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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 816

02/06/2017 Authored by Thissen and Loeffler
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; income; providing an administrative mechanism for conforming
1.3 to certain future federal tax legislation; transferring money; proposing coding for
1.4 new law in Minnesota Statutes, chapter 290.

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

1.6 Section 1. [290.016] CONFORMITY TO FEDERAL TAX EXTENDERS BY
1.7 ADMINISTRATIVE ACTION.

1.8 Subdivision 1. Legislative purpose. (a) The legislature intends this section to provide
1.9 an ongoing mechanism for conforming the Minnesota individual income and corporate
1.10 franchise taxes and the property tax refund and homestead credit refund programs to federal
1.11 tax legislation enacted after the legislature has adjourned that extends existing provisions
1.12 of federal law, if the provisions affect a taxable year that ends before the legislature is
1.13 scheduled to reconvene in regular session. Congress has regularly enacted changes of that
1.14 type that affect computation of Minnesota tax through its links to federal law. The federal
1.15 changes consist mainly of extending provisions that reduce revenues and are scheduled to
1.16 expire. Because Minnesota law is linked to federal law as of a specific date, taxpayers and
1.17 the Department of Revenue must assume that Minnesota law does not include the effect of
1.18 these federal changes even though the legislature regularly adopts most of the federal
1.19 provisions retroactively in the next legislative session. This situation undermines compliance
1.20 and administration of Minnesota taxes, causing delay, uncertainty, and added costs. This
1.21 section provides an administrative mechanism to conform to most of these federal changes.
1.22 The legislature's intent is to conform to the federal tax extenders, including minor
1.23 modifications of them, and to set aside the necessary state budget resources to do so.

2.1 (b) By expressing its intent regarding specific federal provisions and indicating how to
2.2 treat each federal extender provision, the legislature is exercising its legislative power and
2.3 is not delegating to Congress or the commissioner the authority to determine Minnesota tax
2.4 law. The legislature believes that this section is consistent with the Minnesota Supreme
2.5 Court's ruling in the case of Wallace v. Commissioner of Taxation, 289 Minn. 220 (1971).

2.6 Subd. 2. **Federal tax conformity account established; transfer.** (a) A federal tax
2.7 conformity account is established in the general fund. Money in the account is available for
2.8 transfer to the general fund to offset the reduction in general fund revenues resulting from
2.9 conforming Minnesota tax law to federal law under this section.

2.10 (b) \$20,000,000 is transferred from the general fund to the federal tax conformity account,
2.11 effective July 1, 2017. On January 1 of each fiscal year in which a transfer is made under
2.12 paragraph (c), the commissioner shall transfer an amount to the account necessary to maintain
2.13 a \$20,000,000 balance in the account or the amount necessary to offset the estimated annual
2.14 revenue reduction from conforming to eligible federal tax preferences that are scheduled
2.15 to expire under federal law, whichever is less.

2.16 (c) Each year, within ten days after receiving notice of the amount from the commissioner,
2.17 the commissioner of management and budget shall transfer from the account to the general
2.18 fund the amount the commissioner determines is required under subdivision 4.

2.19 (d) Amounts sufficient to make the transfers under:

2.20 (1) paragraph (b) are appropriated from the general fund; and

2.21 (2) paragraph (c) are appropriated from the federal tax conformity account.

2.22 Subd. 3. **Eligible federal tax preferences.** For purposes of this section and section
2.23 290.01, the term "eligible federal tax preferences" means any of the following items that
2.24 are not in effect under the Internal Revenue Code for future taxable years beginning after
2.25 December 31, 2016:

2.26 (1) discharge of qualified principal residence indebtedness under section 108(a)(1)(E)
2.27 of the Internal Revenue Code;

2.28 (2) mortgage insurance premiums treated as qualified residence interest under section
2.29 163(h)(3)(E) of the Internal Revenue Code;

2.30 (3) qualified tuition and related expenses under section 222 of the Internal Revenue
2.31 Code;

3.1 (4) the special rules for itemized deductions of the expenses of medical care by individuals
3.2 who have attained the age of 65 under section 213(f) of the Internal Revenue Code;

3.3 (5) classification of certain race horses as three-year property under section
3.4 168(e)(3)(A)(i) and (ii) of the Internal Revenue Code;

3.5 (6) the seven-year recovery period for motorsports entertainment complexes under
3.6 section 168(i)(15) of the Internal Revenue Code;

3.7 (7) the accelerated depreciation for business property on an Indian reservation under
3.8 section 168(j) of the Internal Revenue Code;

3.9 (8) the election to expense mine safety equipment under section 179E of the Internal
3.10 Revenue Code;

3.11 (9) the special expensing rules for certain film and television productions under section
3.12 181 of the Internal Revenue Code;

3.13 (10) the special allowance for second-generation biofuel plant property under section
3.14 168(l) of the Internal Revenue Code;

3.15 (11) the energy efficient commercial buildings deduction under section 179D of the
3.16 Internal Revenue Code;

3.17 (12) the five-year recovery period for property described in section 168(e)(3)(B)(vi)(I)
3.18 of the Internal Revenue Code and qualifying for an energy credit under section 48(a)(3)(A)
3.19 of the Internal Revenue Code; and

3.20 (13) the amount of the additional section 179 allowance in an empowerment zone under
3.21 section 1397A of the Internal Revenue Code.

3.22 **Subd. 4. Designation of qualifying federal conformity items.** (a) If, after final
3.23 adjournment of a regular session of the legislature, Congress enacts a law that extends one
3.24 or more of the eligible federal tax preferences to taxable years beginning during the calendar
3.25 year in which the legislature adjourned, the commissioner shall prepare a list of qualifying
3.26 federal conformity items and publish it on the Department of Revenue's Web site within 30
3.27 days following enactment of the law. In preparing the list, the commissioner shall estimate
3.28 the change in revenue resulting from allowing the eligible federal tax preferences, including
3.29 the effect of subdivision 6, for the current and succeeding fiscal year only. The commissioner
3.30 shall not include an item on the list of qualifying federal conformity items if the commissioner
3.31 estimates that its inclusion would reduce general fund revenues for the current and succeeding
3.32 fiscal year by more than the balance in the federal tax conformity account.

4.1 (b) The commissioner shall consider the provisions of subdivision 6 as the first item to
4.2 include on the list of qualifying conformity items. The commissioner shall apply the following
4.3 priorities in determining which additional items to include:

4.4 (1) the effect of all eligible federal tax preferences on computation of federal adjusted
4.5 gross income under this chapter and household income under chapter 290A, is the first
4.6 priority;

4.7 (2) the effect of the federal law on computation of Minnesota tax credits is the second
4.8 priority;

4.9 (3) the items in subdivision 3, clauses (5) to (13), in that order, are the third priority;
4.10 and

4.11 (4) the items in subdivision 3, clauses (1) to (4), in that order, are the last priority.

4.12 (c) In determining whether to include an eligible federal tax preference on the list of
4.13 qualifying federal conformity items, the commissioner may include items in which
4.14 nonmaterial changes were made in the federal law extending allowance of the eligible federal
4.15 tax preferences, compared to the provision that was in effect for the prior federal taxable
4.16 year. For purposes of this determination, nonmaterial changes are limited to changes that
4.17 are estimated to increase or decrease Minnesota tax revenues by no more than \$1,000,000
4.18 for the affected eligible federal tax preference item for the taxable year.

4.19 (d) Within ten days after the commissioner's final determination of qualifying federal
4.20 conformity items under this subdivision, the commissioner shall notify the commissioner
4.21 of management and budget, in writing, of the amounts of the federal tax conformity account
4.22 transfers under subdivision 2.

4.23 Subd. 5. **Provisions in effect.** (a) For purposes of determining tax and credits under this
4.24 chapter, including the taxes under sections 290.091 and 290.0921, and household income
4.25 under chapter 290A, qualifying federal conformity items and bonus depreciation rules under
4.26 subdivision 6 apply for the designated taxable year and the provisions of this chapter apply
4.27 as if the definition of the Internal Revenue Code under section 290.01, subdivision 31,
4.28 included the amendments to the qualifying federal conformity items.

4.29 (b) The commissioner shall administer the taxes under this chapter and refunds under
4.30 chapter 290A as if Minnesota had conformed to the federal definitions of net income,
4.31 adjusted gross income, and tax credits that affect computation of Minnesota tax or refunds
4.32 resulting from extension of the qualifying federal conformity items.

5.1 (c) For purposes of this subdivision and subdivision 6, "designated taxable year" means
5.2 a taxable year that begins during a calendar year in which an eligible federal tax preference
5.3 is enacted after the legislature adjourned its regular session and is effective for taxable years
5.4 beginning during that calendar year.

5.5 Subd. 6. **Bonus depreciation; 80 percent rule applies.** If, following final adjournment
5.6 of a regular session of the legislature, Congress enacts a law that extends application of the
5.7 depreciation special allowances under section 168(k) of the Internal Revenue Code to taxable
5.8 years beginning during the same calendar year, the allowance must be determined using
5.9 the rules under sections 290.0131, subdivision 9, and 290.0133, subdivision 11, for the
5.10 designated taxable year; and the rules under sections 290.0132, subdivision 9, and 290.0134,
5.11 subdivision 13, for the five tax years immediately following the designated taxable year.

5.12 Subd. 7. **Forms preparation.** If the provisions of subdivisions 3 and 4 apply to a taxable
5.13 year, the commissioner shall prepare forms and instructions that reflect the qualifying federal
5.14 conformity items and bonus depreciation rules under subdivision 6, if applicable, for the
5.15 taxable year consistent with the provisions of this section.

5.16 Subd. 8. **Draft legislation.** For a taxable year for which the commissioner publishes a
5.17 list of qualifying federal conformity items under this section, the commissioner shall provide
5.18 the chairs of the legislative committees with jurisdiction over taxes with draft legislation
5.19 that would conform Minnesota Statutes to the qualifying federal conformity items and any
5.20 other conformity items that the commissioner recommends be adopted, including application
5.21 to taxable years beyond those to which this section applies. The draft legislation is intended
5.22 to make the statutes consistent with application of the designated qualifying federal
5.23 conformity items under this section for the convenience of members of the public. Failure
5.24 to pass the draft legislation does not affect computation of Minnesota tax liability for the
5.25 affected taxable years under this section.

5.26 Subd. 9. **Administrative Procedure Act.** Designation of qualifying federal conformity
5.27 items or any other action of the commissioner under this section is not a rule and is not
5.28 subject to the Administrative Procedure Act under chapter 14, including section 14.386.

5.29 **EFFECTIVE DATE.** This section is effective the day following final enactment.