

**CHAPTER 1--H.F.No. 2**

*An act relating to taxation; income, corporate franchise, and estates; conforming to federal changes; amending Minnesota Statutes 2016, sections 289A.02, subdivision 7; 290.01, subdivisions 19, 31; 290.0131, subdivision 10; 290.0133, subdivision 12; 290.0671, subdivision 1; 290A.03, subdivision 15; 291.005, subdivision 1.*

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

Section 1. Minnesota Statutes 2016, section 289A.02, subdivision 7, is amended to read:

Subd. 7. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~December 31, 2014~~ December 16, 2016.

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

Sec. 2. Minnesota Statutes 2016, section 290.01, subdivision 19, is amended to read:

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

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

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

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

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

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

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

The Internal Revenue Code of 1986, as amended through ~~December 31, 2014~~ December 16, 2016, shall be in effect for taxable years beginning after December 31, 1996.

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

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

Sec. 3. Minnesota Statutes 2016, section 290.01, subdivision 31, is amended to read:

Subd. 31. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~December 31, 2014~~ December 16, 2016. Internal Revenue Code also includes any uncodified provision in federal law that relates to provisions of the Internal Revenue Code that are incorporated into Minnesota law. When used in this chapter, the reference to "subtitle A, chapter 1, subchapter N, part 1, of the Internal Revenue Code" is to the Internal Revenue Code as amended through March 18, 2010.

**EFFECTIVE DATE.** This section is effective retroactively for taxable years beginning after December 31, 2014, and the changes incorporated by federal changes as they apply to taxable years beginning after December 31, 2014, are effective retroactively at the same time as the changes were effective for federal purposes.

Sec. 4. Minnesota Statutes 2016, section 290.0131, subdivision 10, is amended to read:

Subd. 10. **Section 179 expensing.** 80 percent of the amount by which the deduction allowed ~~by~~ 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.

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

Sec. 5. Minnesota Statutes 2016, section 290.0133, subdivision 12, is amended to read:

Subd. 12. **Section 179 expensing.** 80 percent of the amount by which the deduction allowed ~~by~~ 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.

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

Sec. 6. Minnesota Statutes 2016, section 290.0671, subdivision 1, is amended to read:

Subdivision 1. **Credit allowed.** (a) An individual who is a resident of Minnesota is allowed a credit against the tax imposed by this chapter equal to a percentage of earned income. To receive a credit, a taxpayer must be eligible for a credit under section 32 of the Internal Revenue Code.

(b) For individuals with no qualifying children, the credit equals 2.10 percent of the first \$6,180 of earned income. The credit is reduced by 2.01 percent of earned income or adjusted gross income, whichever is greater, in excess of \$8,130, but in no case is the credit less than zero.

(c) For individuals with one qualifying child, the credit equals 9.35 percent of the first \$11,120 of earned income. The credit is reduced by 6.02 percent of earned income or adjusted gross income, whichever is greater, in excess of \$21,190, but in no case is the credit less than zero.

(d) For individuals with two or more qualifying children, the credit equals 11 percent of the first \$18,240 of earned income. The credit is reduced by 10.82 percent of earned income or adjusted gross income, whichever is greater, in excess of \$25,130, but in no case is the credit less than zero.

(e) For a part-year resident, the credit must be allocated based on the percentage calculated under section 290.06, subdivision 2c, paragraph (e).

(f) For a person who was a resident for the entire tax year and has earned income not subject to tax under this chapter, including income excluded under section 290.0132, subdivision 10, the credit must be allocated based on the ratio of federal adjusted gross income reduced by the earned income not subject to tax under this chapter over federal adjusted gross income. For purposes of this paragraph, the subtractions for military pay under section 290.0132, subdivisions 11 and 12, are not considered "earned income not subject to tax under this chapter."

For the purposes of this paragraph, the exclusion of combat pay under section 112 of the Internal Revenue Code is not considered "earned income not subject to tax under this chapter."

~~(g) For tax years beginning after December 31, 2007, and before December 31, 2010, and for tax years beginning after December 31, 2017, the \$8,130 in paragraph (b), the \$21,190 in paragraph (c), and the \$25,130 in paragraph (d), after being adjusted for inflation under subdivision 7, are each increased by \$3,000 for married taxpayers filing joint returns. For tax years beginning after December 31, 2008, the commissioner shall annually adjust the \$3,000 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 "2007" shall be substituted for the word "1992." For 2009, the commissioner shall then determine the percent change from the 12 months ending on August 31, 2007, to the 12 months ending on August 31, 2008, and in each subsequent year, from the 12 months ending on August 31, 2007, to the 12 months ending on August 31 of the year preceding the taxable year. The earned income thresholds as adjusted for inflation must be rounded to the nearest \$10. If the amount ends in \$5, the amount is rounded up to the nearest \$10. The determination of the commissioner under this subdivision is not a rule under the Administrative Procedure Act.~~

~~(h)(1) (g) For tax years beginning after December 31, 2012, and before January 1, 2014, the \$5,770 in paragraph (b), the \$15,080 in paragraph (c), and the \$17,890 in paragraph (d), after being adjusted for inflation under subdivision 7, are increased by \$5,340 for married taxpayers filing joint returns; and (2) for tax years beginning after December 31, 2013, and before January 1, 2018, the \$8,130 in paragraph (b), the \$21,190 in paragraph (c), and the \$25,130 in paragraph (d), after being adjusted for inflation under subdivision 7, are each increased by \$5,000 for married taxpayers filing joint returns. For tax years beginning after December 31, 2010, and before January 1, 2012, and for tax years beginning after December 31, 2013, and before January 1, 2018, the commissioner shall annually adjust the \$5,000 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 "2008" shall be substituted for the word "1992." For ~~2014~~ 2014, the commissioner shall then determine the percent change from the 12 months ending on August 31, 2008, to the 12 months ending on August 31, ~~2010~~ 2013, and in each subsequent year, from the 12 months ending on August 31, 2008, to the 12 months ending on August 31 of the year preceding the taxable year. The earned income thresholds as adjusted for inflation must be rounded to the nearest \$10. If the amount ends in \$5, the amount is rounded up to the nearest \$10. The determination of the commissioner under this subdivision is not a rule under the Administrative Procedure Act.~~

~~(i)(h)~~ (h) The commissioner shall construct tables showing the amount of the credit at various income levels and make them available to taxpayers. The tables shall follow the schedule contained in this subdivision, except that the commissioner may graduate the transition between income brackets.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2016.

Sec. 7. Minnesota Statutes 2016, section 290A.03, subdivision 15, is amended to read:

Subd. 15. **Internal Revenue Code.** "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~December 31, 2014~~ December 16, 2016.

**EFFECTIVE DATE.** This section is effective for property tax refunds based on property taxes payable after December 31, 2016, and rent paid after December 31, 2015.

Sec. 8. Minnesota Statutes 2016, section 291.005, subdivision 1, is amended to read:

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

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

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

(3) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended through ~~December 31, 2014~~ December 16, 2016.

(4) "Minnesota gross estate" means the federal gross estate of a decedent after (a) excluding therefrom any property included in the estate which has its situs outside Minnesota, and (b) including any property omitted from the federal gross estate which is includable in the estate, has its situs in Minnesota, and was not disclosed to federal taxing authorities.

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

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

(7) "Resident decedent" means an individual whose domicile at the time of death was in Minnesota.

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

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

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

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

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

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

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

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

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

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

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

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

**EFFECTIVE DATE.** This section is effective retroactively for estates of decedents dying after December 31, 2015.

#### Sec. 9. **AMENDED RETURNS.**

**Subdivision 1. Certain IRA rollovers.** An individual who excludes an amount from net income in a prior taxable year through rollover of an airline payment amount to a traditional IRA, as authorized under Public Law 114-113, division Q, title III, section 307, may file an amended individual income tax return and claim for refund of state taxes as provided under Minnesota Statutes, section 289A.40, subdivision 1, or, if later, by September 1, 2017.

**Subd. 2. Exclusion for certain incarcerated individuals.** An individual who excludes from net income in a prior taxable year civil damages, restitution, or other monetary award received as compensation for a wrongful incarceration, as authorized under Public Law 114-113, division Q, title III, section 304, may file an amended individual income tax return and claim for refund of state taxes as provided under Minnesota Statutes, section 289A.40, subdivision 1, or, if later, by September 1, 2017.

**Subd. 3. Severance payments to veterans with combat-related injuries.** An individual who excludes certain severance payments for combat-related injuries paid after January 17, 1991, from which the United States Department of Defense withheld amounts for tax purposes, as authorized under Public Law 114-292, may file an amended individual income tax return and claim for refund of state taxes as provided under Minnesota Statutes, section 289A.40, subdivision 1, or, if later, by December 15, 2018.

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

#### Sec. 10. **INDIVIDUAL INCOME TAX COLLECTION ACTION PROHIBITED.**

**Notwithstanding any law to the contrary, the commissioner of revenue shall not increase the amount due or decrease the refund for an individual income tax return for the taxable year beginning after December**

31, 2014, and before January 1, 2016, to the extent the amount due was understated or the refund was overstated because the taxpayer calculated the tax or refund based on the Internal Revenue Code, as amended through December 31, 2014, rather than based on the Internal Revenue Code, as amended through November 15, 2016, as provided in this act.

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

Presented to the governor January 12, 2017

Signed by the governor January 13, 2017, 10:35 a.m.