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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 253

01/17/2017 Authored by Anderson, S.; Davids and Dettmer
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; income and corporate franchise; providing for limited
1.3 refundability of the research credit; amending Minnesota Statutes 2016, section
1.4 290.068, subdivisions 2, 3, 6a.

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

1.6 Section 1. Minnesota Statutes 2016, section 290.068, subdivision 2, is amended to read:

1.7 Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings
1.8 given.

1.9 (a) "Qualified research expenses" means (i) qualified research expenses and basic research
1.10 payments as defined in section 41(b) and (e) of the Internal Revenue Code, except it does
1.11 not include expenses incurred for qualified research or basic research conducted outside
1.12 the state of Minnesota pursuant to section 41(d) and (e) of the Internal Revenue Code; and
1.13 (ii) contributions to a nonprofit corporation established and operated pursuant to the
1.14 provisions of chapter 317A for the purpose of promoting the establishment and expansion
1.15 of business in this state, provided the contributions are invested by the nonprofit corporation
1.16 for the purpose of providing funds for small, technologically innovative enterprises in
1.17 Minnesota during the early stages of their development.

1.18 (b) "Qualified research" means qualified research as defined in section 41(d) of the
1.19 Internal Revenue Code, except that the term does not include qualified research conducted
1.20 outside the state of Minnesota.

1.21 (c) "Base amount" means base amount as defined in section 41(c) of the Internal Revenue
1.22 Code, except that the average annual gross receipts must be calculated using Minnesota

2.1 sales or receipts under section 290.191 and the definitions contained in clauses (a) and (b)
2.2 shall apply.

2.3 (d) "Liability for tax" for purposes of this section means the sum of the tax imposed
2.4 under section 290.06, subdivisions 1 and 2c, for the taxable year reduced by the sum of the
2.5 nonrefundable credits allowed under this chapter, on all of the entities required to be included
2.6 on the combined report of the unitary business.

2.7 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
2.8 31, 2016.

2.9 Sec. 2. Minnesota Statutes 2016, section 290.068, subdivision 3, is amended to read:

2.10 Subd. 3. **Limitation; carryover.** (a) Except as provided in subdivision 6a, paragraph
2.11 (b), the credit for a taxable year beginning before January 1, 2010, and after December 31,
2.12 2012, shall not exceed the liability for tax. "Liability for tax" for purposes of this section
2.13 means the sum of the tax imposed under section 290.06, subdivisions 1 and 2c, for the
2.14 taxable year reduced by the sum of the nonrefundable credits allowed under this chapter,
2.15 on all of the entities required to be included on the combined report of the unitary business.
2.16 If the amount of the credit allowed exceeds the liability for tax of the taxpayer, but is allowed
2.17 as a result of the liability for tax of other members of the unitary group for the taxable year,
2.18 the taxpayer must allocate the excess as a research credit to another member of the unitary
2.19 group.

2.20 (b) In the case of a corporation which is a partner in a partnership, the credit allowed
2.21 for the taxable year shall not exceed the lesser of the amount determined under paragraph
2.22 (a) for the taxable year or an amount (separately computed with respect to the corporation's
2.23 interest in the trade or business or entity) equal to the amount of tax attributable to that
2.24 portion of taxable income which is allocable or apportionable to the corporation's interest
2.25 in the trade or business or entity.

2.26 (c) If the amount of the credit determined under this section for any taxable year exceeds
2.27 the limitation under paragraph (a) or (b), including amounts allowed as a refund under
2.28 subdivision 6a, paragraph (b), or allocated to other members of the unitary group, the excess
2.29 shall be a research credit carryover to each of the 15 succeeding taxable years. The entire
2.30 amount of the excess unused credit for the taxable year shall be carried first to the earliest
2.31 of the taxable years to which the credit may be carried and then to each successive year to
2.32 which the credit may be carried. The amount of the unused credit which may be added under
2.33 this clause shall not exceed the taxpayer's liability for tax less the research credit for the
2.34 taxable year.

3.1 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
3.2 31, 2016.

3.3 Sec. 3. Minnesota Statutes 2016, section 290.068, subdivision 6a, is amended to read:

3.4 Subd. 6a. **Credit to be refundable.** (a) If the amount of credit allowed in this section
3.5 for qualified research expenses incurred in taxable years beginning after December 31,
3.6 2009, and before January 1, 2013, exceeds the taxpayer's tax liability under this chapter,
3.7 the commissioner shall refund the excess amount. The credit allowed for qualified research
3.8 expenses incurred in taxable years beginning after December 31, 2009, and before January
3.9 1, 2013, must be used before any research credit earned under subdivision 3.

3.10 (b) If the amount of credit allowed in this section for qualified research expenses incurred
3.11 in taxable years beginning after December 31, 2014, exceeds the taxpayer's liability for tax
3.12 under this chapter by \$250,000 or less, the commissioner shall refund the excess amount.
3.13 The limit includes any amount of tax under sections 290.0921 and 290.0922. The credit
3.14 allowed for qualified research expenses incurred in taxable years beginning before January
3.15 1, 2015, must be used before any research credit earned under subdivision 3.

3.16 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
3.17 31, 2016.