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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **1638**

March 12, 2009

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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 taxation; modifying treatment of section 179 allowances; amending
1.3 Minnesota Statutes 2008, section 290.01, subdivisions 19a, 19c.

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

1.5 Section 1. Minnesota Statutes 2008, section 290.01, subdivision 19a, is amended to
1.6 read:

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

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

1.13 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue
1.14 Code, except the portion of the exempt-interest dividends derived from interest income
1.15 on obligations of the state of Minnesota or its political or governmental subdivisions,
1.16 municipalities, governmental agencies or instrumentalities, but only if the portion of the
1.17 exempt-interest dividends from such Minnesota sources paid to all shareholders represents
1.18 95 percent or more of the exempt-interest dividends that are paid by the regulated
1.19 investment company as defined in section 851(a) of the Internal Revenue Code, or the
1.20 fund of the regulated investment company as defined in section 851(g) of the Internal
1.21 Revenue Code, making the payment; and

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

2.1 (2) the amount of income or sales and use taxes paid or accrued within the taxable
2.2 year under this chapter and the amount of taxes based on net income paid or sales and use
2.3 taxes paid to any other state or to any province or territory of Canada, to the extent allowed
2.4 as a deduction under section 63(d) of the Internal Revenue Code, but the addition may not
2.5 be more than the amount by which the itemized deductions as allowed under section 63(d)
2.6 of the Internal Revenue Code exceeds the amount of the standard deduction as defined
2.7 in section 63(c) of the Internal Revenue Code. For the purpose of this paragraph, the
2.8 disallowance of itemized deductions under section 68 of the Internal Revenue Code of
2.9 1986, income or sales and use tax is the last itemized deduction disallowed;

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

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

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

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

2.23 (7) 80 percent of the depreciation deduction allowed under section 168(k) of the
2.24 Internal Revenue Code. For purposes of this clause, if the taxpayer has an activity that
2.25 in the taxable year generates a deduction for depreciation under section 168(k) and the
2.26 activity generates a loss for the taxable year that the taxpayer is not allowed to claim for
2.27 the taxable year, "the depreciation allowed under section 168(k)" for the taxable year is
2.28 limited to excess of the depreciation claimed by the activity under section 168(k) over the
2.29 amount of the loss from the activity that is not allowed in the taxable year. In succeeding
2.30 taxable years when the losses not allowed in the taxable year are allowed, the depreciation
2.31 under section 168(k) is allowed;

2.32 (8) 80 percent of the amount by which the deduction allowed by section 179 of the
2.33 Internal Revenue Code exceeds ~~the deduction allowable by section 179 of the Internal~~
2.34 ~~Revenue Code of 1986, as amended through December 31, 2003~~ \$100,000;

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

3.1 (10) the exclusion allowed under section 139A of the Internal Revenue Code for
3.2 federal subsidies for prescription drug plans;

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

3.4 (12) for taxable years beginning after December 31, 2006, and before January 1,
3.5 2008, the amount deducted for qualified tuition and related expenses under section 222 of
3.6 the Internal Revenue Code, to the extent deducted from gross income; and

3.7 (13) for taxable years beginning after December 31, 2006, and before January 1,
3.8 2008, the amount deducted for certain expenses of elementary and secondary school
3.9 teachers under section 62(a)(2)(D) of the Internal Revenue Code, to the extent deducted
3.10 from gross income.

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

3.13 Sec. 2. Minnesota Statutes 2008, section 290.01, subdivision 19c, is amended to read:

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

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

3.21 (2) interest not subject to federal tax upon obligations of: the United States, its
3.22 possessions, its agencies, or its instrumentalities; the state of Minnesota or any other
3.23 state, any of its political or governmental subdivisions, any of its municipalities, or any
3.24 of its governmental agencies or instrumentalities; the District of Columbia; or Indian
3.25 tribal governments;

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

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

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

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

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

4.3 (8) the exempt foreign trade income of a foreign sales corporation under sections
4.4 921(a) and 291 of the Internal Revenue Code;

4.5 (9) the amount of percentage depletion deducted under sections 611 through 614 and
4.6 291 of the Internal Revenue Code;

4.7 (10) for certified pollution control facilities placed in service in a taxable year
4.8 beginning before December 31, 1986, and for which amortization deductions were elected
4.9 under section 169 of the Internal Revenue Code of 1954, as amended through December
4.10 31, 1985, the amount of the amortization deduction allowed in computing federal taxable
4.11 income for those facilities;

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

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

4.19 (13) the amount of net income excluded under section 114 of the Internal Revenue
4.20 Code;

4.21 (14) any increase in subpart F income, as defined in section 952(a) of the Internal
4.22 Revenue Code, for the taxable year when subpart F income is calculated without regard
4.23 to the provisions of section 103 of Public Law 109-222;

4.24 (15) 80 percent of the depreciation deduction allowed under section 168(k)(1)(A)
4.25 and (k)(4)(A) of the Internal Revenue Code. For purposes of this clause, if the taxpayer
4.26 has an activity that in the taxable year generates a deduction for depreciation under
4.27 section 168(k)(1)(A) and (k)(4)(A) and the activity generates a loss for the taxable year
4.28 that the taxpayer is not allowed to claim for the taxable year, "the depreciation allowed
4.29 under section 168(k)(1)(A) and (k)(4)(A)" for the taxable year is limited to excess of the
4.30 depreciation claimed by the activity under section 168(k)(1)(A) and (k)(4)(A) over the
4.31 amount of the loss from the activity that is not allowed in the taxable year. In succeeding
4.32 taxable years when the losses not allowed in the taxable year are allowed, the depreciation
4.33 under section 168(k)(1)(A) and (k)(4)(A) is allowed;

4.34 (16) 80 percent of the amount by which the deduction allowed by section 179 of the
4.35 Internal Revenue Code exceeds ~~the deduction allowable by section 179 of the Internal~~
4.36 ~~Revenue Code of 1986, as amended through December 31, 2003~~ \$100,000;

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

5.3 (18) the exclusion allowed under section 139A of the Internal Revenue Code for
5.4 federal subsidies for prescription drug plans;

5.5 (19) the amount of expenses disallowed under section 290.10, subdivision 2;

5.6 (20) an amount equal to the interest and intangible expenses, losses, and costs paid,
5.7 accrued, or incurred by any member of the taxpayer's unitary group to or for the benefit
5.8 of a corporation that is a member of the taxpayer's unitary business group that qualifies
5.9 as a foreign operating corporation. For purposes of this clause, intangible expenses and
5.10 costs include:

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

5.14 (ii) losses incurred, directly or indirectly, from factoring transactions or discounting
5.15 transactions;

5.16 (iii) royalty, patent, technical, and copyright fees;

5.17 (iv) licensing fees; and

5.18 (v) other similar expenses and costs.

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

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

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

5.31 (i) income related to the direct or indirect acquisition, use, maintenance or
5.32 management, ownership, sale, exchange, or any other disposition of intangible property;

5.33 (ii) income from factoring transactions or discounting transactions;

5.34 (iii) royalty, patent, technical, and copyright fees;

5.35 (iv) licensing fees; and

5.36 (v) other similar income.

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

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

6.8 (22) the dividends attributable to the income of a foreign operating corporation that
6.9 is a member of the taxpayer's unitary group in an amount that is equal to the dividends
6.10 paid deduction of a real estate investment trust under section 561(a) of the Internal
6.11 Revenue Code for amounts paid or accrued by the real estate investment trust to the
6.12 foreign operating corporation;

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

6.16 (24) for taxable years beginning after December 31, 2006, and before January 1,
6.17 2008, the additional amount allowed as a deduction for donation of computer technology
6.18 and equipment under section 170(e)(6) of the Internal Revenue Code, to the extent
6.19 deducted from taxable income.

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