DEPARTMENT OF REVENUE

INDIVIDUAL INCOME TAX
Federal Partnership Audits

March 22, 2021

	Yes	No
DOR Administrative Costs/Savings	X	

Department of Revenue
Analysis of S.F. 2169 (Nelson), As Proposed to be Amended (SCS2169A-1)

	Fund Impact			
	F.Y. 2022	**F.Y. 2023**	**F.Y. 2024**	**F.Y. 2025**
	(000's)			
General Fund	($600)	($1,400)	($1,500)	($1,600)

Retroactively effective for tax year beginning after December 31, 2017.

EXPLANATION OF THE BILL

Current Law: The bill is in response to a 2015 federal law change in The Bipartisan Budget Act of 2015. It created a new federal partnership auditing regime that allows the IRS to review multiple years of a partnership activity and to adjust the tax in the year the audit is completed. The tax associated with the audit is paid at the partnership level, or with an election, it may be paid at the partner level.

Current law allows for the payment of tax only at the partner level. There is no mechanism for audit changes made at the partnership level on behalf of its partners.

Proposed Law: The bill allows a partnership to elect to pay the state assessment at the partnership level on behalf of its partners. It includes rules for calculating the tax payable by the partnership. This arrangement mirrors the treatment under federal law.

The assessment is calculated at the partnership level based on the residency of the partners. However, the allocation of income of indirect partners could be reduced compared to current law. The ability to apportion income of nonresidents is no change from our current law, but the proposal could reduce the amount of taxes attributable to resident indirect partners.

The bill is based on the multistate tax commission (MTC) model act for implementing the federal law. The bill requires taxpayers to use the same audit elections on both the federal and state returns. *The SCS2169A-1 amendment is a technical change to the language in bill, and it has no effect on the amount of revenue lost.*

REVENUE ANALYSIS DETAIL

- The revenue gain estimate is based on estimates made by the Joint Committee on Taxation.
- On average the ability of partnerships to apportion the resident share of assessments reduces the taxes paid by resident taxpayers by 37%. The 37% reduction is based on the current law approach of assigning income 100% to Minnesota with a credit for taxes paid to other states. The credit for taxes paid to other states assumes a tax rate of 5.5%.

REVENUE ANALYSIS DETAIL (Cont.)

- It is assumed that 67% of the audit money will be from nonresident taxpayers and 33% will be from resident taxpayers. After weighting the effect from both resident and nonresident taxpayers, there is an overall 19% reduction of revenue.

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

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