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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 1814

01/24/2012 Authored by Benson, M., Vogel, Davids, Shimanski, Westrom and others
The bill was read for the first time and referred to the Committee on Taxes

A bill for an act

relating to taxes; individual income and corporate franchise; conforming
to federal section 179 expensing allowance for certain taxpayers; amending
Minnesota Statutes 2011 Supplement, section 290.01, subdivisions 19a, 19c.

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

Section 1. Minnesota Statutes 2011 Supplement, section 290.01, subdivision 19a,
is amended to read:

Subd. 19a. **Additions to federal taxable income.** For individuals, estates, and
trusts, there shall be added to federal taxable income:

(1)(i) interest income on obligations of any state other than Minnesota or a political
or governmental subdivision, municipality, or governmental agency or instrumentality
of any state other than Minnesota exempt from federal income taxes under the Internal
Revenue Code or any other federal statute; and

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue
Code, except:

(A) the portion of the exempt-interest dividends exempt from state taxation under
the laws of the United States; and

(B) the portion of the exempt-interest dividends derived from interest income
on obligations of the state of Minnesota or its political or governmental subdivisions,
municipalities, governmental agencies or instrumentalities, but only if the portion of the
exempt-interest dividends from such Minnesota sources paid to all shareholders represents
95 percent or more of the exempt-interest dividends, including any dividends exempt
under subitem (A), that are paid by the regulated investment company as defined in section

851(a) of the Internal Revenue Code, or the fund of the regulated investment company as defined in section 851(g) of the Internal Revenue Code, making the payment; and

(iii) for the purposes of items (i) and (ii), interest on obligations of an Indian tribal government described in section 7871(c) of the Internal Revenue Code shall be treated as interest income on obligations of the state in which the tribe is located;

(2) the amount of income, sales and use, motor vehicle sales, or excise taxes paid or accrued within the taxable year under this chapter and the amount of taxes based on net income paid, sales and use, motor vehicle sales, or excise taxes paid to any other state or to any province or territory of Canada, to the extent allowed as a deduction under section 63(d) of the Internal Revenue Code, but the addition may not be more than the amount by which the itemized deductions as allowed under section 63(d) of the Internal Revenue Code exceeds the amount of the standard deduction as defined in section 63(c) of the Internal Revenue Code, disregarding the amounts allowed under sections 63(c)(1)(C) and 63(c)(1)(E) of the Internal Revenue Code, minus any addition that would have been required under clause (21) if the taxpayer had claimed the standard deduction. For the purpose of this paragraph, the disallowance of itemized deductions under section 68 of the Internal Revenue Code of 1986, income, sales and use, motor vehicle sales, or excise taxes are the last itemized deductions disallowed;

(3) the capital gain amount of a lump-sum distribution to which the special tax under section 1122(h)(3)(B)(ii) of the Tax Reform Act of 1986, Public Law 99-514, applies;

(4) the amount of income taxes paid or accrued within the taxable year under this chapter and taxes based on net income paid to any other state or any province or territory of Canada, to the extent allowed as a deduction in determining federal adjusted gross income. For the purpose of this paragraph, income taxes do not include the taxes imposed by sections 290.0922, subdivision 1, paragraph (b), 290.9727, 290.9728, and 290.9729;

(5) the amount of expense, interest, or taxes disallowed pursuant to section 290.10 other than expenses or interest used in computing net interest income for the subtraction allowed under subdivision 19b, clause (1);

(6) the amount of a partner's pro rata share of net income which does not flow through to the partner because the partnership elected to pay the tax on the income under section 6242(a)(2) of the Internal Revenue Code;

(7) 80 percent of the depreciation deduction allowed under section 168(k) of the Internal Revenue Code. For purposes of this clause, if the taxpayer has an activity that in the taxable year generates a deduction for depreciation under section 168(k) and the activity generates a loss for the taxable year that the taxpayer is not allowed to claim for the taxable year, "the depreciation allowed under section 168(k)" for the taxable year is

limited to excess of the depreciation claimed by the activity under section 168(k) over the amount of the loss from the activity that is not allowed in the taxable year. In succeeding taxable years when the losses not allowed in the taxable year are allowed, the depreciation under section 168(k) is allowed;

(8) 80 percent of the amount by which the deduction allowed by section 179 of the Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal Revenue Code of 1986, as amended through December 31, 2003~~;~~ except that for taxable years beginning after December 31, 2011, the addition in this clause does not apply to property used in farming that is used by a taxpayer who is actively engaged in farming. For purposes of this clause, "actively engaged in farming" has the meaning given in Code of Federal Regulations, title 7, section 1400.201, and "farming" has the meaning given in section 464(e)(1) of the Internal Revenue Code;

(9) to the extent deducted in computing federal taxable income, the amount of the deduction allowable under section 199 of the Internal Revenue Code;

(10) for taxable years beginning before January 1, 2013, the exclusion allowed under section 139A of the Internal Revenue Code for federal subsidies for prescription drug plans;

(11) the amount of expenses disallowed under section 290.10, subdivision 2;

(12) for taxable years beginning before January 1, 2010, the amount deducted for qualified tuition and related expenses under section 222 of the Internal Revenue Code, to the extent deducted from gross income;

(13) for taxable years beginning before January 1, 2010, the amount deducted for certain expenses of elementary and secondary school teachers under section 62(a)(2)(D) of the Internal Revenue Code, to the extent deducted from gross income;

(14) the additional standard deduction for property taxes payable that is allowable under section 63(c)(1)(C) of the Internal Revenue Code;

(15) the additional standard deduction for qualified motor vehicle sales taxes allowable under section 63(c)(1)(E) of the Internal Revenue Code;

(16) discharge of indebtedness income resulting from reacquisition of business indebtedness and deferred under section 108(i) of the Internal Revenue Code;

(17) the amount of unemployment compensation exempt from tax under section 85(c) of the Internal Revenue Code;

(18) changes to federal taxable income attributable to a net operating loss that the taxpayer elected to carry back for more than two years for federal purposes but for which the losses can be carried back for only two years under section 290.095, subdivision 11, paragraph (c);

(19) to the extent included in the computation of federal taxable income in taxable years beginning after December 31, 2010, the amount of disallowed itemized deductions, but the amount of disallowed itemized deductions plus the addition required under clause (2) may not be more than the amount by which the itemized deductions as allowed under section 63(d) of the Internal Revenue Code exceeds the amount of the standard deduction as defined in section 63(c) of the Internal Revenue Code, disregarding the amounts allowed under sections 63(c)(1)(C) and 63(c)(1)(E) of the Internal Revenue Code, and reduced by any addition that would have been required under clause (21) if the taxpayer had claimed the standard deduction;

(i) The amount of disallowed itemized deductions is equal to the lesser of:

(A) three percent of the excess of the taxpayer's federal adjusted gross income over the applicable amount; or

(B) 80 percent of the amount of the itemized deductions otherwise allowable to the taxpayer under the Internal Revenue Code for the taxable year.

(ii) The term "applicable amount" means \$100,000, or \$50,000 in the case of a married individual filing a separate return. Each dollar amount shall be increased by an amount equal to:

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) of the Internal Revenue Code for the calendar year in which the taxable year begins, by substituting "calendar year 1990" for "calendar year 1992" in subparagraph (B) thereof.

(iii) The term "itemized deductions" does not include:

(A) the deduction for medical expenses under section 213 of the Internal Revenue Code;

(B) any deduction for investment interest as defined in section 163(d) of the Internal Revenue Code; and

(C) the deduction under section 165(a) of the Internal Revenue Code for casualty or theft losses described in paragraph (2) or (3) of section 165(c) of the Internal Revenue Code or for losses described in section 165(d) of the Internal Revenue Code;

(20) to the extent included in federal taxable income in taxable years beginning after December 31, 2010, the amount of disallowed personal exemptions for taxpayers with federal adjusted gross income over the threshold amount;

(i) The disallowed personal exemption amount is equal to the dollar amount of the personal exemptions claimed by the taxpayer in the computation of federal taxable income multiplied by the applicable percentage.

(ii) "Applicable percentage" means two percentage points for each \$2,500 (or fraction thereof) by which the taxpayer's federal adjusted gross income for the taxable year exceeds the threshold amount. In the case of a married individual filing a separate return, the preceding sentence shall be applied by substituting "\$1,250" for "\$2,500." In no event shall the applicable percentage exceed 100 percent.

(iii) The term "threshold amount" means:

(A) \$150,000 in the case of a joint return or a surviving spouse;

(B) \$125,000 in the case of a head of a household;

(C) \$100,000 in the case of an individual who is not married and who is not a surviving spouse or head of a household; and

(D) \$75,000 in the case of a married individual filing a separate return.

(iv) The thresholds shall be increased by an amount equal to:

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) of the Internal Revenue Code for the calendar year in which the taxable year begins, by substituting "calendar year 1990" for "calendar year 1992" in subparagraph (B) thereof; and

(21) to the extent deducted in the computation of federal taxable income, for taxable years beginning after December 31, 2010, and before January 1, 2013, the difference between the standard deduction allowed under section 63(c) of the Internal Revenue Code and the standard deduction allowed for 2011 and 2012 under the Internal Revenue Code as amended through December 1, 2010.

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

Sec. 2. Minnesota Statutes 2011 Supplement, section 290.01, subdivision 19c, is amended to read:

Subd. 19c. **Corporations; additions to federal taxable income.** For corporations, there shall be added to federal taxable income:

(1) the amount of any deduction taken for federal income tax purposes for income, excise, or franchise taxes based on net income or related minimum taxes, including but not limited to the tax imposed under section 290.0922, paid by the corporation to Minnesota, another state, a political subdivision of another state, the District of Columbia, or any foreign country or possession of the United States;

(2) interest not subject to federal tax upon obligations of: the United States, its possessions, its agencies, or its instrumentalities; the state of Minnesota or any other state, any of its political or governmental subdivisions, any of its municipalities, or any

of its governmental agencies or instrumentalities; the District of Columbia; or Indian tribal governments;

(3) exempt-interest dividends received as defined in section 852(b)(5) of the Internal Revenue Code;

(4) the amount of any net operating loss deduction taken for federal income tax purposes under section 172 or 832(c)(10) of the Internal Revenue Code or operations loss deduction under section 810 of the Internal Revenue Code;

(5) the amount of any special deductions taken for federal income tax purposes under sections 241 to 247 and 965 of the Internal Revenue Code;

(6) losses from the business of mining, as defined in section 290.05, subdivision 1, clause (a), that are not subject to Minnesota income tax;

(7) the amount of any capital losses deducted for federal income tax purposes under sections 1211 and 1212 of the Internal Revenue Code;

(8) the exempt foreign trade income of a foreign sales corporation under sections 921(a) and 291 of the Internal Revenue Code;

(9) the amount of percentage depletion deducted under sections 611 through 614 and 291 of the Internal Revenue Code;

(10) for certified pollution control facilities placed in service in a taxable year beginning before December 31, 1986, and for which amortization deductions were elected under section 169 of the Internal Revenue Code of 1954, as amended through December 31, 1985, the amount of the amortization deduction allowed in computing federal taxable income for those facilities;

(11) the amount of any deemed dividend from a foreign operating corporation determined pursuant to section 290.17, subdivision 4, paragraph (g). The deemed dividend shall be reduced by the amount of the addition to income required by clauses (20), (21), (22), and (23);

(12) the amount of a partner's pro rata share of net income which does not flow through to the partner because the partnership elected to pay the tax on the income under section 6242(a)(2) of the Internal Revenue Code;

(13) the amount of net income excluded under section 114 of the Internal Revenue Code;

(14) any increase in subpart F income, as defined in section 952(a) of the Internal Revenue Code, for the taxable year when subpart F income is calculated without regard to the provisions of Division C, title III, section 303(b) of Public Law 110-343;

(15) 80 percent of the depreciation deduction allowed under section 168(k)(1)(A) and (k)(4)(A) of the Internal Revenue Code. For purposes of this clause, if the taxpayer

has an activity that in the taxable year generates a deduction for depreciation under section 168(k)(1)(A) and (k)(4)(A) and the activity generates a loss for the taxable year that the taxpayer is not allowed to claim for the taxable year, "the depreciation allowed under section 168(k)(1)(A) and (k)(4)(A)" for the taxable year is limited to excess of the depreciation claimed by the activity under section 168(k)(1)(A) and (k)(4)(A) over the amount of the loss from the activity that is not allowed in the taxable year. In succeeding taxable years when the losses not allowed in the taxable year are allowed, the depreciation under section 168(k)(1)(A) and (k)(4)(A) is allowed;

(16) 80 percent of the amount by which the deduction allowed by section 179 of the Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal Revenue Code of 1986, as amended through December 31, 2003~~;~~, except that for taxable years beginning after December 31, 2011, the addition in this clause does not apply to property used in farming that is used by a taxpayer who is actively engaged in farming. For purposes of this clause, "actively engaged in farming" has the meaning given in Code of Federal Regulations, title 7, section 1400.201, and "farming" has the meaning given in section 464(e)(1) of the Internal Revenue Code;

(17) to the extent deducted in computing federal taxable income, the amount of the deduction allowable under section 199 of the Internal Revenue Code;

(18) for taxable years beginning before January 1, 2013, the exclusion allowed under section 139A of the Internal Revenue Code for federal subsidies for prescription drug plans;

(19) the amount of expenses disallowed under section 290.10, subdivision 2;

(20) an amount equal to the interest and intangible expenses, losses, and costs paid, accrued, or incurred by any member of the taxpayer's unitary group to or for the benefit of a corporation that is a member of the taxpayer's unitary business group that qualifies as a foreign operating corporation. For purposes of this clause, intangible expenses and costs include:

(i) expenses, losses, and costs for, or related to, the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property;

(ii) losses incurred, directly or indirectly, from factoring transactions or discounting transactions;

(iii) royalty, patent, technical, and copyright fees;

(iv) licensing fees; and

(v) other similar expenses and costs.

8.1 For purposes of this clause, "intangible property" includes stocks, bonds, patents, patent
8.2 applications, trade names, trademarks, service marks, copyrights, mask works, trade
8.3 secrets, and similar types of intangible assets.

8.4 This clause does not apply to any item of interest or intangible expenses or costs paid,
8.5 accrued, or incurred, directly or indirectly, to a foreign operating corporation with respect
8.6 to such item of income to the extent that the income to the foreign operating corporation
8.7 is income from sources without the United States as defined in subtitle A, chapter 1,
8.8 subchapter N, part 1, of the Internal Revenue Code;

8.9 (21) except as already included in the taxpayer's taxable income pursuant to clause
8.10 (20), any interest income and income generated from intangible property received or
8.11 accrued by a foreign operating corporation that is a member of the taxpayer's unitary
8.12 group. For purposes of this clause, income generated from intangible property includes:

- 8.13 (i) income related to the direct or indirect acquisition, use, maintenance or
8.14 management, ownership, sale, exchange, or any other disposition of intangible property;
- 8.15 (ii) income from factoring transactions or discounting transactions;
- 8.16 (iii) royalty, patent, technical, and copyright fees;
- 8.17 (iv) licensing fees; and
- 8.18 (v) other similar income.

8.19 For purposes of this clause, "intangible property" includes stocks, bonds, patents, patent
8.20 applications, trade names, trademarks, service marks, copyrights, mask works, trade
8.21 secrets, and similar types of intangible assets.

8.22 This clause does not apply to any item of interest or intangible income received or accrued
8.23 by a foreign operating corporation with respect to such item of income to the extent that
8.24 the income is income from sources without the United States as defined in subtitle A,
8.25 chapter 1, subchapter N, part 1, of the Internal Revenue Code;

8.26 (22) the dividends attributable to the income of a foreign operating corporation that
8.27 is a member of the taxpayer's unitary group in an amount that is equal to the dividends
8.28 paid deduction of a real estate investment trust under section 561(a) of the Internal
8.29 Revenue Code for amounts paid or accrued by the real estate investment trust to the
8.30 foreign operating corporation;

8.31 (23) the income of a foreign operating corporation that is a member of the taxpayer's
8.32 unitary group in an amount that is equal to gains derived from the sale of real or personal
8.33 property located in the United States;

9.1 (24) for taxable years beginning before January 1, 2010, the additional amount
9.2 allowed as a deduction for donation of computer technology and equipment under section
9.3 170(e)(6) of the Internal Revenue Code, to the extent deducted from taxable income; and
9.4 (25) discharge of indebtedness income resulting from reacquisition of business
9.5 indebtedness and deferred under section 108(i) of the Internal Revenue Code.

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