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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 674

02/18/2013 Authored by Lillie, McNamara, Huntley, Zellers, Mahoney and others
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; income and corporate franchise; adding a subtraction;
1.3 amending Minnesota Statutes 2012, section 290.01, subdivisions 19b, 19d.

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

1.5 Section 1. Minnesota Statutes 2012, section 290.01, subdivision 19b, is amended to read:

1.6 Subd. 19b. **Subtractions from federal taxable income.** For individuals, estates,
1.7 and trusts, there shall be subtracted from federal taxable income:

1.8 (1) net interest income on obligations of any authority, commission, or
1.9 instrumentality of the United States to the extent includable in taxable income for federal
1.10 income tax purposes but exempt from state income tax under the laws of the United States;

1.11 (2) if included in federal taxable income, the amount of any overpayment of income
1.12 tax to Minnesota or to any other state, for any previous taxable year, whether the amount
1.13 is received as a refund or as a credit to another taxable year's income tax liability;

1.14 (3) the amount paid to others, less the amount used to claim the credit allowed under
1.15 section 290.0674, not to exceed \$1,625 for each qualifying child in grades kindergarten
1.16 to 6 and \$2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and
1.17 transportation of each qualifying child in attending an elementary or secondary school
1.18 situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a
1.19 resident of this state may legally fulfill the state's compulsory attendance laws, which
1.20 is not operated for profit, and which adheres to the provisions of the Civil Rights Act
1.21 of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or
1.22 tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause,
1.23 "textbooks" includes books and other instructional materials and equipment purchased
1.24 or leased for use in elementary and secondary schools in teaching only those subjects

2.1 legally and commonly taught in public elementary and secondary schools in this state.

2.2 Equipment expenses qualifying for deduction includes expenses as defined and limited in
2.3 section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional
2.4 books and materials used in the teaching of religious tenets, doctrines, or worship, the
2.5 purpose of which is to instill such tenets, doctrines, or worship, nor does it include books
2.6 or materials for, or transportation to, extracurricular activities including sporting events,
2.7 musical or dramatic events, speech activities, driver's education, or similar programs. No
2.8 deduction is permitted for any expense the taxpayer incurred in using the taxpayer's or
2.9 the qualifying child's vehicle to provide such transportation for a qualifying child. For
2.10 purposes of the subtraction provided by this clause, "qualifying child" has the meaning
2.11 given in section 32(c)(3) of the Internal Revenue Code;

2.12 (4) income as provided under section 290.0802;

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

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

2.21 (7) for individuals who are allowed a federal foreign tax credit for taxes that do not
2.22 qualify for a credit under section 290.06, subdivision 22, an amount equal to the carryover
2.23 of subnational foreign taxes for the taxable year, but not to exceed the total subnational
2.24 foreign taxes reported in claiming the foreign tax credit. For purposes of this clause,
2.25 "federal foreign tax credit" means the credit allowed under section 27 of the Internal
2.26 Revenue Code, and "carryover of subnational foreign taxes" equals the carryover allowed
2.27 under section 904(c) of the Internal Revenue Code minus national level foreign taxes to
2.28 the extent they exceed the federal foreign tax credit;

2.29 (8) in each of the five tax years immediately following the tax year in which an
2.30 addition is required under subdivision 19a, clause (7), or 19c, clause (15), in the case of a
2.31 shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the
2.32 delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount
2.33 of the addition made by the taxpayer under subdivision 19a, clause (7), or subdivision 19c,
2.34 clause (15), in the case of a shareholder of an S corporation, minus the positive value of
2.35 any net operating loss under section 172 of the Internal Revenue Code generated for the
2.36 tax year of the addition. The resulting delayed depreciation cannot be less than zero;

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

3.2 (10) to the extent included in federal taxable income, the amount of compensation
3.3 paid to members of the Minnesota National Guard or other reserve components of the
3.4 United States military for active service, excluding compensation for services performed
3.5 under the Active Guard Reserve (AGR) program. For purposes of this clause, "active
3.6 service" means (i) state active service as defined in section 190.05, subdivision 5a, clause
3.7 (1); or (ii) federally funded state active service as defined in section 190.05, subdivision
3.8 5b, but "active service" excludes service performed in accordance with section 190.08,
3.9 subdivision 3;

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

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

3.26 (13) in each of the five tax years immediately following the tax year in which an
3.27 addition is required under subdivision 19a, clause (8), or 19c, clause (16), in the case of a
3.28 shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the
3.29 addition made by the taxpayer under subdivision 19a, clause (8), or 19c, clause (16), in the
3.30 case of a shareholder of a corporation that is an S corporation, minus the positive value of
3.31 any net operating loss under section 172 of the Internal Revenue Code generated for the
3.32 tax year of the addition. If the net operating loss exceeds the addition for the tax year, a
3.33 subtraction is not allowed under this clause;

3.34 (14) to the extent included in the federal taxable income of a nonresident of
3.35 Minnesota, compensation paid to a service member as defined in United States Code, title

4.1 10, section 101(a)(5), for military service as defined in the Servicemembers Civil Relief
 4.2 Act, Public Law 108-189, section 101(2);

4.3 (15) to the extent included in federal taxable income, the amount of national service
 4.4 educational awards received from the National Service Trust under United States Code,
 4.5 title 42, sections 12601 to 12604, for service in an approved Americorps National Service
 4.6 program;

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

4.12 (17) the amount of the net operating loss allowed under section 290.095, subdivision
 4.13 11, paragraph (c); and

4.14 (18)(i) for employees, the value of the use of an on-premises facility provided by an
 4.15 employer to its employees, or the value of any fees, dues, or membership expenses paid by
 4.16 an employer on behalf of its employees to a fitness facility, as defined in item (iii). In the
 4.17 case of employers filing under this subdivision that are S corporations, sole proprietors, or
 4.18 partnerships, the value of any fees, dues, or membership expenses paid by the employer
 4.19 on behalf of its employees to a fitness facility, as defined in item (iii). The subtraction
 4.20 under this clause shall not exceed \$600 per employee per calendar year;

4.21 (ii) the subtraction under this clause applies only if the use of on-premises fitness
 4.22 facilities or the payment of fees, dues, or membership expenses to a fitness facility are
 4.23 available on substantially the same terms to each member of a group of employees defined
 4.24 under a reasonable classification by the employer, but no classification may include only
 4.25 highly compensated employees, as defined under section 414(q) of the Internal Revenue
 4.26 Code, or any other group that includes only executives, directors, or other managerial
 4.27 employees; and

4.28 (iii) for purposes of this clause, "fitness facility" means a facility located in the state:

4.29 (A) that provides instruction in a program of physical exercise; offers facilities for
 4.30 the preservation, maintenance, encouragement, or development of physical fitness; or is
 4.31 the site of such a program of a state or local government;

4.32 (B) that is not a private club owned and operated by its members;

4.33 (C) that does not offer golf, hunting, sailing, or horseback riding facilities;

4.34 (D) whose fitness facility is not incidental to its overall function and purpose; and

4.35 (E) that is compliant with antidiscrimination laws under chapter 363A and applicable
 4.36 federal antidiscrimination laws.

5.1 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
5.2 December 31, 2012.

5.3 Sec. 2. Minnesota Statutes 2012, section 290.01, subdivision 19d, is amended to read:

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

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

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

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

5.15 (4) amounts disallowed for intangible drilling costs due to differences between
5.16 this chapter and the Internal Revenue Code in taxable years beginning before January
5.17 1, 1987, as follows:

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

5.21 (ii) to the extent the disallowed costs are not represented by physical property, an
5.22 amount equal to the allowance for cost depletion under Minnesota Statutes 1986, section
5.23 290.09, subdivision 8;

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

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

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

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

5.34 (iv) for capital losses incurred in taxable years beginning before January 1, 1987,
5.35 a capital loss carryover to each of the five taxable years succeeding the loss year to the

6.1 extent such loss was not used in a prior taxable year and subject to the provisions of
6.2 Minnesota Statutes 1986, section 290.16, shall be allowed;

6.3 (6) an amount for interest and expenses relating to income not taxable for federal
6.4 income tax purposes, if (i) the income is taxable under this chapter and (ii) the interest and
6.5 expenses were disallowed as deductions under the provisions of section 171(a)(2), 265 or
6.6 291 of the Internal Revenue Code in computing federal taxable income;

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

6.15 (8) for certified pollution control facilities placed in service in a taxable year
6.16 beginning before December 31, 1986, and for which amortization deductions were elected
6.17 under section 169 of the Internal Revenue Code of 1954, as amended through December
6.18 31, 1985, an amount equal to the allowance for depreciation under Minnesota Statutes
6.19 1986, section 290.09, subdivision 7;

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

6.26 (10) 80 percent of royalties, fees, or other like income accrued or received from a
6.27 foreign operating corporation or a foreign corporation which is part of the same unitary
6.28 business as the receiving corporation, unless the income resulting from such payments or
6.29 accruals is income from sources within the United States as defined in subtitle A, chapter
6.30 1, subchapter N, part 1, of the Internal Revenue Code;

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

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

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

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

7.6 (15) for a corporation whose foreign sales corporation, as defined in section 922
7.7 of the Internal Revenue Code, constituted a foreign operating corporation during any
7.8 taxable year ending before January 1, 1995, and a return was filed by August 15, 1996,
7.9 claiming the deduction under section 290.21, subdivision 4, for income received from
7.10 the foreign operating corporation, an amount equal to 1.23 multiplied by the amount of
7.11 income excluded under section 114 of the Internal Revenue Code, provided the income is
7.12 not income of a foreign operating company;

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

7.16 (17) in each of the five tax years immediately following the tax year in which an
7.17 addition is required under subdivision 19c, clause (15), an amount equal to one-fifth of
7.18 the delayed depreciation. For purposes of this clause, "delayed depreciation" means the
7.19 amount of the addition made by the taxpayer under subdivision 19c, clause (15). The
7.20 resulting delayed depreciation cannot be less than zero;

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

7.24 (19) to the extent included in federal taxable income, discharge of indebtedness
7.25 income resulting from reacquisition of business indebtedness included in federal taxable
7.26 income under section 108(i) of the Internal Revenue Code. This subtraction applies only
7.27 to the extent that the income was included in net income in a prior year as a result of the
7.28 addition under section 290.01, subdivision 19c, clause (25); and

7.29 (20)(i) an amount equal to any fees, dues, or membership expenses paid on behalf of
7.30 each employee to a fitness facility, as defined in subdivision 19b, clause (18), item (iii). The
7.31 subtraction under this clause shall not exceed \$600 per employee per calendar year; and

7.32 (ii) the subtraction under this clause applies only if the payment of fees, dues, or
7.33 membership expenses to a fitness facility are available on substantially the same terms
7.34 to each member of a group of employees defined under a reasonable classification by
7.35 the employer, but no classification may include only highly compensated employees,

8.1 as defined under section 414(q) of the Internal Revenue Code, or any other group that
8.2 includes only executives, directors, or other managerial employees.

8.3 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
8.4 December 31, 2012.