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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 4680

03/30/2022 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; modifying individual income and corporate franchise taxes;
1.3 proposing conformity to certain federal tax provisions; making technical and
1.4 conforming changes; amending Minnesota Statutes 2020, sections 289A.02,
1.5 subdivision 7; 290.091, subdivision 2; 290.0921, subdivision 3; 290A.03,
1.6 subdivision 15; 291.005, subdivision 1; Minnesota Statutes 2021 Supplement,
1.7 sections 289A.08, subdivision 7; 290.01, subdivisions 19, 31; 290.06, subdivision
1.8 2c; repealing Minnesota Statutes 2020, sections 290.0131, subdivision 9; 290.0132,
1.9 subdivision 9; 290.0133, subdivision 11; 290.0134, subdivision 13.

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

1.11 Section 1. Minnesota Statutes 2020, section 289A.02, subdivision 7, is amended to read:

1.12 Subd. 7. Internal Revenue Code. Unless specifically defined otherwise, "Internal
1.13 Revenue Code" means the Internal Revenue Code of 1986, as amended through December
1.14 31, 2018 November 15, 2021.

1.15 EFFECTIVE DATE. This section is effective the day following final enactment, except
1.16 the changes incorporated by federal changes are effective retroactively at the same time the
1.17 changes were effective for federal purposes.

1.18 Sec. 2. Minnesota Statutes 2021 Supplement, section 289A.08, subdivision 7, is amended
1.19 to read:

1.20 Subd. 7. Composite income tax returns for nonresident partners, shareholders, and
1.21 beneficiaries. (a) The commissioner may allow a partnership with nonresident partners to
1.22 file a composite return and to pay the tax on behalf of nonresident partners who have no
1.23 other Minnesota source income. This composite return must include the names, addresses,

2.1 Social Security numbers, income allocation, and tax liability for the nonresident partners
2.2 electing to be covered by the composite return.

2.3 (b) The computation of a partner's tax liability must be determined by multiplying the
2.4 income allocated to that partner by the highest rate used to determine the tax liability for
2.5 individuals under section 290.06, subdivision 2c. Nonbusiness deductions, standard
2.6 deductions, or personal exemptions are not allowed.

2.7 (c) The partnership must submit a request to use this composite return filing method for
2.8 nonresident partners. The requesting partnership must file a composite return in the form
2.9 prescribed by the commissioner of revenue. The filing of a composite return is considered
2.10 a request to use the composite return filing method.

2.11 (d) The electing partner must not have any Minnesota source income other than the
2.12 income from the partnership, other electing partnerships, and other qualifying entities
2.13 electing to file and pay the pass-through entity tax under subdivision 7a. If it is determined
2.14 that the electing partner has other Minnesota source income, the inclusion of the income
2.15 and tax liability for that partner under this provision will not constitute a return to satisfy
2.16 the requirements of subdivision 1. The tax paid for the individual as part of the composite
2.17 return is allowed as a payment of the tax by the individual on the date on which the composite
2.18 return payment was made. If the electing nonresident partner has no other Minnesota source
2.19 income, filing of the composite return is a return for purposes of subdivision 1.

2.20 (e) This subdivision does not negate the requirement that an individual pay estimated
2.21 tax if the individual's liability would exceed the requirements set forth in section 289A.25.
2.22 The individual's liability to pay estimated tax is, however, satisfied when the partnership
2.23 pays composite estimated tax in the manner prescribed in section 289A.25.

2.24 (f) If an electing partner's share of the partnership's gross income from Minnesota sources
2.25 is less than the filing requirements for a nonresident under this subdivision, the tax liability
2.26 is zero. However, a statement showing the partner's share of gross income must be included
2.27 as part of the composite return.

2.28 (g) The election provided in this subdivision is only available to a partner who has no
2.29 other Minnesota source income and who is either (1) a full-year nonresident individual or
2.30 (2) a trust or estate that does not claim a deduction under either section 651 or 661 of the
2.31 Internal Revenue Code.

2.32 (h) A corporation defined in section 290.9725 and its nonresident shareholders may
2.33 make an election under this paragraph. The provisions covering the partnership apply to
2.34 the corporation and the provisions applying to the partner apply to the shareholder.

3.1 (i) Estates and trusts distributing current income only and the nonresident individual
 3.2 beneficiaries of the estates or trusts may make an election under this paragraph. The
 3.3 provisions covering the partnership apply to the estate or trust. The provisions applying to
 3.4 the partner apply to the beneficiary.

3.5 (j) For the purposes of this subdivision, "income" means the partner's share of federal
 3.6 adjusted gross income from the partnership modified by the additions provided in section
 3.7 290.0131, subdivisions 8 to 10, 16, ~~and 17,~~ 19, and 20, and the subtractions provided in:
 3.8 (1) section 290.0132, subdivisions ~~9,~~ 27, and 28, to the extent the amount is assignable or
 3.9 allocable to Minnesota under section 290.17; and (2) section 290.0132, subdivision 14, 31,
 3.10 and 32. ~~The subtraction allowed under section 290.0132, subdivision 9, is only allowed on~~
 3.11 ~~the composite tax computation to the extent the electing partner would have been allowed~~
 3.12 ~~the subtraction.~~

3.13 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
 3.14 31, 2021.

3.15 Sec. 3. Minnesota Statutes 2021 Supplement, section 290.01, subdivision 19, is amended
 3.16 to read:

3.17 Subd. 19. **Net income.** (a) For a trust or estate taxable under section 290.03, and a
 3.18 corporation taxable under section 290.02, the term "net income" means the federal taxable
 3.19 income, as defined in section 63 of the Internal Revenue Code of 1986, as amended through
 3.20 the date named in this subdivision, incorporating the federal effective dates of changes to
 3.21 the Internal Revenue Code and any elections made by the taxpayer in accordance with the
 3.22 Internal Revenue Code in determining federal taxable income for federal income tax
 3.23 purposes, and with the modifications provided in sections 290.0131 to 290.0136.

3.24 (b) For an individual, the term "net income" means federal adjusted gross income with
 3.25 the modifications provided in sections 290.0131, 290.0132, and 290.0135 to 290.0137.

3.26 (c) In the case of a regulated investment company or a fund thereof, as defined in section
 3.27 851(a) or 851(g) of the Internal Revenue Code, federal taxable income means investment
 3.28 company taxable income as defined in section 852(b)(2) of the Internal Revenue Code,
 3.29 except that:

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

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

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

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

4.6 (d) The net income of a real estate investment trust as defined and limited by section
4.7 856(a), (b), and (c) of the Internal Revenue Code means the real estate investment trust
4.8 taxable income as defined in section 857(b)(2) of the Internal Revenue Code.

4.9 (e) The net income of a designated settlement fund as defined in section 468B(d) of the
4.10 Internal Revenue Code means the gross income as defined in section 468B(b) of the Internal
4.11 Revenue Code.

4.12 (f) The Internal Revenue Code of 1986, as amended through ~~December 31, 2018~~
4.13 November 15, 2021, applies for taxable years beginning after December 31, 1996, ~~except~~
4.14 ~~the sections of federal law in section 290.0111 shall also apply.~~

4.15 (g) Except as otherwise provided, references to the Internal Revenue Code in this
4.16 subdivision and sections 290.0131 to 290.0136 mean the code in effect for purposes of
4.17 determining net income for the applicable year.

4.18 **EFFECTIVE DATE.** This section is effective the day following final enactment, except
4.19 the changes incorporated by federal changes are effective retroactively at the same time the
4.20 changes were effective for federal purposes.

4.21 Sec. 4. Minnesota Statutes 2021 Supplement, section 290.01, subdivision 31, is amended
4.22 to read:

4.23 Subd. 31. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal
4.24 Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~December~~
4.25 ~~31, 2018, except the sections of federal law in section 290.0111 shall also apply~~ November
4.26 15, 2021. Internal Revenue Code also includes any uncodified provision in federal law that
4.27 relates to provisions of the Internal Revenue Code that are incorporated into Minnesota law.

4.28 **EFFECTIVE DATE.** This section is effective the day following final enactment, except
4.29 the changes incorporated by federal changes are effective retroactively at the same time the
4.30 changes were effective for federal purposes.

5.1 Sec. 5. Minnesota Statutes 2021 Supplement, section 290.06, subdivision 2c, is amended
5.2 to read:

5.3 Subd. 2c. **Schedules of rates for individuals, estates, and trusts.** (a) The income taxes
5.4 imposed by this chapter upon married individuals filing joint returns and surviving spouses
5.5 as defined in section 2(a) of the Internal Revenue Code must be computed by applying to
5.6 their taxable net income the following schedule of rates:

5.7 (1) On the first \$38,770, 5.35 percent;

5.8 (2) On all over \$38,770, but not over \$154,020, 6.8 percent;

5.9 (3) On all over \$154,020, but not over \$269,010, 7.85 percent;

5.10 (4) On all over \$269,010, 9.85 percent.

5.11 Married individuals filing separate returns, estates, and trusts must compute their income
5.12 tax by applying the above rates to their taxable income, except that the income brackets
5.13 will be one-half of the above amounts after the adjustment required in subdivision 2d.

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

5.16 (1) On the first \$26,520, 5.35 percent;

5.17 (2) On all over \$26,520, but not over \$87,110, 6.8 percent;

5.18 (3) On all over \$87,110, but not over \$161,720, 7.85 percent;

5.19 (4) On all over \$161,720, 9.85 percent.

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

5.23 (1) On the first \$32,650, 5.35 percent;

5.24 (2) On all over \$32,650, but not over \$131,190, 6.8 percent;

5.25 (3) On all over \$131,190, but not over \$214,980, 7.85 percent;

5.26 (4) On all over \$214,980, 9.85 percent.

5.27 (d) In lieu of a tax computed according to the rates set forth in this subdivision, the tax
5.28 of any individual taxpayer whose taxable net income for the taxable year is less than an
5.29 amount determined by the commissioner must be computed in accordance with tables
5.30 prepared and issued by the commissioner of revenue based on income brackets of not more

6.1 than \$100. The amount of tax for each bracket shall be computed at the rates set forth in
6.2 this subdivision, provided that the commissioner may disregard a fractional part of a dollar
6.3 unless it amounts to 50 cents or more, in which case it may be increased to \$1.

6.4 (e) An individual who is not a Minnesota resident for the entire year must compute the
6.5 individual's Minnesota income tax as provided in this subdivision. After the application of
6.6 the nonrefundable credits provided in this chapter, the tax liability must then be multiplied
6.7 by a fraction in which:

6.8 (1) the numerator is the individual's Minnesota source federal adjusted gross income as
6.9 defined in section 62 of the Internal Revenue Code and increased by:

6.10 (i) the additions required under sections 290.0131, subdivisions 2, 6, 8 ~~to~~ 10, 16, and
6.11 17, and 290.0137, paragraph (a); and reduced by

6.12 (ii) the Minnesota assignable portion of the subtraction for United States government
6.13 interest under section 290.0132, subdivision 2, the subtractions under sections ~~290.0132,~~
6.14 ~~subdivisions 9, 290.0132, subdivisions~~ 10, 14, 15, 17, 18, and 27, and 290.0137, paragraph
6.15 (c), after applying the allocation and assignability provisions of section 290.081, clause (a),
6.16 or 290.17; and

6.17 (2) the denominator is the individual's federal adjusted gross income as defined in section
6.18 62 of the Internal Revenue Code, increased by:

6.19 (i) the additions required under sections 290.0131, subdivisions 2, 6, 8 ~~to~~ 10, 16, and
6.20 17, and 290.0137, paragraph (a); and reduced by

6.21 (ii) the subtractions under sections 290.0132, subdivisions 2, ~~9,~~ 10, 14, 15, 17, 18, and
6.22 27, and 290.0137, paragraph (c).

6.23 (f) If an individual who is not a Minnesota resident for the entire year is a qualifying
6.24 owner of a qualifying entity that elects to pay tax as provided in section 289A.08, subdivision
6.25 7a, paragraph (b), the individual must compute the individual's Minnesota income tax as
6.26 provided in paragraph (e), and also must include, to the extent attributed to the electing
6.27 qualifying entity:

6.28 (1) in paragraph (e), clause (1), item (i), and paragraph (e), clause (2), item (i), the
6.29 addition under section 290.0131, subdivision 5; and

6.30 (2) in paragraph (e), clause (1), item (ii), and paragraph (e), clause (2), item (ii), the
6.31 subtraction under section 290.0132, subdivision 3.

7.1 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
7.2 31, 2021.

7.3 Sec. 6. Minnesota Statutes 2020, section 290.091, subdivision 2, is amended to read:

7.4 Subd. 2. **Definitions.** For purposes of the tax imposed by this section, the following
7.5 terms have the meanings given.

7.6 (a) "Alternative minimum taxable income" means the sum of the following for the taxable
7.7 year:

7.8 (1) the taxpayer's federal alternative minimum taxable income as defined in section
7.9 55(b)(2) of the Internal Revenue Code;

7.10 (2) the taxpayer's itemized deductions allowed in computing federal alternative minimum
7.11 taxable income, but excluding:

7.12 (i) the charitable contribution deduction under section 170 of the Internal Revenue Code;

7.13 (ii) the medical expense deduction;

7.14 (iii) the casualty, theft, and disaster loss deduction; and

7.15 (iv) the impairment-related work expenses of a person with a disability;

7.16 (3) for depletion allowances computed under section 613A(c) of the Internal Revenue
7.17 Code, with respect to each property (as defined in section 614 of the Internal Revenue Code),
7.18 to the extent not included in federal alternative minimum taxable income, the excess of the
7.19 deduction for depletion allowable under section 611 of the Internal Revenue Code for the
7.20 taxable year over the adjusted basis of the property at the end of the taxable year (determined
7.21 without regard to the depletion deduction for the taxable year);

7.22 (4) to the extent not included in federal alternative minimum taxable income, the amount
7.23 of the tax preference for intangible drilling cost under section 57(a)(2) of the Internal Revenue
7.24 Code determined without regard to subparagraph (E);

7.25 (5) to the extent not included in federal alternative minimum taxable income, the amount
7.26 of interest income as provided by section 290.0131, subdivision 2;

7.27 (6) the amount of addition required by section ~~290.0131, subdivisions 9, 290.0131,~~
7.28 subdivisions 10, and 16;

7.29 (7) the deduction allowed under section 199A of the Internal Revenue Code, to the extent
7.30 not included in the addition required under clause (6); and

8.1 (8) to the extent not included in federal alternative minimum taxable income, the amount
8.2 of foreign-derived intangible income deducted under section 250 of the Internal Revenue
8.3 Code;

8.4 less the sum of the amounts determined under the following:

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

8.6 (ii) an overpayment of state income tax as provided by section 290.0132, subdivision
8.7 3, to the extent included in federal alternative minimum taxable income;

8.8 (iii) the amount of investment interest paid or accrued within the taxable year on
8.9 indebtedness to the extent that the amount does not exceed net investment income, as defined
8.10 in section 163(d)(4) of the Internal Revenue Code. Interest does not include amounts deducted
8.11 in computing federal adjusted gross income;

8.12 (iv) amounts subtracted from federal taxable or adjusted gross income as provided by
8.13 section 290.0132, subdivisions 7, ~~9~~ 10 to 15, 17, 21, 24, and 26 to 29;

8.14 (v) the amount of the net operating loss allowed under section 290.095, subdivision 11,
8.15 paragraph (c); and

8.16 (vi) the amount allowable as a Minnesota itemized deduction under section 290.0122,
8.17 subdivision 7.

8.18 In the case of an estate or trust, alternative minimum taxable income must be computed
8.19 as provided in section 59(c) of the Internal Revenue Code, except alternative minimum
8.20 taxable income must be increased by the addition in section 290.0131, subdivision 16.

8.21 (b) "Investment interest" means investment interest as defined in section 163(d)(3) of
8.22 the Internal Revenue Code.

8.23 (c) "Net minimum tax" means the minimum tax imposed by this section.

8.24 (d) "Regular tax" means the tax that would be imposed under this chapter (without regard
8.25 to this section and section 290.032), reduced by the sum of the nonrefundable credits allowed
8.26 under this chapter.

8.27 (e) "Tentative minimum tax" equals 6.75 percent of alternative minimum taxable income
8.28 after subtracting the exemption amount determined under subdivision 3.

8.29 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
8.30 31, 2021.

9.1 Sec. 7. Minnesota Statutes 2020, section 290.0921, subdivision 3, is amended to read:

9.2 Subd. 3. **Alternative minimum taxable income.** (a) "Alternative minimum taxable
9.3 income" is Minnesota net income as defined in section 290.01, subdivision 19, and includes
9.4 the adjustments and tax preference items in sections 56, 57, 58, and 59(d), (e), (f), and (h)
9.5 of the Internal Revenue Code. If a corporation files a separate company Minnesota tax
9.6 return, the minimum tax must be computed on a separate company basis. If a corporation
9.7 is part of a tax group filing a unitary return, the minimum tax must be computed on a unitary
9.8 basis. The following adjustments must be made:;

9.9 ~~(1) The portion of the depreciation deduction allowed for federal income tax purposes~~
9.10 ~~under section 168(k) of the Internal Revenue Code that is required as an addition under~~
9.11 ~~section 290.0133, subdivision 11, is disallowed in determining alternative minimum taxable~~
9.12 ~~income.~~

9.13 ~~(2) The subtraction for depreciation allowed under section 290.0134, subdivision 13, is~~
9.14 ~~allowed as a depreciation deduction in determining alternative minimum taxable income.~~

9.15 ~~(3)~~ (1) The alternative tax net operating loss deduction under sections 56(a)(4) and 56(d)
9.16 of the Internal Revenue Code does not apply;.

9.17 ~~(4)~~ (2) The special rule for certain dividends under section 56(g)(4)(C)(ii) of the Internal
9.18 Revenue Code does not apply;.

9.19 ~~(5)~~ (3) The tax preference for depletion under section 57(a)(1) of the Internal Revenue
9.20 Code does not apply;.

9.21 ~~(6)~~ (4) The tax preference for tax exempt interest under section 57(a)(5) of the Internal
9.22 Revenue Code does not apply;.

9.23 ~~(7)~~ (5) The tax preference for charitable contributions of appreciated property under
9.24 section 57(a)(6) of the Internal Revenue Code does not apply;.

9.25 ~~(8)~~ (6) For purposes of calculating the adjustment for adjusted current earnings in section
9.26 56(g) of the Internal Revenue Code, the term "alternative minimum taxable income" as it
9.27 is used in section 56(g) of the Internal Revenue Code, means alternative minimum taxable
9.28 income as defined in this subdivision, determined without regard to the adjustment for
9.29 adjusted current earnings in section 56(g) of the Internal Revenue Code;.

9.30 ~~(9)~~ (7) For purposes of determining the amount of adjusted current earnings under section
9.31 56(g)(3) of the Internal Revenue Code, no adjustment shall be made under section 56(g)(4)
9.32 of the Internal Revenue Code with respect to (i) the amount of foreign dividend gross-up
9.33 subtracted as provided in section 290.0134, subdivision 2, or (ii) the amount of refunds of

10.1 income, excise, or franchise taxes subtracted as provided in section 290.0134, subdivision
10.2 8;

10.3 ~~(10)~~ (8) Alternative minimum taxable income excludes the income from operating in a
10.4 job opportunity building zone as provided under section 469.317; and

10.5 ~~Items of tax preference must not be reduced below zero as a result of the modifications~~
10.6 ~~in this subdivision.~~

10.7 ~~(11)~~ (9) The subtraction for disallowed section 280E expenses under section 290.0134,
10.8 subdivision 19, is allowed as a deduction in determining alternative minimum taxable
10.9 income.

10.10 (b) Items of tax preference must not be reduced below zero as a result of the modifications
10.11 in this subdivision.

10.12 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
10.13 31, 2021.

10.14 Sec. 8. Minnesota Statutes 2020, section 290A.03, subdivision 15, is amended to read:

10.15 Subd. 15. **Internal Revenue Code.** "Internal Revenue Code" means the Internal Revenue
10.16 Code of 1986, as amended through ~~December 31, 2018~~ November 15, 2021.

10.17 **EFFECTIVE DATE.** This section is effective for property tax refunds based on property
10.18 taxes payable in 2022 and rent paid in 2021 and thereafter.

10.19 Sec. 9. Minnesota Statutes 2020, section 291.005, subdivision 1, is amended to read:

10.20 Subdivision 1. **Scope.** Unless the context otherwise clearly requires, the following terms
10.21 used in this chapter shall have the following meanings:

10.22 (1) "Commissioner" means the commissioner of revenue or any person to whom the
10.23 commissioner has delegated functions under this chapter.

10.24 (2) "Federal gross estate" means the gross estate of a decedent as required to be valued
10.25 and otherwise determined for federal estate tax purposes under the Internal Revenue Code,
10.26 increased by the value of any property in which the decedent had a qualifying income interest
10.27 for life and for which an election was made under section 291.03, subdivision 1d, for
10.28 Minnesota estate tax purposes, but was not made for federal estate tax purposes.

10.29 (3) "Internal Revenue Code" means the United States Internal Revenue Code of 1986,
10.30 as amended through ~~December 31, 2018~~ November 15, 2021.

11.1 (4) "Minnesota gross estate" means the federal gross estate of a decedent after (a)
11.2 excluding therefrom any property included in the estate which has its situs outside Minnesota,
11.3 and (b) including any property omitted from the federal gross estate which is includable in
11.4 the estate, has its situs in Minnesota, and was not disclosed to federal taxing authorities.

11.5 (5) "Nonresident decedent" means an individual whose domicile at the time of death
11.6 was not in Minnesota.

11.7 (6) "Personal representative" means the executor, administrator or other person appointed
11.8 by the court to administer and dispose of the property of the decedent. If there is no executor,
11.9 administrator or other person appointed, qualified, and acting within this state, then any
11.10 person in actual or constructive possession of any property having a situs in this state which
11.11 is included in the federal gross estate of the decedent shall be deemed to be a personal
11.12 representative to the extent of the property and the Minnesota estate tax due with respect
11.13 to the property.

11.14 (7) "Resident decedent" means an individual whose domicile at the time of death was
11.15 in Minnesota. The provisions of section 290.01, subdivision 7, paragraphs (c) and (d), apply
11.16 to determinations of domicile under this chapter.

11.17 (8) "Situs of property" means, with respect to:

11.18 (i) real property, the state or country in which it is located;

11.19 (ii) tangible personal property, the state or country in which it was normally kept or
11.20 located at the time of the decedent's death or for a gift of tangible personal property within
11.21 three years of death, the state or country in which it was normally kept or located when the
11.22 gift was executed;

11.23 (iii) a qualified work of art, as defined in section 2503(g)(2) of the Internal Revenue
11.24 Code, owned by a nonresident decedent and that is normally kept or located in this state
11.25 because it is on loan to an organization, qualifying as exempt from taxation under section
11.26 501(c)(3) of the Internal Revenue Code, that is located in Minnesota, the situs of the art is
11.27 deemed to be outside of Minnesota, notwithstanding the provisions of item (ii); and

11.28 (iv) intangible personal property, the state or country in which the decedent was domiciled
11.29 at death or for a gift of intangible personal property within three years of death, the state or
11.30 country in which the decedent was domiciled when the gift was executed.

11.31 For a nonresident decedent with an ownership interest in a pass-through entity with
11.32 assets that include real or tangible personal property, situs of the real or tangible personal
11.33 property, including qualified works of art, is determined as if the pass-through entity does

12.1 not exist and the real or tangible personal property is personally owned by the decedent. If
 12.2 the pass-through entity is owned by a person or persons in addition to the decedent, ownership
 12.3 of the property is attributed to the decedent in proportion to the decedent's capital ownership
 12.4 share of the pass-through entity.

12.5 (9) "Pass-through entity" includes the following:

12.6 (i) an entity electing S corporation status under section 1362 of the Internal Revenue
 12.7 Code;

12.8 (ii) an entity taxed as a partnership under subchapter K of the Internal Revenue Code;

12.9 (iii) a single-member limited liability company or similar entity, regardless of whether
 12.10 it is taxed as an association or is disregarded for federal income tax purposes under Code
 12.11 of Federal Regulations, title 26, section 301.7701-3; or

12.12 (iv) a trust to the extent the property is includable in the decedent's federal gross estate;
 12.13 but excludes

12.14 (v) an entity whose ownership interest securities are traded on an exchange regulated
 12.15 by the Securities and Exchange Commission as a national securities exchange under section
 12.16 6 of the Securities Exchange Act, United States Code, title 15, section 78f.

12.17 **EFFECTIVE DATE.** This section is effective the day following final enactment, except
 12.18 the changes incorporated by federal changes are effective retroactively at the same time the
 12.19 changes were effective for federal purposes.

12.20 **Sec. 10. TEMPORARY NONCONFORMITY PROVISIONS.**

12.21 **Subdivision 1. Definitions.** (a) For the purposes of this section, the following terms have
 12.22 the meanings given.

12.23 (b) For an individual, estate, or trust:

12.24 (1) "subtraction" has the meaning given in Minnesota Statutes, section 290.0132,
 12.25 subdivision 1, and the rules in that subdivision apply for this section; and

12.26 (2) "addition" has the meaning given in Minnesota Statutes, section 290.0131, subdivision
 12.27 1, and the rules in that subdivision apply for this section.

12.28 (c) For a corporation other than an S corporation:

12.29 (1) "subtraction" has the meaning given in Minnesota Statutes, section 290.0134,
 12.30 subdivision 1, and the rules in that subdivision apply for this section; and

13.1 (2) "addition" has the meaning given in Minnesota Statutes, section 290.0133, subdivision
13.2 1, and the rules in that subdivision apply for this section.

13.3 (d) The definitions in Minnesota Statutes, section 290.01, apply for this section.

13.4 Subd. 2. **Temporary addition; tuition and related expenses.** (a) For an individual,
13.5 estate, or trust, the amount deducted under section 104 of the Taxpayer Certainty and Disaster
13.6 Tax Relief Act of 2019 in Public Law 116-94 is an addition.

13.7 (b) This subdivision is effective retroactively for taxable years beginning after December
13.8 31, 2017, and before January 1, 2021.

13.9 Subd. 3. **Temporary subtraction; retention credit for employers affected by disasters;**
13.10 **individuals, estates, and trusts.** (a) For an individual, estate, or trust, the amount of the
13.11 deduction disallowed under section 203(c) of the Taxpayer Certainty and Disaster Tax
13.12 Relief Act of 2019 in Public Law 116-94 is a subtraction.

13.13 (b) This subdivision is effective retroactively for taxable years in which a taxpayer had
13.14 a deduction disallowed under section 203(c) of the Taxpayer Certainty and Disaster Tax
13.15 Relief Act of 2019 in Public Law 116-94.

13.16 Subd. 4. **Temporary subtraction; retention credit for employers affected by disasters;**
13.17 **corporations.** (a) For a corporation other than an S corporation, the amount of the deduction
13.18 disallowed under section 203(c) of the Taxpayer Certainty and Disaster Tax Relief Act of
13.19 2019 in Public Law 116-94 is a subtraction.

13.20 (b) This subdivision is effective retroactively for taxable years in which a taxpayer had
13.21 a deduction disallowed under section 203(c) of the Taxpayer Certainty and Disaster Tax
13.22 Relief Act of 2019 in Public Law 116-94.

13.23 Subd. 5. **Temporary subtraction; federal credits for sick and family leave;**
13.24 **individuals, estates, and trusts.** (a) For an individual, estate, or trust, the amount by which
13.25 gross income is increased under the following credits is a subtraction:

13.26 (1) the payroll credit for required paid sick leave under section 7001 of Public Law
13.27 116-127; and

13.28 (2) the payroll credit for required paid family leave under section 7003 of Public Law
13.29 116-127.

13.30 (b) The subtraction in paragraph (a) applies to the credits as amended and extended
13.31 under sections 9641 and 9651 of Public Law 117-2.

14.1 (c) This subdivision is effective retroactively for taxable years in which a taxpayer
14.2 claimed the credits described in paragraph (a).

14.3 **Subd. 6. Temporary subtraction; federal credits for sick and family leave;**
14.4 **corporations.** (a) For a corporation other than an S corporation, the amount by which gross
14.5 income is increased under the following credits is a subtraction:

14.6 (1) the payroll credit for required paid sick leave under section 7001 of Public Law
14.7 116-127; and

14.8 (2) the payroll credit for required paid family leave under section 7003 of Public Law
14.9 116-127.

14.10 (b) The subtraction in paragraph (a) applies to the credits as amended and extended
14.11 under sections 9641 and 9651 of Public Law 117-2.

14.12 (c) This subdivision is effective retroactively for taxable years in which a taxpayer
14.13 claimed the credits described in paragraph (a).

14.14 **Subd. 7. Temporary addition; above-the-line deduction for charitable**
14.15 **contributions.** (a) For an individual, estate, or trust, the amount deducted under section
14.16 2204 of Public Law 116-136 is an addition.

14.17 (b) This subdivision is effective retroactively for taxable years beginning after December
14.18 31, 2019, and before January 1, 2021.

14.19 **Subd. 8. Temporary addition; charitable contribution limitation for individuals,**
14.20 **estates, and trusts.** (a) For an individual, estate, or trust, the amount by which the deduction
14.21 under Minnesota Statutes, section 290.0122, subdivision 4, was increased as a result of
14.22 section 2205 of Public Law 116-136 is an addition.

14.23 (b) This subdivision is effective retroactively for taxable years beginning after December
14.24 31, 2019, and before January 1, 2021.

14.25 **Subd. 9. Temporary addition; charitable contribution limitation for corporations.** (a)
14.26 For a corporation other than an S corporation, the amount deducted as a result of section
14.27 2205 of Public Law 116-136 is an addition.

14.28 (b) This subdivision is effective retroactively for taxable years beginning after December
14.29 31, 2019, and before January 1, 2021.

14.30 **Subd. 10. Temporary addition; exclusion from gross income for employer student**
14.31 **loan payments.** (a) For an individual, estate, or trust, the amount excluded from gross
14.32 income under section 2206 of Public Law 116-136 is an addition.

15.1 (b) This subdivision is effective retroactively for payments made after March 27, 2020,
15.2 and before January 1, 2021.

15.3 Subd. 11. **Temporary subtraction; wages used to claim employee retention credit;**
15.4 **individuals, estates, and trusts.** (a) For an individual, estate, or trust, the amount disallowed
15.5 under section 2301(e) of Public Law 116-136 is a subtraction.

15.6 (b) The subtraction in paragraph (a) applies to the credit as amended and extended by
15.7 section 207 of the Taxpayer Certainty and Disaster Relief Act of 2020 in Public Law 116-260
15.8 and section 9651 of Public Law 117-2.

15.9 (c) This subdivision is effective retroactively for taxable years in which a taxpayer had
15.10 a deduction disallowed under section 2301(e) of Public Law 116-136.

15.11 Subd. 12. **Temporary subtraction; wages used to claim employee retention credit;**
15.12 **corporations.** (a) For a corporation other than an S corporation, the amount disallowed
15.13 under section 2301(e) of Public Law 116-136 is a subtraction.

15.14 (b) The subtraction in paragraph (a) applies to the credit as amended and extended by
15.15 section 207 of the Taxpayer Certainty and Disaster Relief Act of 2020 in Public Law 116-260
15.16 and section 9651 of Public Law 117-2.

15.17 (c) This subdivision is effective retroactively for taxable years in which a taxpayer had
15.18 a deduction disallowed under section 2301(e) of Public Law 116-136.

15.19 Subd. 13. **Temporary subtraction; retention credit for employers affected by**
15.20 **disasters; individuals, estates, and trusts.** (a) For an individual, estate, or trust, the amount
15.21 of the deduction disallowed under section 303(c) of the Taxpayer Certainty and Disaster
15.22 Tax Relief Act of 2020 in Public Law 116-260 is a subtraction.

15.23 (b) This subdivision is effective retroactively for taxable years in which a taxpayer had
15.24 a deduction disallowed under section 303(c) of the Taxpayer Certainty and Disaster Tax
15.25 Relief Act of 2020 in Public Law 116-260.

15.26 Subd. 14. **Temporary subtraction; retention credit for employers affected by**
15.27 **disasters; corporations.** (a) For a corporation other than an S corporation, the amount of
15.28 the deduction disallowed under section 303(c) of the Taxpayer Certainty and Disaster Tax
15.29 Relief Act of 2020 in Public Law 116-260 is a subtraction.

15.30 (b) This subdivision is effective retroactively for taxable years in which a taxpayer had
15.31 a deduction disallowed under section 303(c) of the Taxpayer Certainty and Disaster Tax
15.32 Relief Act of 2020 in Public Law 116-260.

16.1 Subd. 15. Continuation coverage premium assistance; individuals, estates, and
16.2 trusts. (a) For an individual, estate, or trust, the amount by which gross income is increased
16.3 under section 6432(e) of the Internal Revenue Code is a subtraction.

16.4 (b) This subdivision is effective retroactively for taxable years in which a taxpayer
16.5 received a credit under section 6432(e) of the Internal Revenue Code.

16.6 Subd. 16. Continuation coverage premium assistance; corporations. (a) For a
16.7 corporation other than an S corporation, the amount by which gross income is increased
16.8 under section 6432(e) of the Internal Revenue Code is a subtraction.

16.9 (b) This subdivision is effective retroactively for taxable years in which a taxpayer
16.10 received a credit under section 6432(e) of the Internal Revenue Code.

16.11 Subd. 17. Dependent care credit; nonconformity for tax year 2021. (a) The dependent
16.12 care credit under Minnesota Statutes, section 290.067, must be calculated disregarding the
16.13 provisions in section 9631 of Public Law 117-2.

16.14 (b) This subdivision is effective retroactively for taxable years beginning after December
16.15 31, 2020, and before January 1, 2022.

16.16 EFFECTIVE DATE. This section is effective for the taxable years specified in each
16.17 subdivision.

16.18 Sec. 11. ADMINISTRATIVE DEADLINE EXTENSIONS.

16.19 The commissioner may extend the time limits under Minnesota Statutes, chapter 289A,
16.20 for assessments, examinations, statutes of limitations, refund provisions, and other sections
16.21 under that chapter that the commissioner deems necessary to administer the retroactive
16.22 changes in this act. The length of an extension under this section must not exceed the length
16.23 of time specified under those sections from the day following final enactment of this act.

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

16.25 Sec. 12. SPECIAL PROVISION FOR TAXPAYERS WITH REMAINING BONUS
16.26 DEPRECIATION SUBTRACTIONS.

16.27 A taxpayer who made a delayed bonus depreciation addition for a taxable year beginning
16.28 before December 31, 2022, and would have been allowed a delayed bonus depreciation
16.29 subtraction for a taxable year beginning after December 31, 2021, under the provisions of
16.30 Minnesota Statutes 2020 repealed in section 14, is allowed to complete the five-year schedule
16.31 of subtractions as provided under the provisions of Minnesota Statutes 2020.

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

17.2 Sec. 13. **REPEALER.**

17.3 Minnesota Statutes 2020, sections 290.0131, subdivision 9; 290.0132, subdivision 9;

17.4 290.0133, subdivision 11; and 290.0134, subdivision 13, are repealed.

17.5 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December

17.6 31, 2021.

290.0131 INDIVIDUALS; ADDITIONS TO FEDERAL TAXABLE INCOME.

Subd. 9. **Bonus depreciation.** (a) 80 percent of the depreciation deduction allowed under section 168(k) of the Internal Revenue Code is an addition.

(b) For the purposes of this subdivision, if the taxpayer has an activity that in the taxable year generates a deduction for depreciation under section 168(k) of the Internal Revenue Code and the activity generates a loss for the taxable year that the taxpayer is not allowed to claim for the taxable year, "the depreciation deduction allowed under section 168(k)" for the taxable year is limited to excess of the depreciation claimed by the activity under section 168(k) over the amount of the loss from the activity that is not allowed in the taxable year. In succeeding taxable years when the losses not allowed in the taxable year are allowed, the depreciation under section 168(k) is allowed.

290.0132 INDIVIDUALS; SUBTRACTIONS FROM FEDERAL TAXABLE INCOME.

Subd. 9. **Delayed bonus depreciation.** (a) In each of the five taxable years immediately following the taxable year in which an addition is required under section 290.0131, subdivision 9, or 290.0133, subdivision 11, for a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the delayed depreciation is a subtraction.

(b) For purposes of this subdivision, "delayed depreciation" means the amount of the addition made by the taxpayer under section 290.0131, subdivision 9, or 290.0133, subdivision 11, for a shareholder of an S corporation, minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the taxable year of the addition. The resulting delayed depreciation cannot be less than zero.

290.0133 CORPORATIONS; ADDITIONS TO FEDERAL TAXABLE INCOME.

Subd. 11. **Bonus depreciation.** 80 percent of the depreciation deduction allowed under section 168(k)(1)(A) and (k)(4)(A) of the Internal Revenue Code is an addition. For purposes of this subdivision, if the taxpayer has an activity that in the taxable year generates a deduction for depreciation under section 168(k)(1)(A) and (k)(4)(A) and the activity generates a loss for the taxable year that the taxpayer is not allowed to claim for the taxable year, "the depreciation allowed under section 168(k)(1)(A) and (k)(4)(A)" for the taxable year is limited to excess of the depreciation claimed by the activity under section 168(k)(1)(A) and (k)(4)(A) over the amount of the loss from the activity that is not allowed in the taxable year. In succeeding taxable years when the losses not allowed in the taxable year are allowed, the depreciation under section 168(k)(1)(A) and (k)(4)(A) is allowed.

290.0134 CORPORATIONS; SUBTRACTIONS FROM FEDERAL TAXABLE INCOME.

Subd. 13. **Bonus depreciation.** (a) In each of the five taxable years immediately following the taxable year in which an addition is required under section 290.0133, subdivision 11, an amount equal to one-fifth of the delayed depreciation is a subtraction.

(b) For purposes of this subdivision, "delayed depreciation" means the amount of the addition made by the taxpayer under section 290.0133, subdivision 11, provided that delayed depreciation cannot be less than zero.