

MINNESOTA • REVENUE

Department Technical Bill

April 7, 2011

	Yes	No
DOR Administrative Costs/Savings		X

Department of Revenue
Analysis of S.F. 869 (Ortman) / H.F. 1219 (Davids)

	<u>Fund Impact</u>			
	<u>F.Y. 2012</u>	<u>F.Y. 2013</u>	<u>F.Y. 2014</u>	<u>F.Y. 2015</u>
		(000's)		
General Fund	\$0	\$0	\$0	\$0

EXPLANATION OF THE BILL

A summary prepared by the Appeals and Legal Services Division of the Department of Revenue is attached.

REVENUE ANALYSIS DETAIL

The provisions of the bill are technical and are not expected to have an impact on state revenues.

Source: Minnesota Department of Revenue
Tax Research Division and
Property Tax Division, Research Unit
http://www.taxes.state.mn.us/taxes/legal_policy

sf0869(hf1219)_1 / cc

2011 DEPARTMENT OF REVENUE TECHNICAL BILL SUMMARY

MINNESOTA · REVENUE

Appeals and Legal Services Division
600 North Robert Street
Saint Paul, Minnesota 55146-2220

FINAL

Article 1. Income Tax

Sections 1 – 4, and 7. Individual income tax net operating losses. These sections make various clarifying amendments that only affect individual income taxpayers, estates and trusts who elect to carryback net operating losses generated in 2008 or 2009 for three, four or five years, as allowed federally under the Worker, Homeownership and Business Assistance Act of 2009. Minnesota law was amended in 2010 to allow those losses to be carried back for two years for Minnesota purposes, with unused losses carried forward for up to twenty years.

Section 1 amends Minn. Stat. § 290.01, subd. 19a, by adding paragraph (18) to require an addition to federal taxable income for deductions allowed in the computation of federal taxable income that are attributable to net operating losses which the taxpayer carried back for federal purposes.

Section 2 amends Minn. Stat. § 290.01, subd. 19b, by adding paragraph (18) to allow a subtraction from federal taxable income for the net operating losses allowed under Minn. Stat. § 290.095, subd. 11 (c). These are losses which the taxpayer carried back for federal purposes.

Section 3 amends Minn. Stat. § 290.06, subd. 2c, to modify the formula used to determine the tax of nonresidents and part year residents by changing the numerator of the fraction by the Minnesota portion of the addition to federal taxable income and the subtraction from federal taxable income attributable to net operating losses which the taxpayer carried back for federal purposes. Also changes the denominator of the fraction by the total addition and subtraction from federal taxable income attributable to those net operating losses.

Section 4 amends Minn. Stat. § 290.091, subd. 2, to require an addition in the computation of alternative minimum taxable income equal to the deductions allowed in the computation of federal taxable income that are attributable to net operating losses which the taxpayer carried back for federal purposes. Also allows a subtraction in the computation of alternative taxable income equal to the net operating loss allowed under Minn. Stat. § 290.095, subd. 11, paragraph (c).

Section 7 amends Minn. Stat. § 290.095, subd. 11, to allow a net operating loss deduction equal to the greater of taxable net income or alternative minimum taxable income.

All of the changes are effective retroactively for losses generated in taxable years beginning after December 31, 2007.

Section 2. Active duty military pay earned in Minnesota. Amends Minn. Stat. § 290.01, subd. 19b, paragraphs (10), (11) and (14), to clarify that Minnesota residents are allowed to subtract compensation paid for active duty military service performed in Minnesota only once in computing their Minnesota net income. Effective the day following final enactment.

Sections 5 and 6. Minimum fee exemption and definitions. Amends Minn. Stat. § 290.0922, subd. 2, to clarify that the exemption from the minimum fee imposed on corporations and partnerships is available only to qualified businesses that have all of their property and payroll located in a job opportunity building zone. Effective the day following final enactment.

Also amends Minn. Stat. § 290.0922, subd. 3, to clarify that only the property and payroll of a qualified business located in a job opportunity building zone are excluded from the definitions of “Minnesota property” and “Minnesota payrolls” for purposes of determining the minimum fee. Effective the day following final enactment.

Article 2. Property Tax

Section 1. Tax relief for destroyed properties. Amends Minn. Stat. § 273.1231, subd. 4, to change an incorrect reference to class 1c homestead dwellings. Class 1c is for the resort portion of homesteaded seasonal resorts. Homestead dwellings (the house, garage, and surrounding one acre) located on the properties are technically either class 1a or 1b. Eliminating the “1c” reference corrects that error. Effective the day following final enactment.

Section 2. Agricultural relative-homesteads and homesteads for spouses living apart. Amends Minn. Stat. § 273.124, subd. 1. The first change, in paragraph (d), adds the parents of the owner’s spouse to those relatives of the owner who can occupy the property and have it qualify as a homestead under this provision. The list of eligible occupants will be: parents, siblings, children or grandchildren of the owner or the owner’s spouse. This change, along with the similar change in the next section will provide an identical list of qualifying relatives for homestead treatment under both the agricultural relative-homestead provision and the special agricultural homestead provision. This brings more consistency and lessens administrative burdens. The second change, in paragraph (e), allows a full homestead for each spouse, instead of a 50% homestead, if the spouses are living apart due to one of the four reasons prescribed in statute, even if the spouses did not previously occupy one of the homesteads together. Both changes are effective for taxes payable in 2012 and thereafter.

Section 3. Special agricultural homesteads. Amends Minn. Stat. § 273.124, subd. 14. The first change, in paragraph (b)(i)(1) and (b)(iv), clarifies that contiguous class 2b, rural vacant land, is included for the purpose of administering the 40-acre minimum applicable to real property that can qualify for a special agricultural homestead. The existing requirements regarding farming the land are unchanged. The second change, in paragraph (b)(i)(2), adds “parents” to the list of who can be actively farming the land in order for it to qualify for the homestead classification under this allowance. The list of eligible active-farmers will be: grandchild, child, sibling, or parent of the owner or the owner’s spouse. The changes in par. (j) are necessary so that those provisions remain temporary, as they are under existing law. Effective the day following final enactment, except for the change adding parents is effective for taxes payable in 2012 and thereafter.

Sections 4, 5, and 6. Use deeds. Amends Minn. Stat. § 282.01, subd. 1a, to make a technical change in the definition of a park for purposes of an authorized public use, to require that the land include park-like improvements instead of mere amenities, to limit potential disagreements over what constitutes an amenity. Amends Minn. Stat. § 282.01, subsd. 1c and 1d, to clarify which of the new restrictions and allowances enacted in 2010 apply to use deeds executed both before and after the effective date of those laws; and to provide a 15-year limit on how long a political subdivision may keep these properties for a planned future use. Effective the day following final enactment.

Section 7. Deed preparation fees. Amends Minn. Stat. § 282.014 to make the deeds that do not involve typical sales (such as “targeted community” conveyances under Minn. Stat. § 282.01, subd. 1b) subject to the \$25 preparation fee. “Use” deeds and replacement deeds are excepted because they have separate, specific provisions. Effective for deeds executed by the commissioner of revenue after June 30, 2011.

Section 8. Minerals. Amends Minn. Stat. § 282.12 to clarify that minerals are reserved to the state in transactions involving forfeited lands, even if the transaction is not a traditional sale. Effective retroactively from July 1, 2010.

Section 9. Repealer.

(1) Minn. Stat. § 272.02, subd. 34, is repealed. This subdivision states that the property tax exemptions in § 272.02, subdivisions 1 through 33 are subject to certain limits or restrictions that are either redundant (given the limits and restrictions in § 272.02, subd. 1a), or obsolete (given the changes in the property tax treatment of low-income housing over recent years). Effective the day following final enactment.

(2) Minn. Stat. § 273.124, subd. 10, is repealed. This subdivision, for people prevented from occupying newly-purchased property on January 2 of the assessment year, is redundant because subdivision 9 of this statute recognizes any new homestead established before December 1 of the assessment year. Effective the day following final enactment.

(3) Minn. Stat. § 281.37 is repealed. This statute prescribes an interest rate to apply to delinquent taxes in cases where the land has erroneously not been placed on the current year’s delinquent tax list; but that conflicts with the more recent interest provisions in Minn. Stat. § 279.03, subd. 1a(a). Effective the day following final enactment.

Article 3. Sales and Use Tax

Section 1. Aggregate. Amends Minn. Stat. § 297A.61, subd. 3(g)(5), to clarify that the delivery of concrete block by a third party, where the delivery would be subject to sales tax if provided by the seller of the concrete block, is not excluded from the sales tax. Effective the day following enactment.

Section 2. Computer software. Amends Minn. Stat. § 297A.61 to add a subdivision 17c to make explicit that the term “installation” for purposes of prewritten computer software includes all the steps necessary to take the software from the distribution files to where it will be executed. This provision follows current rules and administrative practice. Effective the day following final enactment.

Section 3. Low income housing. Current law provides a sales tax exemption for the purchase of construction materials used in certain low-income housing projects. Amends Minn. Stat. § 297A.71, subd. 23, to replace a reference to the repealed low-income housing property tax provision, Minn. Stat. § 273.126, with its replacement, Minn. Stat. § 273.128. Effective the day following final enactment.

Section 4. Direct pay. Amends Minn. Stat. § 297A.89, subd. 2, to clarify that the commissioner does not issue direct pay exemption certificates to purchasers; rather, purchasers designate their direct pay status on a fully completed exemption certificate that they provide to retailers. Effective the day following final enactment.

Section 5. Sales tax on motor vehicle paid to another state. Amends Minn. Stat. § 297B.08 to clarify that the state rate by which the other state’s rate is to be compared for purposes of a credit, is the rate in Minn. Stat. ch. 297B. Effective the day following final enactment.

Article 4. Special Taxes

Petroleum

The following 4 proposed amendments relate to the petroleum tax debt service surcharge. Related proposals to update department of natural resource account references are in a department of natural resource bill.

Section 1. Apportionment. Amends Minn. Stat. § 296A.083 by adding a new subdivision 4, to clarify that the surcharge under this section is subject to the apportionment provisions of Minn. Stat. § 296A.18. Effective the day following final enactment.

Section 2. Computation of non-highway use amounts. Amends Minn. Stat. § 296A.18 by moving the provisions of subdivision 9 to a new subdivision 6a, to clarify the computation and transfer of non-highway use amounts. Effective the day following final enactment.

Section 3. Forest road. Amends Minn. Stat. § 296A.18, subd. 7, by moving language referencing interest and penalties from subdivision 9. Effective the day following final enactment.

Section 7. Repealer. Repeals Minn. Stat. § 296A.18, subd. 9, which is now obsolete since the language has been moved to a new subdivision 6a. Effective the day following final enactment.

Insurance

Section 4. Federal Employees Health Benefits Act. Amends Minn. Stat. § 297I.15 to add a new subdivision 12, to exclude payments from the Federal Employees Health Benefits Program from taxes and surcharges that are imposed under Minn. Stat. ch. 297I. Effective the day following final enactment.

Minerals/Mining

Section 5. Production tax guaranteed distribution. Amends Minn. Stat. § 298.225, subd. 1, correcting two citations to Minn. Stat. § 298.28, regarding the distribution of production tax proceeds. Effective the day following final enactment.

Section 6. Production tax school district distributions. Amends Minn. Stat. § 298.28, subd. 2, to clarify that overages in all taconite school district overages are distributed to cities and townships located within the school district. Effective the day following final enactment.

Article 5. Miscellaneous

Section 1. Tax forms. Amends Minn. Stat. § 270C.30 to clarify that the commissioner can prescribe the content and format of all forms required to be filed under a law administered by the commissioner. Effective the day following final enactment.

Section 2. Waiver authority. Amends Minn. Stat. § 469.319, subd. 5, to clarify that there is a single sixty-day limitation period for taxpayers to request a waiver of the obligation to repay Job Opportunity Building Zone tax benefits. This change reflects the intent of a 2010 law change that established the sixty-day limitation period for taxpayers to petition the commissioner of revenue for a waiver under this section. Effective for waivers requested in response to notices issued after the day following final enactment.