

**290.9729 TAX ON PASSIVE INVESTMENT INCOME.**

Subdivision 1. **Tax imposed.** There is imposed a tax for the taxable year on the taxable income of an S corporation, if for the taxable year an S corporation has:

- (1) subchapter C earnings and profits at the close of such taxable year; and
- (2) gross receipts more than 25 percent of which are passive investment income.

The tax is imposed at the rate prescribed by section 290.06, subdivision 1. The terms "subchapter C earnings and profits," "passive investment income," and "gross receipts" have the same meanings as when used in sections 1362(d)(3) and 1375 of the Internal Revenue Code.

Subd. 2. **Taxable income.** For the purposes of this section, taxable income means the lesser of:

- (1) the amount of the S corporation's excess net passive income, as determined under section 1375 of the Internal Revenue Code, subject to the provisions of sections 290.0133 to 290.0135, that is allocable to this state under section 290.17, 290.191, or 290.20; or
- (2) the amount of the S corporation's federal taxable income, as determined under section 1374(d)(4) of the Internal Revenue Code, subject to the provisions of sections 290.0133 to 290.0135, that is allocable to this state under section 290.17, 290.191, or 290.20.

Subd. 3. **Waiver of tax.** The tax imposed by this section shall be waived if the taxpayer receives a waiver for federal income tax purposes under section 1375(d) of the Internal Revenue Code.

**History:** 1988 c 719 art 2 s 49; art 3 s 12; 1989 c 28 s 25; 1990 c 604 art 2 s 16; 1991 c 291 art 6 s 46; 1992 c 511 art 6 s 19; 1993 c 375 art 8 s 14; 1994 c 587 art 1 s 24; 2003 c 2 art 1 s 34; 2016 c 158 art 3 s 26