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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 2314

05/07/2015 Authored by Davids and Heintzeman
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; providing for a prepared food donation credit;
1.3 amending Minnesota Statutes 2014, sections 290.01, subdivisions 19a, 19c;
1.4 290.06, by adding a subdivision; 290.091, subdivision 2.

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

1.6 Section 1. Minnesota Statutes 2014, section 290.01, subdivision 19a, is amended to read:

1.7 Subd. 19a. **Additions to federal taxable income.** For individuals, estates, and
1.8 trusts, there shall be added to federal taxable income:

1.9 (1)(i) interest income on obligations of any state other than Minnesota or a political
1.10 or governmental subdivision, municipality, or governmental agency or instrumentality
1.11 of any state other than Minnesota exempt from federal income taxes under the Internal
1.12 Revenue Code or any other federal statute; and

1.13 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue
1.14 Code, except:

1.15 (A) the portion of the exempt-interest dividends exempt from state taxation under
1.16 the laws of the United States; and

1.17 (B) the portion of the exempt-interest dividends derived from interest income
1.18 on obligations of the state of Minnesota or its political or governmental subdivisions,
1.19 municipalities, governmental agencies or instrumentalities, but only if the portion of the
1.20 exempt-interest dividends from such Minnesota sources paid to all shareholders represents
1.21 95 percent or more of the exempt-interest dividends, including any dividends exempt
1.22 under subitem (A), that are paid by the regulated investment company as defined in section
1.23 851(a) of the Internal Revenue Code, or the fund of the regulated investment company as
1.24 defined in section 851(g) of the Internal Revenue Code, making the payment; and

2.1 (iii) for the purposes of items (i) and (ii), interest on obligations of an Indian tribal
2.2 government described in section 7871(c) of the Internal Revenue Code shall be treated as
2.3 interest income on obligations of the state in which the tribe is located;

2.4 (2) the amount of income, sales and use, motor vehicle sales, or excise taxes paid or
2.5 accrued within the taxable year under this chapter and the amount of taxes based on net
2.6 income paid, sales and use, motor vehicle sales, or excise taxes paid to any other state or
2.7 to any province or territory of Canada, to the extent allowed as a deduction under section
2.8 63(d) of the Internal Revenue Code, but the addition may not be more than the amount
2.9 by which the state itemized deduction exceeds the amount of the standard deduction as
2.10 defined in section 63(c) of the Internal Revenue Code, minus any addition that would have
2.11 been required under clause (17) if the taxpayer had claimed the standard deduction. For
2.12 the purpose of this clause, income, sales and use, motor vehicle sales, or excise taxes are
2.13 the last itemized deductions disallowed under clause (15);

2.14 (3) the capital gain amount of a lump-sum distribution to which the special tax under
2.15 section 1122(h)(3)(B)(ii) of the Tax Reform Act of 1986, Public Law 99-514, applies;

2.16 (4) the amount of income taxes paid or accrued within the taxable year under this
2.17 chapter and taxes based on net income paid to any other state or any province or territory
2.18 of Canada, to the extent allowed as a deduction in determining federal adjusted gross
2.19 income. For the purpose of this paragraph, income taxes do not include the taxes imposed
2.20 by sections 290.0922, subdivision 1, paragraph (b), 290.9727, 290.9728, and 290.9729;

2.21 (5) the amount of expense, interest, or taxes disallowed pursuant to section 290.10
2.22 other than expenses or interest used in computing net interest income for the subtraction
2.23 allowed under subdivision 19b, clause (1);

2.24 (6) the amount of a partner's pro rata share of net income which does not flow
2.25 through to the partner because the partnership elected to pay the tax on the income under
2.26 section 6242(a)(2) of the Internal Revenue Code;

2.27 (7) 80 percent of the depreciation deduction allowed under section 168(k) of the
2.28 Internal Revenue Code. For purposes of this clause, if the taxpayer has an activity that
2.29 in the taxable year generates a deduction for depreciation under section 168(k) and the
2.30 activity generates a loss for the taxable year that the taxpayer is not allowed to claim for
2.31 the taxable year, "the depreciation allowed under section 168(k)" for the taxable year is
2.32 limited to excess of the depreciation claimed by the activity under section 168(k) over the
2.33 amount of the loss from the activity that is not allowed in the taxable year. In succeeding
2.34 taxable years when the losses not allowed in the taxable year are allowed, the depreciation
2.35 under section 168(k) is allowed;

3.1 (8) 80 percent of the amount by which the deduction allowed by section 179 of the
3.2 Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal
3.3 Revenue Code of 1986, as amended through December 31, 2003;

3.4 (9) to the extent deducted in computing federal taxable income, the amount of the
3.5 deduction allowable under section 199 of the Internal Revenue Code;

3.6 (10) the amount of expenses disallowed under section 290.10, subdivision 2;

3.7 (11) for taxable years beginning before January 1, 2010, the amount deducted for
3.8 qualified tuition and related expenses under section 222 of the Internal Revenue Code, to
3.9 the extent deducted from gross income;

3.10 (12) for taxable years beginning before January 1, 2010, the amount deducted for
3.11 certain expenses of elementary and secondary school teachers under section 62(a)(2)(D)
3.12 of the Internal Revenue Code, to the extent deducted from gross income;

3.13 (13) discharge of indebtedness income resulting from reacquisition of business
3.14 indebtedness and deferred under section 108(i) of the Internal Revenue Code;

3.15 (14) changes to federal taxable income attributable to a net operating loss that the
3.16 taxpayer elected to carry back for more than two years for federal purposes but for which
3.17 the losses can be carried back for only two years under section 290.095, subdivision
3.18 11, paragraph (c);

3.19 (15) the amount of disallowed itemized deductions, but the amount of disallowed
3.20 itemized deductions plus the addition required under clause (2) may not be more than the
3.21 amount by which the itemized deductions as allowed under section 63(d) of the Internal
3.22 Revenue Code exceeds the amount of the standard deduction as defined in section 63(c) of
3.23 the Internal Revenue Code, and reduced by any addition that would have been required
3.24 under clause (17) if the taxpayer had claimed the standard deduction:

3.25 (i) the amount of disallowed itemized deductions is equal to the lesser of:

3.26 (A) three percent of the excess of the taxpayer's federal adjusted gross income
3.27 over the applicable amount; or

3.28 (B) 80 percent of the amount of the itemized deductions otherwise allowable to the
3.29 taxpayer under the Internal Revenue Code for the taxable year;

3.30 (ii) the term "applicable amount" means \$100,000, or \$50,000 in the case of a
3.31 married individual filing a separate return. Each dollar amount shall be increased by
3.32 an amount equal to:

3.33 (A) such dollar amount, multiplied by

3.34 (B) the cost-of-living adjustment determined under section 1(f)(3) of the Internal
3.35 Revenue Code for the calendar year in which the taxable year begins, by substituting
3.36 "calendar year 1990" for "calendar year 1992" in subparagraph (B) thereof;

4.1 (iii) the term "itemized deductions" does not include:

4.2 (A) the deduction for medical expenses under section 213 of the Internal Revenue
4.3 Code;

4.4 (B) any deduction for investment interest as defined in section 163(d) of the Internal
4.5 Revenue Code; and

4.6 (C) the deduction under section 165(a) of the Internal Revenue Code for casualty or
4.7 theft losses described in paragraph (2) or (3) of section 165(c) of the Internal Revenue
4.8 Code or for losses described in section 165(d) of the Internal Revenue Code;

4.9 (16) the amount of disallowed personal exemptions for taxpayers with federal
4.10 adjusted gross income over the threshold amount:

4.11 (i) the disallowed personal exemption amount is equal to the number of personal
4.12 exemptions allowed under section 151(b) and (c) of the Internal Revenue Code multiplied
4.13 by the dollar amount for personal exemptions under section 151(d)(1) and (2) of the
4.14 Internal Revenue Code, as adjusted for inflation by section 151(d)(4) of the Internal
4.15 Revenue Code, and by the applicable percentage;

4.16 (ii) "applicable percentage" means two percentage points for each \$2,500 (or
4.17 fraction thereof) by which the taxpayer's federal adjusted gross income for the taxable
4.18 year exceeds the threshold amount. In the case of a married individual filing a separate
4.19 return, the preceding sentence shall be applied by substituting "\$1,250" for "\$2,500." In
4.20 no event shall the applicable percentage exceed 100 percent;

4.21 (iii) the term "threshold amount" means:

4.22 (A) \$150,000 in the case of a joint return or a surviving spouse;

4.23 (B) \$125,000 in the case of a head of a household;

4.24 (C) \$100,000 in the case of an individual who is not married and who is not a
4.25 surviving spouse or head of a household; and

4.26 (D) \$75,000 in the case of a married individual filing a separate return; and

4.27 (iv) the thresholds shall be increased by an amount equal to:

4.28 (A) such dollar amount, multiplied by

4.29 (B) the cost-of-living adjustment determined under section 1(f)(3) of the Internal
4.30 Revenue Code for the calendar year in which the taxable year begins, by substituting
4.31 "calendar year 1990" for "calendar year 1992" in subparagraph (B) thereof; ~~and~~

4.32 (17) to the extent deducted in the computation of federal taxable income, for taxable
4.33 years beginning after December 31, 2010, and before January 1, 2014, the difference
4.34 between the standard deduction allowed under section 63(c) of the Internal Revenue Code
4.35 and the standard deduction allowed for 2011, 2012, and 2013 under the Internal Revenue
4.36 Code as amended through December 1, 2010; and

5.1 (18) to the extent deducted in the computation of federal taxable income, the amount
5.2 of charitable contributions under section 170 of the Internal Revenue Code used to claim
5.3 the credit under section 290.06, subdivision 37.

5.4 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
5.5 December 31, 2015.

5.6 Sec. 2. Minnesota Statutes 2014, section 290.01, subdivision 19c, is amended to read:

5.7 Subd. 19c. **Corporations; additions to federal taxable income.** For corporations,
5.8 there shall be added to federal taxable income:

5.9 (1) the amount of any deduction taken for federal income tax purposes for income,
5.10 excise, or franchise taxes based on net income or related minimum taxes, including but not
5.11 limited to the tax imposed under section 290.0922, paid by the corporation to Minnesota,
5.12 another state, a political subdivision of another state, the District of Columbia, or any
5.13 foreign country or possession of the United States;

5.14 (2) interest not subject to federal tax upon obligations of: the United States, its
5.15 possessions, its agencies, or its instrumentalities; the state of Minnesota or any other
5.16 state, any of its political or governmental subdivisions, any of its municipalities, or any
5.17 of its governmental agencies or instrumentalities; the District of Columbia; or Indian
5.18 tribal governments;

5.19 (3) exempt-interest dividends received as defined in section 852(b)(5) of the Internal
5.20 Revenue Code;

5.21 (4) the amount of any net operating loss deduction taken for federal income tax
5.22 purposes under section 172 or 832(c)(10) of the Internal Revenue Code or operations loss
5.23 deduction under section 810 of the Internal Revenue Code;

5.24 (5) the amount of any special deductions taken for federal income tax purposes
5.25 under sections 241 to 247 and 965 of the Internal Revenue Code;

5.26 (6) losses from the business of mining, as defined in section 290.05, subdivision 1,
5.27 clause (a), that are not subject to Minnesota income tax;

5.28 (7) the amount of any capital losses deducted for federal income tax purposes under
5.29 sections 1211 and 1212 of the Internal Revenue Code;

5.30 (8) the amount of percentage depletion deducted under sections 611 through 614 and
5.31 291 of the Internal Revenue Code;

5.32 (9) for certified pollution control facilities placed in service in a taxable year
5.33 beginning before December 31, 1986, and for which amortization deductions were elected
5.34 under section 169 of the Internal Revenue Code of 1954, as amended through December

6.1 31, 1985, the amount of the amortization deduction allowed in computing federal taxable
6.2 income for those facilities;

6.3 (10) the amount of a partner's pro rata share of net income which does not flow
6.4 through to the partner because the partnership elected to pay the tax on the income under
6.5 section 6242(a)(2) of the Internal Revenue Code;

6.6 (11) any increase in subpart F income, as defined in section 952(a) of the Internal
6.7 Revenue Code, for the taxable year when subpart F income is calculated without regard to
6.8 the provisions of Division C, title III, section 303(b) of Public Law 110-343;

6.9 (12) 80 percent of the depreciation deduction allowed under section 168(k)(1)(A)
6.10 and (k)(4)(A) of the Internal Revenue Code. For purposes of this clause, if the taxpayer
6.11 has an activity that in the taxable year generates a deduction for depreciation under
6.12 section 168(k)(1)(A) and (k)(4)(A) and the activity generates a loss for the taxable year
6.13 that the taxpayer is not allowed to claim for the taxable year, "the depreciation allowed
6.14 under section 168(k)(1)(A) and (k)(4)(A)" for the taxable year is limited to excess of the
6.15 depreciation claimed by the activity under section 168(k)(1)(A) and (k)(4)(A) over the
6.16 amount of the loss from the activity that is not allowed in the taxable year. In succeeding
6.17 taxable years when the losses not allowed in the taxable year are allowed, the depreciation
6.18 under section 168(k)(1)(A) and (k)(4)(A) is allowed;

6.19 (13) 80 percent of the amount by which the deduction allowed by section 179 of the
6.20 Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal
6.21 Revenue Code of 1986, as amended through December 31, 2003;

6.22 (14) to the extent deducted in computing federal taxable income, the amount of the
6.23 deduction allowable under section 199 of the Internal Revenue Code;

6.24 (15) the amount of expenses disallowed under section 290.10, subdivision 2; ~~and~~

6.25 (16) discharge of indebtedness income resulting from reacquisition of business
6.26 indebtedness and deferred under section 108(i) of the Internal Revenue Code; and

6.27 (17) to the extent deducted in the computation of federal taxable income, the amount
6.28 of charitable contributions under section 170 of the Internal Revenue Code used to claim
6.29 the credit under section 290.06, subdivision 37.

6.30 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
6.31 December 31, 2015.

6.32 Sec. 3. Minnesota Statutes 2014, section 290.06, is amended by adding a subdivision
6.33 to read:

6.34 **Subd. 37. Prepared food donation credit.** (a) A qualifying taxpayer is allowed a
6.35 credit against the tax imposed by this chapter equal to 20 percent of the taxpayer's eligible

7.1 charitable food donation. The credit may not exceed the taxpayer's liability for tax and
7.2 may not be carried forward to any other taxable year.

7.3 (b) For purposes of this subdivision, the following terms have the meanings given:

7.4 (1) "eligible charitable food donation" means a contribution of prepared food
7.5 allowable as a charitable deduction for the taxable year under section 170(a) of the Internal
7.6 Revenue Code, subject to the limitations of section 170(b) of the Internal Revenue Code,
7.7 and determined without regard to whether or not the taxpayer itemizes deductions;

7.8 (2) "prepared food" means food that meets all quality and labeling standards
7.9 imposed by federal, state, and local laws and regulations even though the food may not
7.10 be readily marketable due to appearance, age, freshness, grade, size, surplus, or other
7.11 conditions, and includes:

7.12 (i) food which is cooked or heated by the qualifying taxpayer;

7.13 (ii) two or more ingredients mixed together to be eaten as a single item; and

7.14 (iii) any ingredients supplied for ingestion or chewing by humans that are consumed
7.15 for their taste or nutritional value;

7.16 (3) "qualifying taxpayer" means any restaurant making a charitable food donation
7.17 in Minnesota; and

7.18 (4) "restaurant" means any facility:

7.19 (i) which is operated for profit;

7.20 (ii) where the usual and customary business is the serving of meals to consumers;

7.21 (iii) which has a kitchen within the facility; and

7.22 (iv) which receives at least 70 percent of its gross receipts from the sale of prepared
7.23 food.

7.24 (c) For a nonresident or part-year resident, the credit must be allocated based on the
7.25 percentage calculated under subdivision 2c, paragraph (e).

7.26 (d) Credits allowed to a partnership, a limited liability company taxed as a
7.27 partnership, an S corporation, or multiple owners of property are passed through to the
7.28 partners, members, shareholders, or owners, respectively, pro rata to each partner, member,
7.29 shareholder, or owner based on their share of the entity's income for the taxable year.

7.30 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
7.31 December 31, 2015.

7.32 Sec. 4. Minnesota Statutes 2014, section 290.091, subdivision 2, is amended to read:

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

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

8.3 (1) the taxpayer's federal alternative minimum taxable income as defined in section
8.4 55(b)(2) of the Internal Revenue Code;

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

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

8.9 (ii) the medical expense deduction;

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

8.11 (iv) the impairment-related work expenses of a disabled person;

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

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

8.21 (5) to the extent not included in federal alternative minimum taxable income, the
8.22 amount of interest income as provided by section 290.01, subdivision 19a, clause (1); ~~and~~

8.23 (6) the amount of addition required by section 290.01, subdivision 19a, clauses
8.24 (7) to (9), and (11) to (14); and

8.25 (7) the amount of the addition required by section 290.01, subdivision 19a, clause
8.26 (18);

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

8.28 (1) interest income as defined in section 290.01, subdivision 19b, clause (1);

8.29 (2) an overpayment of state income tax as provided by section 290.01, subdivision
8.30 19b, clause (2), to the extent included in federal alternative minimum taxable income;

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

8.35 (4) amounts subtracted from federal taxable income as provided by section 290.01,
8.36 subdivision 19b, clauses (6), (8) to (14), (16), and (21); and

9.1 (5) the amount of the net operating loss allowed under section 290.095, subdivision
9.2 11, paragraph (c).

9.3 In the case of an estate or trust, alternative minimum taxable income must be
9.4 computed as provided in section 59(c) of the Internal Revenue Code.

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

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

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

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

9.13 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
9.14 December 31, 2015.