

State of Minnesota

H. F. No. **1354**

1.1 A bill for an act
1.2 relating to taxation; individual income; allowing carryover of unused section 179
1.3 and bonus depreciation subtractions; amending Minnesota Statutes 2016, sections
1.4 290.0132, subdivisions 9, 14, by adding a subdivision; 290.091, subdivision 2;
1.5 proposing coding for new law in Minnesota Statutes, chapter 290.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2016, section 290.0132, subdivision 9, is amended to read:

1.8 Subd. 9. **Delayed Bonus depreciation.** ~~(a) In each of the five taxable years immediately~~
1.9 ~~following the taxable year in which an addition is required under section 290.0131,~~
1.10 ~~subdivision 9, or 290.0133, subdivision 11, for a shareholder of a corporation that is an S~~
1.11 ~~corporation, an amount equal to one-fifth of the delayed depreciation is a subtraction.~~

1.12 ~~(b) For purposes of this subdivision, "delayed depreciation" means the amount of the~~
1.13 ~~addition made by the taxpayer under section 290.0131, subdivision 9, or 290.0133,~~
1.14 ~~subdivision 11, for a shareholder of an S corporation, minus the positive value of any net~~
1.15 ~~operating loss under section 172 of the Internal Revenue Code generated for the taxable~~
1.16 ~~year of the addition. The resulting delayed depreciation cannot be less than zero. The current~~
1.17 ~~year bonus depreciation allowance under section 290.0803, subdivision 2, is a subtraction.~~

1.18 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
1.19 31, 2016.

1.20 Sec. 2. Minnesota Statutes 2016, section 290.0132, subdivision 14, is amended to read:

1.21 Subd. 14. **Section 179 expensing.** ~~In each of the five taxable years immediately following~~
1.22 ~~the taxable year in which an addition is required under section 290.0131, subdivision 10,~~

~~or 290.0133, subdivision 12, for a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the addition made by the taxpayer under section 290.0131, subdivision 10, or 290.0133, subdivision 12, for a shareholder of a corporation that is an S corporation, minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the taxable year of the addition, is a subtraction. If the net operating loss exceeds the addition for the taxable year, a subtraction is not allowed under this subdivision. The current year section 179 allowance under section 290.0803, subdivision 1, is a subtraction.~~

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2016.

Sec. 3. Minnesota Statutes 2016, section 290.0132, is amended by adding a subdivision to read:

Subd. 23. Carryover bonus depreciation and section 179 allowance. The carryover bonus depreciation and section 179 allowance under section 290.0803, subdivision 3, is a subtraction.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2016.

Sec. 4. **[290.0803] SECTION 179 AND BONUS DEPRECIATION SUBTRACTION.**

Subdivision 1. Current year section 179 allowance. (a) In each of the five taxable years immediately following the taxable year in which an addition is required under section 290.0131, subdivision 10, or its predecessor provisions, the current year allowance equals one-fifth of the addition made by the taxpayer under section 290.0131, subdivision 10.

(b) For a shareholder of an S corporation, the current year allowance is reduced by the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the taxable year of the addition and, if the net operating loss exceeds the addition for the taxable year, the current year allowance is zero.

(c) A taxpayer is allowed a current year section 179 allowance subtraction from federal taxable income under section 290.0132, subdivision 14, as determined under this subdivision.

Subd. 2. Current year bonus depreciation allowance. (a) In each of the five taxable years immediately following the taxable year in which an addition is required under section 290.0131, subdivision 9, or its predecessor provisions, the current year bonus depreciation allowance equals one-fifth of the delayed depreciation.

(b) For purposes of this subdivision, "delayed depreciation" means the amount of the addition made by the taxpayer under section 290.0131, subdivision 9, or its predecessor provisions, for a shareholder of an S corporation, minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the taxable year of the addition. The resulting delayed depreciation cannot be less than zero.

(c) A taxpayer is allowed a current year bonus depreciation allowance subtraction from federal taxable income under section 290.0132, subdivision 9, as determined under this subdivision.

Subd. 3. Carryover bonus depreciation and section 179 allowance. (a) For purposes of this subdivision, the sum of the current year allowances under subdivisions 1 and 2 is considered to be the last modification allowed under section 290.0132 in determining net income. If the sum of the amounts allowed under subdivisions 1 and 2 exceeds net income computed without regard to the sum of the current year allowances, then the excess is a carryover allowance in each of the ten succeeding taxable years. The entire amount of the carryover allowance is carried first to the earliest taxable year to which the carryover may be carried, and then to each succeeding year to which the carryover may be carried.

(b) If applying the rules under paragraph (a) to a taxable year beginning after December 31, 2013, and before January 1, 2017, would result in a carryover allowance in that year, the taxpayer may use the resulting amount as a carryover allowance starting in a taxable year beginning after December 31, 2016, and the first year of the ten-year period under paragraph (a) is taxable year 2017.

(c) A taxpayer is allowed a carryover bonus depreciation and section 179 allowance subtraction under section 290.0132, subdivision 23, as determined under this subdivision.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2016.

Sec. 5. Minnesota Statutes 2016, section 290.091, subdivision 2, is amended to read:

Subd. 2. Definitions. For purposes of the tax imposed by this section, the following terms have the meanings given:

(a) "Alternative minimum taxable income" means the sum of the following for the taxable year:

(1) the taxpayer's federal alternative minimum taxable income as defined in section 55(b)(2) of the Internal Revenue Code;

(2) the taxpayer's itemized deductions allowed in computing federal alternative minimum taxable income, but excluding:

(i) the charitable contribution deduction under section 170 of the Internal Revenue Code;

(ii) the medical expense deduction;

(iii) the casualty, theft, and disaster loss deduction; and

(iv) the impairment-related work expenses of a disabled person;

(3) for depletion allowances computed under section 613A(c) of the Internal Revenue Code, with respect to each property (as defined in section 614 of the Internal Revenue Code), to the extent not included in federal alternative minimum taxable income, the excess of the deduction for depletion allowable under section 611 of the Internal Revenue Code for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year);

(4) to the extent not included in federal alternative minimum taxable income, the amount of the tax preference for intangible drilling cost under section 57(a)(2) of the Internal Revenue Code determined without regard to subparagraph (E);

(5) to the extent not included in federal alternative minimum taxable income, the amount of interest income as provided by section 290.0131, subdivision 2; and

(6) the amount of addition required by section 290.0131, subdivisions 9 to 11;

less the sum of the amounts determined under the following:

(1) interest income as defined in section 290.0132, subdivision 2;

(2) an overpayment of state income tax as provided by section 290.0132, subdivision 3, to the extent included in federal alternative minimum taxable income;

(3) the amount of investment interest paid or accrued within the taxable year on indebtedness to the extent that the amount does not exceed net investment income, as defined in section 163(d)(4) of the Internal Revenue Code. Interest does not include amounts deducted in computing federal adjusted gross income;

(4) amounts subtracted from federal taxable income as provided by section 290.0132, subdivisions 7, 9 to 15, 17, ~~and 21~~, and 23; and

(5) the amount of the net operating loss allowed under section 290.095, subdivision 11, paragraph (c).

5.1 In the case of an estate or trust, alternative minimum taxable income must be computed
5.2 as provided in section 59(c) of the Internal Revenue Code.

5.3 (b) "Investment interest" means investment interest as defined in section 163(d)(3) of
5.4 the Internal Revenue Code.

5.5 (c) "Net minimum tax" means the minimum tax imposed by this section.

5.6 (d) "Regular tax" means the tax that would be imposed under this chapter (without regard
5.7 to this section and section 290.032), reduced by the sum of the nonrefundable credits allowed
5.8 under this chapter.

5.9 (e) "Tentative minimum tax" equals 6.75 percent of alternative minimum taxable income
5.10 after subtracting the exemption amount determined under subdivision 3.

5.11 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
5.12 31, 2016.