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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 3049

05/09/2012 Authored by Anderson, S.,
The bill was read for the first time and referred to the Committee on Jobs and Economic Development Finance

1.1 A bill for an act
1.2 relating to economic development; science and technology; creating a technology
1.3 transfer corporate tax exemption for certain licensing agreements; amending
1.4 Minnesota Statutes 2010, section 290.01, subdivision 19d; proposing coding for
1.5 new law in Minnesota Statutes, chapter 116J.

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

1.7 Section 1. [116J.8738] SMALL BUSINESS TECHNOLOGY TRANSFER
1.8 LICENSING AGREEMENTS.

1.9 Subdivision 1. Definitions. (a) "Qualified small business" means a business that
1.10 satisfies all of the following conditions:

- 1.11 (1) the business has its headquarters in Minnesota;
- 1.12 (2) at least 51 percent of the business's employees are employed in Minnesota, and
- 1.13 at least 51 percent of the business's total payroll is paid or incurred in Minnesota;
- 1.14 (3) the business had less than \$2,000,000 in gross annual receipts in each of its
- 1.15 three previous taxable years; and
- 1.16 (4) the business has not been in operation for more than five years.

1.17 (b) "Qualified technology" means a proprietary process, formula, pattern, device, or
1.18 compilation of scientific or technical information that is not in the public domain at the
1.19 time the technology transfer licensing agreement is entered into.

1.20 (c) "Technology transfer licensing agreement" means a licensing agreement that has
1.21 been approved by the commissioner pursuant to subdivision 3.

1.22 Subd. 2. Royalties exemption. (a) The royalties received by a corporation pursuant
1.23 to a technology transfer licensing agreement entered into between the corporation and
1.24 a qualified small business are exempt from the taxes imposed under chapter 290 for a
1.25 period not to exceed ten years from the effective date of the technology transfer licensing

2.1 agreement or the corporation has received \$10,000,000 in royalties under the terms of the
2.2 technology transfer licensing agreement, whichever occurs first.

2.3 Subd. 3. **Technology transfer licensing agreement.** (a) The technology transfer
2.4 licensing agreement must transfer the exclusive right of use for a specific purpose a
2.5 qualified technology owned by a corporation to a qualified small business for a period of
2.6 five years or longer.

2.7 (b) The technology transfer licensing agreement must take effect on or after January
2.8 1, 2013.

2.9 (c) The technology transfer licensing agreement must be approved by the
2.10 commissioner of employment and economic development. Before approval of a
2.11 technology transfer licensing agreement, the commissioner must find that the agreement
2.12 will enable development and use of a qualified technology that would not otherwise occur,
2.13 and that the new development and use of the qualified technology can reasonably be
2.14 expected to create new employment opportunities in Minnesota.

2.15 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
2.16 December 31, 2012.

2.17 Sec. 2. Minnesota Statutes 2010, section 290.01, subdivision 19d, is amended to read:

2.18 Subd. 19d. **Corporations; modifications decreasing federal taxable income.** For
2.19 corporations, there shall be subtracted from federal taxable income after the increases
2.20 provided in subdivision 19c:

2.21 (1) the amount of foreign dividend gross-up added to gross income for federal
2.22 income tax purposes under section 78 of the Internal Revenue Code;

2.23 (2) the amount of salary expense not allowed for federal income tax purposes due to
2.24 claiming the work opportunity credit under section 51 of the Internal Revenue Code;

2.25 (3) any dividend (not including any distribution in liquidation) paid within the
2.26 taxable year by a national or state bank to the United States, or to any instrumentality of
2.27 the United States exempt from federal income taxes, on the preferred stock of the bank
2.28 owned by the United States or the instrumentality;

2.29 (4) amounts disallowed for intangible drilling costs due to differences between
2.30 this chapter and the Internal Revenue Code in taxable years beginning before January
2.31 1, 1987, as follows:

2.32 (i) to the extent the disallowed costs are represented by physical property, an amount
2.33 equal to the allowance for depreciation under Minnesota Statutes 1986, section 290.09,
2.34 subdivision 7, subject to the modifications contained in subdivision 19e; and

3.1 (ii) to the extent the disallowed costs are not represented by physical property, an
3.2 amount equal to the allowance for cost depletion under Minnesota Statutes 1986, section
3.3 290.09, subdivision 8;

3.4 (5) the deduction for capital losses pursuant to sections 1211 and 1212 of the
3.5 Internal Revenue Code, except that:

3.6 (i) for capital losses incurred in taxable years beginning after December 31, 1986,
3.7 capital loss carrybacks shall not be allowed;

3.8 (ii) for capital losses incurred in taxable years beginning after December 31, 1986,
3.9 a capital loss carryover to each of the 15 taxable years succeeding the loss year shall be
3.10 allowed;

3.11 (iii) for capital losses incurred in taxable years beginning before January 1, 1987, a
3.12 capital loss carryback to each of the three taxable years preceding the loss year, subject to
3.13 the provisions of Minnesota Statutes 1986, section 290.16, shall be allowed; and

3.14 (iv) for capital losses incurred in taxable years beginning before January 1, 1987,
3.15 a capital loss carryover to each of the five taxable years succeeding the loss year to the
3.16 extent such loss was not used in a prior taxable year and subject to the provisions of
3.17 Minnesota Statutes 1986, section 290.16, shall be allowed;

3.18 (6) an amount for interest and expenses relating to income not taxable for federal
3.19 income tax purposes, if (i) the income is taxable under this chapter and (ii) the interest and
3.20 expenses were disallowed as deductions under the provisions of section 171(a)(2), 265 or
3.21 291 of the Internal Revenue Code in computing federal taxable income;

3.22 (7) in the case of mines, oil and gas wells, other natural deposits, and timber for
3.23 which percentage depletion was disallowed pursuant to subdivision 19c, clause (9), a
3.24 reasonable allowance for depletion based on actual cost. In the case of leases the deduction
3.25 must be apportioned between the lessor and lessee in accordance with rules prescribed
3.26 by the commissioner. In the case of property held in trust, the allowable deduction must
3.27 be apportioned between the income beneficiaries and the trustee in accordance with the
3.28 pertinent provisions of the trust, or if there is no provision in the instrument, on the basis
3.29 of the trust's income allocable to each;

3.30 (8) for certified pollution control facilities placed in service in a taxable year
3.31 beginning before December 31, 1986, and for which amortization deductions were elected
3.32 under section 169 of the Internal Revenue Code of 1954, as amended through December
3.33 31, 1985, an amount equal to the allowance for depreciation under Minnesota Statutes
3.34 1986, section 290.09, subdivision 7;

3.35 (9) amounts included in federal taxable income that are due to refunds of income,
3.36 excise, or franchise taxes based on net income or related minimum taxes paid by the

4.1 corporation to Minnesota, another state, a political subdivision of another state, the
4.2 District of Columbia, or a foreign country or possession of the United States to the extent
4.3 that the taxes were added to federal taxable income under section 290.01, subdivision 19c,
4.4 clause (1), in a prior taxable year;

4.5 (10) 80 percent of royalties, fees, or other like income accrued or received from a
4.6 foreign operating corporation or a foreign corporation which is part of the same unitary
4.7 business as the receiving corporation, unless the income resulting from such payments or
4.8 accruals is income from sources within the United States as defined in subtitle A, chapter
4.9 1, subchapter N, part 1, of the Internal Revenue Code;

4.10 (11) income or gains from the business of mining as defined in section 290.05,
4.11 subdivision 1, clause (a), that are not subject to Minnesota franchise tax;

4.12 (12) the amount of disability access expenditures in the taxable year which are not
4.13 allowed to be deducted or capitalized under section 44(d)(7) of the Internal Revenue Code;

4.14 (13) the amount of qualified research expenses not allowed for federal income tax
4.15 purposes under section 280C(c) of the Internal Revenue Code, but only to the extent that
4.16 the amount exceeds the amount of the credit allowed under section 290.068;

4.17 (14) the amount of salary expenses not allowed for federal income tax purposes due
4.18 to claiming the Indian employment credit under section 45A(a) of the Internal Revenue
4.19 Code;

4.20 (15) for a corporation whose foreign sales corporation, as defined in section 922
4.21 of the Internal Revenue Code, constituted a foreign operating corporation during any
4.22 taxable year ending before January 1, 1995, and a return was filed by August 15, 1996,
4.23 claiming the deduction under section 290.21, subdivision 4, for income received from
4.24 the foreign operating corporation, an amount equal to 1.23 multiplied by the amount of
4.25 income excluded under section 114 of the Internal Revenue Code, provided the income is
4.26 not income of a foreign operating company;

4.27 (16) any decrease in subpart F income, as defined in section 952(a) of the Internal
4.28 Revenue Code, for the taxable year when subpart F income is calculated without regard to
4.29 the provisions of Division C, title III, section 303(b) of Public Law 110-343;

4.30 (17) in each of the five tax years immediately following the tax year in which an
4.31 addition is required under subdivision 19c, clause (15), an amount equal to one-fifth of
4.32 the delayed depreciation. For purposes of this clause, "delayed depreciation" means the
4.33 amount of the addition made by the taxpayer under subdivision 19c, clause (15). The
4.34 resulting delayed depreciation cannot be less than zero;

5.1 (18) in each of the five tax years immediately following the tax year in which an
5.2 addition is required under subdivision 19c, clause (16), an amount equal to one-fifth of
5.3 the amount of the addition; ~~and~~

5.4 (19) to the extent included in federal taxable income, discharge of indebtedness
5.5 income resulting from reacquisition of business indebtedness included in federal taxable
5.6 income under section 108(i) of the Internal Revenue Code. This subtraction applies only
5.7 to the extent that the income was included in net income in a prior year as a result of the
5.8 addition under section 290.01, subdivision 19c, clause (25); and

5.9 (20) royalties accrued or received pursuant to a technology transfer license
5.10 agreement entered into with a qualified small business, and approved by the commissioner
5.11 of employment and economic development, under section 116J.8738, for a period of up
5.12 to ten years from the effective date of the technology transfer licensing agreement. A
5.13 corporation shall not subtract more than \$10,000,000 in royalties under this clause for
5.14 each technology transfer licensing agreement the corporation has entered into.

5.15 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
5.16 December 31, 2012.