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State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-FIFTH
SESSION**

HOUSE FILE No. 2359

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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 individual income taxation; allowing a capital gain exclusion;
1.3 amending Minnesota Statutes 2006, sections 290.01, subdivision 19b, as
1.4 amended; 290.091, subdivision 2.

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

1.6 Section 1. Minnesota Statutes 2006, section 290.01, subdivision 19b, as amended by
1.7 Laws 2007, chapter 1, section 2, is amended to read:

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

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

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

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

2.1 "textbooks" includes books and other instructional materials and equipment purchased
2.2 or leased for use in elementary and secondary schools in teaching only those subjects
2.3 legally and commonly taught in public elementary and secondary schools in this state.
2.4 Equipment expenses qualifying for deduction includes expenses as defined and limited in
2.5 section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional
2.6 books and materials used in the teaching of religious tenets, doctrines, or worship, the
2.7 purpose of which is to instill such tenets, doctrines, or worship, nor does it include books
2.8 or materials for, or transportation to, extracurricular activities including sporting events,
2.9 musical or dramatic events, speech activities, driver's education, or similar programs. 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 and
2.20 under the provisions of Public Law 109-1;

2.21 (7) for taxable years beginning before January 1, 2008, the amount of the federal
2.22 small ethanol producer credit allowed under section 40(a)(3) of the Internal Revenue Code
2.23 which is included in gross income under section 87 of the Internal Revenue Code;

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

2.32 (9) in each of the five tax years immediately following the tax year in which an
2.33 addition is required under subdivision 19a, clause (7), or 19c, clause (15), in the case
2.34 of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth
2.35 of the delayed depreciation. For purposes of this clause, "delayed depreciation" means
2.36 the amount of the addition made by the taxpayer under subdivision 19a, clause (7), or

3.1 subdivision 19c, clause (15), in the case of a shareholder of an S corporation, minus the
3.2 positive value of any net operating loss under section 172 of the Internal Revenue Code
3.3 generated for the tax year of the addition. The resulting delayed depreciation cannot be
3.4 less than zero;

3.5 (10) job opportunity building zone income as provided under section 469.316;

3.6 (11) the amount of compensation paid to members of the Minnesota National Guard
3.7 or other reserve components of the United States military for active service performed
3.8 in Minnesota, excluding compensation for services performed under the Active Guard
3.9 Reserve (AGR) program. For purposes of this clause, "active service" means (i) state
3.10 active service as defined in section 190.05, subdivision 5a, clause (1); (ii) federally
3.11 funded state active service as defined in section 190.05, subdivision 5b; or (iii) federal
3.12 active service as defined in section 190.05, subdivision 5c, but "active service" excludes
3.13 services performed exclusively for purposes of basic combat training, advanced individual
3.14 training, annual training, and periodic inactive duty training; special training periodically
3.15 made available to reserve members; and service performed in accordance with section
3.16 190.08, subdivision 3;

3.17 (12) the amount of compensation paid to Minnesota residents who are members
3.18 of the armed forces of the United States or United Nations for active duty performed
3.19 outside Minnesota;

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

3.32 (14) in each of the five tax years immediately following the tax year in which an
3.33 addition is required under subdivision 19a, clause (8), or 19c, clause (16), in the case of a
3.34 shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the
3.35 addition made by the taxpayer under subdivision 19a, clause (8), or 19c, clause (16), in the
3.36 case of a shareholder of a corporation that is an S corporation, minus the positive value of

4.1 any net operating loss under section 172 of the Internal Revenue Code generated for the
 4.2 tax year of the addition. If the net operating loss exceeds the addition for the tax year, a
 4.3 subtraction is not allowed under this clause;

4.4 (15) to the extent included in federal taxable income, compensation paid to a
 4.5 nonresident who is a service member as defined in United States Code, title 10, section
 4.6 101(a)(5), for military service as defined in the Service Member Civil Relief Act, Public
 4.7 Law 108-189, section 101(2); ~~and~~

4.8 (16) international economic development zone income as provided under section
 4.9 469.325; and

4.10 (17) to the extent included in federal taxable income, the amount of net capital gain,
 4.11 as that term is used in section 1(h) of the Internal Revenue Code. The amount of the
 4.12 subtraction is limited to the amount of qualifying property that the taxpayer purchases
 4.13 in the 12-month period beginning on the date of the sale or exchange that generated the
 4.14 capital gain. For purposes of this clause, qualifying property means property (i) held for
 4.15 productive use in a trade or business, (ii) held for investment, or (iii) consisting of stock,
 4.16 partnership interests, or similar equity ownership interests in entity engaged in a trade or
 4.17 business, but only if the stock or other interest is not traded on a public stock exchange.
 4.18 This clause expires for taxable years beginning after December 31, 2010.

4.19 Sec. 2. Minnesota Statutes 2006, section 290.091, subdivision 2, is amended to read:

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

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

4.24 (1) the taxpayer's federal alternative minimum taxable income as defined in section
 4.25 55(b)(2) of the Internal Revenue Code;

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

4.28 (i) the charitable contribution deduction under section 170 of the Internal Revenue
 4.29 Code:

4.30 (A) for taxable years beginning before January 1, 2006, to the extent that the
 4.31 deduction exceeds 1.0 percent of adjusted gross income;

4.32 (B) for taxable years beginning after December 31, 2005, to the full extent of the
 4.33 deduction.

4.34 For purposes of this clause, "adjusted gross income" has the meaning given in
 4.35 section 62 of the Internal Revenue Code;

- 5.1 (ii) the medical expense deduction;
- 5.2 (iii) the casualty, theft, and disaster loss deduction; and
- 5.3 (iv) the impairment-related work expenses of a disabled person;
- 5.4 (3) for depletion allowances computed under section 613A(c) of the Internal
- 5.5 Revenue Code, with respect to each property (as defined in section 614 of the Internal
- 5.6 Revenue Code), to the extent not included in federal alternative minimum taxable income,
- 5.7 the excess of the deduction for depletion allowable under section 611 of the Internal
- 5.8 Revenue Code for the taxable year over the adjusted basis of the property at the end of the
- 5.9 taxable year (determined without regard to the depletion deduction for the taxable year);
- 5.10 (4) to the extent not included in federal alternative minimum taxable income, the
- 5.11 amount of the tax preference for intangible drilling cost under section 57(a)(2) of the
- 5.12 Internal Revenue Code determined without regard to subparagraph (E);
- 5.13 (5) to the extent not included in federal alternative minimum taxable income, the
- 5.14 amount of interest income as provided by section 290.01, subdivision 19a, clause (1); and
- 5.15 (6) the amount of addition required by section 290.01, subdivision 19a, clauses
- 5.16 (7), (8), and (9);
- 5.17 less the sum of the amounts determined under the following:
- 5.18 (1) interest income as defined in section 290.01, subdivision 19b, clause (1);
- 5.19 (2) an overpayment of state income tax as provided by section 290.01, subdivision
- 5.20 19b, clause (2), to the extent included in federal alternative minimum taxable income;
- 5.21 (3) the amount of investment interest paid or accrued within the taxable year on
- 5.22 indebtedness to the extent that the amount does not exceed net investment income, as
- 5.23 defined in section 163(d)(4) of the Internal Revenue Code. Interest does not include
- 5.24 amounts deducted in computing federal adjusted gross income; and
- 5.25 (4) amounts subtracted from federal taxable income as provided by section 290.01,
- 5.26 subdivision 19b, clauses (9) to ~~(16)~~ (17).
- 5.27 In the case of an estate or trust, alternative minimum taxable income must be
- 5.28 computed as provided in section 59(c) of the Internal Revenue Code.
- 5.29 (b) "Investment interest" means investment interest as defined in section 163(d)(3)
- 5.30 of the Internal Revenue Code.
- 5.31 (c) "Tentative minimum tax" equals 6.4 percent of alternative minimum taxable
- 5.32 income after subtracting the exemption amount determined under subdivision 3.
- 5.33 (d) "Regular tax" means the tax that would be imposed under this chapter (without
- 5.34 regard to this section and section 290.032), reduced by the sum of the nonrefundable
- 5.35 credits allowed under this chapter.
- 5.36 (e) "Net minimum tax" means the minimum tax imposed by this section.

- 6.1 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
- 6.2 December 31, 2006.