

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 1113

(SENATE AUTHORS: SEEBERGER and Nelson)

DATE
02/02/2023

D-PG
590 Introduction and first reading
Referred to Taxes
See HF1938

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to taxation; allowing certain single-member LLCs to claim income tax
1.3 credits for income taxes paid to other states; modifying the exemption for certain
1.4 sales of property used in a trade or business; amending Minnesota Statutes 2022,
1.5 sections 290.06, subdivision 22; 297A.68, subdivision 25.

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

1.7 Section 1. Minnesota Statutes 2022, section 290.06, subdivision 22, is amended to read:

1.8 Subd. 22. **Credit for taxes paid to another state.** (a) A taxpayer who is liable for taxes
1.9 based on net income to another state, as provided in paragraphs (b) through (f), upon income
1.10 allocated or apportioned to Minnesota, is entitled to a credit for the tax paid to another state
1.11 if the tax is actually paid in the taxable year or a subsequent taxable year. A taxpayer who
1.12 is a resident of this state pursuant to section 290.01, subdivision 7, paragraph (b), and who
1.13 is subject to income tax as a resident in the state of the individual's domicile is not allowed
1.14 this credit unless the state of domicile does not allow a similar credit.

1.15 (b) For an individual, estate, or trust, the credit is determined by multiplying the tax
1.16 payable under this chapter by the ratio derived by dividing the income subject to tax in the
1.17 other state that is also subject to tax in Minnesota while a resident of Minnesota by the
1.18 taxpayer's federal adjusted gross income, as defined in section 62 of the Internal Revenue
1.19 Code, modified by the addition required by section 290.0131, subdivision 2, and the
1.20 subtraction allowed by section 290.0132, subdivision 2, to the extent the income is allocated
1.21 or assigned to Minnesota under sections 290.081 and 290.17.

1.22 (c) If the taxpayer is an athletic team that apportions all of its income under section
1.23 290.17, subdivision 5, the credit is determined by multiplying the tax payable under this

2.1 chapter by the ratio derived from dividing the total net income subject to tax in the other
2.2 state by the taxpayer's Minnesota taxable income.

2.3 (d)(1) The credit determined under paragraph (b) or (c) shall not exceed the amount of
2.4 tax so paid to the other state on the gross income earned within the other state subject to
2.5 tax under this chapter; and

2.6 (2) the allowance of the credit does not reduce the taxes paid under this chapter to an
2.7 amount less than what would be assessed if the gross income earned within the other state
2.8 were excluded from taxable net income.

2.9 (e) In the case of the tax assessed on a lump-sum distribution under section 290.032, the
2.10 credit allowed under paragraph (a) is the tax assessed by the other state on the lump-sum
2.11 distribution that is also subject to tax under section 290.032, and shall not exceed the tax
2.12 assessed under section 290.032. To the extent the total lump-sum distribution defined in
2.13 section 290.032, subdivision 1, includes lump-sum distributions received in prior years or
2.14 is all or in part an annuity contract, the reduction to the tax on the lump-sum distribution
2.15 allowed under section 290.032, subdivision 2, includes tax paid to another state that is
2.16 properly apportioned to that distribution.

2.17 (f) If a Minnesota resident reported an item of income to Minnesota and is assessed tax
2.18 in such other state on that same income after the Minnesota statute of limitations has expired,
2.19 the taxpayer shall receive a credit for that year under paragraph (a), notwithstanding any
2.20 statute of limitations to the contrary. The claim for the credit must be submitted within one
2.21 year from the date the taxes were paid to the other state. The taxpayer must submit sufficient
2.22 proof to show entitlement to a credit.

2.23 (g) For the purposes of this subdivision, a resident shareholder of a corporation treated
2.24 as an "S" corporation under section 290.9725, must be considered to have paid a tax imposed
2.25 on the shareholder in an amount equal to the shareholder's pro rata share of any net income
2.26 tax paid by the S corporation to another state. For the purposes of the preceding sentence,
2.27 the term "net income tax" means any tax imposed on or measured by a corporation's net
2.28 income.

2.29 (h) For the purposes of this subdivision, a resident partner of an entity taxed as a
2.30 partnership under the Internal Revenue Code must be considered to have paid a tax imposed
2.31 on the partner in an amount equal to the partner's pro rata share of any net income tax paid
2.32 by the partnership to another state. For purposes of the preceding sentence, the term "net
2.33 income" tax means any tax imposed on or measured by a partnership's net income. For

3.1 purposes of this paragraph, "partnership" includes a limited liability company and "partner"
3.2 includes a member of a limited liability company.

3.3 (i) For the purposes of this subdivision, "another state":

3.4 (1) includes:

3.5 (i) the District of Columbia; and

3.6 (ii) a province or territory of Canada; but

3.7 (2) excludes Puerto Rico and the several territories organized by Congress.

3.8 (j) The limitations on the credit in paragraphs (b), (c), and (d), are imposed on a state
3.9 by state basis.

3.10 (k) For a tax imposed by a province or territory of Canada, the tax for purposes of this
3.11 subdivision is the excess of the tax over the amount of the foreign tax credit allowed under
3.12 section 27 of the Internal Revenue Code. In determining the amount of the foreign tax credit
3.13 allowed, the net income taxes imposed by Canada on the income are deducted first. Any
3.14 remaining amount of the allowable foreign tax credit reduces the provincial or territorial
3.15 tax that qualifies for the credit under this subdivision.

3.16 (l)(1) The credit allowed to a qualifying individual under this section for tax paid to a
3.17 qualifying state equals the credit calculated under paragraphs (b) and (d), plus the amount
3.18 calculated by multiplying:

3.19 (i) the difference between the preliminary credit and the credit calculated under paragraphs
3.20 (b) and (d), by

3.21 (ii) the ratio derived by dividing the income subject to tax in the qualifying state that
3.22 consists of compensation for performance of personal or professional services by the total
3.23 amount of income subject to tax in the qualifying state.

3.24 (2) If the amount of the credit that a qualifying individual is eligible to receive under
3.25 clause (1) for tax paid to a qualifying state exceeds the tax due under this chapter before
3.26 the application of the credit calculated under clause (1), the commissioner shall refund the
3.27 excess to the qualifying individual. An amount sufficient to pay the refunds required by this
3.28 subdivision is appropriated to the commissioner from the general fund.

3.29 (3) For purposes of this paragraph, "preliminary credit" means the credit that a qualifying
3.30 individual is eligible to receive under paragraphs (b) and (d) for tax paid to a qualifying
3.31 state without regard to the limitation in paragraph (d), clause (2); "qualifying individual"
3.32 means a Minnesota resident under section 290.01, subdivision 7, paragraph (a), who received

4.1 compensation during the taxable year for the performance of personal or professional services
 4.2 within a qualifying state; and "qualifying state" means a state with which an agreement
 4.3 under section 290.081 is not in effect for the taxable year but was in effect for a taxable
 4.4 year beginning before January 1, 2010.

4.5 (m) For purposes of this subdivision, a resident sole member of a disregarded limited
 4.6 liability company must be considered to have paid a tax imposed on the sole member in an
 4.7 amount equal to the net income tax paid by the disregarded limited liability company to
 4.8 another state. For the purposes of this paragraph, the term "disregarded limited liability
 4.9 company" means a limited liability company that is disregarded as an entity separate from
 4.10 its owner under the Internal Revenue Code; and "net income" tax means any tax imposed
 4.11 on or measured by a disregarded limited liability company's net income.

4.12 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
 4.13 31, 2022.

4.14 Sec. 2. Minnesota Statutes 2022, section 297A.68, subdivision 25, is amended to read:

4.15 Subd. 25. **Sale of property used in a trade or business.** (a) The sale of tangible personal
 4.16 property primarily used in a trade or business is exempt if the sale is not made in the normal
 4.17 course of business of selling that kind of property and if one of the following conditions is
 4.18 satisfied:

4.19 (1) the sale occurs in a transaction subject to or described in section 118, 331, 332, 336,
 4.20 337, 338, 351, 355, 368, 721, 731, 1031, or 1033 of the Internal Revenue Code, as amended
 4.21 through December 16, 2016;

4.22 (2) the sale is between members of a controlled group as defined in section 1563(a) of
 4.23 the Internal Revenue Code;

4.24 (3) the sale is between a sole member of a disregarded limited liability company and the
 4.25 disregarded limited liability company;

4.26 ~~(3)~~ (4) the sale is a sale of farm machinery;

4.27 ~~(4)~~ (5) the sale is a farm auction sale;

4.28 ~~(5)~~ (6) the sale is a sale of substantially all of the assets of a trade or business; or

4.29 ~~(6)~~ (7) the total amount of gross receipts from the sale of trade or business property made
 4.30 during the calendar month of the sale and the preceding 11 calendar months does not exceed
 4.31 \$1,000.

5.1 The use, storage, distribution, or consumption of tangible personal property acquired as
5.2 a result of a sale exempt under this subdivision is also exempt.

5.3 (b) For purposes of this subdivision, the following terms have the meanings given.

5.4 (1) "Disregarded limited liability company" means a limited liability company that is
5.5 disregarded as an entity separate from its owner under the Internal Revenue Code.

5.6 ~~(1)~~ (2) A "farm auction" is a public auction conducted by a licensed auctioneer if
5.7 substantially all of the property sold consists of property used in the trade or business of
5.8 farming and property not used primarily in a trade or business.

5.9 ~~(2)~~ (3) "Trade or business" includes the assets of a separate division, branch, or
5.10 identifiable segment of a trade or business if, before the sale, the income and expenses
5.11 attributable to the separate division, branch, or identifiable segment could be separately
5.12 ascertained from the books of account or record (the lease or rental of an identifiable segment
5.13 does not qualify for the exemption).

5.14 ~~(3)~~ (4) A "sale of substantially all of the assets of a trade or business" must occur as a
5.15 single transaction or a series of related transactions within the 12-month period beginning
5.16 on the date of the first sale of assets intended to qualify for the exemption provided in
5.17 paragraph (a), clause (5).

5.18 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June
5.19 30, 2023.