

This Document can be made available  
in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 4436

04/18/2018 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; income and corporate franchise; adopting certain federal  
1.3 provisions relating to the taxation of income of foreign corporations; amending  
1.4 Minnesota Statutes 2016, sections 290.0132, by adding a subdivision; 290.0133,  
1.5 subdivision 6, by adding a subdivision; 290.21, by adding a subdivision; Minnesota  
1.6 Statutes 2017 Supplement, section 290.01, subdivisions 19, 31.

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

1.8 Section 1. Minnesota Statutes 2017 Supplement, section 290.01, subdivision 19, is amended  
1.9 to read:

1.10 Subd. 19. **Net income.** The term "net income" means the federal taxable income, as  
1.11 defined in section 63 of the Internal Revenue Code of 1986, as amended through the date  
1.12 named in this subdivision, incorporating the federal effective dates of changes to the Internal  
1.13 Revenue Code and any elections made by the taxpayer in accordance with the Internal  
1.14 Revenue Code in determining federal taxable income for federal income tax purposes, and  
1.15 with the modifications provided in sections 290.0131 to 290.0136.

1.16 In the case of a regulated investment company or a fund thereof, as defined in section  
1.17 851(a) or 851(g) of the Internal Revenue Code, federal taxable income means investment  
1.18 company taxable income as defined in section 852(b)(2) of the Internal Revenue Code,  
1.19 except that:

1.20 (1) the exclusion of net capital gain provided in section 852(b)(2)(A) of the Internal  
1.21 Revenue Code does not apply;

1.22 (2) the deduction for dividends paid under section 852(b)(2)(D) of the Internal Revenue  
1.23 Code must be applied by allowing a deduction for capital gain dividends and exempt-interest

2.1 dividends as defined in sections 852(b)(3)(C) and 852(b)(5) of the Internal Revenue Code;  
2.2 and

2.3 (3) the deduction for dividends paid must also be applied in the amount of any  
2.4 undistributed capital gains which the regulated investment company elects to have treated  
2.5 as provided in section 852(b)(3)(D) of the Internal Revenue Code.

2.6 The net income of a real estate investment trust as defined and limited by section 856(a),  
2.7 (b), and (c) of the Internal Revenue Code means the real estate investment trust taxable  
2.8 income as defined in section 857(b)(2) of the Internal Revenue Code.

2.9 The net income of a designated settlement fund as defined in section 468B(d) of the  
2.10 Internal Revenue Code means the gross income as defined in section 468B(b) of the Internal  
2.11 Revenue Code.

2.12 For corporations, resident individuals, and resident estates and trusts who make a valid  
2.13 election under section 965(h) of the Internal Revenue Code, including any successor in  
2.14 interest, net income for the taxable year includes the ratable amount of deferred foreign  
2.15 income on which the taxpayer makes a federal tax payment in that year.

2.16 The Internal Revenue Code of 1986, as amended through December 16, 2016, shall be  
2.17 in effect for taxable years beginning after December 31, 1996. The amendments to the  
2.18 Internal Revenue Code of 1986 made by title I, subtitle D, parts I and II, of the act to provide  
2.19 for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for  
2.20 fiscal year 2018, Public Law 115-97, apply and are effective at the same time as they were  
2.21 effective for federal purposes.

2.22 Except as otherwise provided, references to the Internal Revenue Code in this subdivision  
2.23 and sections 290.0131 to 290.0136 mean the code in effect for purposes of determining net  
2.24 income for the applicable year.

2.25 **EFFECTIVE DATE.** This section is effective the day following final enactment and  
2.26 the changes incorporated by federal changes are effective retroactively at the same time  
2.27 they were effective for federal purposes.

2.28 Sec. 2. Minnesota Statutes 2017 Supplement, section 290.01, subdivision 31, is amended  
2.29 to read:

2.30 Subd. 31. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal  
2.31 Revenue Code" means the Internal Revenue Code of 1986, as amended through December  
2.32 16, 2016, and as amended by title I, subtitle D, parts I and II, of the act to provide for  
2.33 reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal

3.1 year 2018, Public Law 115-97. Internal Revenue Code also includes any uncodified provision  
3.2 in federal law that relates to provisions of the Internal Revenue Code that are incorporated  
3.3 into Minnesota law. When used in this chapter, the reference to "subtitle A, chapter 1,  
3.4 subchapter N, part 1, of the Internal Revenue Code" is to the Internal Revenue Code as  
3.5 amended through March 18, 2010.

3.6 **EFFECTIVE DATE.** This section is effective the day following final enactment and  
3.7 the changes incorporated by federal changes are effective retroactively at the same time  
3.8 they were effective for federal purposes.

3.9 Sec. 3. Minnesota Statutes 2016, section 290.0132, is amended by adding a subdivision  
3.10 to read:

3.11 Subd. 27. **Deferred foreign income of nonresidents.** In the case of a nonresident  
3.12 individual the amount of deferred foreign income recognized because of section 965 of the  
3.13 Internal Revenue Code is a subtraction.

3.14 **EFFECTIVE DATE.** This section is effective retroactively for taxable years beginning  
3.15 after December 31, 2016, and before January 1, 2019.

3.16 Sec. 4. Minnesota Statutes 2016, section 290.0133, subdivision 6, is amended to read:

3.17 Subd. 6. **Special deductions.** (a) The amount of any special deductions under sections  
3.18 241 to 247 and ~~965~~ 250 of the Internal Revenue Code is an addition.

3.19 (b) The addition under this subdivision is reduced by the amount of the deduction under  
3.20 section 245A of the Internal Revenue Code that represents amounts included in federal  
3.21 taxable income in a prior taxable year under section 965 of the Internal Revenue Code.

3.22 **EFFECTIVE DATE.** Paragraph (a) is effective retroactively for taxable years beginning  
3.23 after December 31, 2016. Paragraph (b) is effective for taxable years beginning after  
3.24 December 31, 2017.

3.25 Sec. 5. Minnesota Statutes 2016, section 290.0133, is amended by adding a subdivision  
3.26 to read:

3.27 Subd. 15. **Deferred foreign income.** (a) The amount of the deduction provided under  
3.28 section 965(c) of the Internal Revenue Code is an addition.

3.29 (b) For a taxpayer making a valid election under section 965(h) of the Internal Revenue  
3.30 Code, the addition under paragraph (a) must be applied ratably to the same tax periods in

4.1 which the taxpayer includes deferred foreign income in Minnesota net income pursuant to  
4.2 section 290.01, subdivision 19.

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

4.5 Sec. 6. Minnesota Statutes 2016, section 290.21, is amended by adding a subdivision to  
4.6 read:

4.7 Subd. 9. **Controlled foreign corporations.** For the purposes of this chapter the income  
4.8 of domestic corporations that is included in net income under sections 951, 951A, or 965  
4.9 of the Internal Revenue Code is dividend income.

4.10 **EFFECTIVE DATE.** This section is effective retroactively beginning for each taxpayer's  
4.11 last taxable year beginning before January 1, 2018.