

2013 INDIVIDUAL INCOME TAX AND CORPORATE FRANCHISE TAX LEGISLATIVE BULLETIN (2013 Regular Session)

MINNESOTA REVENUE

Appeals and Legal Services Division
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Unless otherwise noted, the provisions discussed in this bulletin can be found in 2013 Minn. Laws, Chapter 143.

Angel investment credit. Minn. Stat. § 116J.8737, subd. 2 was amended to modify angel investment credit eligibility criteria. The old credit was only available for investments in companies in business less than 10 years. The credit is now also available for investments in medical device or pharmaceutical companies that have been in operation for less than 20 years. Additionally, the credit is not available for investment or companies that are either publicly traded or liquidated within 180 days after the qualifying investment. The expanded eligibility for medical companies is effective May 24, 2013 while the remainder of the changes are effective for small businesses certified by DEED after June 30, 2013.

Foreign operating corporation deduction. Minn. Stat. §§ 289A.08, subd. 3; 290.01, subd. 19b; 290.01, subd. 19c; 290.01, subd. 19d; 290.0921, subd. 3; and 290.17, subd. 4 were amended and Minn. Stat. §§ 290.01, subd. 6b and 290.0921, subd. 7 repealed to eliminate the foreign operating corporation (FOC) provisions of the corporate franchise tax. Effective for taxable years beginning after December 31, 2012.

Reporting requirements of regulated investment companies paying municipal bond interest. Minn. Stat. § 289A.12, subd. 14, was amended to remove the requirement that reporting of municipal bond interest and dividends paid is required only if the regulated investment company is required to register under chapter 80A, the Minnesota Securities Act. Effective May 24, 2013.

Electronic payment of withholding tax requirement. Minn. Stat. 289A.20, subd. 2 was amended to provide that once a taxpayer is required to submit withholding tax deposits electronically because their deposits for a fiscal year reached \$10,000, for all future years the deposits must be made electronically. The old law only required the electronic payments for the year following the reaching of the \$10,000 threshold. Effective for withholding due after June 30, 2013. Chapter 142, Article 5, Section 4.

Estimated tax payments for C corporations and exempt entities. Minn. Stat. § 289A.26, subd. 3, 4, 7, and 9, were amended to clarify the estimated-tax payment provisions apply to both C corporations that pay corporate franchise tax and exempt entities that pay unrelated business income tax. Effective May 24, 2013.

Railroad maintenance expenses. Minn. Stat. § 290.01, subs. 19b and 19d were amended to allow a subtraction from income for expenses not allowed in computing federal taxable income because the taxpayer elected to claim the railroad maintenance credit under section 45G(a) of the Internal Revenue Code. Effective for taxable years beginning after December 31, 2012.

Obsolete modifications. Minn. Stat. §§ 290.01, subd. 19c; 290.01, subd. 19d; and 290.0921, subd. 3 were amended to repeal obsolete language related to foreign sales corporations, extraterritorial

income, possessions tax credits, federal subsidies for prescription drug benefits, and the additional deduction amount for business donations of computers. Effective May 24, 2013.

Foreign royalty subtraction. Minn. Stat. §§ 290.01, subd. 19d; 290.0921, subd. 3; 290.095, subd. 2; 290.10, subd. 1; 290.17, subd. 4; 290.191, subd. 5; and 298.01, subd. 3b were amended to eliminate the subtraction for foreign royalty income. Effective for taxable years beginning after December 31, 2012.

Greater Minnesota Internship Credit. Minn. Stat. 290.06 was amended by adding a new subdivision (36) which allows some employers of interns working in Minnesota outside the seven county metropolitan area and the counties of Chisago, Isanti, Sherburne, and Wright, a refundable credit against the taxes imposed by chapter 290 of up to the lesser of \$2000 or 40% of the wages paid the intern. To qualify for the credit the employer of the intern must be part of the Greater Minnesota Internship Program established in the newly enacted section 136A.129. The Minnesota Office of Higher Education is allowed to distribute \$2,000,000 per year of credits among the public and private institutes of higher learning in Minnesota. The schools in turn can enter into agreements with employer to hire interns from the schools to work in outstate Minnesota and in return giving the employer eligibility to receive the new credit. The new section requires two joint reports by the Department of Revenue and the office of Higher Education on the effectiveness of the program, on February 1st of 2014 and 2015. Effective for tax years beginning after December 31, 2012.

New 4th tier income tax bracket. Minn. Stat. §290.06, subd. 2c was amended to add a 4th tier income tax rate of 9.85% at the following income levels:

Married filing joint	\$250,000
Head of household	\$200,000
Single	\$150,000
Married filing separate, estates and trusts	\$125,000

The existing first three income brackets in the statutes were adjusted to inflation adjustments made since those amounts were last changed in 2006. Effective for taxable years beginning after December 31, 2012.

Income tax inflation adjustments. Minn. Stat. § 290.06, subd. 2d was amended to modify the inflation adjustment of income tax brackets to reflect the changes made to the brackets and the creation of the new 4th tier. Effective for taxable years beginning after December 31, 2013.

Credit for past military service. Minn. Stat. §290.0677, subd. 2 was amended to make the credit available to individuals who have separated from military service who have been determined by the military to be eligible for compensation from a pension or other retirement pay from the federal government for service in the military, as computed under United States Code, title 10, sections 1401 to 1414, 1447 to 1455, or 12733. The prior law required that the military pension be paid for at least 20 years of military service or a 100% service connected disability rating. Effective for taxable years beginning after December 31, 2012.

Research and development credit. Minn. Stat. § 290.068, subs. 3 and 6a, were amended to make the research and development credit nonrefundable and to allow the credit against the income tax imposed on individuals, estates, trusts, and any member of a corporation's unitary group. The credit is not allowed against the minimum fee or alternate minimum tax, but any unused amount may be carried over for 15 years. Effective for taxable years beginning after December 31, 2012.

Historic structure rehabilitation credit: Minn. Stat. § 290.0681, subs. 1, 3(a), 3(c), 3(e), (4)(b), 4(c), 5 and 10 were amended, and new language was added to provide:

- The terms “federal credit,” “placed in service,” and “qualified rehabilitation expenditures” are defined according to section 47 of the IRC. Art. 6, § 16.
- The amount the historical society may charge a developer to apply for a state credit is increased. Art. 6, § 17.
- The historical society is required to notify a developer in writing of its determination if a project is eligible for a credit or grant; and the developer is provided a right to a contested case hearing to challenge the historical society's eligibility determination. Art. 6, § 17.
- An assignee is required to notify the commissioner within 30 days of the date that an assignment of the credit is made. The commissioner is required to prescribe the forms necessary for notifying the commissioner of the credit assignment. Art. 6, § 18.
- Credits passed through pursuant to section 290.0681, subd.5 are explicitly stated not to be an assignment. Art. 6, § 18.
- An agreement between the historical society and the recipient of a grant is permitted to provide that the grant be issued to another individual or entity. Art. 6, § 18.
- “Any other executed agreement” in addition to a pass-through entity's organizational documents is permitted to define how the credits are allocated within a pass-through entity. Art. 6, § 19.
- The sunset provisions of the program are extended by six years. Art. 6, § 20.

The effective date for all of the above provisions is May 24, 2013, but the effective date for the increased fee charged by the historical society is for applications first received on or after May 24, 2013.

Individual alternative minimum tax rate. Minn. Stat. §290.091, subd. 1 was amended to increase the individual alternative minimum tax rate from 6.4% to 6.75%. Effective for taxable years beginning after December 31, 2012.

Alternative minimum tax credit calculation. Minn. Stat, §290.091, subd. 2 and 3 were amended to provide that tentative minimum tax, which is used to calculate the alternative minimum tax credit, is equal to 6.75% (rather than 6.4%) of alternative minimum taxable income minus the taxpayer's exemption amount. Effective for taxable years beginning after December 31, 2012.

Minimum fee. Minn. Stat. § 290.0922, subd. 1, was amended to increase the minimum fee amounts and thresholds for corporations, partnerships, and S corporations by adjusting for inflation as measured by the consumer price index, from the year in which the original fee amounts were set. Paragraph “(c)” was also added, directing the commissioner to annually adjust the minimum fee

amounts and thresholds for inflation. Effective for taxable years beginning after December 31, 2012.

Foreign pass through and foreign disregarded entities. Minn. Stat. § 290.17, subd. 4 was amended to require that foreign entities (such as foreign partnerships and foreign disregarded entities) be included in the net income of the foreign entity's owner to the same extent included for federal income tax purposes. This amendment does not apply to foreign entities treated as a C corporation for federal income tax purposes. Effective for taxable years beginning after December 31, 2012.

Sales apportionment numerator. Minn. Stat. § 290.17, subd. 4 was amended to require that all sales of a unitary business made within Minnesota be included in the sales factor of a corporation that is both a member of the unitary business and subject to the corporate franchise tax. Effective for taxable years beginning after December 31, 2012.

Unity of ownership. Minn. Stat. § 290.17, subd. 4, was amended to clarify that unity of ownership does not exist when two or more corporations are involved unless there is, directly or indirectly, a common owner of more than 50%. Effective May 24, 2013.

Multistate Tax Compact. Minn. Stat. §§ 290.171, 290.173, and 290.174 regarding membership in the Multistate Tax Compact and Multistate Tax Commission were repealed. Minn. Stat. § 270C.03, subd. 1, was amended, granting the commissioner the authority to participate in audits performed by the Multistate Tax Commission for purposes of auditing corporate sales, excise, and income tax returns. Effective May 24, 2013.

REIT dividend received deduction. Minn. Stat. § 290.21, subd. 4 was amended to prohibit a corporation that receives dividends from a real estate investment trust (REIT) from taking a Minnesota dividend received deduction. Effective for taxable years beginning after December 31, 2012.

Withholding on payments to out of state contractors. Minn. Stat. § 290.9705 was amended to require state and local government units and other persons who in the regular course of business contract with certain non-Minnesota construction contractors to withhold 8% of payments due under the contract if the value of the contract exceeds \$50,000. The funds are held by the Department of Revenue as surety for payment of state taxes owed under the contract. Effective for payments made to contractors after December 31, 2013.

Household income for the property tax refund. Minn. Stat. § 290A.03, subd. 3 was amended to make several changes to the definition of household income for purposes of the property tax refund.

1. In computing the addition for contributions to a retirement account, taxpayers will only be required to include in income nontaxable contributions in excess of the retirement base amount, which for 2013 is \$5,500.
2. Claimants who make taxable contributions to a retirement account (such as an IRA or Roth IRA) will be allowed to subtract from income contributions up to the retirement base amount.

3. The “retirement base amount” is defined as the maximum allowable contribution to an IRA under section 219(b)(5)(A) of the Internal Revenue Code. For 2013, this amount is \$5,500. It will be adjusted for inflation for future years.
4. All nontaxable distributions from a retirement account or a Roth retirement account are includable in household income.
5. The addition of federally excludable tuition expenses was changed to reference the exclusion allowed under section 222 of the Code.
6. The addition for nontaxable unemployment compensation was removed. This has no substantive effect because under current law, all unemployment compensation is includable in federal adjusted gross income.

All of the changes are effective beginning with refunds based on property taxes payable in 2014 or rent paid in 2013.

Homeowner property tax refund calculation. Minn. Stat. § 290A.04, subd. 2 was amended to change the name of the relief available to homeowners to the “homestead credit refund”. There refund schedule was changed by decreasing the threshold percentage used to determine eligibility for the refund, for homeowners with household income between \$19,500 and \$105,300. Nonsubstantive changes were made to the income brackets and maximum refund amounts to reflect inflation adjustments made since those amounts were last changed in 2011. Effective for refunds based on property taxes payable in 2014 and thereafter.

Rent refund calculation. Minn. Stat. § 290A.04, subd. 2a was amended to increase the maximum rent refund available at all income levels. For example, the maximum refund at the lowest income levels was increased to \$2,000 from about \$1,600. Additionally, the formula for computing the refunds was changed by decreasing the threshold percentage for renters with incomes of \$31,030 or higher, which will generally result in increased refunds for those renters. Finally, all of the income ranges and maximum refunds were adjusted to reflect inflation adjustments made since those amounts were last changed in 2001. Effective for refunds based on rent paid in 2013 and following years.

Property tax refund inflation adjustment. Minn. Stat. § 290A.04, subd. 4 was amended to modify the annual inflation adjustment to the income ranges and maximum refunds amounts to reflect the changes to the homeowner and renter refund schedules. Effective for refunds based on taxes payable in 2014 and rent paid in 2013 and following years.

Notification of eligibility to potential homeowner claimants. Minn. Chapter 290A was amended by adding a new section 290A.28 that requires the commissioner to notify in writing or electronically, individual homeowners who might be eligible for the homeowner refund based on property taxes payable in 2014.

By May 15, 2014, each county auditor is required to send to the commissioner, in the form and manner prescribed by the commissioner, information related to all residential or agricultural homesteads, including the property taxes payable and the name, address and social security number of the owners.

By September 1, 2014, the commissioner is required to use the information received from the county auditor and information from income tax filings or other information to identify persons who did not file a property tax refund based on taxes payable in 2013 or 2014, but who the commissioner believes might be eligible for a refund of at least \$1,000. The commissioner is then required to notify those persons of their potential eligibility for the refund, including information on how to file.

By March 15, 2015, the commissioner is required to provide a written report to the chairs and ranking minority members of the house and senate tax committees. The report must include the number and dollar amount of refunds estimated prior to this notification law, the number of notifications sent to potential claimants, the preliminary estimate of number and dollar amount of claims and other outreach efforts undertaken by the commissioner. By February 1, 2016, the commissioner is required to submit another report to the chairs and ranking minority members that includes final information on the number of claimants and the dollar amount of claims for refund based on property taxes payable in 2014. The section is effective for refund claims based on property taxes payable in 2014.

Historic structure rehabilitation credit – effective date of program. Laws 2010, ch. 216, § 11 was amended to make the effective date of the historic structure rehabilitation program applicable to expenditures first paid by a developer or taxpayer after May 1, 2010 for rehabilitation that occurred after May 1, 2010. The new effective date is May 24, 2013 and applies retroactively for taxable years beginning after December 31, 2009 and for certified historic structures placed in service after May 1, 2010.

Exception for estimated tax resulting from rate change. An uncodified provision was enacted which provides that there is no addition to tax for any period before September 15, 2013, with respect to an underpayment of estimated tax, to the extent that the underpayment was created or increased by the passage of the 4th tier individual income tax rate. Effective for taxable years beginning after December 31, 2012.

Repealer. Minn. Stat. § 290.06, subd. 22a, was repealed. This was the credit for a nonresident's taxes paid to their state of domicile on the sale of a partnership interest that Minnesota also taxes. Effective for taxable years beginning after December 31, 2012.