

A bill for an act

relating to taxation; limiting the jurisdiction to tax persons investing in certain entities; amending Minnesota Statutes 2006, section 290.015, subdivision 3, by adding a subdivision.

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

Section 1. Minnesota Statutes 2006, section 290.015, subdivision 3, is amended to read:

Subd. 3. **Exceptions.** (a) A person is not subject to tax under this chapter if the person is engaged in the business of selling tangible personal property and taxation of that person under this chapter is precluded by Public Law 86-272, United States Code, title 15, sections 381 to 384, or would be so precluded except for the fact that the person stored tangible personal property in a state licensed facility under chapter 231.

(b) Ownership of an interest in the following types of property (including those contacts with this state reasonably required to evaluate and complete the acquisition or disposition of the property, the servicing of the property or the income from it, the collection of income from the property, or the acquisition or liquidation of collateral relating to the property) shall not be a factor in determining whether the owner is subject to tax under this chapter:

(1) an interest in a real estate mortgage investment conduit, a real estate investment trust, a financial asset securitization investment trust, or a regulated investment company or a fund of a regulated investment company, as those terms are defined in the Internal Revenue Code;

(2) an interest in money market instruments or securities as defined in section 290.191, subdivision 6, paragraphs (c) and (d);

(3) an interest in a loan-backed, mortgage-backed, or receivable-backed security representing either: (i) ownership in a pool of promissory notes, mortgages, or receivables or certificates of interest or participation in such notes, mortgages, or receivables, or (ii) debt obligations or equity interests which provide for payments in relation to payments or reasonable projections of payments on the notes, mortgages, or receivables;

(4) an interest acquired from a person in assets described in section 290.191, subdivision 11, paragraphs (e) to (l), subject to the provisions of paragraph (c), clause (2)(A);

(5) an interest acquired from a person in the right to service, or collect income from any assets described in section 290.191, subdivision 11, paragraphs (e) to (l), subject to the provisions of paragraph (c), clause (2)(A);

(6) an interest acquired from a person in a funded or unfunded agreement to extend or guarantee credit whether conditional, mandatory, temporary, standby, secured, or otherwise, subject to the provisions of paragraph (c), clause (2)(A);

(7) an interest of a person other than an individual, estate, or trust, in any intangible, tangible, real, or personal property acquired in satisfaction, whether in whole or in part, of any asset embodying a payment obligation which is in default, whether secured or unsecured, the ownership of an interest in which would be exempt under the preceding provisions of this subdivision, provided the property is disposed of within a reasonable period of time; ~~or~~

(8) amounts held in escrow or trust accounts, pursuant to and in accordance with the terms of property described in this subdivision; or

(9) an interest in a qualified high technology business, as defined in subdivision 6, if the entity qualified when the person acquired the interest.

(c)(1) For purposes of paragraph (b), clauses (4) to (6), an interest in the type of assets or credit agreements described is deemed to exist at the time the owner becomes legally obligated, conditionally or unconditionally, to fund, acquire, renew, extend, amend, or otherwise enter into the credit arrangement.

(2)(A) An owner has acquired an interest from a person in paragraph (b), clauses (4) to (6), assets if:

(i) the owner at the time of the acquisition of the asset does not own, directly or indirectly, 15 percent or more of the outstanding stock or in the case of a partnership 15 percent or more of the capital or profit interests of the person from whom it acquired the asset;

(ii) the person from whom the owner acquired the asset regularly sells, assigns, or transfers interests in paragraph (b), clauses (4) to (6), assets during the 12 calendar months immediately preceding the month of acquisition to three or more persons; and

(iii) the person from whom the owner acquired the asset does not sell, assign, or transfer 75 percent or more of its paragraph (b), clauses (4) to (6), assets during the 12 calendar months immediately preceding the month of acquisition to the owner.

For purposes of determining indirect ownership under item (i), the owner is deemed to own all stock, capital, or profit interests owned by another person if the owner directly owns 15 percent or more of the stock, capital, or profit interests in the other person. The owner is also deemed to own through any intermediary parties all stock, capital, and profit interests directly owned by a person to the extent there exists a 15 percent or more chain of ownership of stock, capital, or profit interests between the owner, intermediary parties and the person.

(B) If the owner of the asset is a member of a unitary business, paragraph (b), clauses (4) to (8), do not apply to an interest acquired from another member of the unitary business. If the interest in the asset was originally acquired from a nonunitary member and at that time qualified as a section 290.015, subdivision 3, paragraph (b), asset, the foregoing limitation does not apply.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2007.

Sec. 2. Minnesota Statutes 2006, section 290.015, is amended by adding a subdivision to read:

Subd. 6. Qualified high technology business. (a) For purposes of subdivision 3, a "qualified high technology business" is a corporation, individual, or partnership that:

(1) had no more than 25 full-time equivalent employees in this state during the preceding taxable year; and

(2) is engaged in or is committed to engage in a qualified high technology field.

(b) For purposes of this subdivision, "qualified high technology field" includes, but is not limited to, aerospace, agricultural processing, alternative energy, biotechnology, defense, drug delivery, environmental engineering, food technology, cellulosic ethanol, information technology, green manufacturing, materials science technology, medical devices, nanotechnology, pharmaceutical technology, and telecommunications. Unless otherwise provided under the rules of the Department of Employment and Economic

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Development, a business is a qualified business for purposes of this subdivision only if the business satisfies all of the following conditions:

(1) the business has its headquarters in Minnesota;

(2) at least 51 percent of the business's employees are employed in Minnesota;

(3) the business is engaged in, or is committed to engage in:

(i) using advanced technology to add value to a product, process, or service in a qualified high technology field;

(ii) conducting research in and development of a product, process, or service in a qualified high technology field; or

(iii) developing a new product, process, or service in a qualified high technology field;

(4) the business is not engaged in real estate development, insurance, banking, lending, lobbying, political consulting, information technology consulting, wholesale or retail trade, leisure, hospitality, transportation, construction, ethanol production from corn, or professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants;

(5) the business has not been in operation for more than ten consecutive years; and

(6) the business had less than \$1,000,000 in net income in the preceding taxable year.

(c) For purposes of applying the requirement under paragraph (a), clause (1), all of the employees of the unitary business, as that term is used in section 290.17, subdivision 4, must be taken into account and "full-time equivalent" has the meaning given in section 469.318, subdivision 2.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2007.