12C-1.013 Adjusted Federal Income Defined.

(1)(a) "Taxable income," as defined by Section 220.13(2), F.S., is the starting point in determining Florida corporate income tax due.

(b) In general, "taxable income" is the amount of a corporation's income that is subject to federal tax. However, the federal deductions provided for net operating losses, capital losses, excess charitable contributions, excess pension trust contributions, excess stock bonus and profit-sharing trust contributions are limited by Section 220.13(1)(b), F.S.

(c) Elections under s. 338(h)(10), I.R.C. For federal tax purposes, an election under s. 338(h)(10), I.R.C., can only be made if a consolidated return is being filed that includes both the target corporation and the selling consolidated group. The federal tax treatment of s. 338(h)(10), I.R.C., which is incorporated by reference in Rule 12C-1.0511, F.A.C., will be piggybacked to the greatest extent possible even though the taxpayer is not filing a consolidated Florida return. The target corporation should report the gain attributable to the deemed asset sale on its separate Florida return, if appropriate. The basis in the assets will then be stepped-up for Florida tax purposes to the same extent as for federal income tax purposes.

(d) "Taxable income" for an S corporation is defined as the amount subject to tax under s. 1374, I.R.C., which is incorporated by reference in Rule 12C-1.0511, F.A.C., (built-in gains or capital gains) or s. 1375, I.R.C., which is incorporated by reference in Rule 12C-1.0511, F.A.C. (passive investment income).

(e) For tax years ending on or after July 1, 1998, limited liability companies and foreign limited liability companies qualified to do business in Florida will be allowed to file in the same manner for Florida corporate income tax purposes as for federal tax purposes.

(2) A taxpayer's "adjusted federal income" means an amount equal to the taxpayer's taxable income, as defined in Section 220.13(2), F.S., adjusted for the Florida additions required by Section 220.13(1)(a), F.S., and the subtractions provided by Section 220.13(1)(b), F.S.

(3)(a) Adjustments to the federal taxable income reported on Form 1120 by a taxpayer may be necessary. That is, the federal taxable income reported on Form 1120 may not be the federal taxable income to which the additions and subtractions required by Section 220.13, F.S., are made. These adjustments include adjustments related to depreciation required under Sections 220.03(5)(b) and (c), F.S., and consolidated income adjustments for taxpayers grandfathered under the provisions of the flush left paragraph in Section 220.131(1), F.S. (1985).

(b) Depreciation adjustment.

1. If Election A was made pursuant to Section 220.03(5)(b), F.S., and depreciable assets were placed in service between January 1, 1981 and December 31, 1981, a depreciation adjustment must be computed for these assets. The adjustment is for the difference, if any, between the depreciation deducted for federal purposes for these assets and the depreciation allowable for these assets under the Internal Revenue Code of 1954, as amended and in effect on January 1, 1980.

2. If Election B was made pursuant to Section 220.03(5)(c), F.S., and depreciable assets were placed in service between January 1, 1981 and December 31, 1986, a depreciation adjustment must be computed for these assets. The adjustment is for the difference, if any, between the depreciation deducted for federal purposes for these assets and the depreciation allowable for these assets under the Internal Revenue Code of 1954, as amended and in effect on January 1, 1980.

(c) Consolidated return adjustment.

1. No consolidated income adjustment is allowed unless an election was properly made under Section 220.131(1), F.S., to file a consolidated return on the same basis as consolidated returns were filed prior to July 19, 1983. Such election must have been made within 90 days of December 20, 1984, or upon filing the taxpayer's first return after December 20, 1984.

2. If this election was properly made, an adjustment will be required where the membership of the Florida affiliated group included in the Florida consolidated return differs from the membership in the federal affiliated group included in the federal consolidated return. The federal taxable income for the Florida affiliated group must be computed. The computation of the consolidated income of the Florida affiliated group must be made under the procedures, including all intercompany adjustments and eliminations, as are required by s. 1502, I.R.C. An adjustment is required for the difference, if any, between the income of the Florida and federal affiliated groups.

(4)(a) In computing regular tax due under Section 220.11(2), F.S., an addition to taxable income is required by Section 220.13(1)(a)2., F.S., for all interest which is excluded from federal taxable income, less the associated expenses that were disallowed. This addition includes interest income excluded under s. 103(a), I.R.C., principally interest from state and local debt obligations, and interest income derived from other obligations which are exempt from federal income tax by federal law, by state

law, or by the terms of their issue.

(b) In calculating alternative minimum tax due pursuant to Section 220.11(3), F.S., an adjustment to the addition of exempt interest is provided. Cross reference: subparagraph 12C-1.013(19)(b)5., F.A.C.

(c) Earnings received on premiums paid by a savings and loan association into a secondary reserve maintained by the Federal Savings and Loan Insurance Corporation, an instrumentality of the United States, are not excluded from federal taxable income but are merely deferred. Such earnings are taken into account in accordance with the taxpayer's method of accounting for federal income tax purposes.

(d)1. Where municipal bonds are acquired at market discount, and the discount is not considered to be tax-exempt interest for federal tax purposes, then for Florida tax purposes there will be no requirement for the discounted amount to be added back to federal taxable income. Premiums paid are considered to be an expense associated with exempt interest for purposes of Section 220.13(1)(a)2., F.S.

2. Subsection 1288(a), I.R.C., and Rev. Chapter 73-112 which is incorporated by reference in Rule 12C-1.0511, F.A.C., describes the position of the Internal Revenue Service. This treatment provides, to the extent the discount on state or municipal obligations is original issue discount, it is treated as tax-exempt interest. Therefore, corporations will be required for Florida tax purposes to add back the original issue discount as exempt interest in the same manner as provided by s. 1272, I.R.C., which is incorporated by reference in Rule 12C-1.0511, F.A.C.

(e) Dividends received from Federal Home Loan Bank stock issued prior to March 28, 1942, are not properly classifiable as interest and should not be added back to taxable income under the provision of section 220.13(1)(a)2., F.S.

(5)(a) An addition is required by Section 220.13(1)(a)1., F.S., to federal taxable income equal to the amount of any tax upon or measured by income, paid or accrued as a liability to any state of the United States or to the District of Columbia, which is deductible from gross income in the computation of taxable income for the taxable year. There is no addition required for tax paid to a political subdivision of a state (for example, a city or county) or to the Commonwealth of Puerto Rico, or any territory or possession of the United States, or any foreign country.

(b) The intent of the Legislature when this provision was enacted was to prevent an erosion of the Florida tax base by the amount of the federal tax benefit obtained by paying state income taxes. Therefore, the taxpayer will only be required to add back the amount actually deducted, not an amount that could have been deducted. For example, a taxpayer pays corporate income taxes in 20 states. In computing the deduction allowable for federal purposes, the taxpayer forgets the income tax paid to Georgia. In computing the Florida corporate income tax, the taxpayer only adds back the tax deducted for the 19 states. There is no addback for the Georgia income tax that was not deducted for federal purposes, but was deductible under the Internal Revenue Code. If this error is later discovered, the Department will not require an addback of the amount of the Georgia tax.

(c) For purposes of this subsection, value added taxes will not be construed to be a tax upon or measured by income.

(6) Section 220.13(1)(a)4., F.S., requires a business to add back an amount equal to that portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount allowable as an enterprise zone jobs credit. The addback is for the amount of the credit that is allowable, regardless of whether that amount of credit is actually used in the taxable year or carried forward under the provisions of Section 220.181(1)(d), F.S. Example: In 1992, a taxpayer pays salaries of $1,000 to "new employees", as defined by Section 220.03(1)(q), F.S. Under the provisions of Section 220.181, F.S., the taxpayer would be allowed a credit of $150 (15% · $1,000). However, the taxpayer has a net operating loss for the taxable year. If the taxpayer intends to claim the $150 as a credit carryover in a future year, the taxpayer is required for the 1992 taxable year to addback $150 to federal taxable income (loss).

(7) Section 220.13(1)(a)5., F.S., requires a business to add back an amount equal to any ad valorem taxes paid which are allowable as an enterprise zone property tax credit. The addback is for the total ad valorem taxes paid or accrued in the taxable year that are eligible for the credit, regardless of whether that amount of credit is actually used in the taxable year or carried forward under the provisions of Section 220.182(1)(b), F.S.

(8)(a) Section 220.13(1)(a)6., F.S., provides for an addition of the amount of emergency excise tax paid or accrued which is deductible for federal income tax purposes.

(b) The Department will only require the taxpayer to add back the amount of emergency excise tax paid or accrued that was actually deducted, not the amount that could have been deducted.

(9) An addback is required by Section 220.13(1)(a)7., F.S., of the amount of assessments paid to guaranty associations which is allowable for the taxable year as a credit. This includes the amounts paid to the Florida Health Maintenance Organization Consumer Assistance Plan.

(10)(a) There will be subtracted from taxable income, to the extent included therein, the amounts provided in paragraphs (b), (c), (d) and (e) of this subsection. However, as to any amount subtracted under this paragraph, such amount will be reduced by all expenses deducted on the taxpayer's return for the taxable year which are attributable, directly or indirectly, to such subtracted amount. Further, no amount will be subtracted from federal taxable income with respect to dividends paid or deemed paid by a Domestic International Sales Corporation.

(b) A subtraction for subpart F income, included for federal tax purposes under s. 951, I.R.C., is not allowed for taxable years beginning before January 1, 1993. For taxable years beginning on or after January 1, 1993, a subtraction from adjusted federal income is provided for subpart F income reported under s. 951, I.R.C., net of associated expenses. To support the amount of subpart F income claimed, all federal forms, schedules and worksheets associated with I.R.S. Form 5471 must be attached to the Form F-1120.

(c) Dividends treated as received from sources without the United States, as determined under s. 862, I.R.C.

(d) All amounts included in taxable income under s. 78, I.R.C.

(e) All amounts included in taxable income under s. 951A, I.R.C.

(11) Any amount of nonbusiness income included in taxable income must be subtracted therefrom. Cross reference: Rule 12C-1.016, F.A.C.

(12) A Florida subtraction from taxable income is provided by Section 220.13(1)(b)3., F.S., equal to the Florida salary and wages included in determining the federal targeted jobs credit, which were disallowed as an expense on the federal return pursuant to s. 280C(a), I.R.C. There is no subtraction provided for an amount equal to the salary and wages paid to employees in other states which were disallowed as an expense pursuant to s. 280C(a), I.R.C.

(13) A subtraction from taxable income is provided by Section 220.13(1)(b)1., F.S., for the net operating loss deduction allowable for federal income tax purposes under s. 172, I.R.C., the net capital loss allowable for federal purposes under s. 1212, I.R.C., the excess charitable contribution deduction allowable for federal income tax purposes under s. 170(d)(2), I.R.C., and the excess contributions deductions allowable for federal tax purposes under s. 404, I.R.C. Form F-1120, the corporate income tax return, provides for an addback of these amounts subtracted for federal purposes and then a subtraction for these amounts for Florida purposes. The two-step process is for computational ease because the amounts allowed for federal and Florida purposes may be different. Differences may occur because of the apportionment ratio in the year of the loss or the use of the loss when either federal or Florida income was greater than the other.

(14) Adjustments for excess s. 179, I.R.C., expense, special 50 percent bonus depreciation (s. 168(k), I.R.C.), and deferred cancellation of indebtedness income.

(a) Additions Required:

1. For tax years that begin after December 31, 2007, and before January 1, 2015, taxpayers are required to add back the amount of the federal deduction claimed under s. 179, I.R.C., that exceeds $128,000, except for tax years beginning in 2010, in which case taxpayers are required to add back the amount of the federal deduction claimed under s. 179, I.R.C., that exceeds $250,000. All amounts in excess of $128,000 ($250,000 for tax years beginning in 2010) are required to be added back, including amounts carried over from previous tax years under s. 179(b)(3)(B), I.R.C. The increased overall investment limitation contained in s. 179(b)(2), I.R.C., is the same for Florida as it is for federal income tax purposes.

2. Taxpayers are required to add back the amount of the federal deduction claimed as bonus depreciation under s. 168(k), I.R.C., for assets placed in service after December 31, 2007, and before January 1, 2027.

3. For indebtedness acquired after December 31, 2008, and before January 1, 2010, taxpayers are required to add back the gross amount of cancellation of indebtedness income that is deferred under s. 108(i), I.R.C. (relating to business indebtedness discharged by the reacquisition of a debt instrument). The deferral of the deduction for original issue discount in debt for debt exchanges required by s. 108(i)(2), I.R.C., is also required for Florida corporate income tax purposes.

(b) Subtractions allowed for special 50 percent bonus depreciation and s. 179, I.R.C., expense previously added back:

1. In each of the seven tax years commencing with the year the addition is made under Section 220.13(1)(e), F.S., taxpayers may subtract one-seventh of the amount of excess s. 179, I.R.C., expense and one-seventh of the special 50 percent bonus depreciation that is added back under Section 220.13(1)(e), F.S.

2. The total amount that may be subtracted over the seven-year period should equal, but may not exceed, the amounts of s. 179, I.R.C., expense and special 50 percent bonus depreciation that have been added back to Florida taxable income under Section 220.13(1)(e), F.S.

3. Subtractions may be transferred to the surviving company in a merger or acquisition. Otherwise, if a taxpayer ceases to do business during the seven-year period, it may not accelerate, transfer, or otherwise utilize a subtraction.

(c) Subtractions for cancellation of indebtedness deferred under s. 108(i), I.R.C.:

1. Taxpayers may subtract the income required to be added back under Section 220.13(1)(e)3., F.S., when the deferred cancellation of indebtedness income is recognized for federal income tax purposes. The subtraction may not exceed the amount of income from deferred cancellation of indebtedness that is added back under Section 220.13(1)(e)3., F.S.

2. Cancellation of indebtedness income is included in the tax base, but it is excluded from the apportionment formula by all taxpayers under Section 220.15(5)(a), F.S.

(d) A schedule reflecting all of the adjustments made under Section 220.13(1)(e), F.S., must be created and maintained. Taxpayers must also report any additions on Schedule I, Additions and/or Adjustments to Federal Taxable Income, of the Florida Corporate Income/Franchise Tax Return (Form F-1120, incorporated by reference in rule 12C-1.051, F.A.C.), and any subtractions on Schedule II (Subtractions from Federal Taxable Income), of the return for the current tax year. Partnerships filing a Florida Partnership Information Return (Form F-1065, incorporated by reference in Rule 12C-1.051, F.A.C.), are required to make the adjustments required by Sections 220.13(1)(e)1. and 3., F.S., on Part I (Florida Adjustment to Partnership Income), of the return. The additions and subtractions under Sections 220.13(1)(e)1. and 3., F.S., must be reported in Part I of Form F-1065. Partnerships must report the amount of expenses claimed under s. 179, I.R.C., to their partners, so that their partners can compute the amount under subparagraph (14)(a)1., F.A.C.

(e) Basis of Property. The adjustments required by Sections 220.13(1)(e)1. and 2., F.S. (relating to excess s. 179, I.R.C., expense and special 50 percent bonus depreciation), do not affect the basis of the underlying property. The basis of the property for Florida corporate income tax purposes is the same as the basis of the property for federal income tax purposes. If the property is sold or otherwise disposed of, the gain or loss for Florida corporate income tax purposes is the same as the gain or loss for federal income tax purposes and is included in federal taxable income apportioned to Florida. Differences in the apportionment fraction from one year to the next are disregarded. The applicable depreciation conventions, methods, and recovery periods are computed in the same manner as they are computed in determining federal taxable income.

(f) Example: On its calendar-year 2014 federal income tax return, Taxpayer claimed $250,000 in s. 179, I.R.C., expense, of which $25,000 was a carryover from 2011 allowed under s. 179(b)(3)(B), I.R.C. Taxpayer also claimed $300,000 in special 50 percent bonus depreciation under I.R.C. s. 168(k) and $50,000 of depreciation under I.R.C. s. 168(b) for assets placed in service during the 2014 calendar year. Taxpayer is required to add back $122,000 ($250,000 minus $128,000) of s. 179, I.R.C., expense and $300,000 of the special 50 percent bonus depreciation in computing its Florida taxable income. Taxpayer is not required to add back the amount of regular depreciation (non-special 50 percent bonus depreciation) it claimed under s. 168(b), I.R.C., on its 2014 federal income tax return. On its 2014 Florida corporate income tax return, the taxpayer may also claim subtractions for one-seventh of the amount of special 50 percent bonus depreciation required to be added back ($300,000 divided by seven equals $42,857.14) and one-seventh of the amount of s. 179, I.R.C., expense required to be added back ($122,000 divided by seven equals $17,428.57). In each of the subsequent six tax years, the Taxpayer may subtract $42,857.14 and $17,428.57. At the end of these years, the subtractions should equal the amount(s) required to be added back. If Taxpayer disposes of the property, the gain or loss is the same for Florida as it is for federal income tax purposes. Any differences resulting from additions to Florida income are recovered solely through the subtraction process, even though the underlying property may be disposed of or fully depreciated.

(g) Example: In 2009, Taxpayer purchased its own indebtedness, a $10,000 bond it had previously sold for face value. Taxpayer was able to reacquire its bond for $7,000 and elected to defer recognition of the $3,000 of cancellation of indebtedness income under s. 108(i), I.R.C. Under Section 220.13(1)(e), F.S., Taxpayer would add back the deferred cancellation of indebtedness income ($3,000) to Florida income. In 2014 through 2018 (five years from 2009), the Taxpayer is required under s. 108(i), I.R.C., to recognize the $3,000 of cancellation of indebtedness income it deferred in 2009. Therefore, Taxpayer would be allowed under Section 220.13(1)(e), F.S., to subtract the cancellation of indebtedness income as it is recognized for federal tax purposes (provided that this income was added back in computing Florida net income in 2009). When Taxpayer recognizes the $600 of cancellation of indebtedness income in 2014 for federal tax purposes, a Florida subtraction is allowed in 2014 for the same amount, $600. The addition and subtractions to income associated with the cancellation of indebtedness income are excluded from the sales factor of the apportionment formula.

(h) Example: In 2009, Taxpayer issued new indebtedness in order to acquire its previously issued indebtedness. Taxpayer issued a 10-year, $10,000 bond, for $9,000, which was used to purchase a $15,000 bond it had previously sold for face value. The Taxpayer

makes an election under s. 108(i), I.R.C., to defer recognition of cancellation of indebtedness income. Taxpayer is prevented by s. 108(i)(2)(A), I.R.C., from amortizing the $1,000 original issue discount on the new $10,000 bond. Under Section 220.13(1)(e), F.S., Taxpayer would add back the deferred cancellation of indebtedness income of $5,000 to Florida income and would also be prohibited from amortizing the $1,000 original issue discount. When Taxpayer recognizes the $5,000 ($1,000 per year) in cancellation of indebtedness income for federal tax purposes, a Florida subtraction is allowed for the same amount (provided that this income was added back in computing Florida net income). The deduction for the $1,000 original issue discount will be recognized for Florida corporate income tax purposes when it is allowed as a deduction for federal tax purposes.

(i) The subtractions allowed by Section 220.13(1)(e), F.S., are the means by which the additions required by section 220.13(1)(e), F.S., are reconciled and recovered. If a taxpayer does not claim a deduction for special 50 percent bonus depreciation, does not claim a deduction for s. 179, I.R.C., expense in excess of $128,000 ($250,000 for tax years beginning in 2010), or does not elect to defer cancellation of indebtedness income pursuant to s. 108(i), I.R.C., on the related federal income tax return(s), no add back is required or subtraction allowed for Florida corporate income tax purposes. Similarly, if a taxpayer did not add back special 50 percent bonus depreciation, or did not add back excess s. 179, I.R.C., expense, or deferred cancellation of indebtedness income because, for example, it was not subject to the Florida corporate income tax in that year, no subtraction is allowed for Florida corporate income tax purposes.

(j) Bonus depreciation claimed for assets placed in service prior to January 1, 2008, is not required to be added back under Section 220.13(1)(e), F.S., Section 179, I.R.C., expense claimed in tax years beginning before January 1, 2008, is not required to be added back. No subtraction is allowed for special 50 percent bonus depreciation, s. 179, I.R.C., expense, or deferred cancellation of indebtedness income unless it has been added back in computing Florida taxable income under Section 220.13(1)(e), F.S.

(15) Net Operating Losses.

(a) Generally, Florida law follows the Internal Revenue Code with respect to the computation and handling of a net operating loss (NOL). However, under Section 220.13(1)(b)1., F.S., a net operating loss may not be allowed as a carryback to years prior to the year of the loss. It may be allowed only as a carryover (NOLCO) and is treated in the same manner and for the same period of time as allowed in s. 172, I.R.C.

(b) In all cases, the NOLCO allowable for a taxable year will be applied after the apportionment factor for the current year has been applied against current year activities.

(c) The Florida portion of a federal loss is determined by the Florida apportionment factor in effect for the year the loss occurred.

(d) A Florida addition or subtraction under Section 220.13(1), F.S., never creates an NOL or increases the amount of a federal NOL. However, adjustments to federal taxable income such as the adjustment for long-term contracts and the adjustment for Election B required under the provisions of Section 220.03(5)(c), F.S., impact the net operating loss and therefore, the carryover for Florida purposes. While a Florida addition or subtraction may never increase the amount of the net operating loss carryover over the federal amount, an adjustment may increase or decrease the net operating loss carryover for Florida purposes.

(e) Section 220.13(1)(d), F.S., provides that no deduction for a NOL will be allowed in a tax year if in a prior tax year the losses have been allowed for Florida tax purposes, notwithstanding the fact that such deduction may not have been fully utilized for federal tax purposes. Therefore, a Florida addition may decrease the amount of NOL carryover the taxpayer has available for Florida purposes.

(f) Only the excess of Florida additions over Florida subtractions will dilute the amount of net operating loss carryover available to the following tax year. Example: A corporation's taxable income for 1991 was $(200,000). The taxpayer was required pursuant to Section 220.13(1)(a)2., F.S., to addback $100,000 exempt interest. A subtraction of $50,000 was provided by Section 220.13(1)(b)2.b., F.S., for the gross-up of income required by s. 78, I.R.C. The net operating loss carryover will be diluted for Florida tax purposes only by the excess of Florida additions over Florida subtractions. The net operating loss carryover to 1992 will be calculated as $(200,000) – ($100,000 – $50,000). Therefore, the net operating loss carryover available for Florida tax purposes will be $150,000.

(g)1. When a corporation which was a member of an affiliated group that filed a consolidated return ceases to be a member of the affiliated group or is granted permission to file a separate return according to the provisions of Section 220.131, F.S., and Rule 12C-1.0131, F.A.C., the portion of any consolidated net operating loss attributable to that member will be determined as follows: The consolidated net operating loss is multiplied by a fraction, the numerator of which is the separate net operating loss of such corporation, and the denominator of which is the sum of the separate net operating losses of all members of the group in such year

having such losses. The net operating loss carryover that is allocated to that corporation is based on the consolidated apportionment factor in effect for the year of the loss.

2. Example 1. ABC affiliated group filed a consolidated Florida return in 1992. The consolidated apportionment factor was .300000. The incomes (losses) of the members were as follows:

	A	B	C	Consolidated
Federal Taxable Income (Loss)	$(5,000)	$500	$(1,500)	$(6,000)
Florida Additions	-0-	-0-	-0-	-0-
Florida Subtractions	-0-	-0-	-0-	-0-
Total	$(5,000)	$500	$(1,500)	$(6,000)
Apportioned Loss				$(1,800)
A's portion:	$(5,000) / (6,500) · $(6,000) · .300000 = $ (1,385)			
B's portion:	$0 · $ (6,000) · .300000 = $ 0			
C's portion:	$(1,500) / (6,500) · $ (6,000) · .300000 = $ (415)			

3. Example 2: ABC affiliated group filed a consolidated Florida return in 1992. The consolidated apportionment factor was .300000. The incomes (losses) of the members were as follows:

	A	B	C	Consolidated
Federal Taxable Income (Loss)	$(5,000)	$500	$(1,500)	$(6,000)
Florida Additions	1,000	-0-	-0-	1,000
Florida Subtractions	-0-	-0-	-0-	-0-
Total	$(4,000)	$500	$(1,500)	$(5,000)
Apportioned Loss				$(1,500)
A's portion:	$(4,000) / (5,500) · $(5,000) · .300000 = $ (1,091)			
B's portion:	$0 · $ (5,000) · .300000 = $ 0			
C's portion:	$(1,500) / (5,500) · $(5,000) · .300000 = $(409)			

4. Example 3: ABC affiliated group filed a consolidated Florida return in 1992. The consolidated apportionment factor was .300000. The incomes (losses) of the members were as follows:

	A	B	C	Consolidated
Federal Taxable Income (Loss)	$ (5,000)	$ 500	$ (1,500)	$ (6,000)
Florida Additions	-0-	1000	1,000	2,000
Florida Subtractions	1,000	-0-	-0-	1,000
Total	$(6,000)	$1,500	$(500)	$(5,000)
Apportioned Loss				$(1,500)
A's portion:	$(6,000) / 6,500 · $ (5,000) · .300000 = $ (1,385)			
B's portion:	$ 0 · $ (5,000) · .300000 = $ 0			
C's portion:	$ (500) · $ (5,000) · .300000 = $ (115) / (6,500)			

It should be noted that the reason the subtraction is allowed to increase the NOL allocated to A is that subtractions are allowed to the extent of additions in calculating the net operating loss carryover. Therefore, all of the subtraction was allowed in computing the

consolidated NOL carryover.

5. Example 4: ABC affiliated group filed a consolidated Florida return in 1992. The consolidated apportionment factor was .300000. The income (losses) of the members were as follows:

	A	B	C	Consolidated
Federal Taxable Income (Loss)	$(5,000)	$500	$(1,500)	$(6,000)
Florida Additions	-0-	-0-	-0-	-0-
Florida Subtractions	-0-	-0-	(2,000)	-0-
Total	$(5,000)	$500	$(1,500)	$(6,000)
Apportioned Loss				$(1,800)
A's portion:	$(5,000) · $ (6,000) · .300000 = $ (1,385)			
	6,500			
B's portion:	$ 0 · $ (6,000) · .300000 = $ 0			
C's portion:	$ (1,500) · $ (6,000) · .300000 = $ (415)			
	(6,500)			

The subtractions for C are not included within the calculation of the allocation of the NOL because the subtractions may not increase the consolidated NOL.

(h) In the event of a corporate reorganization in which the tax attributes are carried over for federal tax purposes (for example, as provided in s. 381, I.R.C., which is incorporated by reference in Rule 12C-1.0511, F.A.C.), the net operating losses will be carried over for Florida purposes.

(i) Net operating losses carried over into unitary reporting years are limited by the separate return limitation year (SRLY) rules promulgated under the I.R.C. For taxable years beginning on or after September 1, 1982, and before September 1, 1984, the unitary reporting concepts must be used by members of a unitary business group. A net operating loss incurred during a unitary reporting year, determined before application of the NOLCO from any prior year, is attributed to each unitary group member based on its share of the unitary group's combined net operating loss for that year. A member's share of the unitary NOL is determined by multiplying the combined NOL by a factor which consists of that member's own Florida numerators over the group's combined denominators. In a tax year subsequent to the unitary years, the use of the attributable share of this NOLCO is limited by the member's adjusted federal income or share thereof, determined before subtraction of the NOLCO, apportioned to Florida for the subsequent tax year.

(j) Section 382, I.R.C., generally limits on an annual basis the use of a net operating loss carryforward of an acquired corporation to the equity value of the acquired corporation at the time of acquisition multiplied by a defined interest rate factor. Florida piggybacks the federal provisions in s. 382, I.R.C., which is incorporated by reference in Rule 12C-1.0511, F.A.C., concerning the limitation on the use of any NOL carryforward of an acquired corporation. In computing the Florida corporate income tax, a deduction for the NOL carryover will be allowed to the extent of the amount allowed for federal purposes, provided that the deduction does not exceed the total amount of the Florida NOL carryover available in such taxable year.

(k) Section 108, I.R.C., limits any net operating loss or net operating loss carryover in a year in which there has been a discharge of indebtedness. Florida piggybacks the federal provisions in s. 108, I.R.C., which is incorporated by reference in Rule 12C-1.0511, F.A.C., concerning the limitation of any net operating loss or net operating loss carryover in a year in which there has been a discharge of indebtedness. For Florida purposes, the net operating loss must be recalculated to reflect the reduction for any discharge of indebtedness. This amount is adjusted by the additions and subtractions required by Section 220.13, F.S. The apportionment factor for the year of the loss would then be applied.

(l) With respect to Florida's AMT, the Florida Income Tax Code does not create a separate NOL for AMT purposes. Therefore, any amount of a NOL carryover that is allowed to be subtracted in calculating Florida tax due, whether regular tax or AMT, will reduce the amount of NOL carryover available. Section 220.13(1)(d), F.S., provides that no deduction for NOLs will be allowed in a tax year if in a prior tax year the losses have been allowed for Florida tax purposes, notwithstanding the fact that such deduction may not have been fully utilized for federal tax purposes. Example: A taxpayer calculates the 1991 tax liability as follows:

	Regular tax	AMT
Tentative apportioned adjusted federal income	$1,500,000	$2,500,000

NOL carryforward available	(2,000,000)	(2,000,000)
Adjusted federal income apportioned to Florida	$(500,000)	$500,000

The taxpayer would not have any NOL carryover available for use in subsequent years since the $2,000,000 of NOL carryover was already allowed for Florida tax purposes against the 1991 alternative minimum taxable income.

(m)1. A taxpayer may be allowed a net operating loss carryforward for Florida tax purposes from a year the corporation has federal and Florida alternative minimum tax due. The Florida net operating loss carryforward for Florida tax purposes will be limited to the amount of net operating loss carryforward available without the application of alternative minimum tax calculation.

2. Example: For 1991, the taxpayer's regular federal taxable income was $(100,000). Due to federal alternative minimum tax adjustments and preference items the taxpayer paid federal alternative minimum tax. The taxpayer was required for Florida purposes to calculate both regular and alternative minimum tax. Florida additions to taxable income for regular tax purposes were $50,000. For Florida purposes, the taxpayer would be allowed a net operating loss carryover of $50,000 to subsequent tax years, even though Florida AMT was paid in 1991.

(16) Net Capital Loss Carryovers.

(a) A net capital loss may only be allowed as a carryover and is treated in the same manner and for the same period of time as allowed in s. 1212, I.R.C. In all cases, the net capital loss carryover allowable for a taxable year will be applied after the apportionment factor for the current year has been applied against current year activities.

(b)1. The Florida portion of a federal net capital loss carryforward is determined by the Florida apportionment factor in effect for the year the loss occurred.

2. If a corporation that was a member of an affiliated group that filed a consolidated return ceases to be a member of the affiliated group or is granted permission to file a separate return according to the provisions of Section 220.131, F.S. and Rule 12C-1.0131, F.A.C., the portion of any consolidated net capital loss attributable to that member is an amount equal to the consolidated net capital loss multiplied by a fraction, the numerator of which is the separate net capital loss of such corporation, and the denominator of which is the sum of the separate net capital losses of all members of the group in such year having such losses. The net capital loss carryover that is allocated to that corporation is based on the consolidated apportionment factor in effect for the year of the loss.

(c) For Florida income tax purposes, a capital loss is allowed to the extent it is allowed for federal tax purposes. That is, it is allowed to the extent of capital gains for federal purposes provided the deduction does not exceed the Florida carryover available.

(d) In the event of a corporate reorganization in which the tax attributes are carried over for federal tax purposes (for example, as provided in s. 381, I.R.C., which is incorporated by reference in Rule 12C-1.0511, F.A.C.), the net capital losses will be carried over for Florida purposes.

(17) Excess Charitable Contributions.

(a) The excess charitable contribution deduction provided by s. 170(d)(2), I.R.C., allowable for a taxable year will be applied after the apportionment factor for the current year has been applied against current year activities.

(b)1. The Florida portion of a federal excess charitable contribution carryforward is determined by the Florida apportionment factor in effect for the year the excess occurred.

2. If a corporation that was a member of an affiliated group that filed a consolidated return ceases to be a member of the affiliated group or is granted permission to file a separate return according to the provisions of Section 220.131, F.S., and Rule 12C-1.0131, F.A.C., the portion of any excess charitable contribution carryforward attributable to that member is an amount equal to the consolidated excess charitable contribution multiplied by a fraction, the numerator of which is the separate excess charitable contribution of such corporation, and the denominator of which is the sum of the separate excess charitable contributions of all members of the group in such year having such excess. The excess charitable contribution carryover that is allocated to that corporation is based on the consolidated apportionment factor in effect for the year of the excess.

(c) If a contribution is deductible according to the federal limitation of 10 percent of federal taxable income, there is no additional limitation for Florida. The deduction for the initial contribution is not limited to 10 percent of Florida's taxable income; the federal deduction is simply already incorporated in federal taxable income, which is the starting point for Florida. The charitable contributions determined to be in excess for federal purposes are apportioned to Florida based upon Florida apportionment factor. This apportioned amount would be the Florida excess charitable contributions for the taxable year. A deduction for an excess contribution carryover would be allowed for Florida purposes to the extent claimed for federal purposes, as long as the deduction did not exceed the total amount of the Florida carryover to the taxable year. The excess charitable contribution deduction may not create or increase a net operating loss for Florida.

(d) In the event of a corporate reorganization in which the tax attributes are carried over for federal tax purposes (for example, as provided in s. 381, I.R.C., which is incorporated by reference in Rule 12C-1.0511, F.A.C.), the excess charitable contributions will be carried over for Florida purposes.

(18) Excess Contribution Deduction.

(a) The excess contributions deduction provided by s. 404, I.R.C., which is incorporated by reference in Rule 12C-1.0511, F.A.C., allowable for a taxable year will be applied after the apportionment factor for the current year has been applied against current year activities.

(b)1. The Florida portion of a federal excess contributions carryforward is determined by the Florida apportionment factor in effect for the year the excess occurred.

2. When a member of an affiliated group that filed a consolidated return is no longer included in the consolidated return of that affiliated group, the excess contributions carryover that is allocated to that corporation is based on the consolidated apportionment factor in effect for the year of the contribution.

(c) If a contribution is deductible according to the federal limitation, there is no additional limitation for Florida. The deduction for the initial contribution is not separately computed in computing Florida adjusted federal income; the federal deduction is simply already incorporated in federal taxable income, which is the starting point for Florida. The contributions determined to be in excess for federal purposes are apportioned to Florida based upon the Florida apportionment factor. This apportioned amount would be the Florida excess contributions for the taxable year. A deduction for an excess contribution carryover would be allowed for Florida purposes to the extent claimed for federal purposes, as long as the deduction did not exceed the total amount of the Florida carryover to the taxable year. The excess contribution deduction may not create or increase a net operating loss for Florida.

(d) In the event of a corporate reorganization in which the tax attributes are carried over for federal tax purposes (for example, as provided in s. 381, I.R.C., which is incorporated by reference in Rule 12C-1.0511, F.A.C.), the excess contributions will be carried over for Florida purposes.

(19) Florida Alternative Minimum Tax.

(a) For taxable years beginning on or after January 1, 2018, no taxpayer is required to pay Florida Alternative Minimum Tax (AMT) because no corporate income taxpayer is required to pay federal AMT. However, a taxpayer with previously earned Florida AMT credits must compute Florida AMT to determine the amount of Florida AMT credit allowable against Florida corporate income tax.

(b)1. For taxable years beginning before January 1, 2018, a corporation subject to the Florida Income Tax Code may be required to pay an alternative minimum tax. Florida AMT is equal to 3.3 percent of the Florida alternative minimum taxable income. Corporations required to pay federal AMT must compute the amount of regular Florida corporate income tax and the amount of Florida AMT that may be due. The corporation is liable for whichever amount is greater.

2. A taxpayer is not liable for the Florida AMT unless liable for the federal AMT. A taxpayer who is part of an affiliated group that filed a federal consolidated return and was not liable for federal AMT is not liable for Florida AMT when filing on a separate return basis. The entity is not subject to Florida AMT regardless of the amounts of federal tax preference items contained in the separate return. A corporation that is part of an affiliated group that filed a consolidated return for federal income tax purposes, and paid the federal AMT, must compute Florida AMT, even if it files a separate return for Florida. This requirement applies even if the individual corporation would not have been subject to federal AMT if a separate return had been filed.

3. The computation of the Florida alternative minimum taxable income is similar to the computation of the regular Florida taxable income. The primary difference is the starting point for the computation. Florida uses federal alternative minimum taxable income as the starting point in determining Florida AMT, after allowance of the federal exclusion amount provided in s. 55(d)(2), I.R.C.

4. The adjustments, additions, and subtractions provided in Section 220.13, F.S., are applied to the Florida alternative minimum taxable income amount to arrive at adjusted federal income. The tax base is adjusted by the same type of adjustments, additions, and subtractions that are made to the regular federal taxable income when the regular Florida corporate income tax is computed. Because different amounts may be included within the base (the “starting point”), there may be differences in the amounts of the adjustments, additions, and subtractions.

5. An addition that must be made when computing the Florida AMT is for the amount of interest that is exempt for federal income tax purposes. Section 220.13(1)(a)2., F.S., requires interest excluded from federal taxable income under s. 103(a), I.R.C., less the associated expenses, be added to the taxpayer’s federal taxable income. However, this subparagraph excludes 60 percent of

the amounts already included in the federal alternative minimum taxable income, including interest on private activity bonds issued after August 7, 1986. If the federal Adjusted Current Earnings adjustment includes interest exempt under s. 103(a), I.R.C., there is an exclusion of 60 percent of the amount included in the federal Adjusted Current Earnings adjustment.

6.a. An addition is required when computing the Florida AMT for the federal net operating loss (NOL) deduction. When computing adjusted federal taxable income on the Florida corporate income/franchise tax return for regular Florida tax purposes, the taxpayer must add back the amount of the regular federal NOL deduction. When computing adjusted federal taxable income on the Florida return for Florida AMT purposes, the taxpayer is only required to add back the amount of the federal AMT NOL deduction.

b. The Florida NOL deduction allowed, for purposes of AMT, is the Florida portion of the federal loss apportioned to Florida as provided in this section. The Florida Income Tax Code does not create a separate NOL for AMT purposes.

c. The Florida Income Tax Code does not limit the amount of the NOL deduction to 90 percent of the alternative minimum taxable income before the NOL deduction.

d. The amount of the Florida NOL carryover is reduced by the amount of the NOL deduction used in computing the Florida corporate income tax, whether AMT or regular corporate income tax is finally determined to be due.

e. As with regular Florida corporate income tax, the use of an NOL carryover is not optional. It will be deemed used if it is available.

f. Cross reference: subsection 12C-1.013(15), F.A.C.

7. A possible adjustment when computing Florida AMT is the depreciation adjustment for Election A and Election B taxpayers. If there is an adjustment that is required when computing federal AMT to the depreciation expense for property placed in service between January 1, 1981, and December 31, 1986, then the amount of adjustment required is different when Florida AMT is computed.

8. The Florida Income Tax Code allows the income tax credits listed in Section 220.02(8), F.S. to be used against the amount of Florida AMT due. The use of a tax credit against Florida AMT is not optional and will be deemed used if it is available.

9. If the Florida AMT is paid, an alternative minimum tax credit is allowed by Section 220.186, F.S., in subsequent years. Cross reference: Rule 12C-1.0186, F.A.C.

(20) Adjustments from partnerships. Parts I and II of Form F-1065, Florida Partnership Information Return, are used to report to the partner and the State each partner's share of the Florida partnership's adjustments.

(21) Notwithstanding any other provision of these rules, any increment of any apportionment factor which is directly related to an increment of gross receipts or income which is deducted, subtracted, or otherwise excluded in determining adjusted federal income shall be excluded from both the numerator and denominator of such apportionment factor. Further, all valuations made for apportionment factor purposes shall be made on a basis consistent with the taxpayer's method of accounting for federal income tax purposes.

Rulemaking Authority 213.06(1), 220.51 FS., Section 3, Chapter 2009-192, L.O.F. Law Implemented 220.02(3), 220.03(5), 220.13, 220.131(1), 220.43(1), (3) FS. History–New 10-20-72, Amended 1-19-73, 10-20-73, 10-8-74, 4-21-75, 5-10-78, 11-13-78, 12-18-83, Formerly 12C-1.13, Amended 12-21-88, 12-7-92, 5-17-94, 10-19-94, 3-18-96, 10-2-01, 4-14-09, 6-28-10, 7-20-11, 1-10-17, 1-8-19, 12-12-19, 10-27-22.

12C-1.042 Methods of Accounting.

Rulemaking Authority 213.06(1), 220.42, 220.51 FS. Law Implemented 220.42 FS. History–New 10-8-74, Formerly 12C-1.42, Amended 12-21-88, 4-8-92, 3-18-96, 3-13-00, Repealed 10-27-22.