

A bill for an act

relating to taxes; individual income; allowing an additional personal exemption and providing an alternate even rate tax; amending Minnesota Statutes 2008, section 290.01, subdivision 19b, as amended; proposing coding for new law in Minnesota Statutes, chapter 290.

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

Section 1. Minnesota Statutes 2008, section 290.01, subdivision 19b, as amended by Laws 2009, chapter 88, article 1, section 4; article 7, section 7, if enacted, is amended to read:

Subd. 19b. **Subtractions from federal taxable income.** For individuals, estates, and trusts, there shall be subtracted from federal taxable income:

(1) net interest income on obligations of any authority, commission, or instrumentality of the United States to the extent includable in taxable income for federal income tax purposes but exempt from state income tax under the laws of the United States;

(2) if included in federal taxable income, the amount of any overpayment of income tax to Minnesota or to any other state, for any previous taxable year, whether the amount is received as a refund or as a credit to another taxable year's income tax liability;

(3) the amount paid to others, less the amount used to claim the credit allowed under section 290.0674, not to exceed \$1,625 for each qualifying child in grades kindergarten to 6 and \$2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and transportation of each qualifying child in attending an elementary or secondary school situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory attendance laws, which is not operated for profit, and which adheres to the provisions of the Civil Rights Act of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or

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tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause, "textbooks" includes books and other instructional materials and equipment purchased or leased for use in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state. Equipment expenses qualifying for deduction includes expenses as defined and limited in section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship, nor does it include books or materials for, or transportation to, extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or similar programs. No deduction is permitted for any expense the taxpayer incurred in using the taxpayer's or the qualifying child's vehicle to provide such transportation for a qualifying child. For purposes of the subtraction provided by this clause, "qualifying child" has the meaning given in section 32(c)(3) of the Internal Revenue Code;

(4) income as provided under section 290.0802;

(5) to the extent included in federal adjusted gross income, income realized on disposition of property exempt from tax under section 290.491;

(6) to the extent not deducted or not deductible pursuant to section 408(d)(8)(E) of the Internal Revenue Code in determining federal taxable income by an individual who does not itemize deductions for federal income tax purposes for the taxable year, an amount equal to 50 percent of the excess of charitable contributions over \$500 allowable as a deduction for the taxable year under section 170(a) of the Internal Revenue Code and under the provisions of Public Law 109-1;

(7) for taxable years beginning before January 1, 2008, the amount of the federal small ethanol producer credit allowed under section 40(a)(3) of the Internal Revenue Code which is included in gross income under section 87 of the Internal Revenue Code;

(8) for individuals who are allowed a federal foreign tax credit for taxes that do not qualify for a credit under section 290.06, subdivision 22, an amount equal to the carryover of subnational foreign taxes for the taxable year, but not to exceed the total subnational foreign taxes reported in claiming the foreign tax credit. For purposes of this clause, "federal foreign tax credit" means the credit allowed under section 27 of the Internal Revenue Code, and "carryover of subnational foreign taxes" equals the carryover allowed under section 904(c) of the Internal Revenue Code minus national level foreign taxes to the extent they exceed the federal foreign tax credit;

(9) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (7), or 19c, clause (15), in the case

of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount of the addition made by the taxpayer under subdivision 19a, clause (7), or subdivision 19c, clause (15), in the case of 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 tax year of the addition. The resulting delayed depreciation cannot be less than zero;

(10) job opportunity building zone income as provided under section 469.316;

(11) to the extent included in federal taxable income, the amount of compensation paid to members of the Minnesota National Guard or other reserve components of the United States military for active service performed in Minnesota, excluding compensation for services performed under the Active Guard Reserve (AGR) program. For purposes of this clause, "active service" means (i) state active service as defined in section 190.05, subdivision 5a, clause (1); (ii) federally funded state active service as defined in section 190.05, subdivision 5b; or (iii) federal active service as defined in section 190.05, subdivision 5c, but "active service" excludes service performed in accordance with section 190.08, subdivision 3;

(12) to the extent included in federal taxable income, the amount of compensation paid to Minnesota residents who are members of the armed forces of the United States or United Nations for active duty performed outside Minnesota under United States Code, title 10, section 101(d); United States Code, title 32, section 101(12); or the authority of the United Nations;

(13) an amount, not to exceed \$10,000, equal to qualified expenses related to a qualified donor's donation, while living, of one or more of the qualified donor's organs to another person for human organ transplantation. For purposes of this clause, "organ" means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow; "human organ transplantation" means the medical procedure by which transfer of a human organ is made from the body of one person to the body of another person; "qualified expenses" means unreimbursed expenses for both the individual and the qualified donor for (i) travel, (ii) lodging, and (iii) lost wages net of sick pay, except that such expenses may be subtracted under this clause only once; and "qualified donor" means the individual or the individual's dependent, as defined in section 152 of the Internal Revenue Code. An individual may claim the subtraction in this clause for each instance of organ donation for transplantation during the taxable year in which the qualified expenses occur;

(14) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (8), or 19c, clause (16), in the case of a

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shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the addition made by the taxpayer under subdivision 19a, clause (8), or 19c, clause (16), in the case of 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 tax year of the addition. If the net operating loss exceeds the addition for the tax year, a subtraction is not allowed under this clause;

(15) to the extent included in federal taxable income, compensation paid to a service member as defined in United States Code, title 10, section 101(a)(5), for military service as defined in the Servicemembers Civil Relief Act, Public Law 108-189, section 101(2);

(16) international economic development zone income as provided under section 469.325;

(17) to the extent included in federal taxable income, the amount of national service educational awards received from the National Service Trust under United States Code, title 42, sections 12601 to 12604, for service in an approved Americorps National Service program; ~~and~~

(18) to the extent included in federal taxable income, discharge of indebtedness income resulting from reacquisition of business indebtedness included in federal taxable income under section 108(i) of the Internal Revenue Code. This subtraction applies only to the extent that the income was included in net income in a prior year as a result of the addition under section 290.01, subdivision 19a, clause (16); and

(19) an amount equal to \$1,000 multiplied by the number of personal exemptions allowed under section 151 of the Internal Revenue Code.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2008.

Sec. 2. [290.0619] ALTERNATE EVEN RATE TAX.

Subdivision 1. Even rate tax. (a) An individual, estate, or trust may elect to compute tax and claim credits as provided in this section in place of the tax calculated under sections 290.06, subdivision 2c, and 290.091.

(b) The alternate even rate tax equals six percent of alternate even rate taxable income.

Subd. 2. Even rate tax base; definitions. (a) For purposes of this section, the following terms have the meanings given.

(b) "Alternate even rate gross income" equals the sum of the following for the taxable year:

(1) the taxpayer's federal adjusted gross income, as defined in section 62 of the Internal Revenue Code; and

(2) the amount of the additions required under section 290.01, subdivision 19a, clauses (1), (3) to (6), and (9) to (13).

(c) "Alternate even rate taxable income" equals alternate even rate gross income minus the following for the taxable year:

(1) the amount of the subtraction allowed under section 290.01, subdivision 19b, clause (1);

(2) in each of the five tax years immediately following a tax year that began before January 1, 2009, and in which an addition was required under subdivision 19a, clause (7), or 19c, clause (15), in the case of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount of the addition made by the taxpayer under subdivision 19a, clause (7), or 19c, clause (15), in the case of 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 tax year of the addition. The resulting delayed depreciation cannot be less than zero;

(3) in each of the five tax years immediately following a tax year that began before January 1, 2009, and in which an addition was required under subdivision 19a, clause (8), or 19c, clause (16), in the case of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the addition made by the taxpayer under subdivision 19a, clause (8), or 19c, clause (16), in the case of 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 tax year of the addition. If the net operating loss exceeds the addition for the tax year, a subtraction is not allowed under this clause;

(4) an amount equal to the sum of the basic standard deduction and the additional standard deduction for aged and blind allowed under section 63(c) of the Internal Revenue Code;

(5) an amount equal to the personal exemption amount allowed under section 151 of the Internal Revenue Code for the taxpayer and spouse, but disregarding the phaseout required under section 151(d)(3) of the Internal Revenue Code; and

(6) an amount equal to the dependent exemption amount allowed under section 151 of the Internal Revenue Code for each dependent of the taxpayer, but disregarding the phaseout required under section 151(d)(3) of the Internal Revenue Code.

6.1 Subd. 3. **Even rate tax credits.** (a) The credits for taxes paid to another state
6.2 provided in section 290.06, subdivisions 22 and 22a, apply against the tax imposed by
6.3 this section.

6.4 (b) The military service credits provided in section 290.0677 apply against the tax
6.5 imposed by this section.

6.6 (c) Notwithstanding any other law to the contrary, a taxpayer who elects to compute
6.7 tax and claim credits under this section may not claim the credits provided in sections
6.8 290.06, subdivisions 28, 29, 30, 31, 32, 33, 34, and 35; 290.067; 290.0671; 290.0672;
6.9 290.0674; 290.0675; and 290.0677.

6.10 Subd. 4. **Nonresidents and part-year residents.** An individual who is not a
6.11 Minnesota resident for the entire year and who elects to pay tax under this section must
6.12 compute the individual's Minnesota income tax as provided in this subdivision. After the
6.13 application of the nonrefundable credits provided in this section, the tax liability must
6.14 then be multiplied by a fraction in which:

6.15 (1) the numerator is the individual's Minnesota source federal adjusted gross income
6.16 as defined in section 62 of the Internal Revenue Code, increased by the additions required
6.17 under section 290.01, subdivision 19a, clauses (1), (5), (6), (9), (12), and (13), and reduced
6.18 by the Minnesota assignable portion of the subtraction for United States government
6.19 interest under section 290.01, subdivision 19b, clause (1); and

6.20 (2) the denominator is the individual's federal adjusted gross income as defined in
6.21 section 62 of the Internal Revenue Code, increased by the amounts specified in section
6.22 290.01, subdivision 19a, clauses (1), (5), (6), (9), (12), and (13), and reduced by the
6.23 amount specified in section 290.01, subdivision 19b, clause (1).

6.24 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
6.25 December 31, 2008.