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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 64

01/05/2017 Authored by Bernardy and Thissen
The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to taxation; individual income; modifying the dependent care credit;
1.3 amending Minnesota Statutes 2016, sections 290.067, subdivisions 1, 2, 2b, 3;
1.4 290.0674, subdivision 2, by adding a subdivision; repealing Minnesota Statutes
1.5 2016, section 290.067, subdivision 2a.

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

1.7 Section 1. Minnesota Statutes 2016, section 290.067, subdivision 1, is amended to read:

1.8 Subdivision 1. Amount of credit. (a) A taxpayer may take as a credit against the tax
1.9 due from the taxpayer and a spouse, if any, under this chapter an amount equal to 140 percent
1.10 of the dependent care credit for which the taxpayer is eligible pursuant to the provisions of
1.11 section 21 of the Internal Revenue Code subject to the limitations provided in subdivision
1.12 2 except that in determining whether the child qualified as a dependent, income received
1.13 as a Minnesota family investment program grant or allowance to or on behalf of the child
1.14 must not be taken into account in determining whether the child received more than half of
1.15 the child's support from the taxpayer, and the provisions of section 32(b)(1)(D) of the Internal
1.16 Revenue Code do not apply.

1.17 (b) If a child who has not attained the age of six years at the close of the taxable year is
1.18 cared for at a licensed family day care home operated by the child's parent, the taxpayer is
1.19 deemed to have paid employment-related expenses, and is allowed a credit equal to 140
1.20 percent of the credit for which the taxpayer would be eligible under section 21 of the Internal
1.21 Revenue Code based on the deemed expenses. If the child is 16 months old or younger at
1.22 the close of the taxable year, the amount of expenses deemed to have been paid equals the
1.23 maximum limit for one qualified individual under section 21(c) and (d) of the Internal
1.24 Revenue Code. If the child is older than 16 months of age but has not attained the age of

2.1 six years at the close of the taxable year, the amount of expenses deemed to have been paid
2.2 equals the amount the licensee would charge for the care of a child of the same age for the
2.3 same number of hours of care.

2.4 (c) If a married couple:

2.5 (1) has a child who has not attained the age of one year at the close of the taxable year;

2.6 (2) files a joint tax return for the taxable year; and

2.7 (3) does not participate in a dependent care assistance program as defined in section 129

2.8 of the Internal Revenue Code, in lieu of the actual employment related expenses paid for

2.9 that child under paragraph (a) or the deemed amount under paragraph (b), the lesser of (i)

2.10 the combined earned income of the couple or (ii) the amount of the maximum limit for one

2.11 qualified individual under section 21(c) and (d) of the Internal Revenue Code will be deemed

2.12 to be the employment related expense paid for that child, and the taxpayer is allowed a

2.13 credit equal to 140 percent of the credit for which the taxpayer would be eligible under

2.14 section 21 of the Internal Revenue Code based on the deemed expenses. The earned income

2.15 limitation of section 21(d) of the Internal Revenue Code shall not apply to this deemed

2.16 amount. These deemed amounts apply regardless of whether any employment-related

2.17 expenses have been paid.

2.18 (d) If the taxpayer is not required and does not file a federal individual income tax return

2.19 for the tax year, no credit is allowed for any amount paid to any person unless:

2.20 (1) the name, address, and taxpayer identification number of the person are included on

2.21 the return claiming the credit; or

2.22 (2) if the person is an organization described in section 501(c)(3) of the Internal Revenue

2.23 Code and exempt from tax under section 501(a) of the Internal Revenue Code, the name

2.24 and address of the person are included on the return claiming the credit.

2.25 In the case of a failure to provide the information required under the preceding sentence,

2.26 the preceding sentence does not apply if it is shown that the taxpayer exercised due diligence

2.27 in attempting to provide the information required.

2.28 (e) In the case of a nonresident, part-year resident, or a person who has earned income

2.29 not subject to tax under this chapter including earned income excluded pursuant to section

2.30 290.0132, subdivision 10, the credit determined under section 21 of the Internal Revenue

2.31 Code must be allocated based on the ratio by which the earned income of the claimant and

2.32 the claimant's spouse from Minnesota sources bears to the total earned income of the claimant

2.33 and the claimant's spouse.

3.1 (f) For residents of Minnesota, the subtractions for military pay under section 290.0132,
3.2 subdivisions 11 and 12, are not considered "earned income not subject to tax under this
3.3 chapter."

3.4 (g) For residents of Minnesota, the exclusion of combat pay under section 112 of the
3.5 Internal Revenue Code is not considered "earned income not subject to tax under this
3.6 chapter."

3.7 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
3.8 31, 2016.

3.9 Sec. 2. Minnesota Statutes 2016, section 290.067, subdivision 2, is amended to read:

3.10 Subd. 2. **Limitations.** ~~The credit for expenses incurred for the care of each dependent~~
3.11 ~~shall not exceed \$720 in any taxable year, and the total credit for all dependents of a claimant~~
3.12 ~~shall not exceed \$1,440 in a taxable year.~~

3.13 ~~The maximum total credit shall be reduced according to the amount of the income of~~
3.14 ~~the claimant and a spouse, if any, as follows:~~

3.15 ~~income up to \$18,040, \$720 maximum for one dependent, \$1,440 for all dependents;~~

3.16 ~~income over \$18,040, the maximum credit for one dependent shall be reduced by \$18~~
3.17 ~~for every \$350 of additional income, \$36 for all dependents.~~

3.18 (a) For taxpayers with adjusted gross income of more than \$100,000, the credit is limited
3.19 to the lesser of:

3.20 (1) the credit otherwise calculated under this subdivision; or

3.21 (2) 140 percent of the maximum credit allowed under section 21 of the Internal Revenue
3.22 Code, minus five percent of federal adjusted gross income in excess of \$100,000, but not
3.23 less than zero.

3.24 (b) For purposes of this subdivision, "federal adjusted gross income" has the meaning
3.25 given in section 62 of the Internal Revenue Code. For taxpayers who qualify for a credit
3.26 under this subdivision for one dependent, "the maximum credit allowed under section 21
3.27 of the Internal Revenue Code" means the maximum allowed for one dependent, and for
3.28 taxpayers who qualify for credits under this subdivision for the care of two or more
3.29 dependents, "the maximum credit allowed under section 21 of the Internal Revenue Code"
3.30 means the maximum allowed for the care of two or more dependents.

3.31 (c) The commissioner shall construct and make available to taxpayers tables showing
3.32 the amount of the credit at various levels of income and expenses. The tables shall follow

4.1 the schedule contained in this subdivision, except that the commissioner may graduate the
4.2 transitions between expenses and income brackets.

4.3 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
4.4 31, 2016.

4.5 Sec. 3. Minnesota Statutes 2016, section 290.067, subdivision 2b, is amended to read:

4.6 Subd. 2b. **Inflation adjustment.** The commissioner shall adjust the dollar amount of
4.7 the income threshold at which the maximum credit begins to be reduced under subdivision
4.8 2 by the percentage determined pursuant to the provisions of section 1(f) of the Internal
4.9 Revenue Code, except that in section 1(f)(3)(B) the word "~~1999~~" "2016" shall be substituted
4.10 for the word "1992." For ~~2001~~ 2017, the commissioner shall then determine the percent
4.11 change from the 12 months ending on August 31, ~~1999~~ 2016, to the 12 months ending on
4.12 August 31, ~~2000~~ 2017, and in each subsequent year, from the 12 months ending on August
4.13 31, ~~1999~~ 2016, to the 12 months ending on August 31 of the year preceding the taxable
4.14 year. The determination of the commissioner pursuant to this subdivision must not be
4.15 considered a "rule" and is not subject to the Administrative Procedure Act contained in
4.16 chapter 14. The threshold amount as adjusted must be rounded to the nearest \$10 amount.
4.17 If the amount ends in \$5, the amount is rounded up to the nearest \$10 amount.

4.18 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
4.19 31, 2016.

4.20 Sec. 4. Minnesota Statutes 2016, section 290.067, subdivision 3, is amended to read:

4.21 Subd. 3. **Credit to be refundable.** If the amount of credit which a claimant would be
4.22 eligible to receive pursuant to this ~~subdivision~~ section exceeds the claimant's tax liability
4.23 under chapter 290, the excess amount of the credit shall be refunded to the claimant by the
4.24 commissioner of revenue.

4.25 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
4.26 31, 2016.

4.27 Sec. 5. Minnesota Statutes 2016, section 290.0674, subdivision 2, is amended to read:

4.28 Subd. 2. **Limitations.** (a) For claimants with income not greater than \$33,500, the
4.29 maximum credit allowed for a family is \$1,000 multiplied by the number of qualifying
4.30 children in kindergarten through grade 12 in the family. The maximum credit for families
4.31 with one qualifying child in kindergarten through grade 12 is reduced by \$1 for each \$4 of
4.32 household income over \$33,500, and the maximum credit for families with two or more

5.1 qualifying children in kindergarten through grade 12 is reduced by \$2 for each \$4 of
 5.2 household income over \$33,500, but in no case is the credit less than zero.

5.3 For purposes of this section "income" has the meaning given in ~~section 290.067,~~
 5.4 subdivision 2a. In the case of a married claimant, a credit is not allowed unless a joint income
 5.5 tax return is filed.

5.6 (b) For a nonresident or part-year resident, the credit determined under subdivision 1
 5.7 and the maximum credit amount in paragraph (a) must be allocated using the percentage
 5.8 calculated in section 290.06, subdivision 2c, paragraph (e).

5.9 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
 5.10 31, 2016.

5.11 Sec. 6. Minnesota Statutes 2016, section 290.0674, is amended by adding a subdivision
 5.12 to read:

5.13 **Subd. 2a. Income.** (a) For purposes of this section, "income" means the sum of the
 5.14 following:

5.15 (1) federal adjusted gross income as defined in section 62 of the Internal Revenue Code;
 5.16 and

5.17 (2) the sum of the following amounts to the extent not included in clause (1):

5.18 (i) all nontaxable income;

5.19 (ii) the amount of a passive activity loss that is not disallowed as a result of section 469,
 5.20 paragraph (i) or (m), of the Internal Revenue Code, and the amount of passive activity loss
 5.21 carryover allowed under section 469(b) of the Internal Revenue Code;

5.22 (iii) an amount equal to the total of any discharge of qualified farm indebtedness of a
 5.23 solvent individual excluded from gross income under section 108(g) of the Internal Revenue
 5.24 Code;

5.25 (iv) cash public assistance and relief;

5.26 (v) any pension or annuity, including railroad retirement benefits, all payments received
 5.27 under the federal Social Security Act, Supplemental Security Income, and veterans benefits,
 5.28 which was not exclusively funded by the claimant or spouse, or which was funded exclusively
 5.29 by the claimant or spouse and which funding payments were excluded from federal adjusted
 5.30 gross income in the years when the payments were made;

6.1 (vi) interest received from the federal government or a state government or any
6.2 instrumentality or political subdivision thereof;

6.3 (vii) workers' compensation;

6.4 (viii) nontaxable strike benefits;

6.5 (ix) the gross amounts of payments received in the nature of disability income or sick
6.6 pay as a result of accident, sickness, or other disability, whether funded through insurance
6.7 or otherwise;

6.8 (x) a lump-sum distribution under section 402(e)(3) of the Internal Revenue Code of
6.9 1986, as amended through December 31, 1995;

6.10 (xi) contributions made by the claimant to an individual retirement account, including
6.11 a qualified voluntary employee contribution; simplified employee pension plan;
6.12 self-employed retirement plan; cash or deferred arrangement plan under section 401(k) of
6.13 the Internal Revenue Code; or deferred compensation plan under section 457 of the Internal
6.14 Revenue Code;

6.15 (xii) nontaxable scholarship or fellowship grants;

6.16 (xiii) the amount of deduction allowed under section 199 of the Internal Revenue Code;

6.17 (xiv) the amount of deduction allowed under section 220 or 223 of the Internal Revenue
6.18 Code;

6.19 (xv) the amount deducted for tuition expenses under section 222 of the Internal Revenue
6.20 Code; and

6.21 (xvi) the amount deducted for certain expenses of elementary and secondary school
6.22 teachers under section 62(a)(2)(D) of the Internal Revenue Code.

6.23 (b) In the case of an individual who files an income tax return on a fiscal year basis, the
6.24 term "federal adjusted gross income" means federal adjusted gross income reflected in the
6.25 fiscal year ending in the next calendar year. Federal adjusted gross income may not be
6.26 reduced by the amount of a net operating loss carryback or carryforward or a capital loss
6.27 carryback or carryforward allowed for the year.

6.28 (c) "Income" does not include:

6.29 (1) amounts excluded pursuant to sections 101(a) and 102 of the Internal Revenue Code;

7.1 (2) amounts of any pension or annuity that were exclusively funded by the claimant or
7.2 spouse if the funding payments were not excluded from federal adjusted gross income in
7.3 the years when the payments were made;

7.4 (3) surplus food or other relief in kind supplied by a governmental agency;

7.5 (4) relief granted under chapter 290A;

7.6 (5) child support payments received under a temporary or final decree of dissolution or
7.7 legal separation; and

7.8 (6) restitution payments received by eligible individuals and excludable interest as
7.9 defined in section 803 of the Economic Growth and Tax Relief Reconciliation Act of 2001,
7.10 Public Law 107-16.

7.11 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
7.12 31, 2016.

7.13 Sec. 7. **REPEALER.**

7.14 Minnesota Statutes 2016, section 290.067, subdivision 2a, is repealed.

7.15 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
7.16 31, 2016.

290.067 DEPENDENT CARE CREDIT.

Subd. 2a. **Income.** (a) For purposes of this section, "income" means the sum of the following:

- (1) federal adjusted gross income as defined in section 62 of the Internal Revenue Code;
- and
- (2) the sum of the following amounts to the extent not included in clause (1):
 - (i) all nontaxable income;
 - (ii) the amount of a passive activity loss that is not disallowed as a result of section 469, paragraph (i) or (m) of the Internal Revenue Code and the amount of passive activity loss carryover allowed under section 469(b) of the Internal Revenue Code;
 - (iii) an amount equal to the total of any discharge of qualified farm indebtedness of a solvent individual excluded from gross income under section 108(g) of the Internal Revenue Code;
 - (iv) cash public assistance and relief;
 - (v) any pension or annuity (including railroad retirement benefits, all payments received under the federal Social Security Act, Supplemental Security Income, and veterans benefits), which was not exclusively funded by the claimant or spouse, or which was funded exclusively by the claimant or spouse and which funding payments were excluded from federal adjusted gross income in the years when the payments were made;
 - (vi) interest received from the federal or a state government or any instrumentality or political subdivision thereof;
 - (vii) workers' compensation;
 - (viii) nontaxable strike benefits;
 - (ix) the gross amounts of payments received in the nature of disability income or sick pay as a result of accident, sickness, or other disability, whether funded through insurance or otherwise;
 - (x) a lump-sum distribution under section 402(e)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1995;
 - (xi) contributions made by the claimant to an individual retirement account, including a qualified voluntary employee contribution; simplified employee pension plan; self-employed retirement plan; cash or deferred arrangement plan under section 401(k) of the Internal Revenue Code; or deferred compensation plan under section 457 of the Internal Revenue Code;
 - (xii) nontaxable scholarship or fellowship grants;
 - (xiii) the amount of deduction allowed under section 199 of the Internal Revenue Code;
 - (xiv) the amount of deduction allowed under section 220 or 223 of the Internal Revenue Code;
 - (xv) the amount deducted for tuition expenses under section 222 of the Internal Revenue Code; and
 - (xvi) the amount deducted for certain expenses of elementary and secondary school teachers under section 62(a)(2)(D) of the Internal Revenue Code.

In the case of an individual who files an income tax return on a fiscal year basis, the term "federal adjusted gross income" means federal adjusted gross income reflected in the fiscal year ending in the next calendar year. Federal adjusted gross income may not be reduced by the amount of a net operating loss carryback or carryforward or a capital loss carryback or carryforward allowed for the year.

- (b) "Income" does not include:
 - (1) amounts excluded pursuant to the Internal Revenue Code, sections 101(a) and 102;
 - (2) amounts of any pension or annuity that were exclusively funded by the claimant or spouse if the funding payments were not excluded from federal adjusted gross income in the years when the payments were made;
 - (3) surplus food or other relief in kind supplied by a governmental agency;
 - (4) relief granted under chapter 290A;
 - (5) child support payments received under a temporary or final decree of dissolution or legal separation; and
 - (6) restitution payments received by eligible individuals and excludable interest as defined in section 803 of the Economic Growth and Tax Relief Reconciliation Act of 2001, Public Law 107-16.