

## CHAPTER 221

## TAX ON PARTICULAR CORPORATE INCOME TAXPAYERS

- 221.01 Emergency excise tax; generally.
- 221.02 Credit for emergency excise tax paid.
- 221.04 Administration of tax.
- 221.05 Nonseverability of certain provisions.

**221.01 Emergency excise tax; generally.—**

(1) The department shall charge and collect an emergency excise tax for each taxable year from every taxpayer liable for the tax imposed by, and required to file a return under, chapter 220, except for those taxpayers subject to s. 220.03(5)(c). The provisions of this chapter shall apply retroactively to all such taxpayers, effective to the effective date of s. 168 of the Internal Revenue Code of 1954, as amended.

(2)(a) The amount of the tax shall be 2.2 percent of an amount equal to 2.5 times the remainder of 40 percent of the deduction allowed, in computing adjusted federal income as defined in s. 220.13, under s. 168 of the Internal Revenue Code of 1986, for assets placed in service after December 31, 1980, and before January 1, 1987, exclusive of any deduction allowed under s. 168(b)(3) and 60 percent of any amount subject to tax under s. 55(b)(2) of the Internal Revenue Code of 1986 apportioned to this state under s. 220.15 or allocated to this state under s. 220.16, minus any unused portion of the exemption provided for in s. 220.14 for the taxable year for which the return is required to be filed by chapter 220. For purposes of this paragraph "any amount subject to tax" includes only positive amounts that are taken into account in determining federal alternative minimum taxable income within the meaning of s. 55(b)(2) of the Internal Revenue Code of 1986 for those taxpayers paying Florida tax under s. 220.11(3).

(b) If the taxpayer's net income, as defined in s. 220.12, for the taxable year for which the return required by chapter 220 is filed is a net operating loss under chapter 220, excluding any net operating loss carryovers and carrybacks, the amount of the tax shall be 2.2 percent of an amount equal to 2.5 times the remainder of:

1. Forty percent of the deduction allowed, in computing adjusted federal income as defined in s. 220.13, under s. 168 of the Internal Revenue Code of 1986, for assets placed in service after December 31, 1980, and before January 1, 1987, exclusive of any deduction allowed under s. 168(b)(3) of the Internal Revenue Code of 1986 apportioned to this state under s. 220.15 or allocated to this state under s. 220.16, minus any unused portion of the exemption provided for in s. 220.14 for the taxable year for which the return is required to be filed by chapter 220; minus

2. The net operating loss, as apportioned to this state under s. 220.15, excluding any net operating loss carryovers and carrybacks.

(c) If the taxpayer directly or indirectly owns an interest in a partnership, trust, or other entity which is not treated as an association taxable as a corporation under the Internal Revenue Code which owns property for which a deduction is allowed under s. 168 of the Internal

Revenue Code of 1986, the taxpayer shall, for the purpose of computing the tax due under this section, include the taxpayer's distributive share of any deduction allowed under s. 168 of the Internal Revenue Code of 1986, for assets placed in service after December 31, 1980, and before January 1, 1987, exclusive of any deduction allowed under s. 168(b)(3) of the Internal Revenue Code, which is attributable to such direct or indirect interest and which is apportioned to this state under s. 220.15 for the taxable year for which the return is required to be filed by chapter 220.

**History.**—ss. 3, 8, ch. 82-232, ss. 4, 9, ch. 82-385; ss. 6, 8, ch. 82-399; s. 90, ch. 83-217; s. 16, ch. 83-297; ss. 15, 23, ch. 84-549; s. 55, ch. 85-342; s. 14, ch. 86-121; s. 19, ch. 87-99.

**221.02 Credit for emergency excise tax paid.—**The emergency excise tax paid pursuant to s. 221.01 plus any credit or carryover properly applied to reduce the amount of the emergency excise tax due for the taxable year shall be allowed as a credit against the emergency excise tax, if any, to be charged and collected pursuant to this chapter for the return filed for the fifth taxable year following the taxable year for which the tax was paid or, if earlier, the taxable year for which a final return is required. To the extent that the credit exceeds the emergency excise tax, if any, for the return filed for the fifth taxable year following the taxable year for which the tax was paid or, if earlier, the taxable year for which a final return is required, such excess shall be allowed as a reduction of, and credit against, any tax imposed by chapter 220 upon the taxpayer for the fifth taxable year following the taxable year for which the tax was paid or, if earlier, the taxable year for which a final return is required. If the taxpayer is unable to fully utilize the credit in the year in which it is first allowed, it may be carried over to each of the 5 taxable years immediately thereafter.

**History.**—ss. 3, 8, ch. 82-232; s. 9, ch. 82-385; s. 8, ch. 82-399; s. 17, ch. 83-297; s. 16, ch. 84-549; s. 56, ch. 85-342; s. 15, ch. 86-121; s. 20, ch. 87-99.

**221.04 Administration of tax.—**

(1) To the extent that they are not manifestly incompatible with the provisions of this chapter, the same powers, duties, and privileges imposed by chapters 213 and 220 respecting the remission of tax, including the making of estimated tax payments; the making of returns; the imposition of penalties and interest; the keeping of books, records, and accounts; rulemaking; and compliance with the rules of the Department of Revenue in the administration of chapters 213 and 220 shall apply to the assessment, collection, and payment of the emergency excise tax and the credit provided for in this chapter.

(2) For tax years ending on or after September 1, 1986, the provisions of ss. 220.32, 220.33, and 220.34 shall apply to the combined payments and tax liabilities under this chapter and chapter 220, if the taxpayer files his or her estimated, tentative, and final tax returns for the taxes imposed pursuant to said chapters on combined corporate tax/emergency excise tax return and declaration forms prescribed by the department.

**History.**—ss. 3, 8, ch. 82-232; ss. 5, 9, ch. 82-385; s. 8, ch. 82-399; s. 91, ch. 83-217; s. 17, ch. 84-549; s. 57, ch. 85-342; s. 16, ch. 86-121; s. 21, ch. 87-99; s. 100, ch. 91-112; s. 1194, ch. 95-147.

**221.05 Nonseverability of certain provisions.**—If any provision of s. 1 or s. 3, chapter 82-232, Laws of

Florida, is held to be invalid or inoperative for any reason, all provisions contained in ss. 1 and 3, chapter 82-232, and any subsequent amendments to the provisions contained in such sections, shall be deemed to be void.

**History.**—s. 7, ch. 82-232; s. 8, ch. 82-385; s. 7, ch. 82-399.