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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 540

01/31/2019 Authored by Marquart and Davids
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; individual income; allowing taxpayers to make certain elections
1.3 for state tax filing purposes; amending Minnesota Statutes 2018, section 290.01,
1.4 subdivision 19; proposing coding for new law in Minnesota Statutes, chapter 290.

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

1.6 Section 1. Minnesota Statutes 2018, section 290.01, subdivision 19, is amended to read:

1.7 Subd. 19. Net income. The term "net income" means the federal taxable income, as
1.8 defined in section 63 of the Internal Revenue Code of 1986, as amended through the date
1.9 named in this subdivision, incorporating the federal effective dates of changes to the Internal
1.10 Revenue Code and any elections made by the taxpayer in accordance with the Internal
1.11 Revenue Code in determining federal taxable income for federal income tax purposes, and
1.12 with the modifications provided in sections 290.0131 to 290.0136.

1.13 In the case of a regulated investment company or a fund thereof, as defined in section
1.14 851(a) or 851(g) of the Internal Revenue Code, federal taxable income means investment
1.15 company taxable income as defined in section 852(b)(2) of the Internal Revenue Code,
1.16 except that:

1.17 (1) the exclusion of net capital gain provided in section 852(b)(2)(A) of the Internal
1.18 Revenue Code does not apply;

1.19 (2) the deduction for dividends paid under section 852(b)(2)(D) of the Internal Revenue
1.20 Code must be applied by allowing a deduction for capital gain dividends and exempt-interest
1.21 dividends as defined in sections 852(b)(3)(C) and 852(b)(5) of the Internal Revenue Code;
1.22 and

2.1 (3) the deduction for dividends paid must also be applied in the amount of any
 2.2 undistributed capital gains which the regulated investment company elects to have treated
 2.3 as provided in section 852(b)(3)(D) of the Internal Revenue Code.

2.4 The net income of a real estate investment trust as defined and limited by section 856(a),
 2.5 (b), and (c) of the Internal Revenue Code means the real estate investment trust taxable
 2.6 income as defined in section 857(b)(2) of the Internal Revenue Code.

2.7 The net income of a designated settlement fund as defined in section 468B(d) of the
 2.8 Internal Revenue Code means the gross income as defined in section 468B(b) of the Internal
 2.9 Revenue Code.

2.10 The Internal Revenue Code of 1986, as amended through December 16, 2016, shall be
 2.11 in effect for taxable years beginning after December 31, 1996.

2.12 Except as otherwise provided, references to the Internal Revenue Code in this subdivision
 2.13 and sections 290.0131 to 290.0136 mean the code in effect for purposes of determining net
 2.14 income for the applicable year.

2.15 If Congress makes changes to the standard deduction or to itemized deductions under
 2.16 section 63 of the Internal Revenue Code, as amended through March 31, 2018, that affect
 2.17 the calculation of net income for state income tax purposes, Minnesota taxpayers may
 2.18 calculate net income for state income tax purposes using the Internal Revenue Code, as
 2.19 amended through December 16, 2016, as provided in section 290.016.

2.20 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
 2.21 31, 2018.

2.22 **Sec. 2. [290.016] TAXPAYER ELECTION FOR ITEMIZED OR STANDARD**
 2.23 **DEDUCTION.**

2.24 **Subdivision 1. Legislative purpose.** The legislature intends this section to provide an
 2.25 ongoing mechanism to allow taxpayers to choose between claiming the standard deduction
 2.26 and itemizing deductions on their Minnesota tax returns, regardless of the election made
 2.27 on their federal returns. Changes made to the standard and itemized deductions in the Tax
 2.28 Cuts and Jobs Act may cause taxpayers to make different choices in the type of deduction
 2.29 they claim for federal purposes prior to passage of the act. The legislature does not intend
 2.30 for taxpayers to be bound by a choice made at the federal level that they would not choose
 2.31 to make at the state level, absent legislative action to address federal changes through
 2.32 Minnesota additions and subtractions. By expressing its intent regarding allowing a different
 2.33 election than claimed under federal law, the legislature is exercising its legislative power

3.1 and is not delegating its authority to determine Minnesota tax law. The legislature believes
3.2 that this section is consistent with the Minnesota Supreme Court's ruling in Wallace v.
3.3 Commissioner of Taxation, 289 Minn. 220 (1971).

3.4 Subd. 2. **Election allowed.** Taxpayers may elect to claim the standard deduction or to
3.5 itemize deductions as allowed in section 63 of the Internal Revenue Code, as amended
3.6 through December 16, 2016, for purposes of calculating net income for a taxable year
3.7 regardless of their election made for federal income tax purposes. This section applies only
3.8 to election of the standard deduction or itemizing deductions and does not apply to any
3.9 other election the taxpayer makes on their federal income tax return.

3.10 Subd. 3. **Application of chapter.** For purposes of determining tax and credits under this
3.11 chapter, including the taxes under section 290.091 and household income under chapter
3.12 290A, the election allowed under subdivision 2 applies for the taxable year and all provisions
3.13 of this chapter apply as if net income were calculated using the standard or itemized deduction
3.14 allowed under section 63 of the Internal Revenue Code, as amended through December 16,
3.15 2016.

3.16 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
3.17 31, 2018.