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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3583

02/12/2024 Authored by Lee, F.; Hansen, R.; Xiong and Jordan
The bill was referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; individual income and corporate franchise; imposing a pollution
1.3 control surcharge on certain businesses; proposing coding for new law in Minnesota
1.4 Statutes, chapter 290.

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

1.6 Section 1. 290.034 POLLUTION CONTROL SURCHARGE.

1.7 Subdivision 1. Definitions. (a) For purposes of this section, the following terms have
1.8 the meanings given.

1.9 (b) "Commissioner" means the commissioner of the Minnesota Pollution Control Agency.

1.10 (c) "Net pollution control income" means:

1.11 (1) for a corporation that is a pollution control business, taxable income, except that for
1.12 a unitary corporation, taxable income for purposes of this clause is determined by multiplying
1.13 the unitary corporation's taxable income by a percentage, the numerator of which is the
1.14 amount of taxable income from pollution control businesses in the unitary group, and the
1.15 denominator of which is the aggregate amount of the unitary corporation's taxable income;
1.16 and

1.17 (2) for an individual, estate, or trust, the federal adjusted gross income from a pollution
1.18 control business, including any share of federal adjusted gross income from a pass-through
1.19 entity that is a pollution control business, modified by the additions provided in section
1.20 290.0131, subdivisions 8 to 10, 16, and 17, and the subtractions provided in:

1.21 (i) section 290.0132, subdivisions 9 and 27, to the extent the amount is assignable or
1.22 allocable to Minnesota under section 290.17; and

2.1 (ii) section 290.0132, subdivision 14, provided that the subtraction allowed under section
2.2 290.0132, subdivision 9, is only allowed on the net pollution control income computation
2.3 to the extent the pollution control business owner would have been allowed the subtraction.

2.4 (d) "Person" has the meaning provided in section 115.01, subdivision 10.

2.5 (e) "Pollution control business" means any person that the commissioner of the Minnesota
2.6 Pollution Control Agency has certified to the commissioner of revenue as having at least
2.7 one delinquent pollution control violation.

2.8 (f) "Pollution control violation" means any violation of sections 103F.701 to 103F.755,
2.9 325E.10 to 325E.1251, and 325E.32, chapters 114C, 115, 115A, and 116, and any rule,
2.10 standard, order, stipulation agreement, schedule of compliance, or permit adopted or issued
2.11 by the Minnesota Pollution Control Agency thereunder, or under any other law now in force
2.12 or hereafter enacted for the prevention, control, or abatement of pollution.

2.13 Subd. 2. **Surcharge imposed; individuals, trusts, and estates; corporations.** (a) In
2.14 addition to the tax imposed under section 290.06, subdivision 1, a pollution control surcharge
2.15 is imposed on a corporation's net pollution control income at a rate of five percent.

2.16 (b) In addition to the income taxes imposed under section 290.06, subdivision 2c, a
2.17 pollution control surcharge is imposed on an individual's, trust's, or estate's net pollution
2.18 control income at a rate of five percent.

2.19 Subd. 3. **Notifications; certifications.** (a) The commissioner must notify a person of
2.20 any pollution control violation known by the commissioner to have been committed by the
2.21 person, including a violation giving rise to the delinquency notice in paragraph (c). The
2.22 commissioner must include in the notification a statement regarding the remedial actions a
2.23 person must take to ensure that no further violations are committed and a time period in
2.24 which the remedial actions must be completed.

2.25 (b) If in the determination of the commissioner sufficient remedial actions are taken
2.26 within the time period provided in paragraph (a), the commissioner must certify to the person
2.27 receiving notice of a violation that the violation has been satisfactorily remedied.

2.28 (c) If the time for remedial actions provided in paragraph (a) has lapsed, the commissioner
2.29 must provide a delinquency notice to the person receiving the notice of a violation that the
2.30 violation has not been satisfactorily remedied, and that the surcharge under this section
2.31 applies to the person's net pollution control income for the taxable year in which the
2.32 delinquency notice under this paragraph is provided.

3.1 (d) By January 31 each year, the commissioner of the Minnesota Pollution Control
3.2 Agency must certify to the commissioner of revenue a list of all the persons receiving a
3.3 delinquency notice in the immediately preceding calendar year.

3.4 Subd. 4. **Administration.** All provisions relating to the administration of the tax imposed
3.5 under section 290.06, subdivisions 1 and 2c, not inconsistent with this section, including
3.6 but not limited to all provisions relating to compliance, audits, enforcement, reporting, filing
3.7 returns, refunds, penalties, interest, estimated tax, and all applicable statutes of limitations,
3.8 apply to the surcharge imposed by this section.

3.9 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
3.10 31, 2023, for certifications due beginning January 31, 2025, on delinquency notices provided
3.11 after June 30, 2024.