DEPARTMENT OF REVENUE

CORPORATE FRANCHISE TAX
Tax Havens

March 19, 2019

	Yes	No
DOR Administrative Costs/Savings	X	

Department of Revenue
Analysis of H.F. 1849 (Hornstein)

	Fund Impact			
	F.Y. 2020	**F.Y. 2021**	**F.Y. 2022**	**F.Y. 2023**
		(000's)		
General Fund	$49,300	$36,800	$36,600	$37,200

Effective beginning tax year 2019.

EXPLANATION OF THE BILL

Current Law: Under current law, only corporations chartered in the United States are included in the unitary group. Corporations chartered in foreign countries are excluded from the unitary group.

Proposed Law: Corporations chartered in foreign countries could be included in the unitary group provided they meet the conditions of one of three different paths for inclusion.

The first path for inclusion is based on the country where a corporation is chartered. A corporation would be included in the unitary group if it were chartered in any one of the thirty-five countries specified as tax havens. The list is a modification of work first done in 1998 by the Organization for Economic Cooperation and Development (OECD).

The second path for inclusion into the unitary group is based on how much of a foreign corporation's economic activity takes place in tax haven countries. The measure of economic activity is gross income. If a corporation has 20% or more of its gross income attributable to tax haven countries, the corporation would be included in the unitary group

The third path for inclusion into the unitary group is based on a calculation of United States apportionment factors (property, payroll, and sales.) If a foreign corporation has an average percentage of its United States apportionment factors that is 20% or more of the grand total of all its apportionment factors, it would be included in the unitary group.

A country can be removed from the tax haven list if the country agrees to be subject to a tax exchange agreement between itself and the United States. The agreement must be one that provides for prompt, obligatory, and automatic exchange of information. Removal from the list is effective the first taxable tax year after the country complies.

REVENUE ANALYSIS DETAIL

- The estimate is based on the experience in Montana and Oregon with a similar law.
- The scope of the list under Montana and Oregon law is broader than the list in this bill. The estimate was reduced to reflect the more narrow scope of the bill.

REVENUE ANALYSIS DETAIL (Cont.)

- Under the laws of Connecticut, District of Columbia, Rhode Island, and West Virginia, tax officials have criteria to determine if a country is a tax haven. No data was available on the experience of those states.
- If Minnesota adopts the global intangible low-tax income (GILTI) provision of the 2017 federal tax bill, the estimate would be reduced 10% to account for possible interaction between this bill and the federal GILTI provision.
- All of tax year 2019 revenue gain was allocated to fiscal year 2020. Other tax years were allocated 30/70 to fiscal years.

Minnesota Department of Revenue
Tax Research Division
www.revenue.state.mn.us/research_stats/Pages/Revenue-Analyses.aspx

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