

March 1, 2021

	Yes	No
DOR Administrative Costs/Savings		X

Department of Revenue
Analysis of H.F. 1285 (Marquart)

	Fund Impact			
	<u>F.Y. 2022</u>	<u>F.Y. 2023</u>	<u>F.Y. 2024</u>	<u>F.Y. 2025</u>
		(000's)		
General Fund	\$0	\$0	\$0	\$0

EXPLANATION OF THE BILL

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

REVENUE ANALYSIS DETAIL

The bill is not expected to have an impact on state tax revenues.

Casualty and Theft Losses (Article 1, Sec. 4)

- There is no revenue change associated with proposal because it clarifies the language consistent with the department’s interpretation of current law and is consistent with the definition of losses for the federal deduction.

Partnership Audits (Article 2)

- The amount assessed on the partnership under current law is assumed to be equal to the amount that would be assessed on the underlying partners. There is no change in revenue associated with the proposal.

Minnesota Department of Revenue
Tax Research Division
<https://www.revenue.state.mn.us/revenue-analyses>

**2021 DEPARTMENT OF REVENUE
POLICY/TECHNICAL BILL SUMMARY**



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

FINAL 2/9/21

ARTICLE 1: INCOME AND CORPORATE FRANCHISE TAXES

Section 1. Composite income tax returns for nonresident partners, shareholders, and beneficiaries. Amends Minn. Stat. § 289A.08, subd. 7, to clarify that the taxable income computed for purposes of composite returns includes the modifications for foreign income. Effective retroactively for taxable years beginning after December 31, 2015.

Sections 2, 5-12, and 14. Withholding. Amends the following sections: Minn. Stat. § 289A.09, subd. 2; Minn. Stat. § 290.92, subs. 1(5), 2a(3), 3, 4b, 4c, 5, 5a, 19; and Minn. Stat. § 290.923, subd. 9, to refer to withholding exemptions as withholding allowances consistent with conforming federal law. Also amends Minn. Stat. § 290.92, subd. 5, so that withholding allowances are based on newly codified state definitions for the standard deduction (including the additional amount for the blind and seniors), dependent exemption found at Minn. Stat. § 290.0121, subd. 1, itemized deductions provided in Minn. Stat. § 290.0122 and providing the Commissioner with discretion to adjust withholding in the best interests of determining the proper amount to withhold as is provided under 26 U.S.C.A. 3402(m)(3). Effective for taxable years after December 31, 2020.

Section 3. Inflation Adjustment. Amends Minn. Stat. § 290.0121, subd. 3, to remove superfluous language regarding the rounding of the inflation adjustment. This language is unnecessary because there is already rounding language in the previous sentence. Effective the day following final enactment.

Section 4. Losses. Amends Minn. Stat. § 290.0122, subd. 8, to make clear that only casualty and theft losses as defined in sections 165(c)(3) and 165(d) of the Internal Revenue Code, to the extent not compensated by insurance or otherwise, are deductible for state income tax purposes. It also makes clear that the limitations provided in section 165(h), not including section 165(h)(5), and 67(b)(3) of the Internal Revenue Code also apply. Effective the day following final enactment.

Section 13. Miscellaneous withholding arrangements. Amends Minn. Stat. § 290.92, subd. 20, to require that a financial institution withhold Minnesota income tax on any periodic payment or nonperiodic distribution for Minnesota residents, unless the Minnesota resident requests that the financial institution not withhold. Effective for payments and distributions made after December 31, 2021.

Section 15. Special Limited Adjustment. Amends Minn. Stat. § 290.993 to clarify that the special limited adjustment applies to individuals, estates, and trusts. Effective retroactively for taxable years beginning after December 31, 2017, and before January 1, 2019.

ARTICLE 2: PARTNERSHIP TAX

Sections 1-7 and 10-15. Various conforming changes. Amends Minn. Stat. §§ 270C.445, subd. 6; 289A.31, subd. 1; 289A.37, subd. 2; 289A.38, subs. 7-10; 289A.42; 289A.60, subd. 24; 290.31, subd. 1; 297F.17, subd. 6; 297G.16, subd. 7; and 469.319, subd. 4; to correct cross references and generally comport with the changes in other sections.

Section 8. Definitions relating to federal adjustments. Amends Minn. Stat. ch. 289A, by adding Minn. Stat. § 289A.381, which contains various definitions relating to the reporting of federal adjustments, and federal adjustments to partnership returns.

Section 9. Reporting adjustments following a partnership level audit. Amends Minn. Stat. ch. 289A, by adding Minn. Stat. § 289A.382, which provides for the reporting of federal adjustments following a partnership level audit by the IRS. By default, each partnership will be required to file a federal adjustments report related to federal changes, and submit the report to both Minnesota and its direct partners within 90 days. Each partnership reporting changes must also file amended composite and withholding reports for nonresident partners within 180 days. Each direct partner, other than a tiered partner, receiving an adjustment report as described above is also required to make a federal adjustment report and pay any additional tax due within 180 days of the final determination date.

Each partnership reporting federal adjustments after a partnership level audit is also eligible to make an election to pay the additional tax due to Minnesota at the entity level. A partnership making the election is required to do so on a federal adjustments report filed with the commissioner within 90 days of the final determination date. A partnership making the election must be able to determine and report the residency status of all direct and indirect individual partners, and pay tax on the properly allocated and apportioned share of all income at the highest marginal rate for its individual and corporate partners.

Effective date. This article is effective retroactively for taxable years beginning after December 31, 2017, except that for partnerships that make an election under Code of Federal Regulations, title 26, section 301.9100-22T, this article is effective retroactively and applies to the same tax periods to which the election relates.

ARTICLE 3: PROPERTY TAX AND LOCAL GOVERNMENT AIDS

Section 1. Board of Assessors reports. Amends Minn. Stat. § 270.41, subd. 3a, by combining separate reports to the Governor and the Legislature into a single report containing the same information required under current law. Effective for reports issued in 2022 and thereafter.

Section 2. Board of Assessors fees. Amends Minn. Stat. § 270.44, by removing the fee for record retention by the Board, as assessor training records are now kept electronically and the Board does not charge this fee. Effective the day following final enactment.

Sections 3 & 4. Definitions. Amends Minn. Stat. §§ 272.029, subd. 2, and 272.0295, subd. 2, to clarify that the construction date of a wind energy conversion system, or a solar energy generating system, is not altered if the system is replaced, repaired, or otherwise maintained or altered. Effective the day following final enactment.

Section 5. Notification of tax. Amends Minn. Stat. § 272.0295, subd. 5, to allow the commissioner to correct clerical errors until December 31. Effective the day following final enactment.

Section 6. Assessor powers and duties. Amends Minn. Stat. § 273.063, by clarifying that the “powers and duties” performed by a city assessor in a county having a city of the first class are the powers and duties identified in section 273.061, subd. 8. Effective the day following final enactment.

Section 7. Assessor education. Amends Minn. Stat. § 273.0755, by specifying that licensed assessors must complete 30 hours of education on Minnesota laws, assessment administration, and administrative procedures, which may be spread out over every four-year licensing cycle, rather than mandating completion of a single weeklong course on these topics. Effective retroactively for the four-year licensing period starting on July 1, 2020, and thereafter.

Sections 8, 9, & 11. Lake Vermilion-Soudan Underground Mine State Park PILT. Payment in-lieu of taxes (PILT) references in Minn. Stat. §§ 273.124, subd. 14; 273.18; and 477A.10, are amended to include a cross-reference to Minn. Stat. § 477A.17, the Lake Vermilion-Soudan Underground Mine State Park PILT statute. Effective the day following final enactment.

Section 10. Exemptions. Amends Minn. Stat. § 287.04, to allow an exemption for mortgage loans made under low or moderate income housing program if the assignee of the mortgage is a governmental agency. Currently, the governmental agency must be listed as the mortgagee for the exemption to apply. It also corrects the format to reflect that the exemptions under § 287.04 are listed as clauses, not paragraphs. This section is effective for mortgages recorded after June 30, 2021.

ARTICLE 4: SALES AND USE TAX

Section 1. Accelerated tax payments. Amends Minn. Stat. § 289A.20, subd. 4, so that the June accelerated sales tax payment percentages referred to in paragraph (c), clause (2), correctly match with the percentages specified in paragraph (b), clause (1). Effective the day following final enactment.

Section 2. Liquor gross receipts tax. Amends Minn. Stat. § 295.75, subd. 2, to clarify that a liquor retailer may (but is not required to) collect the liquor gross receipts tax from the purchaser and the tax is excluded from sales price for purposes of sales tax if separately stated on the receipt given to the purchaser. Effective the day following final enactment.

Section 3. Marketplace provider liability. Amends Minn. Stat. § 297A.66, subd. 3, by adding language to paragraph (a) clearly indicating that a marketplace provider is deemed to be the retailer or seller for all retail sales the marketplace provider facilitates. Effective the day following final enactment.

Section 4. Repealer. Repeals Minn. Stat. § 270C.17, subd. 2, which requires local units of government, whose tax is administered by the department, to pay for new computer system development costs. Subdivision 2 is unnecessary as the commissioner is required to deduct from the proceeds remitted any direct or indirect costs to administer, audit, and collect local sales taxes under Minn. Stat. § 297A.99, subd. 11. Effective the day following final enactment.

ARTICLE 5: SPECIAL TAXES

Section 1. Special fuel dealers. Amends Minn. Stat. § 296A.06, subd. 2, to clarify that “fuel dealer” refers to “special fuel dealer” as defined by Minn. Stat. § 296A.01, subd. 47. Effective the day following final enactment.

Sections 2 and 7. Refusal to issue or renew; revocation. Amends Minn. Stat. § 297F.04, subd. 2, to add convictions for any crimes involving tobacco products to the list of reasons the commissioner must not issue or renew a license under chapter 297F and amends Minn. Stat. § 609B.153 to update its description of Minn. Stat. § 297F.04 consistent with the proposed changes to Minn. Stat. § 297F.04, subd. 2. Effective the day following final enactment.

Sections 3 and 6. Accelerated Tax Payments. Amends Minn. Stat. § 297F.09, subd. 10 (cigarette and tobacco taxes), and § 297G.09, subd. 9 (liquor tax), to reorganize for readability and clarity. Also removes references to calendar year 2020 since the relevant time periods for 2020 have already passed. Effective for estimated payments required to be made after the date following final enactment.

Section 4. Retailer and subjobber to preserve purchase invoices. Amends Minn. Stat. § 297F.13, subd. 4, to provide that cigarette and tobacco product retailers and subjobbers are required to preserve a legible copy of each purchase invoice for one year from the date of the invoice or as long as the cigarette or tobacco product listed on the invoice is available for sale or in their possession, whichever period is longer. Effective for all cigarette and tobacco products available for sale or in a retailer or subjobber’s possession after December 31, 2021.

Section 5. Sufficiency of Notice. Deletes unnecessary language in section 297F.17, subd. 1, because sufficiency of notice is already covered in § 270C.33, subd. 8, which applies to all taxes administered by the commissioner. Effective for notices of tax assessment issued after the date of final enactment.

ARTICLE 6: MISCELLANEOUS

Section 1. Adjustment; definition; period; rounding. Amends Minn. Stat. § 270C.22, subd. 1, to correct the statutory year calculation of inflation for the property tax refund chapter. Effective retroactively for property tax refunds based on property taxes payable in 2020, and rent paid in 2019.

Section 2. Paid preparer; depositing client refunds. Amends Minn. Stat. § 270C.445, subd. 3, to clarify that a paid tax preparer may not take control or ownership of a client’s tax refund regardless of the manner in which the refund is paid. Effective the day following final enactment.