CHAPTER 1--H.F.No. 31

An act relating to taxation; individual income and corporate franchise; providing for certain conformity to federal tax provisions; amending Minnesota Statutes 2022, sections 289A.02, subdivision 7; 289A.08, subdivisions 7, 7a; 290.01, subdivisions 19, 31, by adding a subdivision; 290.0123, subdivision 3; 290.0131, by adding subdivisions; 290.0132, by adding subdivisions; 290.0133, by adding a subdivision; 290.0134, by adding a subdivision; 290.06, subdivision 2c; 290.0671, subdivision 1a; 290.0675, subdivision 1; 290.091, subdivision 2; 290.095, subdivision 11; 290A.03, subdivision 15; 291.005, subdivision 1; repealing Minnesota Statutes 2022, section 290.0111.

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

Section 1. Minnesota Statutes 2022, 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, 2018~~ December 15, 2022.

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 the changes were effective for federal purposes.

Sec. 2. Minnesota Statutes 2022, section 289A.08, subdivision 7, is amended to read:

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

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

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

(d) The electing partner must not have any Minnesota source income other than the income from the partnership, other electing partnerships, and other qualifying entities electing to file and pay the pass-through entity tax under subdivision 7a. If it is determined that the electing partner has other Minnesota source income, the inclusion of the income and tax liability for that partner under this provision will not constitute a return to satisfy the requirements of subdivision 1. The tax paid for the individual as part of the composite return is allowed as a payment of the tax by the individual on the date on which the composite return payment was made. If the electing nonresident partner has no other Minnesota source income, filing of the composite return is a return for purposes of subdivision 1.

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

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

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

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

(i) Estates and trusts distributing current income only and the nonresident individual beneficiaries of the estates or trusts may make an election under this paragraph. The provisions covering the partnership apply to the estate or trust. The provisions applying to the partner apply to the beneficiary.

(j) For the purposes of this subdivision, "income" means the partner's share of federal adjusted gross income from the partnership modified by the additions provided in section 290.0131, subdivisions 8 to 10, 16, and 17, and the subtractions provided in: (1) section 290.0132, subdivisions 9, 27, ~~and~~ 28, and 31, to the extent the amount is assignable or allocable to Minnesota under section 290.17; and (2) section 290.0132, subdivision 14. The subtraction allowed under section 290.0132, subdivision 9, is only allowed on the composite tax computation to the extent the electing partner would have been allowed the subtraction.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2022.

Sec. 3. Minnesota Statutes 2022, section 289A.08, subdivision 7a, is amended to read:

Subd. 7a. **Pass-through entity tax.** (a) For the purposes of this subdivision, the following terms have the meanings given:

(1) "income" has the meaning given in subdivision 7, paragraph (j), modified by the addition provided in section 290.0131, subdivision 5, and the subtraction provided in section 290.0132, subdivision 3, except that the provisions that apply to a partnership apply to a qualifying entity and the provisions that apply to a partner apply to a qualifying owner. The income of both a resident and nonresident qualifying owner is allocated and assigned to this state as provided for nonresident partners and shareholders under sections 290.17, 290.191, and 290.20;

(2) "qualifying entity" means a partnership, limited liability company, or S corporation including a qualified subchapter S subsidiary organized under section 1361(b)(3)(B) of the Internal Revenue Code. Qualifying entity does not include a partnership, limited liability company, or corporation that has a partnership, limited liability company other than a disregarded entity, or corporation as a partner, member, or shareholder; and

(3) "qualifying owner" means:

(i) a resident or nonresident individual or estate that is a partner, member, or shareholder of a qualifying entity; or

(ii) a resident or nonresident trust that is a shareholder of a qualifying entity that is an S corporation.

(b) For taxable years beginning after December 31, 2020, in which the taxes of a qualifying owner are limited under section 164(b)(6)(B) of the Internal Revenue Code, a qualifying entity may elect to file a return and pay the pass-through entity tax imposed under paragraph (c). The election:

(1) must be made on or before the due date or extended due date of the qualifying entity's pass-through entity tax return;

(2) may only be made by qualifying owners who collectively hold more than a 50 percent ownership interest in the qualifying entity;

(3) is binding on all qualifying owners who have an ownership interest in the qualifying entity; and

(4) once made is irrevocable for the taxable year.

(c) Subject to the election in paragraph (b), a pass-through entity tax is imposed on a qualifying entity in an amount equal to the sum of the tax liability of each qualifying owner.

(d) The amount of a qualifying owner's tax liability under paragraph (c) is the amount of the qualifying owner's income multiplied by the highest tax rate for individuals under section 290.06, subdivision 2c. When making this determination:

(1) nonbusiness deductions, standard deductions, or personal exemptions are not allowed; and

(2) a credit or deduction is allowed only to the extent allowed to the qualifying owner.

(e) The amount of each credit and deduction used to determine a qualifying owner's tax liability under paragraph (d) must also be used to determine that qualifying owner's income tax liability under chapter 290.

(f) This subdivision does not negate the requirement that a qualifying owner pay estimated tax if the qualifying owner's tax liability would exceed the requirements set forth in section 289A.25. The qualifying owner's liability to pay estimated tax on the qualifying owner's tax liability as determined under paragraph (d) is, however, satisfied when the qualifying entity pays estimated tax in the manner prescribed in section 289A.25 for composite estimated tax.

(g) A qualifying owner's adjusted basis in the interest in the qualifying entity, and the treatment of distributions, is determined as if the election to pay the pass-through entity tax under paragraph (b) is not made.

(h) To the extent not inconsistent with this subdivision, for purposes of this chapter, a pass-through entity tax return must be treated as a composite return and a qualifying entity filing a pass-through entity tax return must be treated as a partnership filing a composite return.

(i) The provisions of subdivision 17 apply to the election to pay the pass-through entity tax under this subdivision.

(j) If a nonresident qualifying owner of a qualifying entity making the election to file and pay the tax under this subdivision has no other Minnesota source income, filing of the pass-through entity tax return is a return for purposes of subdivision 1, provided that the nonresident qualifying owner must not have any Minnesota source income other than the income from the qualifying entity, other electing qualifying entities, and other partnerships electing to file a composite return under subdivision 7. If it is determined that the nonresident qualifying owner has other Minnesota source income, the inclusion of the income and tax liability

for that owner under this provision will not constitute a return to satisfy the requirements of subdivision 1. The tax paid for the qualifying owner as part of the pass-through entity tax return is allowed as a payment of the tax by the qualifying owner on the date on which the pass-through entity tax return payment was made.

(k) Once a credit is claimed by a qualifying owner under section 290.06, subdivision 40, a qualifying entity cannot receive a refund for tax paid under this subdivision for any amounts claimed under that section by the qualifying owners. Once a credit is claimed under section 290.06, subdivision 40, any refund must be claimed in conjunction with a return filed by the qualifying owner.

EFFECTIVE DATE. This section is effective retroactively for taxable years beginning after December 31, 2020.

Sec. 4. Minnesota Statutes 2022, section 290.01, subdivision 19, is amended to read:

Subd. 19. **Net income.** (a) For a trust or estate taxable under section 290.03, and a corporation taxable under section 290.02, 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.

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

(c) 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.

(d) 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.

(e) 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.

(f) The Internal Revenue Code of 1986, as amended through ~~December 31, 2018~~ December 15, 2022, applies for taxable years beginning after December 31, 1996~~, except the sections of federal law in section 290.0111 shall also apply~~.

(g) 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 the changes were effective for federal purposes.

Sec. 5. Minnesota Statutes 2022, 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, 2018, except the sections of federal law in section 290.0111 shall also apply~~ December 15, 2022. 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.

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 the changes were effective for federal purposes.

Sec. 6. Minnesota Statutes 2022, section 290.01, is amended by adding a subdivision to read:

Subd. 33. **Earned income.** "Earned income" has the meaning given in section 32(c) of the Internal Revenue Code, except a taxpayer must use earned income from the taxable year for which the taxpayer filed a return.

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

Sec. 7. Minnesota Statutes 2022, section 290.0123, subdivision 3, is amended to read:

Subd. 3. **Amount for dependents.** For an individual who is a dependent, as defined in sections 151 and 152 of the Internal Revenue Code, of another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the standard deduction for that individual is limited to the greater of:

(1) $1,100; or

(2) the lesser of: (i) the sum of $350 and that individual's earned income~~, as defined in section 32(c) of the Internal Revenue Code~~; or (ii) the standard deduction amount allowed under subdivision 1, clause (3).

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

Sec. 8. Minnesota Statutes 2022, section 290.0131, is amended by adding a subdivision to read:

Subd. 19. **Disallowed business interest deduction.** For any taxable year beginning after December 31, 2018, and before January 1, 2021, the amount of business interest deducted under the special rule in section 163(j)(10)(A) and (B) of the Internal Revenue Code of 1986, as amended through December 15, 2022, is an addition. Entities that are part of a combined reporting group under the unitary rules in section 290.17, subdivision 4, must compute deductions and additions as required under section 290.34, subdivision 5.

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 the changes were effective for federal purposes.

Sec. 9. Minnesota Statutes 2022, section 290.0131, is amended by adding a subdivision to read:

Subd. 20. **Disallowed net operating loss deduction.** (a) The amount of a net operating loss arising in any taxable year beginning after December 31, 2017, and before January 1, 2021, and carried back under section 172(b)(1)(D) of the Internal Revenue Code is an addition in the taxable year the loss is carried. No addition is required for a net operating loss deduction that is a farming loss under section 172(b)(1)(B) of the Internal Revenue Code carried to the two years preceding the year the farming loss arose.

(b) The amount of a net operating loss deduction in any taxable year beginning after December 31, 2017, and before January 1, 2021, that exceeds the deduction allowed under section 172(a)(2) of the Internal Revenue Code is an addition. For purposes of this paragraph, the deduction allowed under section 172(a)(2) of the Internal Revenue Code is allowed in the case of a taxable year beginning after December 31, 2017.

(c) The amount of a Minnesota disallowed loss carryover is an addition. For purposes of this paragraph, "Minnesota disallowed loss carryover" means, for any taxable year beginning after December 31, 2017, and before January 1, 2021, a disallowed loss carryover as defined in section 461(l)(2) of the Internal Revenue Code, for a loss that is not allowed under section 461(l)(1)(B) of the Internal Revenue Code. For purposes of this paragraph, the limitation under section 461(l)(1)(B) of the Internal Revenue Code applies for any taxable year beginning after December 31, 2017.

(d) For purposes for this subdivision, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 15, 2022.

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 the changes were effective for federal purposes.

Sec. 10. Minnesota Statutes 2022, section 290.0132, is amended by adding a subdivision to read:

Subd. 31. **Delayed business interest.** (a) For each taxable year an addition is required under section 290.0131, subdivision 19, the amount of the addition, less the sum of all amounts subtracted under this paragraph in all prior taxable years, that does not exceed the limitation on business interest in section 163(j) of the Internal Revenue Code of 1986, as amended through December 15, 2022, notwithstanding the special rule in section 163(j)(10) of the Internal Revenue Code, is a subtraction. Any excess is a delayed business interest carryforward, the entire amount of which must be carried to the earliest taxable year. No subtraction is allowed under this paragraph for taxable years beginning after December 31, 2022.

(b) For each of the five taxable years beginning after December 31, 2022, there is allowed a subtraction equal to one-fifth of the sum of all carryforward amounts that remain after the expiration of paragraph (a).

(c) Entities that are part of a combined reporting group under the unitary rules of section 290.17, subdivision 4, must compute deductions and additions as required under section 290.34, subdivision 5.

EFFECTIVE DATE. Paragraphs (a) and (c) are effective retroactively for taxable years beginning after December 31, 2019. Paragraph (b) is effective for taxable years beginning after December 31, 2022.

Sec. 11. Minnesota Statutes 2022, section 290.0132, is amended by adding a subdivision to read:

Subd. 32. **Delayed net operating loss deduction.** The amount of the sum of each addition required in section 290.0131, subdivision 20, for each taxable year, except as otherwise provided, less the sum of all amounts subtracted under this subdivision in all prior taxable years, that does not exceed 80 percent of federal taxable income as defined in section 290.01, subdivision 19, determined without regard to this subdivision, is a subtraction. Any excess is a delayed net operating loss deduction carryforward, the entire amount of which must be carried to the earliest taxable year. No subtraction under this subdivision is allowed after 20 taxable years from the taxable year in which an operating loss arises. The sum of the additions required under section 290.0131, subdivision 20, paragraph (a), are aggregated and assigned to the taxable year immediately succeeding the taxable year in which the operating loss arises, for purposes of determining the subtraction allowed under this subdivision in that succeeding taxable year and the amount carried forward.

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

Sec. 12. Minnesota Statutes 2022, section 290.0132, is amended by adding a subdivision to read:

Subd. 33. **Excess business losses.** The amount of a disallowed loss carryover under section 461(l)(1)(B) of the Internal Revenue Code is a subtraction.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2025.

Sec. 13. Minnesota Statutes 2022, section 290.0133, is amended by adding a subdivision to read:

Subd. 15. **Disallowed business interest deduction.** For any taxable year beginning after December 31, 2018, and before January 1, 2021, the amount of business interest deducted under the special rule in section 163(j)(10)(A) and (B) of the Internal Revenue Code of 1986, as amended through December 15, 2022, is an addition. Entities that are part of a combined reporting group under the unitary rules in section 290.17, subdivision 4, must compute deductions and additions as required under section 290.34, subdivision 5.

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 the changes were effective for federal purposes.

Sec. 14. Minnesota Statutes 2022, section 290.0134, is amended by adding a subdivision to read:

Subd. 20. **Delayed business interest.** (a) For each taxable year an addition is required under section 290.0131, subdivision 19, the amount of the addition, less the sum of all amounts subtracted under this paragraph in all prior taxable years, that does not exceed the limitation on business interest in section 163(j) of the Internal Revenue Code of 1986, as amended through December 15, 2022, notwithstanding the special rule in section 163(j)(10) of the Internal Revenue Code, is a subtraction. Any excess is a delayed business interest carryforward, the entire amount of which must be carried to the earliest taxable year. No subtraction is allowed under this paragraph for taxable years beginning after December 31, 2022.

(b) For each of the five taxable years beginning after December 31, 2022, there is allowed a subtraction equal to one-fifth of the sum of all carryforward amounts that remain after the expiration of paragraph (a).

(c) Entities that are part of a combined reporting group under the unitary rules of section 290.17, subdivision 4, must compute deductions and additions as required under section 290.34, subdivision 5.

EFFECTIVE DATE. Paragraphs (a) and (c) are effective retroactively for taxable years beginning after December 31, 2019. Paragraph (b) is effective for taxable years beginning after December 31, 2022.

Sec. 15. Minnesota Statutes 2022, section 290.06, subdivision 2c, is amended to read:

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

(1) On the first $38,770, 5.35 percent;

(2) On all over $38,770, but not over $154,020, 6.8 percent;

(3) On all over $154,020, but not over $269,010, 7.85 percent;

(4) On all over $269,010, 9.85 percent.

Married individuals filing separate returns, estates, and trusts must compute their income tax by applying the above rates to their taxable income, except that the income brackets will be one-half of the above amounts after the adjustment required in subdivision 2d.

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

(1) On the first $26,520, 5.35 percent;

(2) On all over $26,520, but not over $87,110, 6.8 percent;

(3) On all over $87,110, but not over $161,720, 7.85 percent;

(4) On all over $161,720, 9.85 percent.

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

(1) On the first $32,650, 5.35 percent;

(2) On all over $32,650, but not over $131,190, 6.8 percent;

(3) On all over $131,190, but not over $214,980, 7.85 percent;

(4) On all over $214,980, 9.85 percent.

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

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

(1) the numerator is the individual's Minnesota source federal adjusted gross income as defined in section 62 of the Internal Revenue Code and increased by:

(i) the additions required under sections 290.0131, subdivisions 2, 6, 8 to 10, 16, and 17, and 290.0137, paragraph (a); and reduced by

(ii) the Minnesota assignable portion of the subtraction for United States government interest under section 290.0132, subdivision 2, the subtractions under sections 290.0132, subdivisions 9, 10, 14, 15, 17, 18, ~~and~~ 27, and 31, and 290.0137, paragraph (c), after applying the allocation and assignability provisions of section 290.081, clause (a), or 290.17; and

(2) the denominator is the individual's federal adjusted gross income as defined in section 62 of the Internal Revenue Code, increased by:

(i) the additions required under sections 290.0131, subdivisions 2, 6, 8 to 10, 16, and 17, and 290.0137, paragraph (a); and reduced by

(ii) the subtractions under sections 290.0132, subdivisions 2, 9, 10, 14, 15, 17, 18, ~~and~~ 27, and 31, and 290.0137, paragraph (c).

(f) If an individual who is not a Minnesota resident for the entire year is a qualifying owner of a qualifying entity that elects to pay tax as provided in section 289A.08, subdivision 7a, paragraph (b), the individual must compute the individual's Minnesota income tax as provided in paragraph (e), and also must include, to the extent attributed to the electing qualifying entity:

(1) in paragraph (e), clause (1), item (i), and paragraph (e), clause (2), item (i), the addition under section 290.0131, subdivision 5; and

(2) in paragraph (e), clause (1), item (ii), and paragraph (e), clause (2), item (ii), the subtraction under section 290.0132, subdivision 3.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2022.

Sec. 16. Minnesota Statutes 2022, section 290.0671, subdivision 1a, is amended to read:

Subd. 1a. **Definitions.** For purposes of this section, the ~~terms~~ term "qualifying child~~,~~" ~~and "earned income," have~~ has the ~~meanings~~ meaning given in section 32(c) of the Internal Revenue Code~~, and the term "adjusted gross income" has the meaning given in section 62 of the Internal Revenue Code~~.

"Earned income of the lesser-earning spouse" has the meaning given in section 290.0675, subdivision 1, paragraph (d).

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

Sec. 17. Minnesota Statutes 2022, section 290.0675, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For purposes of this section the following terms have the meanings given.

(b) "Earned income" means the sum of the following, to the extent included in Minnesota taxable income:

(1) earned income as defined in section ~~32(c)(2) of the Internal Revenue Code~~ 290.01, subdivision 33;

(2) income received from a retirement pension, profit-sharing, stock bonus, or annuity plan; and

(3) Social Security benefits as defined in section 86(d)(1) of the Internal Revenue Code.

(c) "Taxable income" means net income as defined in section 290.01, subdivision 19.

(d) "Earned income of lesser-earning spouse" means the earned income of the spouse with the lesser amount of earned income as defined in paragraph (b) for the taxable year minus one-half the amount of the standard deduction under section 290.0123, subdivision 1, clause (1).

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

Sec. 18. Minnesota Statutes 2022, section 290.091, subdivision 2, is amended to read:

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

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

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

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

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

(ii) the medical expense deduction;

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

(iv) the impairment-related work expenses of a person with a disability;

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

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

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

(6) the amount of addition required by section 290.0131, subdivisions 9, 10, and 16;

(7) the deduction allowed under section 199A of the Internal Revenue Code, to the extent not included in the addition required under clause (6); and

(8) to the extent not included in federal alternative minimum taxable income, the amount of foreign-derived intangible income deducted under section 250 of the Internal Revenue Code;

less the sum of the amounts determined under the following:

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

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

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

(iv) amounts subtracted from federal taxable or adjusted gross income as provided by section 290.0132, subdivisions 7, 9 to 15, 17, 21, 24, ~~and~~ 26 to 29, and 31;

(v) the amount of the net operating loss allowed under section 290.095, subdivision 11, paragraph (c); and

(vi) the amount allowable as a Minnesota itemized deduction under section 290.0122, subdivision 7.

In the case of an estate or trust, alternative minimum taxable income must be computed as provided in section 59(c) of the Internal Revenue Code, except alternative minimum taxable income must be increased by the addition in section 290.0131, subdivision 16.

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

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

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

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

EFFECTIVE DATE. (a) The changes in paragraph (a), clause (1), are effective at the same time the changes in section 10101(a)(4)(A) of Public Law 117-169 are effective for federal purposes.

(b) All other changes are effective for taxable years beginning after December 31, 2022.

Sec. 19. Minnesota Statutes 2022, section 290.095, subdivision 11, is amended to read:

Subd. 11. **Carryback or carryover adjustments.** (a) Except as provided in ~~paragraph~~ paragraphs (c) and (d), for individuals, estates, and trusts the amount of a net operating loss that may be carried back or carried over shall be the same dollar amount allowable in the determination of federal taxable income, provided that, notwithstanding any other provision, estates and trusts must apply the following adjustments to the amount of the net operating loss that may be carried back or carried over:

(1) Nonassignable income or losses as required by section 290.17.

(2) Deductions not allocable to Minnesota under section 290.17.

(b) The net operating loss carryback or carryover applied as a deduction in the taxable year to which the net operating loss is carried back or carried over shall be equal to the net operating loss carryback or carryover applied in the taxable year in arriving at federal taxable income provided that trusts and estates must apply the following modifications:

(1) Increase the amount of carryback or carryover applied in the taxable year by the amount of losses and interest, taxes and other expenses not assignable or allowable to Minnesota incurred in the taxable year.

(2) Decrease the amount of carryback or carryover applied in the taxable year by the amount of income not assignable to Minnesota earned in the taxable year. For estates and trusts, the net operating loss carryback or carryover to the next consecutive taxable year shall be the net operating loss carryback or carryover as calculated in clause (b) less the amount applied in the earlier taxable year(s). No additional net operating loss carryback or carryover shall be allowed to estates and trusts if the entire amount has been used to offset Minnesota income in a year earlier than was possible on the federal return. However, if a net operating loss carryback or carryover was allowed to offset federal income in a year earlier than was possible on the Minnesota return, an estate or trust shall still be allowed to offset Minnesota income but only if the loss was assignable to Minnesota in the year the loss occurred.

(c) This paragraph does not apply to eligible small businesses that make a valid election to carry back their losses for federal purposes under section 172(b)(1)(H) of the Internal Revenue Code as amended through March 31, 2009.

(1) A net operating loss of an individual, estate, or trust that is allowed under this subdivision and for which the taxpayer elects to carry back for more than two years under section 172(b)(1)(H) of the Internal Revenue Code is a net operating loss carryback to each of the two taxable years preceding the loss, and unused portions may be carried forward for 20 taxable years after the loss.

(2) The entire amount of the net operating loss for any taxable year must be carried to the earliest of the taxable years to which the loss may be carried. The portion of the loss which may be carried to each of the other taxable years is the excess, if any, of the amount of the loss over the greater of the taxable net income or alternative minimum taxable income for each of the taxable years to which the loss may be carried.

(d) The amount of a net operating loss carried forward must be reduced by any amounts used for the subtraction in section 290.0132, subdivision 33, in the next taxable year following the subtraction in which a net operating loss deduction is claimed.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2025.

Sec. 20. Minnesota Statutes 2022, 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, 2018~~ December 15, 2022.

EFFECTIVE DATE. This section is effective retroactively beginning with refunds based on rent paid in 2021 and property taxes payable in 2022.

Sec. 21. Minnesota Statutes 2022, 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, 2018~~ December 15, 2022.

(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. The provisions of section 290.01, subdivision 7, paragraphs (c) and (d), apply to determinations of domicile under this chapter.

(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 includable 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 the day following final enactment, except the changes incorporated by federal changes are effective retroactively at the same time the changes were effective for federal purposes.

Sec. 22. **TEMPORARY ADDITIONS AND SUBTRACTIONS; INDIVIDUALS, ESTATES, AND TRUSTS.**

(a) For the purposes of this section:

(1) "subtraction" has the meaning given in Minnesota Statutes, section 290.0132, subdivision 1, and the rules in that subdivision apply to this section;

(2) "addition" has the meaning given in Minnesota Statutes, section 290.0131, subdivision 1, and the rules in that subdivision apply to this section; and

(3) the definitions in Minnesota Statutes, section 290.01, apply to this section.

(b) The following amounts are subtractions:

(1) the amount of wages used for the calculation of the employee retention credit for employers affected by qualified disasters, to the extent not deducted from income, under Public Law 116-94, division Q, section 203, or Public Law 116-260, division EE, section 303;

(2) the amount of wages used for the calculation of the payroll credit for required paid sick leave, to the extent not deducted from income, under Public Law 116-127, section 7001, as amended by section 9641 of Public Law 117-2;

(3) the amount of wages or expenses used for the calculation of the payroll credit for required paid family leave, to the extent not deducted from income, under Public Law 116-127, section 7003, as amended by section 9641 of Public Law 117-2;

(4) the amount of wages used for the calculation of the employee retention credit for employers subject to closure due to COVID-19, to the extent not deducted from income, under Public Law 116-136, section 2301, as amended by Public Law 116-260, division EE, section 207, and Public Law 117-2, section 9651; and

(5) the amount required to be added to gross income to claim the credit in section 6432 of the Internal Revenue Code.

(c) The following amounts are additions:

(1) the amount subtracted for qualified tuition expenses under section 222 of the Internal Revenue Code, as amended by Public Law 116-94, division Q, section 104;

(2) the amount of above the line charitable contributions deducted under section 2204 of Public Law 116-136;

(3) the amount of meal expenses in excess of the 50 percent limitation under section 274(n)(1) of the Internal Revenue Code allowed under subsection (n), paragraph (2), subparagraph (D), of that section; and

(4) the amount of charitable contributions deducted from federal taxable income by a trust for taxable year 2020 under Public Law 116-136, section 2205(a).

(d) The commissioner of revenue must apply the subtractions in paragraph (b) and the additions in paragraph (c), when calculating the following:

(1) the percentage under Minnesota Statutes, section 290.06, subdivision 2c, paragraph (e);

(2) a taxpayer's alternative minimum taxable income under Minnesota Statutes, section 290.091; and

(3) "income" as defined in Minnesota Statutes, section 289A.08, subdivision 7, paragraph (j), for the purposes of determining the tax for composite filers and the pass-through entity tax.

(e) For the purpose of calculating property tax refunds under Minnesota Statutes, chapter 290A, any amounts allowed as a subtraction in paragraph (b) are excluded from "income," as defined in Minnesota Statutes, section 290A.03, subdivision 3.

EFFECTIVE DATE. (a) Paragraphs (a) to (d) are effective retroactively at the same time the changes were effective for federal purposes.

(b) Paragraph (e) is effective retroactively beginning with refunds based on rent paid in 2021 and property taxes payable in 2022.

Sec. 23. **TEMPORARY ADDITIONS AND SUBTRACTIONS; CORPORATIONS.**

(a) For the purposes of this section:

(1) "subtraction" has the meaning given in Minnesota Statutes, section 290.0134, subdivision 1, and the rules in that subdivision apply to this section;

(2) "addition" has the meaning given in Minnesota Statutes, section 290.0133, subdivision 1, and the rules in that subdivision apply to this section; and

(3) the definitions in Minnesota Statutes, section 290.01, apply to this section.

(b) The following amounts are subtractions:

(1) the amount of wages used for the calculation of the employee retention credit for employers affected by qualified disasters, to the extent not deducted from income, under Public Law 116-94, division Q, section 203, or Public Law 116-260, division EE, section 303;

(2) the amount of wages used for the calculation of the payroll credit for required paid sick leave, to the extent not deducted from income, under Public Law 116-127, section 7001, as amended by section 9641 of Public Law 117-2;

(3) the amount of wages or expenses used for the calculation of the payroll credit for required paid family leave, to the extent not deducted from income, under Public Law 116-127, section 7003, as amended by section 9641 of Public Law 117-2;

(4) the amount of wages used for the calculation of the employee retention credit for employers subject to closure due to COVID-19, to the extent not deducted from income, under Public Law 116-136, section 2301, as amended by Public Law 116-260, division EE, section 207, and Public Law 117-2, section 9651; and

(5) the amount required to be added to gross income to claim the credit in section 6432 of the Internal Revenue Code.

(c) The following amounts are additions:

(1) the amount of meal expenses in excess of the 50 percent limitation under section 274(n)(1) of the Internal Revenue Code allowed under subsection (n), paragraph (2), subparagraph (D), of that section; and

(2) the amount of charitable contributions deducted for taxable year 2020 pursuant to the provisions of Public Law 116-136, section 2205(a).

EFFECTIVE DATE. This section is effective retroactively at the same time the changes were effective for federal purposes.

Sec. 24. **CHARITABLE CONTRIBUTION DEDUCTION; SPECIAL RULE FOR 2020.**

For charitable contribution deductions under Minnesota Statutes, section 290.0122, for taxable year 2020, the provisions of Public Law 116-136, section 2205(a), do not apply.

EFFECTIVE DATE. This section is effective retroactively at the same time the changes were effective for federal purposes.

Sec. 25. **DEPENDENT CARE CREDIT; SPECIAL RULE FOR 2021.**

For the purpose of calculating the dependent care credit under Minnesota Statutes, section 290.067, for taxable year 2021, the provisions of Public Law 117-2, sections 9631 and 9632, do not apply.

EFFECTIVE DATE. This section is effective retroactively at the same time the changes were effective for federal purposes.

Sec. 26. **CASUALTY LOSS DEDUCTION; SPECIAL RULE FOR 2021.**

For the purpose of calculating the standard deduction under Minnesota Statutes, section 290.0123, and the casualty loss deduction under Minnesota Statutes, section 290.0122, subdivision 8, the following provisions do not apply:

(1) section 204(b) of the Taxpayer Certainty and Disaster Tax Relief Act of 2019, Public Law 116-94; and

(2) section 304(b) of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, Public Law 116-260.

EFFECTIVE DATE. This section is effective retroactively at the same time the changes were effective for federal purposes.

Sec. 27. **WORKING FAMILY CREDIT; SPECIAL RULE FOR TAX YEAR 2021.**

For the purpose of calculating the working family credit under Minnesota Statutes, section 290.0671, for taxable year 2021, the provisions of section 32(n) of the Internal Revenue Code do not apply.

EFFECTIVE DATE. This section is effective retroactively at the same time the changes were effective for federal purposes.

Sec. 28. **EXTENSION OF STATUTE OF LIMITATIONS.**

(a) Notwithstanding any law to the contrary, a taxpayer whose tax liability changes as a result of this act may file an amended return by December 31, 2023. The commissioner may review and assess the return of a taxpayer covered by this provision for the later of:

(1) the periods under Minnesota Statutes, sections 289A.38; 289.39, subdivision 3; and 289A.40; or

(2) one year from the time the amended return is filed as a result of a change in tax liability under this section.

(b) Interest on any additional liabilities as a result of any provision in this act accrue beginning on January 1, 2024.

EFFECTIVE DATE. This section is effective retroactively at the same time the changes incorporated in this act were effective for federal purposes.

Sec. 29. **PROPERTY TAX REFUNDS; CORONAVIRUS-RELATED RETIREMENT DISTRIBUTIONS.**

For the purpose of calculating property tax refunds under Minnesota Statutes, chapter 290A, "income" does not include coronavirus-related distributions included in gross income under section 2202(a)(5) of Public Law 116-136.

EFFECTIVE DATE. This section is effective retroactively beginning with refunds based on rent paid in 2021 and property taxes payable in 2022.

Sec. 30. **REPEALER.**

Minnesota Statutes 2022, section 290.0111, is repealed.

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

Presented to the governor January 11, 2023