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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. **2707**

03/07/2012 Authored by Lenczewski, Marquart and Slocum
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; individual income and corporate franchise; eliminating
1.3 the marriage penalty in the standard deduction; eliminating foreign operating
1.4 corporations; repealing the deduction for foreign royalties; amending Minnesota
1.5 Statutes 2010, sections 289A.08, subdivision 3; 290.01, subdivision 19d;
1.6 290.0921, subdivision 3; 290.17, subdivision 4; Minnesota Statutes 2011
1.7 Supplement, sections 290.01, subdivisions 19a, 19b, 19c; 290.0675, subdivision
1.8 1; repealing Minnesota Statutes 2010, sections 290.01, subdivision 6b; 290.0921,
1.9 subdivision 7.

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

1.11 Section 1. Minnesota Statutes 2010, section 289A.08, subdivision 3, is amended to
1.12 read:

1.13 Subd. 3. **Corporations.** (a) A corporation that is subject to the state's jurisdiction to
1.14 tax under section 290.014, subdivision 5, must file a return, ~~except that a foreign operating~~
1.15 ~~corporation as defined in section 290.01, subdivision 6b, is not required to file a return.~~

1.16 (b) Members of a unitary business that are required to file a combined report on one
1.17 return must designate a member of the unitary business to be responsible for tax matters,
1.18 including the filing of returns, the payment of taxes, additions to tax, penalties, interest,
1.19 or any other payment, and for the receipt of refunds of taxes or interest paid in excess of
1.20 taxes lawfully due. The designated member must be a member of the unitary business that
1.21 is filing the single combined report and either:

1.22 (1) a corporation that is subject to the taxes imposed by chapter 290; or

1.23 (2) a corporation that is not subject to the taxes imposed by chapter 290:

1.24 (i) Such corporation consents by filing the return as a designated member under this
1.25 clause to remit taxes, penalties, interest, or additions to tax due from the members of the
1.26 unitary business subject to tax, and receive refunds or other payments on behalf of other

2.1 members of the unitary business. The member designated under this clause is a "taxpayer"
 2.2 for the purposes of this chapter and chapter 270C, and is liable for any liability imposed
 2.3 on the unitary business under this chapter and chapter 290.

2.4 (ii) If the state does not otherwise have the jurisdiction to tax the member designated
 2.5 under this clause, consenting to be the designated member does not create the jurisdiction
 2.6 to impose tax on the designated member, other than as described in item (i).

2.7 (iii) The member designated under this clause must apply for a business tax account
 2.8 identification number.

2.9 (c) The commissioner shall adopt rules for the filing of one return on behalf of the
 2.10 members of an affiliated group of corporations that are required to file a combined report.
 2.11 All members of an affiliated group that are required to file a combined report must file one
 2.12 return on behalf of the members of the group under rules adopted by the commissioner.

2.13 (d) If a corporation claims on a return that it has paid tax in excess of the amount of
 2.14 taxes lawfully due, that corporation must include on that return information necessary for
 2.15 payment of the tax in excess of the amount lawfully due by electronic means.

2.16 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 2.17 December 31, 2011.

2.18 Sec. 2. Minnesota Statutes 2011 Supplement, section 290.01, subdivision 19a, is
 2.19 amended to read:

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

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

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

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

2.30 (B) the portion of the exempt-interest dividends derived from interest income
 2.31 on obligations of the state of Minnesota or its political or governmental subdivisions,
 2.32 municipalities, governmental agencies or instrumentalities, but only if the portion of the
 2.33 exempt-interest dividends from such Minnesota sources paid to all shareholders represents
 2.34 95 percent or more of the exempt-interest dividends, including any dividends exempt
 2.35 under subitem (A), that are paid by the regulated investment company as defined in section

3.1 851(a) of the Internal Revenue Code, or the fund of the regulated investment company as
3.2 defined in section 851(g) of the Internal Revenue Code, making the payment; and

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

3.6 (2) the amount of income, sales and use, motor vehicle sales, or excise taxes paid or
3.7 accrued within the taxable year under this chapter and the amount of taxes based on net
3.8 income paid, sales and use, motor vehicle sales, or excise taxes paid to any other state
3.9 or to any province or territory of Canada, to the extent allowed as a deduction under
3.10 section 63(d) of the Internal Revenue Code, but the addition may not be more than the
3.11 amount by which the itemized deductions as allowed under section 63(d) of the Internal
3.12 Revenue Code exceeds the amount of the standard deduction as defined in section 63(c) of
3.13 the Internal Revenue Code, disregarding the amounts allowed under sections 63(c)(1)(C)
3.14 and 63(c)(1)(E) of the Internal Revenue Code, ~~minus any addition that would have been~~
3.15 ~~required under clause (21) if the taxpayer had claimed the standard deduction~~ plus any
3.16 subtraction allowed under subdivision 19b, clauses (19) and (20). For the purpose of
3.17 this paragraph, the disallowance of itemized deductions under section 68 of the Internal
3.18 Revenue Code of 1986, income, sales and use, motor vehicle sales, or excise taxes are
3.19 the last itemized deductions disallowed;

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

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

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

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

3.33 (7) 80 percent of the depreciation deduction allowed under section 168(k) of the
3.34 Internal Revenue Code. For purposes of this clause, if the taxpayer has an activity that
3.35 in the taxable year generates a deduction for depreciation under section 168(k) and the
3.36 activity generates a loss for the taxable year that the taxpayer is not allowed to claim for

4.1 the taxable year, "the depreciation allowed under section 168(k)" for the taxable year is
4.2 limited to excess of the depreciation claimed by the activity under section 168(k) over the
4.3 amount of the loss from the activity that is not allowed in the taxable year. In succeeding
4.4 taxable years when the losses not allowed in the taxable year are allowed, the depreciation
4.5 under section 168(k) is allowed;

4.6 (8) 80 percent of the amount by which the deduction allowed by section 179 of the
4.7 Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal
4.8 Revenue Code of 1986, as amended through December 31, 2003;

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

4.11 (10) for taxable years beginning before January 1, 2013, the exclusion allowed
4.12 under section 139A of the Internal Revenue Code for federal subsidies for prescription
4.13 drug plans;

4.14 (11) the amount of expenses disallowed under section 290.10, subdivision 2;

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

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

4.21 (14) the additional standard deduction for property taxes payable that is allowable
4.22 under section 63(c)(1)(C) of the Internal Revenue Code;

4.23 (15) the additional standard deduction for qualified motor vehicle sales taxes
4.24 allowable under section 63(c)(1)(E) of the Internal Revenue Code;

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

4.27 (17) the amount of unemployment compensation exempt from tax under section
4.28 85(c) of the Internal Revenue Code;

4.29 (18) changes to federal taxable income attributable to a net operating loss that the
4.30 taxpayer elected to carry back for more than two years for federal purposes but for which
4.31 the losses can be carried back for only two years under section 290.095, subdivision
4.32 11, paragraph (c);

4.33 (19) to the extent included in the computation of federal taxable income in taxable
4.34 years beginning after December 31, 2010, the amount of disallowed itemized deductions,
4.35 but the amount of disallowed itemized deductions plus the addition required under clause
4.36 (2) may not be more than the amount by which the itemized deductions as allowed under

5.1 section 63(d) of the Internal Revenue Code exceeds the amount of the standard deduction
5.2 as defined in section 63(c) of the Internal Revenue Code, disregarding the amounts
5.3 allowed under sections 63(c)(1)(C) and 63(c)(1)(E) of the Internal Revenue Code, and
5.4 reduced by any addition that would have been required under clause (21) if the taxpayer
5.5 had claimed the standard deduction:

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

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

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

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

5.14 (A) such dollar amount, multiplied by

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

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

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

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

5.23 (C) the deduction under section 165(a) of the Internal Revenue Code for casualty or
5.24 theft losses described in paragraph (2) or (3) of section 165(c) of the Internal Revenue
5.25 Code or for losses described in section 165(d) of the Internal Revenue Code; and

5.26 (20) to the extent included in federal taxable income in taxable years beginning after
5.27 December 31, 2010, the amount of disallowed personal exemptions for taxpayers with
5.28 federal adjusted gross income over the threshold amount:

5.29 (i) the disallowed personal exemption amount is equal to the dollar amount of the
5.30 personal exemptions claimed by the taxpayer in the computation of federal taxable income
5.31 multiplied by the applicable percentage;

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

- 6.1 (iii) the term "threshold amount" means:
- 6.2 (A) \$150,000 in the case of a joint return or a surviving spouse;
- 6.3 (B) \$125,000 in the case of a head of a household;
- 6.4 (C) \$100,000 in the case of an individual who is not married and who is not a
- 6.5 surviving spouse or head of a household; and
- 6.6 (D) \$75,000 in the case of a married individual filing a separate return; and

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

- 6.8 (A) such dollar amount, multiplied by
- 6.9 (B) the cost-of-living adjustment determined under section 1(f)(3) of the Internal
- 6.10 Revenue Code for the calendar year in which the taxable year begins, by substituting
- 6.11 "calendar year 1990" for "calendar year 1992" in subparagraph (B) thereof; ~~and~~
- 6.12 ~~(21) to the extent deducted in the computation of federal taxable income, for taxable~~
- 6.13 ~~years beginning after December 31, 2010, and before January 1, 2013, the difference~~
- 6.14 ~~between the standard deduction allowed under section 63(c) of the Internal Revenue Code~~
- 6.15 ~~and the standard deduction allowed for 2011 and 2012 under the Internal Revenue Code~~
- 6.16 ~~as amended through December 1, 2010.~~

6.17 **EFFECTIVE DATE.** This section is effective retroactively for taxable years

6.18 beginning after December 31, 2010.

6.19 Sec. 3. Minnesota Statutes 2011 Supplement, section 290.01, subdivision 19b, is

6.20 amended to read:

6.21 Subd. 19b. **Subtractions from federal taxable income.** For individuals, estates,

6.22 and trusts, there shall be subtracted from federal taxable income:

6.23 (1) net interest income on obligations of any authority, commission, or

6.24 instrumentality of the United States to the extent includable in taxable income for federal

6.25 income tax purposes but exempt from state income tax under the laws of the United States;

6.26 (2) if included in federal taxable income, the amount of any overpayment of income

6.27 tax to Minnesota or to any other state, for any previous taxable year, whether the amount

6.28 is received as a refund or as a credit to another taxable year's income tax liability;

6.29 (3) the amount paid to others, less the amount used to claim the credit allowed under

6.30 section 290.0674, not to exceed \$1,625 for each qualifying child in grades kindergarten

6.31 to 6 and \$2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and

6.32 transportation of each qualifying child in attending an elementary or secondary school

6.33 situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a

6.34 resident of this state may legally fulfill the state's compulsory attendance laws, which

6.35 is not operated for profit, and which adheres to the provisions of the Civil Rights Act

7.1 of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or
7.2 tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause,
7.3 "textbooks" includes books and other instructional materials and equipment purchased
7.4 or leased for use in elementary and secondary schools in teaching only those subjects
7.5 legally and commonly taught in public elementary and secondary schools in this state.
7.6 Equipment expenses qualifying for deduction includes expenses as defined and limited in
7.7 section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional
7.8 books and materials used in the teaching of religious tenets, doctrines, or worship, the
7.9 purpose of which is to instill such tenets, doctrines, or worship, nor does it include books
7.10 or materials for, or transportation to, extracurricular activities including sporting events,
7.11 musical or dramatic events, speech activities, driver's education, or similar programs. No
7.12 deduction is permitted for any expense the taxpayer incurred in using the taxpayer's or
7.13 the qualifying child's vehicle to provide such transportation for a qualifying child. For
7.14 purposes of the subtraction provided by this clause, "qualifying child" has the meaning
7.15 given in section 32(c)(3) of the Internal Revenue Code;

7.16 (4) income as provided under section 290.0802;

7.17 (5) to the extent included in federal adjusted gross income, income realized on
7.18 disposition of property exempt from tax under section 290.491;

7.19 (6) to the extent not deducted or not deductible pursuant to section 408(d)(8)(E)
7.20 of the Internal Revenue Code in determining federal taxable income by an individual
7.21 who does not itemize deductions for federal income tax purposes for the taxable year, an
7.22 amount equal to 50 percent of the excess of charitable contributions over \$500 allowable
7.23 as a deduction for the taxable year under section 170(a) of the Internal Revenue Code,
7.24 under the provisions of Public Law 109-1 and Public Law 111-126;

7.25 (7) for individuals who are allowed a federal foreign tax credit for taxes that do not
7.26 qualify for a credit under section 290.06, subdivision 22, an amount equal to the carryover
7.27 of subnational foreign taxes for the taxable year, but not to exceed the total subnational
7.28 foreign taxes reported in claiming the foreign tax credit. For purposes of this clause,
7.29 "federal foreign tax credit" means the credit allowed under section 27 of the Internal
7.30 Revenue Code, and "carryover of subnational foreign taxes" equals the carryover allowed
7.31 under section 904(c) of the Internal Revenue Code minus national level foreign taxes to
7.32 the extent they exceed the federal foreign tax credit;

7.33 (8) in each of the five tax years immediately following the tax year in which an
7.34 addition is required under subdivision 19a, clause (7), or 19c, clause (15), in the case
7.35 of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth
7.36 of the delayed depreciation. For purposes of this clause, "delayed depreciation" means

8.1 the amount of the addition made by the taxpayer under subdivision 19a, clause (7), or
8.2 subdivision 19c, clause (15), in the case of a shareholder of an S corporation, minus the
8.3 positive value of any net operating loss under section 172 of the Internal Revenue Code
8.4 generated for the tax year of the addition. The resulting delayed depreciation cannot be
8.5 less than zero;

8.6 (9) job opportunity building zone income as provided under section 469.316;

8.7 (10) to the extent included in federal taxable income, the amount of compensation
8.8 paid to members of the Minnesota National Guard or other reserve components of the
8.9 United States military for active service, excluding compensation for services performed
8.10 under the Active Guard Reserve (AGR) program. For purposes of this clause, "active
8.11 service" means (i) state active service as defined in section 190.05, subdivision 5a, clause
8.12 (1); or (ii) federally funded state active service as defined in section 190.05, subdivision
8.13 5b, but "active service" excludes service performed in accordance with section 190.08,
8.14 subdivision 3;

8.15 (11) to the extent included in federal taxable income, the amount of compensation
8.16 paid to Minnesota residents who are members of the armed forces of the United States
8.17 or United Nations for active duty performed under United States Code, title 10; or the
8.18 authority of the United Nations;

8.19 (12) an amount, not to exceed \$10,000, equal to qualified expenses related to a
8.20 qualified donor's donation, while living, of one or more of the qualified donor's organs
8.21 to another person for human organ transplantation. For purposes of this clause, "organ"
8.22 means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow;
8.23 "human organ transplantation" means the medical procedure by which transfer of a human
8.24 organ is made from the body of one person to the body of another person; "qualified
8.25 expenses" means unreimbursed expenses for both the individual and the qualified donor
8.26 for (i) travel, (ii) lodging, and (iii) lost wages net of sick pay, except that such expenses
8.27 may be subtracted under this clause only once; and "qualified donor" means the individual
8.28 or the individual's dependent, as defined in section 152 of the Internal Revenue Code. An
8.29 individual may claim the subtraction in this clause for each instance of organ donation for
8.30 transplantation during the taxable year in which the qualified expenses occur;

8.31 (13) in each of the five tax years immediately following the tax year in which an
8.32 addition is required under subdivision 19a, clause (8), or 19c, clause (16), in the case of a
8.33 shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the
8.34 addition made by the taxpayer under subdivision 19a, clause (8), or 19c, clause (16), in the
8.35 case of a shareholder of a corporation that is an S corporation, minus the positive value of
8.36 any net operating loss under section 172 of the Internal Revenue Code generated for the

9.1 tax year of the addition. If the net operating loss exceeds the addition for the tax year, a
 9.2 subtraction is not allowed under this clause;

9.3 (14) to the extent included in the federal taxable income of a nonresident of
 9.4 Minnesota, compensation paid to a service member as defined in United States Code, title
 9.5 10, section 101(a)(5), for military service as defined in the Servicemembers Civil Relief
 9.6 Act, Public Law 108-189, section 101(2);

9.7 (15) international economic development zone income as provided under section
 9.8 469.325;

9.9 (16) to the extent included in federal taxable income, the amount of national service
 9.10 educational awards received from the National Service Trust under United States Code,
 9.11 title 42, sections 12601 to 12604, for service in an approved Americorps National Service
 9.12 program;

9.13 (17) to the extent included in federal taxable income, discharge of indebtedness
 9.14 income resulting from reacquisition of business indebtedness included in federal taxable
 9.15 income under section 108(i) of the Internal Revenue Code. This subtraction applies only
 9.16 to the extent that the income was included in net income in a prior year as a result of the
 9.17 addition under section 290.01, subdivision 19a, clause (16); ~~and~~

9.18 (18) the amount of the net operating loss allowed under section 290.095, subdivision
 9.19 11, paragraph (c);

9.20 (19) for taxable years beginning after December 31, 2012, for married couples
 9.21 filing joint returns who claimed the standard deduction under section 63(c) of the Internal
 9.22 Revenue Code, an amount equal to the difference between (i) twice the standard deduction
 9.23 allowed for the taxable year under section 63(c) of the Internal Revenue Code for single
 9.24 filers and (ii) the standard deduction allowed for the taxable year under section 63(c) of
 9.25 the Internal Revenue Code for married couples filing joint returns; and

9.26 (20) for taxable years beginning after December 31, 2012, for married couples filing
 9.27 separate returns who claimed the standard deduction under section 63(c) of the Internal
 9.28 Revenue Code, an amount equal to the difference between (i) the standard deduction
 9.29 allowed for the taxable year under section 63(c) of the Internal Revenue Code for single
 9.30 filers and (ii) the standard deduction allowed for the taxable year under section 63(c) of
 9.31 the Internal Revenue Code for married couples filing separate returns.

9.32 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 9.33 December 31, 2011.

9.34 Sec. 4. Minnesota Statutes 2011 Supplement, section 290.01, subdivision 19c, is
 9.35 amended to read:

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

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

10.8 (2) interest not subject to federal tax upon obligations of: the United States, its
10.9 possessions, its agencies, or its instrumentalities; the state of Minnesota or any other
10.10 state, any of its political or governmental subdivisions, any of its municipalities, or any
10.11 of its governmental agencies or instrumentalities; the District of Columbia; or Indian
10.12 tribal governments;

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

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

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

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

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

10.24 (8) the exempt foreign trade income of a foreign sales corporation under sections
10.25 921(a) and 291 of the Internal Revenue Code;

10.26 (9) the amount of percentage depletion deducted under sections 611 through 614 and
10.27 291 of the Internal Revenue Code;

10.28 (10) for certified pollution control facilities placed in service in a taxable year
10.29 beginning before December 31, 1986, and for which amortization deductions were elected
10.30 under section 169 of the Internal Revenue Code of 1954, as amended through December
10.31 31, 1985, the amount of the amortization deduction allowed in computing federal taxable
10.32 income for those facilities;

10.33 ~~(11) the amount of any deemed dividend from a foreign operating corporation~~
10.34 ~~determined pursuant to section 290.17, subdivision 4, paragraph (g). The deemed dividend~~
10.35 ~~shall be reduced by the amount of the addition to income required by clauses (20), (21),~~
10.36 ~~(22), and (23);~~

11.1 ~~(12)~~ (11) the amount of a partner's pro rata share of net income which does not flow
 11.2 through to the partner because the partnership elected to pay the tax on the income under
 11.3 section 6242(a)(2) of the Internal Revenue Code;

11.4 ~~(13)~~ (12) the amount of net income excluded under section 114 of the Internal
 11.5 Revenue Code;

11.6 ~~(14)~~ (13) any increase in subpart F income, as defined in section 952(a) of the
 11.7 Internal Revenue Code, for the taxable year when subpart F income is calculated without
 11.8 regard to the provisions of Division C, title III, section 303(b) of Public Law 110-343;

11.9 ~~(15)~~ (14) 80 percent of the depreciation deduction allowed under section
 11.10 168(k)(1)(A) and (k)(4)(A) of the Internal Revenue Code. For purposes of this clause, if
 11.11 the taxpayer has an activity that in the taxable year generates a deduction for depreciation
 11.12 under section 168(k)(1)(A) and (k)(4)(A) and the activity generates a loss for the taxable
 11.13 year that the taxpayer is not allowed to claim for the taxable year, "the depreciation
 11.14 allowed under section 168(k)(1)(A) and (k)(4)(A)" for the taxable year is limited to excess
 11.15 of the depreciation claimed by the activity under section 168(k)(1)(A) and (k)(4)(A)
 11.16 over the amount of the loss from the activity that is not allowed in the taxable year. In
 11.17 succeeding taxable years when the losses not allowed in the taxable year are allowed, the
 11.18 depreciation under section 168(k)(1)(A) and (k)(4)(A) is allowed;

11.19 ~~(16)~~ (15) 80 percent of the amount by which the deduction allowed by section 179 of
 11.20 the Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal
 11.21 Revenue Code of 1986, as amended through December 31, 2003;

11.22 ~~(17)~~ (16) to the extent deducted in computing federal taxable income, the amount of
 11.23 the deduction allowable under section 199 of the Internal Revenue Code;

11.24 ~~(18)~~ (17) for taxable years beginning before January 1, 2013, the exclusion allowed
 11.25 under section 139A of the Internal Revenue Code for federal subsidies for prescription
 11.26 drug plans;

11.27 ~~(19)~~ (18) the amount of expenses disallowed under section 290.10, subdivision 2;

11.28 ~~(20)~~ (19) an amount equal to the interest and intangible expenses, losses, and costs paid,
 11.29 accrued, or incurred by any member of the taxpayer's unitary group to or for the benefit
 11.30 of a corporation that is a member of the taxpayer's unitary business group that qualifies
 11.31 as a foreign operating corporation. For purposes of this clause, intangible expenses and
 11.32 costs include:

11.33 ~~(i)~~ (i) expenses, losses, and costs for, or related to, the direct or indirect acquisition,
 11.34 use, maintenance or management, ownership, sale, exchange, or any other disposition of
 11.35 intangible property;

- 12.1 ~~(ii) losses incurred, directly or indirectly, from factoring transactions or discounting~~
 12.2 ~~transactions;~~
 12.3 ~~(iii) royalty, patent, technical, and copyright fees;~~
 12.4 ~~(iv) licensing fees; and~~
 12.5 ~~(v) other similar expenses and costs.~~

12.6 ~~For purposes of this clause, "intangible property" includes stocks, bonds, patents, patent~~
 12.7 ~~applications, trade names, trademarks, service marks, copyrights, mask works, trade~~
 12.8 ~~secrets, and similar types of intangible assets.~~

12.9 ~~This clause does not apply to any item of interest or intangible expenses or costs paid,~~
 12.10 ~~accrued, or incurred, directly or indirectly, to a foreign operating corporation with respect~~
 12.11 ~~to such item of income to the extent that the income to the foreign operating corporation~~
 12.12 ~~is income from sources without the United States as defined in subtitle A, chapter 1,~~
 12.13 ~~subchapter N, part 1, of the Internal Revenue Code;~~

12.14 ~~(21) except as already included in the taxpayer's taxable income pursuant to clause~~
 12.15 ~~(20), any interest income and income generated from intangible property received or~~
 12.16 ~~accrued by a foreign operating corporation that is a member of the taxpayer's unitary~~
 12.17 ~~group. For purposes of this clause, income generated from intangible property includes:~~

- 12.18 ~~(i) income related to the direct or indirect acquisition, use, maintenance or~~
 12.19 ~~management, ownership, sale, exchange, or any other disposition of intangible property;~~
 12.20 ~~(ii) income from factoring transactions or discounting transactions;~~
 12.21 ~~(iii) royalty, patent, technical, and copyright fees;~~
 12.22 ~~(iv) licensing fees; and~~
 12.23 ~~(v) other similar income.~~

12.24 ~~For purposes of this clause, "intangible property" includes stocks, bonds, patents, patent~~
 12.25 ~~applications, trade names, trademarks, service marks, copyrights, mask works, trade~~
 12.26 ~~secrets, and similar types of intangible assets.~~

12.27 ~~This clause does not apply to any item of interest or intangible income received or accrued~~
 12.28 ~~by a foreign operating corporation with respect to such item of income to the extent that~~
 12.29 ~~the income is income from sources without the United States as defined in subtitle A,~~
 12.30 ~~chapter 1, subchapter N, part 1, of the Internal Revenue Code;~~

12.31 ~~(22) the dividends attributable to the income of a foreign operating corporation that~~
 12.32 ~~is a member of the taxpayer's unitary group in an amount that is equal to the dividends~~
 12.33 ~~paid deduction of a real estate investment trust under section 561(a) of the Internal~~
 12.34 ~~Revenue Code for amounts paid or accrued by the real estate investment trust to the~~
 12.35 ~~foreign operating corporation;~~

13.1 ~~(23) the income of a foreign operating corporation that is a member of the taxpayer's~~
 13.2 ~~unitary group in an amount that is equal to gains derived from the sale of real or personal~~
 13.3 ~~property located in the United States;~~

13.4 ~~(24)~~ (19) for taxable years beginning before January 1, 2010, the additional amount
 13.5 allowed as a deduction for donation of computer technology and equipment under section
 13.6 170(e)(6) of the Internal Revenue Code, to the extent deducted from taxable income; and

13.7 ~~(25)~~ (20) discharge of indebtedness income resulting from reacquisition of business
 13.8 indebtedness and deferred under section 108(i) of the Internal Revenue Code.

13.9 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 13.10 December 31, 2011.

13.11 Sec. 5. Minnesota Statutes 2010, section 290.01, subdivision 19d, is amended to read:

13.12 Subd. 19d. **Corporations; modifications decreasing federal taxable income.** For
 13.13 corporations, there shall be subtracted from federal taxable income after the increases
 13.14 provided in subdivision 19c:

13.15 (1) the amount of foreign dividend gross-up added to gross income for federal
 13.16 income tax purposes under section 78 of the Internal Revenue Code;

13.17 (2) the amount of salary expense not allowed for federal income tax purposes due to
 13.18 claiming the work opportunity credit under section 51 of the Internal Revenue Code;

13.19 (3) any dividend (not including any distribution in liquidation) paid within the
 13.20 taxable year by a national or state bank to the United States, or to any instrumentality of
 13.21 the United States exempt from federal income taxes, on the preferred stock of the bank
 13.22 owned by the United States or the instrumentality;

13.23 (4) amounts disallowed for intangible drilling costs due to differences between
 13.24 this chapter and the Internal Revenue Code in taxable years beginning before January
 13.25 1, 1987, as follows:

13.26 (i) to the extent the disallowed costs are represented by physical property, an amount
 13.27 equal to the allowance for depreciation under Minnesota Statutes 1986, section 290.09,
 13.28 subdivision 7, subject to the modifications contained in subdivision 19e; and

13.29 (ii) to the extent the disallowed costs are not represented by physical property, an
 13.30 amount equal to the allowance for cost depletion under Minnesota Statutes 1986, section
 13.31 290.09, subdivision 8;

13.32 (5) the deduction for capital losses pursuant to sections 1211 and 1212 of the
 13.33 Internal Revenue Code, except that:

13.34 (i) for capital losses incurred in taxable years beginning after December 31, 1986,
 13.35 capital loss carrybacks shall not be allowed;

14.1 (ii) for capital losses incurred in taxable years beginning after December 31, 1986,
 14.2 a capital loss carryover to each of the 15 taxable years succeeding the loss year shall be
 14.3 allowed;

14.4 (iii) for capital losses incurred in taxable years beginning before January 1, 1987, a
 14.5 capital loss carryback to each of the three taxable years preceding the loss year, subject to
 14.6 the provisions of Minnesota Statutes 1986, section 290.16, shall be allowed; and

14.7 (iv) for capital losses incurred in taxable years beginning before January 1, 1987,
 14.8 a capital loss carryover to each of the five taxable years succeeding the loss year to the
 14.9 extent such loss was not used in a prior taxable year and subject to the provisions of
 14.10 Minnesota Statutes 1986, section 290.16, shall be allowed;

14.11 (6) an amount for interest and expenses relating to income not taxable for federal
 14.12 income tax purposes, if (i) the income is taxable under this chapter and (ii) the interest and
 14.13 expenses were disallowed as deductions under the provisions of section 171(a)(2), 265 or
 14.14 291 of the Internal Revenue Code in computing federal taxable income;

14.15 (7) in the case of mines, oil and gas wells, other natural deposits, and timber for
 14.16 which percentage depletion was disallowed pursuant to subdivision 19c, clause (9), a
 14.17 reasonable allowance for depletion based on actual cost. In the case of leases the deduction
 14.18 must be apportioned between the lessor and lessee in accordance with rules prescribed
 14.19 by the commissioner. In the case of property held in trust, the allowable deduction must
 14.20 be apportioned between the income beneficiaries and the trustee in accordance with the
 14.21 pertinent provisions of the trust, or if there is no provision in the instrument, on the basis
 14.22 of the trust's income allocable to each;

14.23 (8) for certified pollution control facilities placed in service in a taxable year
 14.24 beginning before December 31, 1986, and for which amortization deductions were elected
 14.25 under section 169 of the Internal Revenue Code of 1954, as amended through December
 14.26 31, 1985, an amount equal to the allowance for depreciation under Minnesota Statutes
 14.27 1986, section 290.09, subdivision 7;

14.28 (9) amounts included in federal taxable income that are due to refunds of income,
 14.29 excise, or franchise taxes based on net income or related minimum taxes paid by the
 14.30 corporation to Minnesota, another state, a political subdivision of another state, the
 14.31 District of Columbia, or a foreign country or possession of the United States to the extent
 14.32 that the taxes were added to federal taxable income under ~~section 290.01~~, subdivision 19c,
 14.33 clause (1), in a prior taxable year;

14.34 ~~(10) 80 percent of royalties, fees, or other like income accrued or received from a~~
 14.35 ~~foreign operating corporation or a foreign corporation which is part of the same unitary~~
 14.36 ~~business as the receiving corporation, unless the income resulting from such payments or~~

15.1 ~~accruals is income from sources within the United States as defined in subtitle A, chapter~~
 15.2 ~~1, subchapter N, part 1, of the Internal Revenue Code;~~

15.3 ~~(11)~~ (10) income or gains from the business of mining as defined in section 290.05,
 15.4 subdivision 1, clause (a), that are not subject to Minnesota franchise tax;

15.5 ~~(12)~~ (11) the amount of disability access expenditures in the taxable year which are
 15.6 not allowed to be deducted or capitalized under section 44(d)(7) of the Internal Revenue
 15.7 Code;

15.8 ~~(13)~~ (12) the amount of qualified research expenses not allowed for federal income
 15.9 tax purposes under section 280C(c) of the Internal Revenue Code, but only to the extent
 15.10 that the amount exceeds the amount of the credit allowed under section 290.068;

15.11 ~~(14)~~ (13) the amount of salary expenses not allowed for federal income tax purposes
 15.12 due to claiming the Indian employment credit under section 45A(a) of the Internal
 15.13 Revenue Code;

15.14 ~~(15)~~ (14) for a corporation whose foreign sales corporation, as defined in section
 15.15 922 of the Internal Revenue Code, constituted a foreign operating corporation during any
 15.16 taxable year ending before January 1, 1995, and a return was filed by August 15, 1996,
 15.17 claiming the deduction under section 290.21, subdivision 4, for income received from
 15.18 the foreign operating corporation, an amount equal to 1.23 multiplied by the amount of
 15.19 income excluded under section 114 of the Internal Revenue Code, provided the income is
 15.20 not income of a foreign operating company;

15.21 ~~(16)~~ (15) any decrease in subpart F income, as defined in section 952(a) of the
 15.22 Internal Revenue Code, for the taxable year when subpart F income is calculated without
 15.23 regard to the provisions of Division C, title III, section 303(b) of Public Law 110-343;

15.24 ~~(17)~~ (16) in each of the five tax years immediately following the tax year in which an
 15.25 addition is required under subdivision 19c, clause ~~(15)~~ (14), an amount equal to one-fifth
 15.26 of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the
 15.27 amount of the addition made by the taxpayer under subdivision 19c, clause ~~(15)~~ (14). The
 15.28 resulting delayed depreciation cannot be less than zero;

15.29 ~~(18)~~ (17) in each of the five tax years immediately following the tax year in which an
 15.30 addition is required under subdivision 19c, clause ~~(16)~~ (15), an amount equal to one-fifth
 15.31 of the amount of the addition; and

15.32 ~~(19)~~ (18) to the extent included in federal taxable income, discharge of indebtedness
 15.33 income resulting from reacquisition of business indebtedness included in federal taxable
 15.34 income under section 108(i) of the Internal Revenue Code. This subtraction applies only
 15.35 to the extent that the income was included in net income in a prior year as a result of the
 15.36 addition under ~~section 290.01~~, subdivision 19c, clause ~~(25)~~ (20).

16.1 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 16.2 December 31, 2011.

16.3 Sec. 6. Minnesota Statutes 2011 Supplement, section 290.0675, subdivision 1, is
 16.4 amended to read:

16.5 Subdivision 1. **Definitions.** (a) For purposes of this section the following terms
 16.6 have the meanings given.

16.7 (b) "Earned income" means the sum of the following, to the extent included in
 16.8 Minnesota taxable income:

16.9 (1) earned income as defined in section 32(c)(2) of the Internal Revenue Code;

16.10 (2) income received from a retirement pension, profit-sharing, stock bonus, or
 16.11 annuity plan; and

16.12 (3) Social Security benefits as defined in section 86(d)(1) of the Internal Revenue
 16.13 Code.

16.14 (c) "Taxable income" means net income as defined in section 290.01, subdivision 19.

16.15 (d) "Earned income of lesser-earning spouse" means the earned income of the spouse
 16.16 with the lesser amount of earned income as defined in paragraph (b) for the taxable year
 16.17 minus the sum of (i) the amount for one exemption under section 151(d) of the Internal
 16.18 Revenue Code and (ii) one-half the amount of the standard deduction under section
 16.19 63(c)(2)(A) and (4) of the Internal Revenue Code ~~minus one-half of any addition required~~
 16.20 ~~under section 290.01, subdivision 19a, clause (21), and one-half of the addition that would~~
 16.21 ~~have been required under section 290.01, subdivision 19a, clause (21), if the taxpayer had~~
 16.22 claimed the standard deduction plus one-half of any subtraction allowed under section
 16.23 290.01, subdivision 19b, clause (19).

16.24 **EFFECTIVE DATE.** This section is effective retroactively for taxable years
 16.25 beginning after December 31, 2010.

16.26 Sec. 7. Minnesota Statutes 2010, section 290.0921, subdivision 3, is amended to read:

16.27 Subd. 3. **Alternative minimum taxable income.** "Alternative minimum taxable
 16.28 income" is Minnesota net income as defined in section 290.01, subdivision 19, and
 16.29 includes the adjustments and tax preference items in sections 56, 57, 58, and 59(d), (e),
 16.30 (f), and (h) of the Internal Revenue Code. If a corporation files a separate company
 16.31 Minnesota tax return, the minimum tax must be computed on a separate company basis.
 16.32 If a corporation is part of a tax group filing a unitary return, the minimum tax must be
 16.33 computed on a unitary basis. The following adjustments must be made.

17.1 (1) For purposes of the depreciation adjustments under section 56(a)(1) and
17.2 56(g)(4)(A) of the Internal Revenue Code, the basis for depreciable property placed in
17.3 service in a taxable year beginning before January 1, 1990, is the adjusted basis for federal
17.4 income tax purposes, including any modification made in a taxable year under section
17.5 290.01, subdivision 19e, or Minnesota Statutes 1986, section 290.09, subdivision 7,
17.6 paragraph (c).

17.7 For taxable years beginning after December 31, 2000, the amount of any remaining
17.8 modification made under section 290.01, subdivision 19e, or Minnesota Statutes 1986,
17.9 section 290.09, subdivision 7, paragraph (c), not previously deducted is a depreciation
17.10 allowance in the first taxable year after December 31, 2000.

17.11 (2) The portion of the depreciation deduction allowed for federal income tax
17.12 purposes under section 168(k) of the Internal Revenue Code that is required as an addition
17.13 under section 290.01, subdivision 19c, clause ~~(15)~~ (14), is disallowed in determining
17.14 alternative minimum taxable income.

17.15 (3) The subtraction for depreciation allowed under section 290.01, subdivision 19d,
17.16 clause (17), is allowed as a depreciation deduction in determining alternative minimum
17.17 taxable income.

17.18 (4) The alternative tax net operating loss deduction under sections 56(a)(4) and 56(d)
17.19 of the Internal Revenue Code does not apply.

17.20 (5) The special rule for certain dividends under section 56(g)(4)(C)(ii) of the Internal
17.21 Revenue Code does not apply.

17.22 (6) The special rule for dividends from section 936 companies under section
17.23 56(g)(4)(C)(iii) does not apply.

17.24 (7) The tax preference for depletion under section 57(a)(1) of the Internal Revenue
17.25 Code does not apply.

17.26 (8) The tax preference for intangible drilling costs under section 57(a)(2) of the
17.27 Internal Revenue Code must be calculated without regard to subparagraph (E) and the
17.28 subtraction under section 290.01, subdivision 19d, clause (4).

17.29 (9) The tax preference for tax exempt interest under section 57(a)(5) of the Internal
17.30 Revenue Code does not apply.

17.31 (10) The tax preference for charitable contributions of appreciated property under
17.32 section 57(a)(6) of the Internal Revenue Code does not apply.

17.33 (11) For purposes of calculating the tax preference for accelerated depreciation or
17.34 amortization on certain property placed in service before January 1, 1987, under section
17.35 57(a)(7) of the Internal Revenue Code, the deduction allowable for the taxable year is the
17.36 deduction allowed under section 290.01, subdivision 19e.

18.1 For taxable years beginning after December 31, 2000, the amount of any remaining
18.2 modification made under section 290.01, subdivision 19e, not previously deducted is a
18.3 depreciation or amortization allowance in the first taxable year after December 31, 2004.

18.4 (12) For purposes of calculating the adjustment for adjusted current earnings in
18.5 section 56(g) of the Internal Revenue Code, the term "alternative minimum taxable
18.6 income" as it is used in section 56(g) of the Internal Revenue Code, means alternative
18.7 minimum taxable income as defined in this subdivision, determined without regard to the
18.8 adjustment for adjusted current earnings in section 56(g) of the Internal Revenue Code.

18.9 (13) For purposes of determining the amount of adjusted current earnings under
18.10 section 56(g)(3) of the Internal Revenue Code, no adjustment shall be made under section
18.11 56(g)(4) of the Internal Revenue Code with respect to (i) the amount of foreign dividend
18.12 gross-up subtracted as provided in section 290.01, subdivision 19d, clause (1), or (ii) the
18.13 amount of refunds of income, excise, or franchise taxes subtracted as provided in section
18.14 290.01, subdivision 19d, clause (9), ~~or (iii) the amount of royalties, fees or other like~~
18.15 ~~income subtracted as provided in section 290.01, subdivision 19d, clause (10).~~

18.16 (14) Alternative minimum taxable income excludes the income from operating in a
18.17 job opportunity building zone as provided under section 469.317.

18.18 (15) Alternative minimum taxable income excludes the income from operating in a
18.19 biotechnology and health sciences industry zone as provided under section 469.337.

18.20 (16) Alternative minimum taxable income excludes the income from operating in an
18.21 international economic development zone as provided under section 469.326.

18.22 Items of tax preference must not be reduced below zero as a result of the
18.23 modifications in this subdivision.

18.24 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
18.25 December 31, 2011.

18.26 Sec. 8. Minnesota Statutes 2010, section 290.17, subdivision 4, is amended to read:

18.27 Subd. 4. **Unitary business principle.** (a) If a trade or business conducted wholly
18.28 within this state or partly within and partly without this state is part of a unitary business,
18.29 the entire income of the unitary business is subject to apportionment pursuant to section
18.30 290.191. Notwithstanding subdivision 2, paragraph (c), none of the income of a unitary
18.31 business is considered to be derived from any particular source and none may be allocated
18.32 to a particular place except as provided by the applicable apportionment formula. The
18.33 provisions of this subdivision do not apply to business income subject to subdivision 5,
18.34 income of an insurance company, or income of an investment company determined under
18.35 section 290.36.

19.1 (b) The term "unitary business" means business activities or operations which
19.2 result in a flow of value between them. The term may be applied within a single legal
19.3 entity or between multiple entities and without regard to whether each entity is a sole
19.4 proprietorship, a corporation, a partnership or a trust.

19.5 (c) Unity is presumed whenever there is unity of ownership, operation, and use,
19.6 evidenced by centralized management or executive force, centralized purchasing,
19.7 advertising, accounting, or other controlled interaction, but the absence of these
19.8 centralized activities will not necessarily evidence a nonunitary business. Unity is also
19.9 presumed when business activities or operations are of mutual benefit, dependent upon or
19.10 contributory to one another, either individually or as a group.

19.11 (d) Where a business operation conducted in Minnesota is owned by a business
19.12 entity that carries on business activity outside the state different in kind from that
19.13 conducted within this state, and the other business is conducted entirely outside the state, it
19.14 is presumed that the two business operations are unitary in nature, interrelated, connected,
19.15 and interdependent unless it can be shown to the contrary.

19.16 (e) Unity of ownership is not deemed to exist when a corporation is involved unless
19.17 that corporation is a member of a group of two or more business entities and more than 50
19.18 percent of the voting stock of each member of the group is directly or indirectly owned
19.19 by a common owner or by common owners, either corporate or noncorporate, or by one
19.20 or more of the member corporations of the group. For this purpose, the term "voting
19.21 stock" shall include membership interests of mutual insurance holding companies formed
19.22 under section 66A.40.

19.23 (f) The net income and apportionment factors under section 290.191 or 290.20 of
19.24 foreign corporations and other foreign entities which are part of a unitary business shall
19.25 not be included in the net income or the apportionment factors of the unitary business.
19.26 A foreign corporation or other foreign entity which is required to file a return under this
19.27 chapter shall file on a separate return basis. ~~The net income and apportionment factors~~
19.28 ~~under section 290.191 or 290.20 of foreign operating corporations shall not be included in~~
19.29 ~~the net income or the apportionment factors of the unitary business except as provided in~~
19.30 ~~paragraph (g).~~

19.31 ~~(g) The adjusted net income of a foreign operating corporation shall be deemed to~~
19.32 ~~be paid as a dividend on the last day of its taxable year to each shareholder thereof, in~~
19.33 ~~proportion to each shareholder's ownership, with which such corporation is engaged in~~
19.34 ~~a unitary business. Such deemed dividend shall be treated as a dividend under section~~
19.35 ~~290.21, subdivision 4.~~

20.1 ~~Dividends actually paid by a foreign operating corporation to a corporate shareholder~~
 20.2 ~~which is a member of the same unitary business as the foreign operating corporation shall~~
 20.3 ~~be eliminated from the net income of the unitary business in preparing a combined report~~
 20.4 ~~for the unitary business. The adjusted net income of a foreign operating corporation~~
 20.5 ~~shall be its net income adjusted as follows:~~

20.6 ~~(1) any taxes paid or accrued to a foreign country, the commonwealth of Puerto~~
 20.7 ~~Rico, or a United States possession or political subdivision of any of the foregoing shall~~
 20.8 ~~be a deduction; and~~

20.9 ~~(2) the subtraction from federal taxable income for payments received from foreign~~
 20.10 ~~corporations or foreign operating corporations under section 290.01, subdivision 19d,~~
 20.11 ~~clause (10), shall not be allowed.~~

20.12 ~~If a foreign operating corporation incurs a net loss, neither income nor deduction~~
 20.13 ~~from that corporation shall be included in determining the net income of the unitary~~
 20.14 ~~business.~~

20.15 ~~(h)~~ (g) For purposes of determining the net income of a unitary business and the
 20.16 factors to be used in the apportionment of net income pursuant to section 290.191 or
 20.17 290.20, there must be included only the income and apportionment factors of domestic
 20.18 corporations or other domestic entities ~~other than foreign operating corporations~~ that are
 20.19 determined to be part of the unitary business pursuant to this subdivision, notwithstanding
 20.20 that foreign corporations or other foreign entities might be included in the unitary business.

20.21 ~~(i)~~ (h) Deductions for expenses, interest, or taxes otherwise allowable under
 20.22 this chapter that are connected with or allocable against dividends, ~~deemed dividends~~
 20.23 ~~described in paragraph (g), or royalties, fees, or other like income described in section~~
 20.24 ~~290.01, subdivision 19d, clause (10), shall not be disallowed.~~

20.25 ~~(j)~~ (i) Each corporation or other entity, except a sole proprietorship, that is part of
 20.26 a unitary business must file combined reports as the commissioner determines. On the
 20.27 reports, all intercompany transactions between entities included pursuant to paragraph
 20.28 ~~(h)~~ (g) must be eliminated and the entire net income of the unitary business determined in
 20.29 accordance with this subdivision is apportioned among the entities by using each entity's
 20.30 Minnesota factors for apportionment purposes in the numerators of the apportionment
 20.31 formula and the total factors for apportionment purposes of all entities included pursuant
 20.32 to paragraph ~~(h)~~ (g) in the denominators of the apportionment formula.

20.33 ~~(k)~~ (j) If a corporation has been divested from a unitary business and is included in a
 20.34 combined report for a fractional part of the common accounting period of the combined
 20.35 report:

21.1 (1) its income includable in the combined report is its income incurred for that part
21.2 of the year determined by proration or separate accounting; and

21.3 (2) its sales, property, and payroll included in the apportionment formula must
21.4 be prorated or accounted for separately.

21.5 **EFFECTIVE DATE.** This section is effective for returns filed for taxable years
21.6 beginning after December 31, 2011.

21.7 Sec. 9. **REPEALER.**

21.8 Minnesota Statutes 2010, sections 290.01, subdivision 6b; and 290.0921, subdivision
21.9 7, are repealed.

21.10 **EFFECTIVE DATE.** This section is effective for returns filed for taxable years
21.11 beginning after December 31, 2011.