

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 381

02/06/2013 Authored by Hornstein

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; repealing the subtraction for foreign source royalties;
1.3 modifying the research and development credit; amending Minnesota Statutes
1.4 2012, sections 290.01, subdivision 19d; 290.068, subdivision 1.

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

1.6 Section 1. Minnesota Statutes 2012, section 290.01, subdivision 19d, is amended to read:

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

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

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

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

1.18 (4) amounts disallowed for intangible drilling costs due to differences between
1.19 this chapter and the Internal Revenue Code in taxable years beginning before January
1.20 1, 1987, as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(11)~~ (10) income or gains from the business of mining as defined in section 290.05, subdivision 1, clause (a), that are not subject to Minnesota franchise tax;

~~(12)~~ (11) the amount of disability access expenditures in the taxable year which are not allowed to be deducted or capitalized under section 44(d)(7) of the Internal Revenue Code;

~~(13)~~ (12) the amount of qualified research expenses not allowed for federal income tax purposes under section 280C(c) of the Internal Revenue Code, but only to the extent that the amount exceeds the amount of the credit allowed under section 290.068;

~~(14)~~ (13) the amount of salary expenses not allowed for federal income tax purposes due to claiming the Indian employment credit under section 45A(a) of the Internal Revenue Code;

~~(15)~~ (14) for a corporation whose foreign sales corporation, as defined in section 922 of the Internal Revenue Code, constituted a foreign operating corporation during any taxable year ending before January 1, 1995, and a return was filed by August 15, 1996, claiming the deduction under section 290.21, subdivision 4, for income received from the foreign operating corporation, an amount equal to 1.23 multiplied by the amount of income excluded under section 114 of the Internal Revenue Code, provided the income is not income of a foreign operating company;

~~(16)~~ (15) any decrease in subpart F income, as defined in section 952(a) of the Internal Revenue Code, for the taxable year when subpart F income is calculated without regard to the provisions of Division C, title III, section 303(b) of Public Law 110-343;

~~(17)~~ (16) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19c, clause (15), an amount equal to one-fifth of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount of the addition made by the taxpayer under subdivision 19c, clause (15). The resulting delayed depreciation cannot be less than zero;

4.1 ~~(18)~~ (17) in each of the five tax years immediately following the tax year in which an
4.2 addition is required under subdivision 19c, clause (16), an amount equal to one-fifth of
4.3 the amount of the addition; and

4.4 ~~(19)~~ (18) to the extent included in federal taxable income, discharge of indebtedness
4.5 income resulting from reacquisition of business indebtedness included in federal taxable
4.6 income under section 108(i) of the Internal Revenue Code. This subtraction applies only
4.7 to the extent that the income was included in net income in a prior year as a result of the
4.8 addition under section 290.01, subdivision 19c, clause (25).

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

4.11 Sec. 2. Minnesota Statutes 2012, section 290.068, subdivision 1, is amended to read:

4.12 Subdivision 1. **Credit allowed.** A corporation, partners in a partnership, or
4.13 shareholders in a corporation treated as an "S" corporation under section 290.9725 are
4.14 allowed a credit against the tax computed under this chapter for the taxable year equal to:

4.15 (a) ~~ten~~ percent of the first \$2,000,000 of the excess (if any) of

4.16 (1) the qualified research expenses for the taxable year, over

4.17 (2) the base amount; and

4.18 (b) ~~2.5~~ ... percent on all of such excess expenses over \$2,000,000.

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