

SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 263

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DATE
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Introduction and first reading
Referred to Taxes

OFFICIAL STATUS

1.1 A bill for an act

1.2 relating to taxation; individual income and corporate franchise; providing for

1.3 federal conformity to exclusion of paycheck protection loan forgiveness from gross

1.4 income and certain related deductions; providing certain business entities the option

1.5 to file as C-option corporations; amending Minnesota Statutes 2020, sections

1.6 289A.02, subdivision 7; 289A.08, by adding a subdivision; 289A.38, by adding a

1.7 subdivision; 290.01, subdivisions 19, 31, by adding a subdivision; 290.0132, by

1.8 adding a subdivision; 290.06, subdivisions 2c, 22; 290.091, subdivision 2; 290.0921,

1.9 subdivision 2; 290.92, subdivisions 4b, 4c; 290A.03, subdivision 15; 291.005,

1.10 subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 290.

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

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

1.13 Subd. 7. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal

1.14 Revenue Code" means the Internal Revenue Code of 1986, as amended through December

1.15 31, 2018, except that for the purposes of exclusion from gross income of paycheck protection

1.16 loan forgiveness and allowable deductions of covered expenses paid for with covered loans

1.17 under section 1106 of Public Law 116-136, as clarified by Title II, subtitle B, section

1.18 276(a)(i) of Public Law 116-260, "Internal Revenue Code" means the Internal Revenue

1.19 Code as amended through March 27, 2020.

1.20 **EFFECTIVE DATE.** This section is effective the day following final enactment, except

1.21 that changes incorporated by federal changes are effective retroactively at the same time

1.22 the changes were effective for federal purposes.

2.1 Sec. 2. Minnesota Statutes 2020, section 289A.08, is amended by adding a subdivision to
2.2 read:

2.3 Subd. 7a. **Election to file as C-option corporation.** (a) A qualifying entity may elect
2.4 to file a return as a C-option corporation. Except as provided in this subdivision, a C-option
2.5 corporation must calculate its tax liability as a corporation subject to the franchise tax on
2.6 corporations imposed in section 290.02 and must allocate its income as a corporation as
2.7 required under sections 290.17, 290.191, and 290.20.

2.8 (b) The election under paragraph (a):

2.9 (1) must be made on or before the due date or extended due date of the qualifying entity's
2.10 return as a C-option corporation;

2.11 (2) may only be made by persons who hold more than 50 percent ownership interest in
2.12 the qualifying entity; and

2.13 (3) is binding on all persons who have an ownership interest in the qualifying entity.

2.14 (c) The election is binding for a period of four taxable years following the taxable year
2.15 of the election. The election may be revoked before the expiration of the period if:

2.16 (1) the revocation is requested by persons who hold more than 50 percent ownership
2.17 interest in the qualifying entity; and

2.18 (2) the revocation is made on or before the due date or the extended due date of the
2.19 qualifying entity's return for that year.

2.20 (d) If an election is revoked before the expiration of the period, a new election to file as
2.21 a C-option corporation may not be made by the qualifying entity for the following four
2.22 taxable years.

2.23 (e) The expiration or revocation of an election is effective at the close of a taxable year
2.24 and nothing in this section releases a C-option corporation from complying with the
2.25 requirements of this chapter for that taxable year.

2.26 (f) For purposes of this subdivision:

2.27 (1) "qualifying entity" means a:

2.28 (i) partnership;

2.29 (ii) limited liability company; or

(iii) corporation organized under subchapter S of the Internal Revenue Code for federal income tax purposes, including a qualified subsidiary also organized under subchapter S of the Internal Revenue Code; and

(2) "C-option corporation" means a qualifying entity that has made the election under paragraph (a).

(g) Tax liability must be calculated by multiplying the Minnesota taxable income of the qualifying entity by a tax rate of 9.85 percent.

(h) A member's, partner's, or shareholder's adjusted basis in the member's, partner's, or shareholder's interest in the limited liability company, partnership, or S corporation, and the treatment of distributions, is determined as if the election under this subdivision is not made.

(i) A qualifying entity must not have a partnership, limited liability company, or corporation as a member or partner.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2020.

Sec. 3. Minnesota Statutes 2020, section 289A.38, is amended by adding a subdivision to read:

Subd. 17. **C-option corporations.** For purposes of this section, "taxpayer" includes a C-option corporation, and all applicable reports, amendments, adjustments, assessments, changes in tax, refunds, and statements under this section apply to a C-option corporation for those taxable years in which the C-option election under section 289A.08, subdivision 7a, is effective. For purposes of this subdivision, "C-option corporation" means a qualifying entity under section 289A.08, subdivision 7a, paragraph (f), that made the election in section 289A.08, subdivision 7a, paragraph (a), for the applicable tax year.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2020.

Sec. 4. Minnesota Statutes 2020, section 290.01, is amended by adding a subdivision to read:

Subd. 4d. **C-option corporation.** "C-option corporation" means a qualifying entity under section 289A.08, subdivision 7a, paragraph (f), that made the election in section 289A.08, subdivision 7a, paragraph (a), for the applicable tax year.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2020.

Sec. 5. Minnesota Statutes 2020, section 290.01, subdivision 19, is amended to read:

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

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

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

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

(2) the deduction for dividends paid under section 852(b)(2)(D) of the Internal Revenue Code must be applied by allowing a deduction for capital gain dividends and exempt-interest dividends as defined in sections 852(b)(3)(C) and 852(b)(5) of the Internal Revenue Code; and

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

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

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

(f) The Internal Revenue Code of 1986, as amended through December 31, 2018, shall be in effect for taxable years beginning after December 31, 1996, except that for the purposes of exclusion from gross income of paycheck protection loan forgiveness and allowable deductions of covered expenses paid for with covered loans under section 1106 of Public Law 116-136, as clarified by Title II, subtitle B, section 276(a)(i) of Public Law 116-260, "Internal Revenue Code" means the Internal Revenue Code as amended through March 27, 2020.

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

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

Sec. 6. Minnesota Statutes 2020, section 290.01, subdivision 31, is amended to read:

Subd. 31. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 2018. Internal Revenue Code also includes any uncodified provision in federal law that relates to provisions of the Internal Revenue Code that are incorporated into Minnesota law, except that for the purposes of exclusion from gross income of paycheck protection loan forgiveness and allowable deductions of covered expenses paid for with covered loans under section 1106 of Public Law 116-136, as clarified by Title II, subtitle B, section 276(a)(i) of Public Law 116-260, "Internal Revenue Code" means the Internal Revenue Code as amended through March 27, 2020.

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

Sec. 7. Minnesota Statutes 2020, section 290.0132, is amended by adding a subdivision to read:

Subd. 30. **Income of partners, members, or shareholders.** The amount of income determined after allowable deductions and the additions and subtractions required under this chapter that is received from a qualifying entity, as defined under section 289A.08, subdivision 7a, for purposes of calculating adjusted gross income by a partner, member, or shareholder of a qualifying entity that has elected to file as a C-option corporation under

section 289A.08, subdivision 7a, is a subtraction. The amount of net income as adjusted under this subdivision must not be less than zero. The amount of the subtraction allowed under this subdivision may not exceed the partner's, member's, or shareholder's portions of the qualifying entity's net income after assignment under section 290.17, or apportionment under section 290.191 or 290.20, as may be required.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2020.

Sec. 8. Minnesota Statutes 2020, section 290.06, subdivision 2c, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) In lieu of a tax computed according to the rates set forth in this subdivision, the tax of any individual taxpayer whose taxable net income for the taxable year is less than an amount determined by the commissioner must be computed in accordance with tables prepared and issued by the commissioner of revenue based on income brackets of not more than \$100. The amount of tax for each bracket shall be computed at the rates set forth in this subdivision, provided that the commissioner may disregard a fractional part of a dollar unless it amounts to 50 cents or more, in which case it may be increased to \$1.

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

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

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

(ii) the Minnesota assignable portion of the subtraction for United States government interest under section 290.0132, subdivision 2, the subtractions under sections 290.0132, subdivisions 9, 10, 14, 15, 17, 18, ~~and 27, and 30,~~ and 290.0137, paragraph (c), after applying the allocation and assignability provisions of section 290.081, clause (a), or 290.17; and

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

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

(ii) the subtractions under sections 290.0132, subdivisions 2, 9, 10, 14, 15, 17, 18, ~~and 27, and 30,~~ and 290.0137, paragraph (c).

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2020.

Sec. 9. Minnesota Statutes 2020, section 290.06, subdivision 22, is amended to read:

Subd. 22. **Credit for taxes paid to another state.** (a) A taxpayer who is liable for taxes based on net income to another state, as provided in paragraphs (b) through (f), upon income

allocated or apportioned to Minnesota, is entitled to a credit for the tax paid to another state if the tax is actually paid in the taxable year or a subsequent taxable year. A taxpayer who is a resident of this state pursuant to section 290.01, subdivision 7, paragraph (b), and who is subject to income tax as a resident in the state of the individual's domicile is not allowed this credit unless the state of domicile does not allow a similar credit.

(b) For an individual, estate, or trust, the credit is determined by multiplying the tax payable under this chapter by the ratio derived by dividing the income subject to tax in the other state that is also subject to tax in Minnesota while a resident of Minnesota by the taxpayer's federal adjusted gross income, as defined in section 62 of the Internal Revenue Code, modified by the addition required by section 290.0131, subdivision 2, and the subtraction allowed by section 290.0132, subdivision 2, to the extent the income is allocated or assigned to Minnesota under sections 290.081 and 290.17.

(c) If the taxpayer is an athletic team that apportions all of its income under section 290.17, subdivision 5, the credit is determined by multiplying the tax payable under this chapter by the ratio derived from dividing the total net income subject to tax in the other state by the taxpayer's Minnesota taxable income.

(d)(1) The credit determined under paragraph (b) or (c) shall not exceed the amount of tax so paid to the other state on the gross income earned within the other state subject to tax under this chapter; and

(2) the allowance of the credit does not reduce the taxes paid under this chapter to an amount less than what would be assessed if the gross income earned within the other state were excluded from taxable net income.

(e) In the case of the tax assessed on a lump-sum distribution under section 290.032, the credit allowed under paragraph (a) is the tax assessed by the other state on the lump-sum distribution that is also subject to tax under section 290.032, and shall not exceed the tax assessed under section 290.032. To the extent the total lump-sum distribution defined in section 290.032, subdivision 1, includes lump-sum distributions received in prior years or is all or in part an annuity contract, the reduction to the tax on the lump-sum distribution allowed under section 290.032, subdivision 2, includes tax paid to another state that is properly apportioned to that distribution.

(f) If a Minnesota resident reported an item of income to Minnesota and is assessed tax in such other state on that same income after the Minnesota statute of limitations has expired, the taxpayer shall receive a credit for that year under paragraph (a), notwithstanding any statute of limitations to the contrary. The claim for the credit must be submitted within one

9.1 year from the date the taxes were paid to the other state. The taxpayer must submit sufficient
9.2 proof to show entitlement to a credit.

9.3 (g) For the purposes of this subdivision, a resident shareholder of a corporation treated
9.4 as an "S" corporation under section 290.9725, must be considered to have paid a tax imposed
9.5 on the shareholder in an amount equal to the shareholder's pro rata share of any net income
9.6 tax paid by the S corporation to another state. For the purposes of the preceding sentence,
9.7 the term "net income tax" means any tax imposed on or measured by a corporation's net
9.8 income.

9.9 (h) For the purposes of this subdivision, a resident partner of an entity taxed as a
9.10 partnership under the Internal Revenue Code must be considered to have paid a tax imposed
9.11 on the partner in an amount equal to the partner's pro rata share of any net income tax paid
9.12 by the partnership to another state. For purposes of the preceding sentence, the term "net
9.13 income" tax means any tax imposed on or measured by a partnership's net income.

9.14 (i) For the purposes of this subdivision, "another state":

9.15 (1) includes:

9.16 (i) the District of Columbia; and

9.17 (ii) a province or territory of Canada; but

9.18 (2) excludes Puerto Rico and the several territories organized by Congress.

9.19 (j) The limitations on the credit in paragraphs (b), (c), and (d), are imposed on a state
9.20 by state basis.

9.21 (k) For a tax imposed by a province or territory of Canada, the tax for purposes of this
9.22 subdivision is the excess of the tax over the amount of the foreign tax credit allowed under
9.23 section 27 of the Internal Revenue Code. In determining the amount of the foreign tax credit
9.24 allowed, the net income taxes imposed by Canada on the income are deducted first. Any
9.25 remaining amount of the allowable foreign tax credit reduces the provincial or territorial
9.26 tax that qualifies for the credit under this subdivision.

9.27 (l)(1) The credit allowed to a qualifying individual under this section for tax paid to a
9.28 qualifying state equals the credit calculated under paragraphs (b) and (d), plus the amount
9.29 calculated by multiplying:

9.30 (i) the difference between the preliminary credit and the credit calculated under paragraphs
9.31 (b) and (d), by

(ii) the ratio derived by dividing the income subject to tax in the qualifying state that consists of compensation for performance of personal or professional services by the total amount of income subject to tax in the qualifying state.

(2) If the amount of the credit that a qualifying individual is eligible to receive under clause (1) for tax paid to a qualifying state exceeds the tax due under this chapter before the application of the credit calculated under clause (1), the commissioner shall refund the excess to the qualifying individual. An amount sufficient to pay the refunds required by this subdivision is appropriated to the commissioner from the general fund.

(3) For purposes of this paragraph, "preliminary credit" means the credit that a qualifying individual is eligible to receive under paragraphs (b) and (d) for tax paid to a qualifying state without regard to the limitation in paragraph (d), clause (2); "qualifying individual" means a Minnesota resident under section 290.01, subdivision 7, paragraph (a), who received compensation during the taxable year for the performance of personal or professional services within a qualifying state; and "qualifying state" means a state with which an agreement under section 290.081 is not in effect for the taxable year but was in effect for a taxable year beginning before January 1, 2010.

(m) A resident partner, member, or shareholder of a qualifying entity making an election to be taxed as a C-option corporation under section 289A.08, subdivision 7a, may claim a credit for the amount of their pro rata share of any net income tax paid to another state by the entity or on a composite return filed with that state on behalf of its Minnesota resident partners, members, or shareholders. For purposes of this paragraph, "net income tax" means any tax imposed on or measured by net income, but "net income" does not include any income that is apportioned to this state under section 290.191 or 290.20.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2020.

Sec. 10. Minnesota Statutes 2020, section 290.091, subdivision 2, is amended to read:

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

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

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

- 11.1 (2) the taxpayer's itemized deductions allowed in computing federal alternative minimum
11.2 taxable income, but excluding:
- 11.3 (i) the charitable contribution deduction under section 170 of the Internal Revenue Code;
- 11.4 (ii) the medical expense deduction;
- 11.5 (iii) the casualty, theft, and disaster loss deduction; and
- 11.6 (iv) the impairment-related work expenses of a person with a disability;
- 11.7 (3) for depletion allowances computed under section 613A(c) of the Internal Revenue
11.8 Code, with respect to each property (as defined in section 614 of the Internal Revenue Code),
11.9 to the extent not included in federal alternative minimum taxable income, the excess of the
11.10 deduction for depletion allowable under section 611 of the Internal Revenue Code for the
11.11 taxable year over the adjusted basis of the property at the end of the taxable year (determined
11.12 without regard to the depletion deduction for the taxable year);
- 11.13 (4) to the extent not included in federal alternative minimum taxable income, the amount
11.14 of the tax preference for intangible drilling cost under section 57(a)(2) of the Internal Revenue
11.15 Code determined without regard to subparagraph (E);
- 11.16 (5) to the extent not included in federal alternative minimum taxable income, the amount
11.17 of interest income as provided by section 290.0131, subdivision 2;
- 11.18 (6) the amount of addition required by section 290.0131, subdivisions 9, 10, and 16;
- 11.19 (7) the deduction allowed under section 199A of the Internal Revenue Code, to the extent
11.20 not included in the addition required under clause (6); and
- 11.21 (8) to the extent not included in federal alternative minimum taxable income, the amount
11.22 of foreign-derived intangible income deducted under section 250 of the Internal Revenue
11.23 Code;
- 11.24 less the sum of the amounts determined under the following:
- 11.25 (i) interest income as defined in section 290.0132, subdivision 2;
- 11.26 (ii) an overpayment of state income tax as provided by section 290.0132, subdivision
11.27 3, to the extent included in federal alternative minimum taxable income;
- 11.28 (iii) the amount of investment interest paid or accrued within the taxable year on
11.29 indebtedness to the extent that the amount does not exceed net investment income, as defined
11.30 in section 163(d)(4) of the Internal Revenue Code. Interest does not include amounts deducted
11.31 in computing federal adjusted gross income;

12.1 (iv) amounts subtracted from federal taxable or adjusted gross income as provided by
12.2 section 290.0132, subdivisions 7, 9 to 15, 17, 21, 24, and 26 to ~~29~~ 30;

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

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

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

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

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

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

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

12.18 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
12.19 31, 2020.

12.20 Sec. 11. Minnesota Statutes 2020, section 290.0921, subdivision 2, is amended to read:

12.21 Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the
12.22 meanings given them.

12.23 (b) "Alternative minimum taxable net income" is alternative minimum taxable income,

12.24 (1) less the exemption amount, and

12.25 (2) apportioned or allocated to Minnesota under section 290.17, 290.191, or 290.20.

12.26 (c) The "exemption amount" is \$40,000, reduced, but not below zero, by 25 percent of
12.27 the excess of alternative minimum taxable income over \$150,000.

12.28 (d) "Minnesota alternative minimum taxable income" is alternative minimum taxable
12.29 net income, less the deductions for alternative tax net operating loss under subdivision 4;
12.30 and dividends received under subdivision 6. The sum of the deductions under this paragraph

13.1 may not exceed 90 percent of alternative minimum taxable net income. This limitation does
13.2 not apply to:

13.3 (1) a deduction for dividends paid to or received from a corporation which is subject to
13.4 tax under section 290.36 and which is a member of an affiliated group of corporations as
13.5 defined by the Internal Revenue Code; or

13.6 (2) a deduction for dividends received from a property and casualty insurer as defined
13.7 under section 60A.60, subdivision 8, which is a member of an affiliated group of corporations
13.8 as defined by the Internal Revenue Code and either: (i) the dividend is eliminated in
13.9 consolidation under Treasury Regulation 1.1502-14(a), as amended through December 31,
13.10 1989; or (ii) the dividend is deducted under an election under section 243(b) of the Internal
13.11 Revenue Code.

13.12 (e) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended
13.13 through December 16, 2016, except that for the purposes of exclusion from gross income
13.14 of paycheck protection loan forgiveness and allowable deductions of covered expenses paid
13.15 for with covered loans under section 1106 of Public Law 116-136, as clarified by Title II,
13.16 subtitle B, section 276(a)(i) of Public Law 116-260, "Internal Revenue Code" means the
13.17 Internal Revenue Code as amended through March 27, 2020.

13.18 **EFFECTIVE DATE.** This section is effective the day following final enactment, except
13.19 that changes incorporated by federal changes are effective retroactively at the same time
13.20 the changes were effective for federal purposes.

13.21 Sec. 12. **[290.096] SPECIAL RULES FOR C-OPTION CORPORATIONS.**

13.22 **Subdivision 1. Allocation of subtractions and credits.** No carryover generated by a
13.23 C-option corporation for a subtraction allowed under this chapter that remains after the
13.24 revocation or expiration of the election in section 289A.08, subdivision 7a, paragraph (a),
13.25 may be claimed by a partner, member, or shareholder of that C-option corporation.

13.26 **Subd. 2. Credits.** (a) Credits and credit carryovers against the tax due under this chapter
13.27 that are claimed by a C-option corporation must be distributed as follows:

13.28 (1) for a nonrefundable credit, the credit is distributed to the C-option corporation; and

13.29 (2) for a refundable credit, the amount of the credit that does not exceed the C-option
13.30 corporation's taxable income is distributed to the C-option corporation and the amount of
13.31 the credit that exceeds the amount of the C-option corporation's taxable income is distributed
13.32 in the same manner as the subtraction in section 290.0132, subdivision 30.

14.1 (b) A credit carryover generated by an individual taxpayer may be claimed by a C-option
14.2 corporation of which the individual is a partner, member, or shareholder.

14.3 Subd. 3. **Refunds.** (a) A C-option corporation may make a claim for a refund under
14.4 section 289A.50. Refunds must be paid to each partner, member, or shareholder in the same
14.5 manner as the distribution of the subtraction in section 290.0132, subdivision 30.

14.6 (b) For purposes of applying interest to refunds under paragraph (a), the amount refunded
14.7 bears interest under section 289A.56, subdivision 2, from the later of when the partner's,
14.8 member's, or shareholder's individual return is filed or when the C-option corporation's
14.9 return is filed.

14.10 Subd. 4. **Estimated tax.** (a) A C-option corporation must make payments of estimated
14.11 tax as required under section 289A.26.

14.12 (b) Payments of estimated tax under paragraph (a) made by a C-option corporation for
14.13 a taxable year for which the taxpayer is not a C-option corporation must be distributed to
14.14 each partner, member, or shareholder in the same manner as the distribution of the subtraction
14.15 in section 290.0132, subdivision 30.

14.16 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
14.17 31, 2020.

14.18 Sec. 13. Minnesota Statutes 2020, section 290.92, subdivision 4b, is amended to read:

14.19 Subd. 4b. **Withholding by partnerships.** (a) A partnership shall deduct and withhold
14.20 a tax as provided in paragraph (b) for nonresident individual partners based on their
14.21 distributive shares of partnership income for a taxable year of the partnership.

14.22 (b) The amount of tax withheld is determined by multiplying the partner's distributive
14.23 share allocable to Minnesota under section 290.17, paid or credited during the taxable year
14.24 by the highest rate used to determine the income tax liability for an individual under section
14.25 290.06, subdivision 2c, except that the amount of tax withheld may be determined by the
14.26 commissioner if the partner submits a withholding exemption certificate under subdivision
14.27 5.

14.28 (c) The commissioner may reduce or abate the tax withheld under this subdivision if the
14.29 partnership had reasonable cause to believe that no tax was due under this section.

14.30 (d) Notwithstanding paragraph (a), a partnership is not required to deduct and withhold
14.31 tax for a nonresident partner if:

15.1 (1) the partner elects to have the tax due paid as part of the partnership's composite return
15.2 under section 289A.08, subdivision 7;

15.3 (2) the partner has Minnesota assignable federal adjusted gross income from the
15.4 partnership of less than \$1,000; or

15.5 (3) the partnership is liquidated or terminated, the income was generated by a transaction
15.6 related to the termination or liquidation, and no cash or other property was distributed in
15.7 the current or prior taxable year;

15.8 (4) the distributive shares of partnership income are attributable to:

15.9 (i) income required to be recognized because of discharge of indebtedness;

15.10 (ii) income recognized because of a sale, exchange, or other disposition of real estate,
15.11 depreciable property, or property described in section 179 of the Internal Revenue Code;
15.12 or

15.13 (iii) income recognized on the sale, exchange, or other disposition of any property that
15.14 has been the subject of a basis reduction pursuant to section 108, 734, 743, 754, or 1017 of
15.15 the Internal Revenue Code

15.16 to the extent that the income does not include cash received or receivable or, if there is cash
15.17 received or receivable, to the extent that the cash is required to be used to pay indebtedness
15.18 by the partnership or a secured debt on partnership property; ~~or~~

15.19 (5) the partnership is a publicly traded partnership, as defined in section 7704(b) of the
15.20 Internal Revenue Code; or

15.21 (6) the partnership has elected to be taxed as a C-option corporation under section
15.22 289A.08, subdivision 7a.

15.23 (e) For purposes of sections 270C.60, 289A.09, subdivision 2, 289A.20, subdivision 2,
15.24 paragraph (c), 289A.50, 289A.56, 289A.60, and 289A.63, a partnership is considered an
15.25 employer.

15.26 (f) To the extent that income is exempt from withholding under paragraph (d), clause
15.27 (4), the commissioner has a lien in an amount up to the amount that would be required to
15.28 be withheld with respect to the income of the partner attributable to the partnership interest,
15.29 but for the application of paragraph (d), clause (4). The lien arises under section 270C.63
15.30 from the date of assessment of the tax against the partner, and attaches to that partner's share
15.31 of the profits and any other money due or to become due to that partner in respect of the
15.32 partnership. Notice of the lien may be sent by mail to the partnership, without the necessity

for recording the lien. The notice has the force and effect of a levy under section 270C.67, and is enforceable against the partnership in the manner provided by that section. Upon payment in full of the liability subsequent to the notice of lien, the partnership must be notified that the lien has been satisfied.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2020.

Sec. 14. Minnesota Statutes 2020, section 290.92, subdivision 4c, is amended to read:

Subd. 4c. Withholding by S corporations. (a) A corporation having a valid election in effect under section 290.9725 shall deduct and withhold a tax as provided in paragraph (b) for nonresident individual shareholders their share of the corporation's income for the taxable year.

(b) The amount of tax withheld is determined by multiplying the amount of income allocable to Minnesota under section 290.17 by the highest rate used to determine the income tax liability of an individual under section 290.06, subdivision 2c, except that the amount of tax withheld may be determined by the commissioner if the shareholder submits a withholding exemption certificate under subdivision 5.

(c) Notwithstanding paragraph (a), a corporation is not required to deduct and withhold tax for a nonresident shareholder, if:

(1) the shareholder elects to have the tax due paid as part of the corporation's composite return under section 289A.08, subdivision 7;

(2) the shareholder has Minnesota assignable federal adjusted gross income from the corporation of less than \$1,000; ~~or~~

(3) the corporation is liquidated or terminated, the income was generated by a transaction related to the termination or liquidation, and no cash or other property was distributed in the current or prior taxable year; or

(4) the S corporation has elected to be taxed as a C-option corporation under section 289A.08, subdivision 7a.

(d) For purposes of sections 270C.60, 289A.09, subdivision 2, 289A.20, subdivision 2, paragraph (c), 289A.50, 289A.56, 289A.60, and 289A.63, a corporation is considered an employer.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2020.

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

17.2 Subd. 15. **Internal Revenue Code.** "Internal Revenue Code" means the Internal Revenue
17.3 Code of 1986, as amended through December 31, 2018, except that for the purposes of
17.4 exclusion from gross income of paycheck protection loan forgiveness and allowable
17.5 deductions of covered expenses paid for with covered loans under section 1106 of Public
17.6 Law 116-136, as clarified by Title II, subtitle B, section 276(a)(i) of Public Law 116-260,
17.7 "Internal Revenue Code" means the Internal Revenue Code as amended through March 27,
17.8 2020.

17.9 **EFFECTIVE DATE.** This section is effective the day following final enactment, except
17.10 that changes incorporated by federal changes are effective retroactively at the same time
17.11 the changes were effective for federal purposes.

17.12 Sec. 16. Minnesota Statutes 2020, section 291.005, subdivision 1, is amended to read:

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

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

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

17.22 (3) "Internal Revenue Code" means the United States Internal Revenue Code of 1986,
17.23 as amended through December 31, 2018, except that for the purposes of exclusion from
17.24 gross income of paycheck protection loan forgiveness and allowable deductions of covered
17.25 expenses paid for with covered loans under section 1106 of Public Law 116-136, as clarified
17.26 by Title II, subtitle B, section 276(a)(i) of Public Law 116-260, "Internal Revenue Code"
17.27 means the Internal Revenue Code as amended through March 27, 2020.

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

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

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

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

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

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

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

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

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

For a nonresident decedent with an ownership interest in a pass-through entity with assets that include real or tangible personal property, situs of the real or tangible personal property, including qualified works of art, is determined as if the pass-through entity does not exist and the real or tangible personal property is personally owned by the decedent. If the pass-through entity is owned by a person or persons in addition to the decedent, ownership of the property is attributed to the decedent in proportion to the decedent's capital ownership share of the pass-through entity.

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

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

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

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

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

19.9 (v) an entity whose ownership interest securities are traded on an exchange regulated
19.10 by the Securities and Exchange Commission as a national securities exchange under section
19.11 6 of the Securities Exchange Act, United States Code, title 15, section 78f.

19.12 **EFFECTIVE DATE.** This section is effective the day following final enactment, except
19.13 that changes incorporated by federal changes are effective retroactively at the same time
19.14 the changes were effective for federal purposes.