

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 2893

(SENATE AUTHORS: REST)

DATE
03/14/2023

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Introduction and first reading
Referred to Taxes
See HF1938

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to taxation; income, estate, and property tax refunds; incorporating the
1.3 Internal Revenue Code, as amended through March 1, 2023; amending Minnesota
1.4 Statutes 2022, sections 289A.02, subdivision 7, as amended; 290.01, subdivisions
1.5 19, as amended, 31, as amended; 290A.03, subdivision 15, as amended; 291.005,
1.6 subdivision 1, as amended.

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

1.8 Section 1. Minnesota Statutes 2022, section 289A.02, subdivision 7, as amended by Laws
1.9 2023, chapter 1, section 1, is amended to read:

1.10 Subd. 7. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal
1.11 Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~December~~
1.12 ~~15, 2022~~ March 1, 2023.

1.13 **EFFECTIVE DATE.** This section is effective the day following final enactment, except
1.14 the changes incorporated by federal changes are effective retroactively at the same time the
1.15 changes were effective for federal purposes.

1.16 Sec. 2. Minnesota Statutes 2022, section 290.01, subdivision 19, as amended by Laws
1.17 2023, chapter 1, section 4, is amended to read:

1.18 Subd. 19. **Net income.** (a) For a trust or estate taxable under section 290.03, and a
1.19 corporation taxable under section 290.02, the term "net income" means the federal taxable
1.20 income, as defined in section 63 of the Internal Revenue Code of 1986, as amended through
1.21 the date named in this subdivision, incorporating the federal effective dates of changes to
1.22 the Internal Revenue Code and any elections made by the taxpayer in accordance with the

2.1 Internal Revenue Code in determining federal taxable income for federal income tax
2.2 purposes, and with the modifications provided in sections 290.0131 to 290.0136.

2.3 (b) For an individual, the term "net income" means federal adjusted gross income with
2.4 the modifications provided in sections 290.0131, 290.0132, and 290.0135 to 290.0137.

2.5 (c) In the case of a regulated investment company or a fund thereof, as defined in section
2.6 851(a) or 851(g) of the Internal Revenue Code, federal taxable income means investment
2.7 company taxable income as defined in section 852(b)(2) of the Internal Revenue Code,
2.8 except that:

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

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

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

2.18 (d) The net income of a real estate investment trust as defined and limited by section
2.19 856(a), (b), and (c) of the Internal Revenue Code means the real estate investment trust
2.20 taxable income as defined in section 857(b)(2) of the Internal Revenue Code.

2.21 (e) The net income of a designated settlement fund as defined in section 468B(d) of the
2.22 Internal Revenue Code means the gross income as defined in section 468B(b) of the Internal
2.23 Revenue Code.

2.24 (f) The Internal Revenue Code of 1986, as amended through ~~December 15, 2022~~ March
2.25 1, 2023, applies for taxable years beginning after December 31, 1996.

2.26 (g) Except as otherwise provided, references to the Internal Revenue Code in this
2.27 subdivision and sections 290.0131 to 290.0136 mean the code in effect for purposes of
2.28 determining net income for the applicable year.

2.29 **EFFECTIVE DATE.** This section is effective the day following final enactment, except
2.30 the changes incorporated by federal changes are effective retroactively at the same time the
2.31 changes were effective for federal purposes.

3.1 Sec. 3. Minnesota Statutes 2022, section 290.01, subdivision 31, as amended by Laws
3.2 2023, chapter 1, section 5, is amended to read:

3.3 Subd. 31. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal
3.4 Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~December~~
3.5 ~~15, 2022~~ March 1, 2023. Internal Revenue Code also includes any uncodified provision in
3.6 federal law that relates to provisions of the Internal Revenue Code that are incorporated
3.7 into Minnesota law.

3.8 **EFFECTIVE DATE.** This section is effective the day following final enactment, except
3.9 the changes incorporated by federal changes are effective retroactively at the same time the
3.10 changes were effective for federal purposes.

3.11 Sec. 4. Minnesota Statutes 2022, section 290A.03, subdivision 15, as amended by Laws
3.12 2023, chapter 1, section 20, is amended to read:

3.13 Subd. 15. **Internal Revenue Code.** "Internal Revenue Code" means the Internal Revenue
3.14 Code of 1986, as amended through ~~December 15, 2022~~ March 1, 2023.

3.15 **EFFECTIVE DATE.** This section is effective beginning with refunds based on rent
3.16 paid in 2023 and property taxes payable in 2024.

3.17 Sec. 5. Minnesota Statutes 2022, section 291.005, subdivision 1, as amended by Laws
3.18 2023, chapter 1, section 21, is amended to read:

3.19 Subdivision 1. **Scope.** Unless the context otherwise clearly requires, the following terms
3.20 used in this chapter shall have the following meanings:

3.21 (1) "Commissioner" means the commissioner of revenue or any person to whom the
3.22 commissioner has delegated functions under this chapter.

3.23 (2) "Federal gross estate" means the gross estate of a decedent as required to be valued
3.24 and otherwise determined for federal estate tax purposes under the Internal Revenue Code,
3.25 increased by the value of any property in which the decedent had a qualifying income interest
3.26 for life and for which an election was made under section 291.03, subdivision 1d, for
3.27 Minnesota estate tax purposes, but was not made for federal estate tax purposes.

3.28 (3) "Internal Revenue Code" means the United States Internal Revenue Code of 1986,
3.29 as amended through ~~December 15, 2022~~ March 1, 2023.

3.30 (4) "Minnesota gross estate" means the federal gross estate of a decedent after (a)
3.31 excluding therefrom any property included in the estate which has its situs outside Minnesota,

4.1 and (b) including any property omitted from the federal gross estate which is includable in
4.2 the estate, has its situs in Minnesota, and was not disclosed to federal taxing authorities.

4.3 (5) "Nonresident decedent" means an individual whose domicile at the time of death
4.4 was not in Minnesota.

4.5 (6) "Personal representative" means the executor, administrator or other person appointed
4.6 by the court to administer and dispose of the property of the decedent. If there is no executor,
4.7 administrator or other person appointed, qualified, and acting within this state, then any
4.8 person in actual or constructive possession of any property having a situs in this state which
4.9 is included in the federal gross estate of the decedent shall be deemed to be a personal
4.10 representative to the extent of the property and the Minnesota estate tax due with respect
4.11 to the property.

4.12 (7) "Resident decedent" means an individual whose domicile at the time of death was
4.13 in Minnesota. The provisions of section 290.01, subdivision 7, paragraphs (c) and (d), apply
4.14 to determinations of domicile under this chapter.

4.15 (8) "Situs of property" means, with respect to:

4.16 (i) real property, the state or country in which it is located;

4.17 (ii) tangible personal property, the state or country in which it was normally kept or
4.18 located at the time of the decedent's death or for a gift of tangible personal property within
4.19 three years of death, the state or country in which it was normally kept or located when the
4.20 gift was executed;

4.21 (iii) a qualified work of art, as defined in section 2503(g)(2) of the Internal Revenue
4.22 Code, owned by a nonresident decedent and that is normally kept or located in this state
4.23 because it is on loan to an organization, qualifying as exempt from taxation under section
4.24 501(c)(3) of the Internal Revenue Code, that is located in Minnesota, the situs of the art is
4.25 deemed to be outside of Minnesota, notwithstanding the provisions of item (ii); and

4.26 (iv) intangible personal property, the state or country in which the decedent was domiciled
4.27 at death or for a gift of intangible personal property within three years of death, the state or
4.28 country in which the decedent was domiciled when the gift was executed.

4.29 For a nonresident decedent with an ownership interest in a pass-through entity with
4.30 assets that include real or tangible personal property, situs of the real or tangible personal
4.31 property, including qualified works of art, is determined as if the pass-through entity does
4.32 not exist and the real or tangible personal property is personally owned by the decedent. If
4.33 the pass-through entity is owned by a person or persons in addition to the decedent, ownership

5.1 of the property is attributed to the decedent in proportion to the decedent's capital ownership
5.2 share of the pass-through entity.

5.3 (9) "Pass-through entity" includes the following:

5.4 (i) an entity electing S corporation status under section 1362 of the Internal Revenue
5.5 Code;

5.6 (ii) an entity taxed as a partnership under subchapter K of the Internal Revenue Code;

5.7 (iii) a single-member limited liability company or similar entity, regardless of whether
5.8 it is taxed as an association or is disregarded for federal income tax purposes under Code
5.9 of Federal Regulations, title 26, section 301.7701-3; or

5.10 (iv) a trust to the extent the property is includable in the decedent's federal gross estate;
5.11 but excludes

5.12 (v) an entity whose ownership interest securities are traded on an exchange regulated
5.13 by the Securities and Exchange Commission as a national securities exchange under section
5.14 6 of the Securities Exchange Act, United States Code, title 15, section 78f.

5.15 **EFFECTIVE DATE.** This section is effective the day following final enactment, except
5.16 the changes incorporated by federal changes are effective retroactively at the same time the
5.17 changes were effective for federal purposes.