

SENATE
STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 2526

(SENATE AUTHORS: REST)

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Introduction and first reading
Referred to Taxes

OFFICIAL STATUS

1.1 A bill for an act
 1.2 relating to taxation; corporate franchise; repealing the corporate alternative
 1.3 minimum tax and corporate minimum fee; amending Minnesota Statutes 2016,
 1.4 sections 290.0131, subdivision 5; 290.0133, subdivision 2; 290.0136; 290.0922,
 1.5 subdivision 1; 469.317; Minnesota Statutes 2017 Supplement, section 290.0922,
 1.6 subdivision 2; repealing Minnesota Statutes 2016, section 290.0921, subdivisions
 1.7 1, 2, 3, 3a, 4, 6, 8.

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

1.9 Section 1. Minnesota Statutes 2016, section 290.0131, subdivision 5, is amended to read:

1.10 Subd. 5. **Income taxes deducted in computing federal adjusted gross income.** (a)

1.11 The amount of income taxes paid or accrued within the taxable year under this chapter and
 1.12 taxes based on net income paid to any other state or any province or territory of Canada is
 1.13 an addition to the extent allowed as a deduction in determining federal adjusted gross income.

1.14 (b) For the purpose of this subdivision, income taxes do not include the taxes imposed
 1.15 by sections 290.0922, subdivision 1, paragraph ~~(b)~~ (a); 290.9727; 290.9728; and 290.9729.

1.16 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
 1.17 31, 2017.

1.18 Sec. 2. Minnesota Statutes 2016, section 290.0133, subdivision 2, is amended to read:

1.19 Subd. 2. **Taxes paid.** The amount of any deduction taken for income, excise, or franchise
 1.20 taxes based on net income or related minimum taxes, including but not limited to the tax
 1.21 ~~imposed under section 290.0922,~~ paid by the corporation to Minnesota, another state, a
 1.22 political subdivision of another state, the District of Columbia, or any foreign country or
 1.23 possession of the United States, is an addition.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2017.

Sec. 3. Minnesota Statutes 2016, section 290.0136, is amended to read:

290.0136 CERTAIN PREFERRED STOCK LOSSES.

A taxpayer must compute net income by treating losses from the sale or transfer of certain preferred stock, which the taxpayer treated as ordinary losses pursuant to Division A, title III, section 301 of Public Law 110-343, as capital losses. The amount of net income under section 290.01, subdivision 19; taxable net income under section 290.01, subdivision 22; taxable income under section 290.01, subdivision 29; the numerator and denominator in section 290.06, subdivision 2c, paragraph (e); individual alternative minimum taxable income under section 290.091, subdivision 2; ~~corporate alternative minimum taxable income under section 290.0921, subdivision 3;~~ and net operating losses under section 290.095 must be computed for each taxable year as if those losses had been treated by the taxpayer as capital losses under the Internal Revenue Code, including the limitations under section 1211 of the Internal Revenue Code.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2017.

Sec. 4. Minnesota Statutes 2016, section 290.0922, subdivision 1, is amended to read:

Subdivision 1. **Imposition.** ~~(a) In addition to the tax imposed by this chapter without regard to this section, the franchise tax imposed on a corporation required to file under section 289A.08, subdivision 3, other than a corporation treated as an "S" corporation under section 290.9725 for the taxable year includes a tax equal to the following amounts:~~

If the sum of the corporation's Minnesota property, payrolls, and sales or receipts is:			the tax equals:
less than	\$	930,000	\$ 0
\$ 930,000 to	\$	1,869,999	\$ 190
\$ 1,870,000 to	\$	9,339,999	\$ 560
\$ 9,340,000 to	\$	18,679,999	\$ 1,870
\$ 18,680,000 to	\$	37,359,999	\$ 3,740
\$ 37,360,000 or more			\$ 9,340

~~(b)~~ (a) A tax is imposed for each taxable year on a corporation required to file a return under section 289A.12, subdivision 3, that is treated as an "S" corporation under section 290.9725 and on a partnership required to file a return under section 289A.12, subdivision

3, other than a partnership that derives over 80 percent of its income from farming. The tax imposed under this paragraph is due on or before the due date of the return for the taxpayer due under section 289A.18, subdivision 1. The commissioner shall prescribe the return to be used for payment of this tax. The tax under this paragraph is equal to the following amounts:

If the sum of the S corporation's or partnership's Minnesota property, payrolls, and sales or receipts is:

the tax equals:

less than	\$ 930,000	\$ 0
\$ 930,000 to \$ 1,869,999		\$ 190
\$ 1,870,000 to \$ 9,339,999		\$ 560
\$ 9,340,000 to \$ 18,679,999		\$ 1,870
\$ 18,680,000 to \$ 37,359,999		\$ 3,740
\$ 37,360,000 or more		\$ 9,340

~~(e)~~ (b) The commissioner shall adjust the dollar amounts of both the tax and the property, payrolls, and sales or receipts thresholds in ~~paragraphs~~ paragraph (a) and (b) by the percentage determined pursuant to the provisions of section 1(f) of the Internal Revenue Code, except that in section 1(f)(3)(B) the word "2012" must be substituted for the word "1992." For 2014, the commissioner shall determine the percentage change from the 12 months ending on August 31, 2012, to the 12 months ending on August 31, 2013, and in each subsequent year, from the 12 months ending on August 31, 2012, to the 12 months ending on August 31 of the year preceding the taxable year. The determination of the commissioner pursuant to this subdivision is not a "rule" subject to the Administrative Procedure Act contained in chapter 14. The tax amounts as adjusted must be rounded to the nearest \$10 amount and the threshold amounts must be adjusted to the nearest \$10,000 amount. For tax amounts that end in \$5, the amount is rounded up to the nearest \$10 amount and for the threshold amounts that end in \$5,000, the amount is rounded up to the nearest \$10,000.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2017.

Sec. 5. Minnesota Statutes 2017 Supplement, section 290.0922, subdivision 2, is amended to read:

Subd. 2. **Exemptions.** The following entities are exempt from the tax imposed by this section:

4.1 ~~(1) corporations exempt from tax under section 290.05;~~

4.2 ~~(2) (1)~~ real estate investment trusts;

4.3 ~~(3) (2)~~ regulated investment companies or a fund thereof;

4.4 ~~(4) (3)~~ entities having a valid election in effect under section 860D(b) of the Internal
4.5 Revenue Code;

4.6 ~~(5) (4)~~ township mutual insurance companies;

4.7 ~~(6) (5)~~ cooperatives organized under chapter 308A or 308B that provide housing
4.8 exclusively to persons age 55 and over and are classified as homesteads under section
4.9 273.124, subdivision 3; and

4.10 ~~(7) (6)~~ a qualified business as defined under section 469.310, subdivision 11, if for the
4.11 taxable year all of its property is located in a job opportunity building zone designated under
4.12 section 469.314 and all of its payroll is a job opportunity building zone payroll under section
4.13 469.310.

4.14 Entities not specifically exempted by this subdivision are subject to tax under this section,
4.15 notwithstanding section 290.05.

4.16 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
4.17 31, 2017.

4.18 Sec. 6. Minnesota Statutes 2016, section 469.317, is amended to read:

4.19 **469.317 CORPORATE FRANCHISE TAX EXEMPTION.**

4.20 (a) A qualified business is exempt from taxation under section 290.02, ~~the alternative~~
4.21 ~~minimum tax under section 290.0921,~~ and the minimum fee under section 290.0922, on the
4.22 portion of its income attributable to operations within the zone. ~~This exemption is determined~~
4.23 ~~as follows:~~

4.24 ~~(1) (b)~~ For purposes of the tax imposed under section 290.02, the exemption is determined
4.25 by multiplying its taxable net income by its zone percentage and by its relocation payroll
4.26 percentage and subtracting the result in determining taxable income;

4.27 ~~(2) for purposes of the alternative minimum tax under section 290.0921, by multiplying~~
4.28 ~~its alternative minimum taxable income by its zone percentage and by its relocation payroll~~
4.29 ~~percentage and reducing alternative minimum taxable income by this amount; and~~

5.1 ~~(3)~~ (c) For purposes of the minimum fee under section 290.0922, the exemption is
5.2 determined by excluding property and payroll in the zone from the computations of the fee
5.3 or by exempting the entity under section 290.0922, subdivision 2, clause (7).

5.4 ~~(b)~~ (d) No subtraction is allowed under this section in excess of 20 percent of the sum
5.5 of the corporation's job opportunity building zone payroll and the adjusted basis of the
5.6 property at the time that the property is first used in the job opportunity building zone by
5.7 the corporation.

5.8 ~~(e)~~ (e) This section applies only to taxable years beginning during the duration of the
5.9 job opportunity building zone.

5.10 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
5.11 31, 2017.

5.12 Sec. 7. **REPEALER.**

5.13 Minnesota Statutes 2016, section 290.0921, subdivisions 1, 2, 3, 3a, 4, 6, and 8, are
5.14 repealed.

5.15 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
5.16 31, 2017.

290.0921 CORPORATE ALTERNATIVE MINIMUM TAX AFTER 1989.

Subdivision 1. **Tax imposed.** In addition to the taxes computed under this chapter without regard to this section, the franchise tax imposed on corporations includes a tax equal to the excess, if any, for the taxable year of:

- (1) 5.8 percent of Minnesota alternative minimum taxable income; over
- (2) the tax imposed under section 290.06, subdivision 1, without regard to this section.

Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the meanings given them.

- (b) "Alternative minimum taxable net income" is alternative minimum taxable income,
 - (1) less the exemption amount, and
 - (2) apportioned or allocated to Minnesota under section 290.17, 290.191, or 290.20.

(c) The "exemption amount" is \$40,000, reduced, but not below zero, by 25 percent of the excess of alternative minimum taxable income over \$150,000.

(d) "Minnesota alternative minimum taxable income" is alternative minimum taxable net income, less the deductions for alternative tax net operating loss under subdivision 4; and dividends received under subdivision 6. The sum of the deductions under this paragraph may not exceed 90 percent of alternative minimum taxable net income. This limitation does not apply to:

- (1) a deduction for dividends paid to or received from a corporation which is subject to tax under section 290.36 and which is a member of an affiliated group of corporations as defined by the Internal Revenue Code; or
- (2) a deduction for dividends received from a property and casualty insurer as defined under section 60A.60, subdivision 8, which is a member of an affiliated group of corporations as defined by the Internal Revenue Code and either: (i) the dividend is eliminated in consolidation under Treasury Regulation 1.1502-14(a), as amended through December 31, 1989; or (ii) the dividend is deducted under an election under section 243(b) of the Internal Revenue Code.

Subd. 3. **Alternative minimum taxable income.** "Alternative minimum taxable income" is Minnesota net income as defined in section 290.01, subdivision 19, and includes the adjustments and tax preference items in sections 56, 57, 58, and 59(d), (e), (f), and (h) of the Internal Revenue Code. If a corporation files a separate company Minnesota tax return, the minimum tax must be computed on a separate company basis. If a corporation is part of a tax group filing a unitary return, the minimum tax must be computed on a unitary basis. The following adjustments must be made.

- (1) The portion of the depreciation deduction allowed for federal income tax purposes under section 168(k) of the Internal Revenue Code that is required as an addition under section 290.0133, subdivision 11, is disallowed in determining alternative minimum taxable income.
- (2) The subtraction for depreciation allowed under section 290.0134, subdivision 13, is allowed as a depreciation deduction in determining alternative minimum taxable income.
- (3) The alternative tax net operating loss deduction under sections 56(a)(4) and 56(d) of the Internal Revenue Code does not apply.
- (4) The special rule for certain dividends under section 56(g)(4)(C)(ii) of the Internal Revenue Code does not apply.
- (5) The tax preference for depletion under section 57(a)(1) of the Internal Revenue Code does not apply.
- (6) The tax preference for tax exempt interest under section 57(a)(5) of the Internal Revenue Code does not apply.
- (7) The tax preference for charitable contributions of appreciated property under section 57(a)(6) of the Internal Revenue Code does not apply.
- (8) For purposes of calculating the adjustment for adjusted current earnings in section 56(g) of the Internal Revenue Code, the term "alternative minimum taxable income" as it is used in section 56(g) of the Internal Revenue Code, means alternative minimum taxable income as defined in this subdivision, determined without regard to the adjustment for adjusted current earnings in section 56(g) of the Internal Revenue Code.

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(9) For purposes of determining the amount of adjusted current earnings under section 56(g)(3) of the Internal Revenue Code, no adjustment shall be made under section 56(g)(4) of the Internal Revenue Code with respect to (i) the amount of foreign dividend gross-up subtracted as provided in section 290.0134, subdivision 2, or (ii) the amount of refunds of income, excise, or franchise taxes subtracted as provided in section 290.0134, subdivision 8.

(10) Alternative minimum taxable income excludes the income from operating in a job opportunity building zone as provided under section 469.317.

Items of tax preference must not be reduced below zero as a result of the modifications in this subdivision.

Subd. 3a. **Exemptions.** The following entities are exempt from the tax imposed by this section:

(1) cooperatives taxable under subchapter T of the Internal Revenue Code or organized under chapter 308 or a similar law of another state;

(2) corporations subject to tax under section 297I.05, subdivisions 1 to 5;

(3) real estate investment trusts;

(4) regulated investment companies or a fund thereof;

(5) entities having a valid election in effect under section 860D(b) of the Internal Revenue Code; and

(6) small corporations exempt from the federal alternative minimum tax under section 55(e) of the Internal Revenue Code.

Subd. 4. **Alternative tax net operating loss.** (a) An alternative tax net operating loss deduction is allowed from alternative minimum taxable net income equal to the net operating loss deduction allowable for the taxable year under section 290.095 with the following modifications:

(1) The amount of the net operating loss deduction must not exceed 90 percent of alternative minimum taxable net income.

(2) In determining the amount of the net operating loss deduction (i) the net operating loss under section 290.095 must be adjusted as provided in paragraph (b), and (ii) for taxable years beginning after December 31, 1989, section 290.095, subdivision 3, must be applied by substituting "90 percent of alternative minimum taxable net income" for "taxable net income."

(b) The following adjustments must be made to the alternative tax net operating loss deduction under paragraph (a):

(1) For a loss year beginning after December 31, 1989, the net operating loss for each year under section 290.095 must be (i) determined with the adjustments provided in sections 56 and 58 of the Internal Revenue Code, as modified by subdivision 3 and (ii) reduced by the items of tax preference for the year determined under section 57 of the Internal Revenue Code, as modified by subdivision 3.

(2) For a loss year beginning before January 1, 1990, the amount of the net operating loss that may be carried over to taxable years beginning after December 31, 1989, equals the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1989.

Subd. 6. **Dividends received.** (a) A deduction is allowed from alternative minimum taxable net income equal to the deduction for dividends received under section 290.21, subdivision 4, for purposes of calculating taxable income under section 290.01, subdivision 29.

(b) The amount of the deduction must not exceed 90 percent of alternative minimum taxable net income.

This limitation does not apply to:

(1) dividends paid to or received from a corporation which is subject to tax under section 290.36 and which is a member of an affiliated group of corporations as defined by the Internal Revenue Code; or

(2) dividends received from a property and casualty insurer as defined under section 60A.60, subdivision 8, which is a member of an affiliated group of corporations as defined by the Internal Revenue Code and either: (i) the dividend is eliminated in consolidation under Treasury Regulation

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1.1502-14(a), as amended through December 31, 1989; or (ii) the dividend is deducted under an election under section 243(b) of the Internal Revenue Code.

Subd. 8. **Carryover credit.** (a) A corporation is allowed a credit against qualified regular tax for qualified alternative minimum tax previously paid. The credit is allowable only if the corporation has no tax liability under this section for the taxable year and if the corporation has an alternative minimum tax credit carryover from a previous year. The credit allowable in a taxable year equals the lesser of

(1) the excess of the qualified regular tax for the taxable year over the amount computed under subdivision 1, clause (1), for the taxable year or

(2) the carryover credit to the taxable year.

(b) For purposes of this subdivision, the following terms have the meanings given.

(1) "Qualified alternative minimum tax" equals the amount determined under subdivision 1 for the taxable year.

(2) "Qualified regular tax" means the tax imposed under section 290.06, subdivision 1.

(c) The qualified alternative minimum tax for a taxable year is an alternative minimum tax credit carryover to each of the taxable years succeeding the taxable year. The entire amount of the credit must be carried to the earliest taxable year to which the amount may be carried. Any unused portion of the credit must be carried to the following taxable year. No credit may be carried to a taxable year in which alternative minimum tax was paid.

(d) An acquiring corporation may carry over this credit from a transferor or distributor corporation in a corporate acquisition. The provisions of section 381 of the Internal Revenue Code apply in determining the amount of the carryover, if any.