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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 736

02/01/2017 Authored by Peterson; Anderson, S.; Loon; Theis; Fenton and others
The bill was read for the first time and referred to the Committee on Job Growth and Energy Affordability Policy and Finance
03/16/2017 Adoption of Report: Re-referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to employment; authorizing family and medical leave savings accounts;
1.3 providing tax deductions for amounts deposited in family and medical leave savings
1.4 accounts; exempting amounts deposited from state withholding taxes; providing
1.5 a family and medical leave savings account tax credit; authorizing grants to small
1.6 business development centers; appropriating money; amending Minnesota Statutes
1.7 2016, sections 290.0132, by adding a subdivision; 290.06, subdivision 2c; 290.091,
1.8 subdivision 2; 290.92, subdivision 1; proposing coding for new law in Minnesota
1.9 Statutes, chapters 181; 290.

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

1.11 ARTICLE 1

1.12 FAMILY AND MEDICAL LEAVE SAVINGS ACCOUNTS

1.13 Section 1. **[181.9441] FAMILY AND MEDICAL LEAVE SAVINGS ACCOUNTS.**

1.14 Subdivision 1. **Optional savings accounts.** An employer may offer a family and medical
1.15 leave savings account. Amounts contributed to the account, up to the contribution limit
1.16 under subdivision 4, are exempt from the tax on withholding from wages under section
1.17 290.92, subdivision 1, and allowed as a subtraction under section 290.0132, subdivision
1.18 23. An employer must contract with a plan administrator to operate the account. Funds in
1.19 the account may be withdrawn by an employee to offset wages lost due to the employee's
1.20 absence from work due to family or medical leave taken pursuant to the Family Medical
1.21 Leave Act under United States Code, title 29, chapter 28, or leave under section 181.941.
1.22 An employer may contribute matching funds to the employee's account.

1.23 Subd. 2. **Unused funds at separation.** Any unused funds in the employee's account at
1.24 the time of retirement or separation from the employer may be withdrawn by the employee
1.25 without penalty.

2.1 Subd. 3. **Unauthorized withdrawals.** Beneficiaries who withdraw amounts from an
2.2 account that are not authorized under subdivision 1 or 2 are subject to a penalty as provided
2.3 in section 290.06, subdivision 2c, paragraph (f).

2.4 Subd. 4. **Contribution limit; excess amounts taxable.** Any amounts contributed to an
2.5 account under subdivision 1 in excess of \$6,750 for the year are not exempt from the
2.6 withholding tax on wages under section 290.92, subdivision 1, and are not allowed to be
2.7 subtracted under section 290.0132, subdivision 23.

2.8 Subd. 5. **Inflation adjustment.** The contribution limit in subdivision 4 must be adjusted
2.9 annually for inflation. The commissioner shall adjust by the percentage determined pursuant
2.10 to the provisions of section 1(f) of the Internal Revenue Code, except that in section 1(f)(3)(B)
2.11 the word "2016" shall be substituted for the word "1992." For 2017, the commissioner shall
2.12 then determine the percent change from the 12 months ending on August 31, 2015, to the
2.13 12 months ending on August 31, 2016, and in each subsequent year, from the 12 months
2.14 ending on August 31, 2015, to the 12 months ending on August 31 of the year preceding
2.15 the taxable year. The contribution amounts as adjusted for inflation must be rounded to the
2.16 nearest \$10 amount. If the amount ends in \$5, the amount is rounded up to the nearest \$10
2.17 amount.

2.18 Subd. 6. **Asset protection.** Assets in an account described in this section are not
2.19 assignable or subject to execution, levy, attachment, garnishment, or other legal process,
2.20 except as provided in section 518.58, 518.581, or 518A.53.

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

2.22 Sec. 2. Minnesota Statutes 2016, section 290.0132, is amended by adding a subdivision
2.23 to read:

2.24 Subd. 23. **Family and medical leave.** To the extent included in taxable income, amounts
2.25 deposited in a family and medical leave savings account up to the contribution limit under
2.26 section 181.9441 are a subtraction.

2.27 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
2.28 31, 2016.

2.29 Sec. 3. Minnesota Statutes 2016, section 290.06, subdivision 2c, is amended to read:

2.30 Subd. 2c. **Schedules of rates for individuals, estates, and trusts.** (a) The income taxes
2.31 imposed by this chapter upon married individuals filing joint returns and surviving spouses

3.1 as defined in section 2(a) of the Internal Revenue Code must be computed by applying to
3.2 their taxable net income the following schedule of rates:

- 3.3 (1) On the first \$35,480, 5.35 percent;
- 3.4 (2) On all over \$35,480, but not over \$140,960, 7.05 percent;
- 3.5 (3) On all over \$140,960, but not over \$250,000, 7.85 percent;
- 3.6 (4) On all over \$250,000, 9.85 percent.

3.7 Married individuals filing separate returns, estates, and trusts must compute their income
3.8 tax by applying the above rates to their taxable income, except that the income brackets
3.9 will be one-half of the above amounts.

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

- 3.12 (1) On the first \$24,270, 5.35 percent;
- 3.13 (2) On all over \$24,270, but not over \$79,730, 7.05 percent;
- 3.14 (3) On all over \$79,730, but not over \$150,000, 7.85 percent;
- 3.15 (4) On all over \$150,000, 9.85 percent.

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

- 3.19 (1) On the first \$29,880, 5.35 percent;
- 3.20 (2) On all over \$29,880, but not over \$120,070, 7.05 percent;
- 3.21 (3) On all over \$120,070, but not over \$200,000, 7.85 percent;
- 3.22 (4) On all over \$200,000, 9.85 percent.

3.23 (d) In lieu of a tax computed according to the rates set forth in this subdivision, the tax
3.24 of any individual taxpayer whose taxable net income for the taxable year is less than an
3.25 amount determined by the commissioner must be computed in accordance with tables
3.26 prepared and issued by the commissioner of revenue based on income brackets of not more
3.27 than \$100. The amount of tax for each bracket shall be computed at the rates set forth in
3.28 this subdivision, provided that the commissioner may disregard a fractional part of a dollar
3.29 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 the additions required under section 290.0131, subdivisions 2 and 6 to 11, and reduced by the Minnesota assignable portion of the subtraction for United States government interest under section 290.0132, subdivision 2, and the subtractions under section 290.0132, subdivisions 9, 10, 14, 15, 17, and 18, 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 the amounts specified in section 290.0131, subdivisions 2 and 6 to 11, and reduced by the amounts specified in section 290.0132, subdivisions 2, 9, 10, 14, 15, 17, and 18.

(f) The tax imposed by this section on a beneficiary of an account under section 181.9441, for any taxable year in which there is an unauthorized withdrawal from the beneficiary's account which is not allowed under section 181.9441, subdivision 1 or 2, shall be increased by 20 percent of the amount of the unauthorized withdrawal includable in gross income as defined in section 61 of the Internal Revenue Code.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2015.

Sec. 4. [290.0682] FAMILY AND MEDICAL LEAVE SAVINGS ACCOUNT CREDIT.

Subdivision 1. Credit allowed. (a) An individual is allowed a credit against the tax imposed under this chapter equal to the difference of:

(1) the individual's federal income tax liability for the taxable year if contributions to a family and medical leave savings account up to the contribution limit under section 181.9441 were included in gross income under section 61 of the Internal Revenue Code; and

(2) the individual's federal income tax liability for the taxable year if contributions to a family and medical leave savings account up to the contribution limit under section 181.9441 were not included in gross income under section 61 of the Internal Revenue Code.

(b) In no case may the credit be less than zero.

(c) For a nonresident or a part-year resident, the credit must be allocated based on the percentage calculated under section 290.06, subdivision 2c, paragraph (e).

Subd. 2. Credit to be refundable. If the amount of the credit that a taxpayer who is a resident or part-year resident of Minnesota is eligible to receive under this section exceeds the taxpayer's tax liability under this chapter, the commissioner shall refund the excess to the taxpayer. For nonresident taxpayers, the credit may not exceed the taxpayer's liability for tax under this chapter.

Subd. 3. Appropriation. An amount sufficient to pay the refunds required by this section is appropriated to the commissioner from the general fund.

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

Sec. 5. Minnesota Statutes 2016, 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) 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 disabled person;

(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; and

(6) the amount of addition required by section 290.0131, subdivisions 9 to 11;

less the sum of the amounts determined under the following:

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

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

(3) 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;

(4) amounts subtracted from federal taxable income as provided by section 290.0132, subdivisions 7, 9 to 15, 17, ~~and 21~~, and 23; and

(5) the amount of the net operating loss allowed under section 290.095, subdivision 11, paragraph (c).

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.

(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. This section is effective for taxable years beginning after December 31, 2016.

7.1 Sec. 6. Minnesota Statutes 2016, section 290.92, subdivision 1, is amended to read:

7.2 Subdivision 1. **Definitions.** (1) **Wages.** For purposes of this section, the term "wages"
7.3 means the same as that term is defined in section 3401(a) and (f) of the Internal Revenue
7.4 Code, but does not include amounts deposited in a family and medical leave savings account
7.5 up to the contribution limit under section 181.9441.

7.6 (2) **Payroll period.** For purposes of this section the term "payroll period" means a period
7.7 for which a payment of wages is ordinarily made to the employee by the employee's
7.8 employer, and the term "miscellaneous payroll period" means a payroll period other than a
7.9 daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannual, or annual payroll
7.10 period.

7.11 (3) **Employee.** For purposes of this section the term "employee" means any resident
7.12 individual performing services for an employer, either within or without, or both within and
7.13 without the state of Minnesota, and every nonresident individual performing services within
7.14 the state of Minnesota, the performance of which services constitute, establish, and determine
7.15 the relationship between the parties as that of employer and employee. As used in the
7.16 preceding sentence, the term "employee" includes an officer of a corporation, and an officer,
7.17 employee, or elected official of the United States, a state, or any political subdivision thereof,
7.18 or the District of Columbia, or any agency or instrumentality of any one or more of the
7.19 foregoing.

7.20 (4) **Employer.** For purposes of this section the term "employer" means any person,
7.21 including individuals, fiduciaries, estates, trusts, partnerships, limited liability companies,
7.22 and corporations transacting business in or deriving any income from sources within the
7.23 state of Minnesota for whom an individual performs or performed any service, of whatever
7.24 nature, as the employee of such person, except that if the person for whom the individual
7.25 performs or performed the services does not have control of the payment of the wages for
7.26 such services, the term "employer," except for purposes of paragraph (1), means the person
7.27 having control of the payment of such wages. As used in the preceding sentence, the term
7.28 "employer" includes any corporation, individual, estate, trust, or organization which is
7.29 exempt from taxation under section 290.05 and further includes, but is not limited to, officers
7.30 of corporations who have control, either individually or jointly with another or others, of
7.31 the payment of the wages.

7.32 (5) **Number of withholding exemptions claimed.** For purposes of this section, the term
7.33 "number of withholding exemptions claimed" means the number of withholding exemptions
7.34 claimed in a withholding exemption certificate in effect under subdivision 5, except that if

8.1 no such certificate is in effect, the number of withholding exemptions claimed shall be
8.2 considered to be zero.

8.3 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
8.4 31, 2016.

8.5 **ARTICLE 2**

8.6 **VOLUNTARY FAMILY AND MEDICAL LEAVE ASSISTANCE GRANTS**

8.7 Section 1. **VOLUNTARY PAID FAMILY AND MEDICAL LEAVE ASSISTANCE**
8.8 **GRANT PROGRAM.**

8.9 \$..... in fiscal year 2018 and \$..... in fiscal year 2019 are appropriated from the general
8.10 fund to the commissioner of employment and economic development for grants to small
8.11 business development centers (SBDCs) under Minnesota Statutes, section 116J.68, to provide
8.12 information and technical assistance to Minnesota businesses interested in implementing
8.13 private paid family, medical, pregnancy, or bonding leave programs. Services under this
8.14 section may be provided directly by an SBDC or under contracts with nonprofit organizations
8.15 with expertise in advising businesses on labor and employment issues.

APPENDIX
Article locations in 17-1941

ARTICLE 1	FAMILY AND MEDICAL LEAVE SAVINGS ACCOUNTS	Page.Ln 1.11
	VOLUNTARY FAMILY AND MEDICAL LEAVE ASSISTANCE	
ARTICLE 2	GRANTS	Page.Ln 8.5