

MINNESOTA • REVENUE

Department Technical Bill

March 14, 2012

	Yes	No
DOR Administrative Costs/Savings		X

Department of Revenue
Analysis of S.F. 2136 (Ortman) / H.F. 2690 (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 not expected to have an impact on state revenues.

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

sf2136(hf2690)_1 / cc

2012 DEPARTMENT OF REVENUE TECHNICAL BILL SUMMARY

MINNESOTA • REVENUE

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

S.F. 2136 / H.F. 2690

ARTICLE 1: INDIVIDUAL INCOME AND CORPORATE FRANCHISE TAXES

Sections 1, 8, and 9. Field audit definition. Removes the definition of “field audit” from Minn. Stat. § 289A.38, subd. 9 and the cross-reference from section 289A.42, subd. 2. Moves the definition to Minn. Stat. § 289A.02 by adding a subdivision and clarifies that a field audit is completed at the later of: an order of assessment or notification that no change will be made. Effective the day following final enactment.

Sections 2, 3, 4, and 5. Estimated tax payments for C corporations and exempt entities. Amends Minn. Stat. § 289A.26, subsd. 3, 4, 7, and 9, to clarify that the estimated-tax-payment provisions provided by section 289A.26 apply to both C corporations that pay corporate franchise tax and exempt entities that pay unrelated business income tax. Effective the day following final enactment.

Sections 6, 7, and 10. Time requirement to report federal tax changes. Amends Minn. Stat. § 289A.38, subsd. 7 and 8, and Minn. Stat. § 289A.60, subd. 24, to clarify the 180-day requirement to report federal tax changes and the penalty that applies if the time requirement is not met. Effective the day following final enactment.

Sections 7 and 8. Time period to assess after a federal tax change. Amends Minn. Stat. § 289A.38, subsd. 8 and 9, to clarify that the Department may reassess tax, including refund, within the shorter of 6.5 years after a federal change or one year after the taxpayer notifies the department of a federal change, notwithstanding any general statute of limitation to the contrary. Also clarifies that if the Department has completed a field audit, then the scope of Department changes are limited to those that relate to the federal tax change items. Effective the day following final enactment.

Sections 11 and 15. Possessions tax credit modifications. Amends Minn. Stat. § 290.01, subd. 6b and Minn. Stat. § 290.0921, subd. 3, to repeal obsolete references to Internal Revenue Code § 936. Effective for taxable years beginning after December 31, 2011.

Sections 12, 13, and 14. Extraterritorial income modifications. Amends Minn. Stat. § 290.01, subsd. 19c and 19d, to repeal obsolete modifications for federal extraterritorial income. Also amends cross references found in Minn. Stat. §§ 290.01, subsd. 19b and 19d, and 290.0921, subd. 3. Effective for taxable years beginning after December 31, 2011.

Section 16. Net operating loss. Amends Minn. Stat. § 290.095, subd. 3, to clarify that the computation of a net operating loss reflects both Minnesota business loss and Minnesota non-business loss. Effective the day following final enactment.

Section 17. Unity of ownership. Amends Minn. Stat. § 290.17, subd. 4, 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 the day following final enactment.

ARTICLE 2: ESTATE TAXES

Section 1. Recapture tax – return required. Adds subdivision 1a to Minn. Stat. § 289A.10 to require a return if there is a disqualifying cessation of the trade or business or a disqualifying of the property that was excluded from the taxable estate. Effective for estates of decedents dying after June 30, 2011.

Section 2. Recapture tax – informational return required. Adds subdivision 18 to Minn. Stat. § 289A.12 to require an annual informational return during the three-year period after a decedent's death if the decedent excluded from the taxable estate qualified small business or qualified farm property. Effective for estates of decedents dying after June 30, 2011.

Section 3. Recapture tax – return due date. Adds subdivision 3a to Minn. Stat. § 289A.18 to clarify the due date of the recapture tax return: 6 months after a disqualifying cessation of the trade or business or a disqualifying disposition of the property that was excluded from the taxable estate. Effective for estates of decedents dying after June 30, 2011.

Sections 4, 5, and 6. Recapture tax – payment due date. Amends Minn. Stat. § 289A.20, subd. 3; adds subdivision 3a to Minn. Stat. § 289A.20; and amends Minn. Stat. § 291.03, subd. 11; to clarify the recapture tax payment due date: on or before 6 months after a disqualifying cessation of the trade or business or a disqualifying disposition of the property that was excluded from the taxable estate. Effective for estates of decedents dying after June 30, 2011.

ARTICLE 3: PROPERTY TAX

Sections 1, 5, 7, 8, and 12. Homestead applications and homestead penalties. Amends Minn. Stat. § 273.124, subd. 13. Paragraph (c) is amended to provide that tax return information supplied to the assessor to support an application for a property tax classification benefit remains private data, as is the case now for tax information such as social security numbers supplied on a homestead application. Amends paragraph (f), to remove obsolete language related to mailing homestead applications which was not removed when the annual mailing requirement was removed in 1993. For the sake of clarity, paragraphs (g), (h) thru (j), (k), and (l), of the current subdivision 13 are converted to subdivisions 13a, 13b, 13c and 13d, respectively. Amends Minn. Stat. §§ 13.4965, subd. 3; 273.1315, subs. 1 and 2; and 290A.25 to update cross-references. Effective the day following final enactment.

Sections 2 and 14. Assessor's duties. Amends Minn. Stat. § 270.41, subd. 5, to modify the list of non-tax property appraisals that an assessor may perform within the jurisdiction within which they are the assessor, so that county assessors are allowed to do appraisals related to land exchanges in accordance with the recently amended Minn. Stat. § 373.01, subd. 1(e). Amends Minn. Stat. 373.01, subd. 1(e) to provide that the county assessors need not be licensed as a real estate appraiser under Minn. Stat. ch. 82B in order to do these appraisals. Effective the day following final enactment.

Section 3. Correct cross citation reference for air flight property tax penalties. Amends Minn. Stat. § 270C.34, subd. 1, to add a citation to Minn. Stat. § 270.075 allowing the commissioner to abate air flight property tax late payment penalties. The statute refers to both late payment and late filing penalties but only cross references the late filing penalties in § 270.0725. Including a cross reference to the late payment penalties in § 270.075 clarifies that the commissioner has the power to

abate both late payment and late filing penalties upon finding reasonable cause. Effective the day following final enactment.

Sections 4 and 9. Usage taxation. Amends Minn. Stat. § 272.01, subd. 2(d), to clarify that taxes on the use of federal real property are assessed as a personal property tax against the user. Amends Minn. Stat. § 273.19, subd. 1, to clarify that the tax under that section on leased exempt property applies in the case of property owned by a local unit of government. Effective the day following final enactment.

Section 6. Agricultural homesteads. Amends Minn. Stat. § 273.13, subd. 23, para. (f), to clarify that intensive equipment or grain storage is an agricultural use for lands smaller than ten acres only when the grain belongs to the owner of the land. Effective the day following final enactment.

Section 10. Definition of rural area for electrical cooperatives per capita tax. Amends Minn. Stat. § 273.39, the definition of rural area, to refer to “statutory cities” and “home rule charter cities”. This technical change is necessary because the current statute refers only to “incorporated city”, a designation that no longer exists. All cities are now either statutory cities or home rule charter cities. Effective beginning with assessment year 2012.

Section 11. Notice of delinquent property tax. Amends Minn. Stat. § 279.06, subd. 1, to eliminate obsolete text from the notice regarding the various times within which the owners of different types of property may avoid a forfeiture of the property by paying the taxes, costs, and interest. Replaces that language with an instruction that the commissioner of revenue will provide a correct and complete narrative description of the various redemption periods that the respective county auditors will include in the notice. Effective for notices required beginning in 2013.

Section 13. Senior citizens’ property tax deferral program. Amends Minn. Stat. § 290B.04, subd. 2, to allow the commissioner to prescribe the form of the lien notices recorded under this program, eliminating the need for these lien notices to be notarized or contain a statutorily-prescribed notation that the document was drafted by the commissioner of revenue. This will allow for greater consistency between the electronically-generated lien notice forms used by the commissioner. Effective for lien notices that are both executed and recorded after June 30, 2012.

Section 15. Repealer.

Paragraph (a).

Repeals Minn. Stat. § 272.69. This statute imposes a gross misdemeanor penalty if a lessor of tangible personal property fails to file a list of all leased items with the commissioner by February 15 each year. This requirement is obsolete. Effective the day following final enactment.

Paragraph (b).

Repeals Minn. Stat. § 273.11, subd. 22. This statute provided a limited, one-year value exclusion for residential property if qualifying investments reducing the hazards related to lead paint were made prior to July 1, 2010. The provision is obsolete beginning with taxes payable in 2013. Effective for taxes payable in 2013 and thereafter.

ARTICLE 4: SALES AND USE TAXES; SPECIAL TAXES

Mortgage and Deed

Section 1. Deed tax; partitions. Amends Minn. Stat. § 287.20, by adding the new subdivision 11. This subdivision defines a real property “partition” for purposes of the existing exemption for

partition deeds (i.e., a deed to or from a co-owner partitioning their undivided interest in the same piece of real property). The definition implements a long-standing department interpretation that the exemption only applies to a deed, or that portion of a deed, that divides a contiguous tract of co-owned real property into physically separate tracts owned individually by each of the co-owners. Effective the day following final enactment.

Insurance

Section 2. Retaliatory provisions. Amends Minn. Stat. § 297I.05, subd. 11(d), to strike an obsolete reference and to include life insurance companies in the list of sections that are covered by the retaliatory tax provisions. These provisions cover foreign companies that may do business in Minnesota and thus should cover life insurance companies as well. This is a correction of an oversight that occurred when the rates for life insurance companies were lowered, beginning in 2006. Effective day following final enactment.

Sales

Section 3. Purpose statements from 2011. Amends Laws 2011, 1st Spec. Sess., Chapter 7, Article 10, Section 7, subdivisions 5 and 6, to clarify that the sales tax exemption described in subdivision 5 was for certain milling and grinding materials used in processing minerals, and not for minerals processing equipment, and to clarify in subdivision 6 the sales tax treatment of admission tickets that are resold. Effective retroactively to July 21, 2011, which was the effective date of this session law.

ARTICLE 5: MINERALS

Section 1. Net proceeds tax, property tax exemption. Amends Minn. Stat. § 272.02, subd. 97, deleting the exemption from property tax for “direct reduced ore” subject to the net proceeds tax. Direct reduced ore is defined as an iron ore product; the net proceeds tax only applies to nonferrous ores, metals or minerals, so direct reduced ore is not subject to the net proceeds tax and the exemption cannot apply. Effective the day following final enactment.

Section 2. Non ferrous occupation tax, mining. Amends Minn. Stat. § 298.01, subd. 3, to provide a definition of the term “hydrometallurgical processes” that is used in that subdivision. Effective the day following final enactment.

Section 3. Net Proceeds Tax. Amends Minn. Stat. § 298.018, subd. 2, regarding the distribution of net proceeds taxes paid on mining or extraction of ores, metals, or minerals outside the taconite assistance area. The amendment conforms the distribution language to the language imposing the tax in section 298.015. Effective the day following final enactment.

ARTICLE 6: MISCELLANEOUS

Section 1. Void warrants. Amends Minn. Stat. § 16A.46 to clarify that a holder of a void warrant is not a holder-in-due-course and may not recover against the state. Effective the day following final enactment.

Sections 2 through 12. Uniform interest on penalties. Amends Minn. Stat. §§ 270C.42, subd. 2, 287.385, 289A.55, subd. 9, 289A.60, subd. 4, 296A.22, subds. 1 and 3, 297E.14, subd. 7, 297F.09, subd. 9, 297F.18, subd. 7, 297G.09, subd. 8, 297G.17, subd. 7, and 297I.80, subd. 1, to provide a

single, uniform statement of the rule regarding when interest on penalties accrues. Currently, there are multiple places in the statutes where the rule is stated in various ways. These sections adopt a single rule that interest accrues on a penalty from the date it is assessable. Effective the day following final enactment.