) An annual credit against the tax imposed by this  
2512 section shall be allowed to a taxpayer, based on the taxpayer's  
2513 production and sale of electricity from a new or expanded  
2514 Florida renewable energy facility. For a new facility, the  
2515 credit shall be based on the taxpayer's sale of the facility's  
2516 entire electrical production. For an expanded facility, the  
2517 credit shall be based on the increases in the facility's  
2518 electrical production that are achieved after May 1, 2006.

2519 (a) The credit shall be \$0.01 for each kilowatt-hour of  
2520 electricity produced and sold by the taxpayer to an unrelated  
2521 party during a given tax year.

2522 (b) The credit may be claimed for electricity produced and  
2523 sold on or after January 1, 2007. Beginning in 2008 and

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2524 continuing until 2011, each taxpayer claiming a credit under  
2525 this section must first apply to the department by February 1 of  
2526 each year for an allocation of available credit. The department,  
2527 in consultation with the commission, shall develop an  
2528 application form. The application form shall, at a minimum,  
2529 require a sworn affidavit from each taxpayer certifying the  
2530 increase in production and sales that form the basis of the  
2531 application and certifying that all information contained in the  
2532 application is true and correct.

2533 (c) If the amount of credits applied for each year exceeds  
2534 \$5 million, the department shall award to each applicant a  
2535 prorated amount based on each applicant's increased production  
2536 and sales and the increased production and sales of all  
2537 applicants.

2538 (d) If the credit granted pursuant to this section is not  
2539 fully used in one year because of insufficient tax liability on  
2540 the part of the taxpayer, the unused amount may be carried  
2541 forward for a period not to exceed 5 years. The carryover credit  
2542 may be used in a subsequent year when the tax imposed by this  
2543 chapter for such year exceeds the credit for such year, after  
2544 applying the other credits and unused credit carryovers in the  
2545 order provided in s. 220.02(8).

2546 ~~(e) A taxpayer that files a consolidated return in this~~  
2547 ~~state as a member of an affiliated group under s. 220.131(1) may~~  
2548 ~~be allowed the credit on a consolidated return basis up to the~~  
2549 ~~amount of tax imposed upon the consolidated group.~~

2550 (e) ~~(f)~~1. Tax credits that may be available under this  
2551 section to an entity eligible under this section may be  
2552 transferred after a merger or acquisition to the surviving or



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2553 acquiring entity and used in the same manner with the same  
2554 limitations.

2555         2. The entity or its surviving or acquiring entity as  
2556 described in subparagraph 1. may transfer any unused credit in  
2557 whole or in units of no less than 25 percent of the remaining  
2558 credit. The entity acquiring such credit may use it in the same  
2559 manner and with the same limitations under this section. Such  
2560 transferred credits may not be transferred again although they  
2561 may succeed to a surviving or acquiring entity subject to the  
2562 same conditions and limitations as described in this section.

2563         3. In the event the credit provided for under this section  
2564 is reduced as a result of an examination or audit by the  
2565 department, such tax deficiency shall be recovered from the  
2566 first entity or the surviving or acquiring entity to have  
2567 claimed such credit up to the amount of credit taken. Any  
2568 subsequent deficiencies shall be assessed against any entity  
2569 acquiring and claiming such credit, or in the case of multiple  
2570 succeeding entities in the order of credit succession.

2571         (f)~~(g)~~ Notwithstanding any other provision of this section,  
2572 credits for the production and sale of electricity from a new or  
2573 expanded Florida renewable energy facility may be earned between  
2574 January 1, 2007, and June 30, 2010. The combined total amount of  
2575 tax credits which may be granted for all taxpayers under this  
2576 section is limited to \$5 million per state fiscal year.

2577         (g)~~(h)~~ A taxpayer claiming a credit under this section  
2578 shall be required to add back to net income that portion of its  
2579 business deductions claimed on its federal return paid or  
2580 incurred for the taxable year which is equal to the amount of  
2581 the credit allowable for the taxable year under this section.

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2582        (h)~~(i)~~ A taxpayer claiming credit under this section may  
2583 not claim a credit under s. 220.192. A taxpayer claiming credit  
2584 under s. 220.192 may not claim a credit under this section.

2585        (i)~~(j)~~ When an entity treated as a partnership or a  
2586 disregarded entity under this chapter produces and sells  
2587 electricity from a new or expanded renewable energy facility,  
2588 the credit earned by such entity shall pass through in the same  
2589 manner as items of income and expense pass through for federal  
2590 income tax purposes. When an entity applies for the credit and  
2591 the entity has received the credit by a pass-through, the  
2592 application must identify the taxpayer that passed the credit  
2593 through, all taxpayers that received the credit, and the  
2594 percentage of the credit that passes through to each recipient  
2595 and must provide other information that the department requires.

2596        (j)~~(k)~~ A taxpayer's use of the credit granted pursuant to  
2597 this section does not reduce the amount of any credit available  
2598 to such taxpayer under s. 220.186.

2599        Section 38. Section 220.51, Florida Statutes, is amended to  
2600 read:

2601        220.51 Promulgation of rules and regulations.—In accordance  
2602 with the Administrative Procedure Act, chapter 120, the  
2603 department is authorized to make, promulgate, and enforce such  
2604 reasonable rules and regulations, and to prescribe such forms  
2605 relating to the administration and enforcement of the provisions  
2606 of this code, as it may deem appropriate, including:

2607        (1) Rules for initial implementation of this code and for  
2608 taxpayers' transitional taxable years commencing before and  
2609 ending after January 1, 1972; and

2610        (2) Rules or regulations to clarify whether certain groups,

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2611 organizations, or associations formed under the laws of this  
2612 state or any other state, country, or jurisdiction shall be  
2613 deemed "taxpayers" for the purposes of this code, in accordance  
2614 with the legislative declarations of intent in s. 220.02., ~~and~~  
2615 ~~(3) Regulations relating to consolidated reporting for~~  
2616 ~~affiliated groups of corporations, in order to provide for an~~  
2617 ~~equitable and just administration of this code with respect to~~  
2618 ~~multicorporate taxpayers.~~

2619 Section 39. Section 220.64, Florida Statutes, is amended to  
2620 read:

2621 220.64 Other provisions applicable to franchise tax.—To the  
2622 extent that they are not manifestly incompatible with the  
2623 provisions of this part, parts I, III, IV, V, VI, VIII, IX, and  
2624 X of this code and ss. 220.12, 220.13, 220.136, 220.1363,  
2625 220.15, and 220.16 ~~ss. 220.12, 220.13, 220.15, and 220.16~~ apply  
2626 to the franchise tax imposed by this part. Under rules  
2627 prescribed in s. 220.131, a consolidated return may be filed by  
2628 any affiliated group of corporations composed of one or more  
2629 banks or savings associations, its or their Florida parent  
2630 corporation, and any nonbank or nonsavings subsidiaries of such  
2631 parent corporation.

2632 Section 40. Subsections (9) and (10) of section 376.30781,  
2633 Florida Statutes, are amended to read:

2634 376.30781 Tax credits for rehabilitation of drycleaning-  
2635 solvent-contaminated sites and brownfield sites in designated  
2636 brownfield areas; application process; rulemaking authority;  
2637 revocation authority.—

2638 (9) On or before May 1, the Department of Environmental  
2639 Protection shall inform each tax credit applicant that is

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2640 subject to the January 31 annual application deadline of the  
2641 applicant's eligibility status and the amount of any tax credit  
2642 due. The department shall provide each eligible tax credit  
2643 applicant with a tax credit certificate that must be submitted  
2644 with its tax return to the Department of Revenue to claim the  
2645 tax credit or be transferred pursuant to s. 220.1845(1) (f) ~~(g)~~.  
2646 The May 1 deadline for annual site rehabilitation tax credit  
2647 certificate awards shall not apply to any tax credit application  
2648 for which the department has issued a notice of deficiency  
2649 pursuant to subsection (8). The department shall respond within  
2650 90 days after receiving a response from the tax credit applicant  
2651 to such a notice of deficiency. Credits may not result in the  
2652 payment of refunds if total credits exceed the amount of tax  
2653 owed.

2654 (10) For solid waste removal, new health care facility or  
2655 health care provider, and affordable housing tax credit  
2656 applications, the Department of Environmental Protection shall  
2657 inform the applicant of the department's determination within 90  
2658 days after the application is deemed complete. Each eligible tax  
2659 credit applicant shall be informed of the amount of its tax  
2660 credit and provided with a tax credit certificate that must be  
2661 submitted with its tax return to the Department of Revenue to  
2662 claim the tax credit or be transferred pursuant to s.  
2663 220.1845(1) (f) ~~(g)~~. Credits may not result in the payment of  
2664 refunds if total credits exceed the amount of tax owed.

2665 Section 41. Effective January 1, 2011, paragraph (a) of  
2666 subsection (3), subsection (4), and paragraph (a) of subsection  
2667 (14) of section 376.30781, Florida Statutes, are amended, and  
2668 subsections (9) and (10) of that section, as amended by this

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2669 act, are amended, to read:

2670 376.30781 Tax credits for rehabilitation of drycleaning-  
2671 solvent-contaminated sites and brownfield sites in designated  
2672 brownfield areas; application process; rulemaking authority;  
2673 revocation authority.-

2674 (3) (a) A credit in the amount of 50 percent of the costs of  
2675 voluntary cleanup activity that is integral to site  
2676 rehabilitation at the following sites is allowed pursuant to ss.  
2677 199.10555 and ~~s.~~ 220.1845:

2678 1. A drycleaning-solvent-contaminated site eligible for  
2679 state-funded site rehabilitation under s. 376.3078(3);

2680 2. A drycleaning-solvent-contaminated site at which site  
2681 rehabilitation is undertaken by the real property owner pursuant  
2682 to s. 376.3078(11), if the real property owner is not also, and  
2683 has never been, the owner or operator of the drycleaning  
2684 facility where the contamination exists; or

2685 3. A brownfield site in a designated brownfield area under  
2686 s. 376.80.

2687 (4) The Department of Environmental Protection is  
2688 responsible for allocating the tax credits provided for in ss.  
2689 199.10555 and ~~s.~~ 220.1845, which may not exceed a total of \$2  
2690 million in tax credits annually.

2691 (9) On or before May 1, the Department of Environmental  
2692 Protection shall inform each tax credit applicant that is  
2693 subject to the January 31 annual application deadline of the  
2694 applicant's eligibility status and the amount of any tax credit  
2695 due. The department shall provide each eligible tax credit  
2696 applicant with a tax credit certificate that must be submitted  
2697 with its tax return to the Department of Revenue to claim the

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2698 tax credit or be transferred pursuant to s. 199.10555(1)(g) or  
2699 s. 220.1845(1)(g)~~(f)~~. The May 1 deadline for annual site  
2700 rehabilitation tax credit certificate awards shall not apply to  
2701 any tax credit application for which the department has issued a  
2702 notice of deficiency pursuant to subsection (8). The department  
2703 shall respond within 90 days after receiving a response from the  
2704 tax credit applicant to such a notice of deficiency. Credits may  
2705 not result in the payment of refunds if total credits exceed the  
2706 amount of tax owed.

2707 (10) For solid waste removal, new health care facility or  
2708 health care provider, and affordable housing tax credit  
2709 applications, the Department of Environmental Protection shall  
2710 inform the applicant of the department's determination within 90  
2711 days after the application is deemed complete. Each eligible tax  
2712 credit applicant shall be informed of the amount of its tax  
2713 credit and provided with a tax credit certificate that must be  
2714 submitted with its tax return to the Department of Revenue to  
2715 claim the tax credit or be transferred pursuant to s.  
2716 199.10555(1)(g) or s. 220.1845(1)(g)~~(f)~~. Credits may not result  
2717 in the payment of refunds if total credits exceed the amount of  
2718 tax owed.

2719 (14) (a) A tax credit applicant who receives state-funded  
2720 site rehabilitation under s. 376.3078(3) for rehabilitation of a  
2721 drycleaning-solvent-contaminated site is ineligible to receive a  
2722 tax credit under s. 199.10555 or s. 220.1845 for costs incurred  
2723 by the tax credit applicant in conjunction with the  
2724 rehabilitation of that site during the same time period that  
2725 state-administered site rehabilitation was underway.

2726 Section 42. Transitional rules.-

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2727       (1) For the first tax year beginning on or after January 1,  
2728 2011, a taxpayer that filed a Florida corporate income tax  
2729 return in the preceding tax year and is a member of a water's  
2730 edge group shall compute its income together with all members of  
2731 its water's edge group and file a combined Florida corporate  
2732 income tax return with all members of its water's edge group.

2733       (2) An affiliated group of corporations that filed a  
2734 Florida consolidated corporate income tax return pursuant to an  
2735 election provided in s. 220.131, Florida Statutes, shall cease  
2736 filing a Florida consolidated return for tax years beginning on  
2737 or after January 1, 2011, and shall file a combined Florida  
2738 corporate income tax return with all members of its water's edge  
2739 group.

2740       (3) An affiliated group of corporations that filed a  
2741 Florida consolidated corporate income tax return pursuant to the  
2742 election in s. 220.131(1), Florida Statutes (1985), which  
2743 allowed the affiliated group to make an election within 90 days  
2744 after December 20, 1984, or upon filing the taxpayer's first  
2745 return after December 20, 1984, whichever is later, shall cease  
2746 filing a Florida consolidated corporate income tax return using  
2747 that method for tax years beginning on or after January 1, 2011,  
2748 and shall file a combined Florida corporate income tax return  
2749 with all members of its water's edge group.

2750       (4) Taxpayers that are not members of a water's edge group  
2751 remain subject to chapter 220, Florida Statutes, and shall file  
2752 a separate Florida corporate income tax return as previously  
2753 required.

2754       (5) For the tax years beginning on or after January 1,  
2755 2011, a tax return for a member of a water's edge group must be

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2756 a combined Florida corporate income tax return that includes tax  
2757 information for all members of the water's edge group. The tax  
2758 return must be filed by a member that has a nexus with this  
2759 state.

2760 Section 43. Of the funds recaptured pursuant to this act,  
2761 the sum of \$50 million is appropriated from the General Revenue  
2762 Fund to the State University System for workforce education, to  
2763 be allocated by the Board of Governors; the sum of \$50 million  
2764 is appropriated from the General Revenue Fund to community  
2765 colleges for workforce education, to be allocated by the State  
2766 Board of Education; and the remainder of such funds, as  
2767 determined by the Revenue Estimating Conference, shall be  
2768 appropriated from the General Revenue Fund and allocated as  
2769 provided in the General Appropriations Act to the various school  
2770 districts to reduce the required local effort millage.

2771 Section 44. Section 220.131, Florida Statutes, is repealed.

2772 Section 45. (1) The funds provided from the implementation  
2773 of this act shall be deposited annually into the Educational  
2774 Enhancement Trust Fund and appropriated from the fund as  
2775 follows:

2776 (a) Twenty-five percent to the Board of Governors of the  
2777 State University System for allocation to state universities.

2778 (b) Twenty-five percent to the Department of Education for  
2779 allocation to community colleges.

2780 (c) Twenty-five percent to the Department of Education for  
2781 allocation to school districts for K-12 education.

2782 (d) Twenty-five percent to the Agency for Workforce  
2783 Innovation for allocation to early learning coalitions under the  
2784 Voluntary Prekindergarten Education Program.



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2785       (2) It is the intent of the Legislature that the revenue  
2786 generated from collections derived from the Millionaire's Tax  
2787 Act shall be used specifically for enhancements to higher  
2788 education, K-12 education, and prekindergarten education in this  
2789 state and shall not supplant any general revenue appropriations  
2790 for such higher education, K-12 education, and prekindergarten  
2791 education.

2792       (3) Each entity allocated funds pursuant to this section  
2793 shall determine how best to expend the additional enhancement  
2794 funds appropriated to such entity pursuant to this section.

2795       Section 46. Except as otherwise expressly provided in this  
2796 act, this act shall take effect July 1, 2010.