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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1910

03/04/2021 Authored by Davids
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; corporate franchise; providing for apportionment of corporate
1.3 net operating losses; amending Minnesota Statutes 2020, section 290.095,
1.4 subdivision 3.

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

1.6 Section 1. Minnesota Statutes 2020, section 290.095, subdivision 3, is amended to read:

1.7 Subd. 3. Carryover. (a) A net operating loss incurred during the taxable year shall be
1.8 a net operating loss carryover to each of the 15 taxable years following the taxable year of
1.9 such loss.

1.10 (b) The entire amount of the net operating loss for any taxable year shall be carried to
1.11 the earliest of the taxable years to which such loss may be carried. The portion of such loss
1.12 which shall be carried to each of the other taxable years shall be the excess, if any, of the
1.13 amount of such loss over the sum of the taxable net income, adjusted by the modifications
1.14 specified in subdivision 4, for each of the taxable years to which such loss may be carried.

1.15 (c) Where a corporation apportions its income under the provisions of section 290.191,
1.16 the net operating loss deduction incurred in any taxable year shall be allowed to the extent
1.17 of the apportionment ratio of the loss year, except that a qualifying corporation may elect
1.18 to use an apportionment ratio of one for the loss year when determining the amount of the
1.19 deduction allowed under this paragraph.

1.20 (d) The provisions of sections 381, 382, and 384 of the Internal Revenue Code apply to
1.21 carryovers in certain corporate acquisitions and special limitations on net operating loss
1.22 carryovers. The limitation amount determined under section 382 shall be applied to net
1.23 income, before apportionment, in each post change year to which a loss is carried.

- 2.1 (e) For purposes of this subdivision, a corporation is a qualifying corporation if:
- 2.2 (1) the corporation apportions its income under section 290.191;
- 2.3 (2) the corporation's factors for apportionment purposes in both the numerator and
- 2.4 denominator of the apportionment formula are zero; and
- 2.5 (3) the corporation's principal address and place of business is in Minnesota.
- 2.6 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
- 2.7 31, 2020.