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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 235

01/22/2019 Authored by Gruenhagen, Baker, Daniels, Fabian, Heintzeman and others
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 and corporate franchise; providing for
1.3 federal conformity to section 179 expensing; modifying state treatment of section
1.4 179 expensing; amending Minnesota Statutes 2018, sections 289A.02, subdivision
1.5 7; 289A.08, subdivision 7; 290.01, subdivisions 19, 31; 290.06, subdivision 2c;
1.6 290.091, subdivision 2; repealing Minnesota Statutes 2018, sections 290.0131,
1.7 subdivision 10; 290.0132, subdivision 14; 290.0133, subdivision 12; 290.0134,
1.8 subdivision 14.

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

1.10 Section 1. Minnesota Statutes 2018, section 289A.02, subdivision 7, is amended to read:

1.11 Subd. 7. Internal Revenue Code. Unless specifically defined otherwise, "Internal
1.12 Revenue Code" means the Internal Revenue Code of 1986, as amended through December
1.13 16, 2016-, except that for purposes of expensing under section 179 of the Internal Revenue
1.14 Code, "Internal Revenue Code" means the Internal Revenue Code as amended through
1.15 December 23, 2017.

1.16 EFFECTIVE DATE. This section is effective for taxable years beginning after December
1.17 31, 2018.

1.18 Sec. 2. Minnesota Statutes 2018, section 289A.08, subdivision 7, is amended to read:

1.19 Subd. 7. Composite income tax returns for nonresident partners, shareholders, and
1.20 beneficiaries. (a) The commissioner may allow a partnership with nonresident partners to
1.21 file a composite return and to pay the tax on behalf of nonresident partners who have no
1.22 other Minnesota source income. This composite return must include the names, addresses,
1.23 Social Security numbers, income allocation, and tax liability for the nonresident partners
1.24 electing to be covered by the composite return.

2.1 (b) The computation of a partner's tax liability must be determined by multiplying the
2.2 income allocated to that partner by the highest rate used to determine the tax liability for
2.3 individuals under section 290.06, subdivision 2c. Nonbusiness deductions, standard
2.4 deductions, or personal exemptions are not allowed.

2.5 (c) The partnership must submit a request to use this composite return filing method for
2.6 nonresident partners. The requesting partnership must file a composite return in the form
2.7 prescribed by the commissioner of revenue. The filing of a composite return is considered
2.8 a request to use the composite return filing method.

2.9 (d) The electing partner must not have any Minnesota source income other than the
2.10 income from the partnership and other electing partnerships. If it is determined that the
2.11 electing partner has other Minnesota source income, the inclusion of the income and tax
2.12 liability for that partner under this provision will not constitute a return to satisfy the
2.13 requirements of subdivision 1. The tax paid for the individual as part of the composite return
2.14 is allowed as a payment of the tax by the individual on the date on which the composite
2.15 return payment was made. If the electing nonresident partner has no other Minnesota source
2.16 income, filing of the composite return is a return for purposes of subdivision 1.

2.17 (e) This subdivision does not negate the requirement that an individual pay estimated
2.18 tax if the individual's liability would exceed the requirements set forth in section 289A.25.
2.19 The individual's liability to pay estimated tax is, however, satisfied when the partnership
2.20 pays composite estimated tax in the manner prescribed in section 289A.25.

2.21 (f) If an electing partner's share of the partnership's gross income from Minnesota sources
2.22 is less than the filing requirements for a nonresident under this subdivision, the tax liability
2.23 is zero. However, a statement showing the partner's share of gross income must be included
2.24 as part of the composite return.

2.25 (g) The election provided in this subdivision is only available to a partner who has no
2.26 other Minnesota source income and who is either (1) a full-year nonresident individual or
2.27 (2) a trust or estate that does not claim a deduction under either section 651 or 661 of the
2.28 Internal Revenue Code.

2.29 (h) A corporation defined in section 290.9725 and its nonresident shareholders may
2.30 make an election under this paragraph. The provisions covering the partnership apply to
2.31 the corporation and the provisions applying to the partner apply to the shareholder.

2.32 (i) Estates and trusts distributing current income only and the nonresident individual
2.33 beneficiaries of the estates or trusts may make an election under this paragraph. The

3.1 provisions covering the partnership apply to the estate or trust. The provisions applying to
3.2 the partner apply to the beneficiary.

3.3 (j) For the purposes of this subdivision, "income" means the partner's share of federal
3.4 adjusted gross income from the partnership modified by the additions provided in section
3.5 290.0131, subdivisions 8 ~~to~~, 9, and 11, and the subtractions provided in ~~(1)~~ section 290.0132,
3.6 subdivision 9, to the extent the amount is assignable or allocable to Minnesota under section
3.7 290.17; ~~and (2) section 290.0132, subdivision 14~~. The subtraction allowed under section
3.8 290.0132, subdivision 9, is only allowed on the composite tax computation to the extent
3.9 the electing partner would have been allowed the subtraction.

3.10 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
3.11 31, 2018.

3.12 Sec. 3. Minnesota Statutes 2018, section 290.01, subdivision 19, is amended to read:

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

3.19 In the case of a regulated investment company or a fund thereof, as defined in section
3.20 851(a) or 851(g) of the Internal Revenue Code, federal taxable income means investment
3.21 company taxable income as defined in section 852(b)(2) of the Internal Revenue Code,
3.22 except that:

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

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

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

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

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

4.7 The Internal Revenue Code of 1986, as amended through December 16, 2016, shall be
4.8 in effect for taxable years beginning after December 31, 1996-, except that for purposes of
4.9 expensing under section 179 of the Internal Revenue Code, "Internal Revenue Code" means
4.10 the Internal Revenue Code as amended through December 23, 2017.

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

4.14 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
4.15 31, 2018.

4.16 Sec. 4. Minnesota Statutes 2018, section 290.01, subdivision 31, is amended to read:

4.17 Subd. 31. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal
4.18 Revenue Code" means the Internal Revenue Code of 1986, as amended through December
4.19 16, 2016-, except that for purposes of expensing under section 179 of the Internal Revenue
4.20 Code, "Internal Revenue Code" means the Internal Revenue Code as amended through
4.21 December 23, 2017. Internal Revenue Code also includes any uncodified provision in federal
4.22 law that relates to provisions of the Internal Revenue Code that are incorporated into
4.23 Minnesota law.

4.24 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
4.25 31, 2018.

4.26 Sec. 5. Minnesota Statutes 2018, section 290.06, subdivision 2c, is amended to read:

4.27 Subd. 2c. **Schedules of rates for individuals, estates, and trusts.** (a) The income taxes
4.28 imposed by this chapter upon married individuals filing joint returns and surviving spouses
4.29 as defined in section 2(a) of the Internal Revenue Code must be computed by applying to
4.30 their taxable net income the following schedule of rates:

4.31 (1) On the first \$35,480, 5.35 percent;

5.1 (2) On all over \$35,480, but not over \$140,960, 7.05 percent;

5.2 (3) On all over \$140,960, but not over \$250,000, 7.85 percent;

5.3 (4) On all over \$250,000, 9.85 percent.

5.4 Married individuals filing separate returns, estates, and trusts must compute their income
5.5 tax by applying the above rates to their taxable income, except that the income brackets
5.6 will be one-half of the above amounts.

5.7 (b) The income taxes imposed by this chapter upon unmarried individuals must be
5.8 computed by applying to taxable net income the following schedule of rates:

5.9 (1) On the first \$24,270, 5.35 percent;

5.10 (2) On all over \$24,270, but not over \$79,730, 7.05 percent;

5.11 (3) On all over \$79,730, but not over \$150,000, 7.85 percent;

5.12 (4) On all over \$150,000, 9.85 percent.

5.13 (c) The income taxes imposed by this chapter upon unmarried individuals qualifying as
5.14 a head of household as defined in section 2(b) of the Internal Revenue Code must be
5.15 computed by applying to taxable net income the following schedule of rates:

5.16 (1) On the first \$29,880, 5.35 percent;

5.17 (2) On all over \$29,880, but not over \$120,070, 7.05 percent;

5.18 (3) On all over \$120,070, but not over \$200,000, 7.85 percent;

5.19 (4) On all over \$200,000, 9.85 percent.

5.20 (d) In lieu of a tax computed according to the rates set forth in this subdivision, the tax
5.21 of any individual taxpayer whose taxable net income for the taxable year is less than an
5.22 amount determined by the commissioner must be computed in accordance with tables
5.23 prepared and issued by the commissioner of revenue based on income brackets of not more
5.24 than \$100. The amount of tax for each bracket shall be computed at the rates set forth in
5.25 this subdivision, provided that the commissioner may disregard a fractional part of a dollar
5.26 unless it amounts to 50 cents or more, in which case it may be increased to \$1.

5.27 (e) An individual who is not a Minnesota resident for the entire year must compute the
5.28 individual's Minnesota income tax as provided in this subdivision. After the application of
5.29 the nonrefundable credits provided in this chapter, the tax liability must then be multiplied
5.30 by a fraction in which:

6.1 (1) the numerator is the individual's Minnesota source federal adjusted gross income as
6.2 defined in section 62 of the Internal Revenue Code and increased by the additions required
6.3 under section 290.0131, subdivisions 2 ~~and~~ 6 to 9, and 11, and reduced by the Minnesota
6.4 assignable portion of the subtraction for United States government interest under section
6.5 290.0132, subdivision 2, and the subtractions under section 290.0132, subdivisions 9, 10,
6.6 ~~14~~, 15, 17, and 18, after applying the allocation and assignability provisions of section
6.7 290.081, clause (a), or 290.17; and

6.8 (2) the denominator is the individual's federal adjusted gross income as defined in section
6.9 62 of the Internal Revenue Code, increased by the amounts specified in section 290.0131,
6.10 subdivisions 2 ~~and~~ 6 to 9, and 11, and reduced by the amounts specified in section 290.0132,
6.11 subdivisions 2, 9, 10, ~~14~~, 15, 17, and 18.

6.12 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
6.13 31, 2018.

6.14 Sec. 6. Minnesota Statutes 2018, section 290.091, subdivision 2, is amended to read:

6.15 Subd. 2. **Definitions.** For purposes of the tax imposed by this section, the following
6.16 terms have the meanings given.

6.17 (a) "Alternative minimum taxable income" means the sum of the following for the taxable
6.18 year:

6.19 (1) the taxpayer's federal alternative minimum taxable income as defined in section
6.20 55(b)(2) of the Internal Revenue Code;

6.21 (2) the taxpayer's itemized deductions allowed in computing federal alternative minimum
6.22 taxable income, but excluding:

6.23 (i) the charitable contribution deduction under section 170 of the Internal Revenue Code;

6.24 (ii) the medical expense deduction;

6.25 (iii) the casualty, theft, and disaster loss deduction; and

6.26 (iv) the impairment-related work expenses of a disabled person;

6.27 (3) for depletion allowances computed under section 613A(c) of the Internal Revenue
6.28 Code, with respect to each property (as defined in section 614 of the Internal Revenue Code),
6.29 to the extent not included in federal alternative minimum taxable income, the excess of the
6.30 deduction for depletion allowable under section 611 of the Internal Revenue Code for the
6.31 taxable year over the adjusted basis of the property at the end of the taxable year (determined
6.32 without regard to the depletion deduction for the taxable year);

7.1 (4) to the extent not included in federal alternative minimum taxable income, the amount
7.2 of the tax preference for intangible drilling cost under section 57(a)(2) of the Internal Revenue
7.3 Code determined without regard to subparagraph (E);

7.4 (5) to the extent not included in federal alternative minimum taxable income, the amount
7.5 of interest income as provided by section 290.0131, subdivision 2; and

7.6 (6) the amount of addition required by section 290.0131, subdivisions 9 ~~to~~ and 11;

7.7 less the sum of the amounts determined under the following:

7.8 (i) interest income as defined in section 290.0132, subdivision 2;

7.9 (ii) an overpayment of state income tax as provided by section 290.0132, subdivision
7.10 3, to the extent included in federal alternative minimum taxable income;

7.11 (iii) the amount of investment interest paid or accrued within the taxable year on
7.12 indebtedness to the extent that the amount does not exceed net investment income, as defined
7.13 in section 163(d)(4) of the Internal Revenue Code. Interest does not include amounts deducted
7.14 in computing federal adjusted gross income;

7.15 (iv) amounts subtracted from federal taxable income as provided by section 290.0132,
7.16 subdivisions 7, 9 to 13, 15, 17, 21, 24, and 26; and

7.17 (v) the amount of the net operating loss allowed under section 290.095, subdivision 11,
7.18 paragraph (c).

7.19 In the case of an estate or trust, alternative minimum taxable income must be computed
7.20 as provided in section 59(c) of the Internal Revenue Code.

7.21 (b) "Investment interest" means investment interest as defined in section 163(d)(3) of
7.22 the Internal Revenue Code.

7.23 (c) "Net minimum tax" means the minimum tax imposed by this section.

7.24 (d) "Regular tax" means the tax that would be imposed under this chapter (without regard
7.25 to this section and section 290.032), reduced by the sum of the nonrefundable credits allowed
7.26 under this chapter.

7.27 (e) "Tentative minimum tax" equals 6.75 percent of alternative minimum taxable income
7.28 after subtracting the exemption amount determined under subdivision 3.

7.29 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
7.30 31, 2018.

8.1 Sec. 7. **SPECIAL PROVISIONS FOR TAXPAYERS WITH REMAINING SECTION**
8.2 **179 SUBTRACTIONS.**

8.3 (a) A taxpayer who made a section 179 addition for a taxable year beginning before
8.4 December 31, 2018, and would have been allowed a section 179 subtraction for a taxable
8.5 year beginning after December 31, 2018, under the sections of Minnesota Statutes repealed
8.6 in section 8, is allowed to complete the five-year schedule of section 179 subtractions as
8.7 provided in paragraph (b).

8.8 (b) In each of the five taxable years immediately following the taxable year in which an
8.9 addition was required, an amount equal to one-fifth of the addition made by the taxpayer
8.10 under the sections of Minnesota Statutes repealed in section 8 is a subtraction.

8.11 (c) For a taxpayer that is a shareholder of a corporation that is an S corporation, the
8.12 subtraction must be reduced by the positive value of any net operating loss under section
8.13 172 of the Internal Revenue Code generated for the taxable year. If the net operating loss
8.14 exceeds the addition for the taxable year, a subtraction is not allowed.

8.15 (d) The provisions in this section apply to taxable years beginning before January 1,
8.16 2024.

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

8.18 Sec. 8. **REPEALER.**

8.19 Minnesota Statutes 2018, sections 290.0131, subdivision 10; 290.0132, subdivision 14;
8.20 290.0133, subdivision 12; and 290.0134, subdivision 14, are repealed.

8.21 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
8.22 31, 2018.

290.0131 INDIVIDUALS; ADDITIONS TO FEDERAL TAXABLE INCOME.

Subd. 10. **Section 179 expensing.** 80 percent of the amount by which the deduction allowed under the dollar limits of section 179 of the Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal Revenue Code, as amended through December 31, 2003, is an addition.

290.0132 INDIVIDUALS; SUBTRACTIONS FROM FEDERAL TAXABLE INCOME.

Subd. 14. **Section 179 expensing.** In each of the five taxable years immediately following the taxable year in which an addition is required under section 290.0131, subdivision 10, or 290.0133, subdivision 12, for a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the addition made by the taxpayer under section 290.0131, subdivision 10, or 290.0133, subdivision 12, for a shareholder of a corporation that is an S corporation, minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the taxable year of the addition, is a subtraction. If the net operating loss exceeds the addition for the taxable year, a subtraction is not allowed under this subdivision.

290.0133 CORPORATIONS; ADDITIONS TO FEDERAL TAXABLE INCOME.

Subd. 12. **Section 179 expensing.** 80 percent of the amount by which the deduction allowed under the dollar limits of section 179 of the Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal Revenue Code, as amended through December 31, 2003, is an addition.

290.0134 CORPORATIONS; SUBTRACTIONS FROM FEDERAL TAXABLE INCOME.

Subd. 14. **Section 179 expensing.** In each of the five taxable years immediately following the taxable year in which an addition is required under section 290.0133, subdivision 12, an amount equal to one-fifth of the amount of the addition is a subtraction.