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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **1073**

February 23, 2009

Authored by Solberg, Brod, Gardner, Zellers, Tillberry and others
The bill was read for the first time and referred to the Committee on Taxes

March 30, 2009

Committee Recommendation and Adoption of Report:
To Pass as Amended
Read Second Time

1.1 A bill for an act
1.2 relating to taxation; income; extending the exception to minimum contacts
1.3 required for jurisdiction to ownership of property on the premises of a printer
1.4 under specific circumstances; amending Minnesota Statutes 2008, section
1.5 290.015, subdivision 3.

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

1.7 Section 1. Minnesota Statutes 2008, section 290.015, subdivision 3, is amended to read:

1.8 Subd. 3. **Exceptions.** (a) A person is not subject to tax under this chapter if the
1.9 person is engaged in the business of selling tangible personal property and taxation of that
1.10 person under this chapter is precluded by Public Law 86-272, United States Code, title 15,
1.11 sections 381 to 384, or would be so precluded except for the fact that the person stored
1.12 tangible personal property in a state licensed facility under chapter 231.

1.13 (b) Ownership of an interest in the following types of property (including those
1.14 contacts with this state reasonably required to evaluate and complete the acquisition
1.15 or disposition of the property, the servicing of the property or the income from it, the
1.16 collection of income from the property, or the acquisition or liquidation of collateral
1.17 relating to the property) shall not be a factor in determining whether the owner is subject
1.18 to tax under this chapter:

1.19 (1) an interest in a real estate mortgage investment conduit, a real estate investment
1.20 trust, a financial asset securitization investment trust, or a regulated investment company
1.21 or a fund of a regulated investment company, as those terms are defined in the Internal
1.22 Revenue Code;

1.23 (2) an interest in money market instruments or securities as defined in section
1.24 290.191, subdivision 6, paragraphs (c) and (d);

2.1 (3) an interest in a loan-backed, mortgage-backed, or receivable-backed security
2.2 representing either: (i) ownership in a pool of promissory notes, mortgages, or receivables
2.3 or certificates of interest or participation in such notes, mortgages, or receivables, or (ii)
2.4 debt obligations or equity interests which provide for payments in relation to payments or
2.5 reasonable projections of payments on the notes, mortgages, or receivables;

2.6 (4) an interest acquired from a person in assets described in section 290.191,
2.7 subdivision 11, paragraphs (e) to (l), subject to the provisions of paragraph (c), clause
2.8 (2)(A);

2.9 (5) an interest acquired from a person in the right to service, or collect income from
2.10 any assets described in section 290.191, subdivision 11, paragraphs (e) to (l), subject to
2.11 the provisions of paragraph (c), clause (2)(A);

2.12 (6) an interest acquired from a person in a funded or unfunded agreement to extend
2.13 or guarantee credit whether conditional, mandatory, temporary, standby, secured, or
2.14 otherwise, subject to the provisions of paragraph (c), clause (2)(A);

2.15 (7) an interest of a person other than an individual, estate, or trust, in any intangible,
2.16 tangible, real, or personal property acquired in satisfaction, whether in whole or in part,
2.17 of any asset embodying a payment obligation which is in default, whether secured or
2.18 unsecured, the ownership of an interest in which would be exempt under the preceding
2.19 provisions of this subdivision, provided the property is disposed of within a reasonable
2.20 period of time; ~~or~~

2.21 (8) amounts held in escrow or trust accounts, pursuant to and in accordance with the
2.22 terms of property described in this subdivision; or

2.23 (9) any interest in tangible personal property upon which printing will take place
2.24 located at the premises of a printer which is not a member of a unitary business in this
2.25 state with which the person has a contract for printing.

2.26 (c)(1) For purposes of paragraph (b), clauses (4) to (6), an interest in the type of
2.27 assets or credit agreements described is deemed to exist at the time the owner becomes
2.28 legally obligated, conditionally or unconditionally, to fund, acquire, renew, extend, amend,
2.29 or otherwise enter into the credit arrangement.

2.30 (2)(A) An owner has acquired an interest from a person in paragraph (b), clauses
2.31 (4) to (6), assets if:

2.32 (i) the owner at the time of the acquisition of the asset does not own, directly or
2.33 indirectly, 15 percent or more of the outstanding stock or in the case of a partnership 15
2.34 percent or more of the capital or profit interests of the person from whom it acquired
2.35 the asset;

3.1 (ii) the person from whom the owner acquired the asset regularly sells, assigns, or
3.2 transfers interests in paragraph (b), clauses (4) to (6), assets during the 12 calendar months
3.3 immediately preceding the month of acquisition to three or more persons; and

3.4 (iii) the person from whom the owner acquired the asset does not sell, assign, or
3.5 transfer 75 percent or more of its paragraph (b), clauses (4) to (6), assets during the 12
3.6 calendar months immediately preceding the month of acquisition to the owner.

3.7 For purposes of determining indirect ownership under item (i), the owner is deemed to
3.8 own all stock, capital, or profit interests owned by another person if the owner directly
3.9 owns 15 percent or more of the stock, capital, or profit interests in the other person. The
3.10 owner is also deemed to own through any intermediary parties all stock, capital, and
3.11 profit interests directly owned by a person to the extent there exists a 15 percent or more
3.12 chain of ownership of stock, capital, or profit interests between the owner, intermediary
3.13 parties and the person.

3.14 (B) If the owner of the asset is a member of a unitary business, paragraph (b),
3.15 clauses (4) to (8), do not apply to an interest acquired from another member of the unitary
3.16 business. If the interest in the asset was originally acquired from a nonunitary member
3.17 and at that time qualified as a section 290.015, subdivision 3, paragraph (b), asset, the
3.18 foregoing limitation does not apply.

3.19 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
3.20 December 31, 2008.