

**2023 DEPARTMENT OF REVENUE
CONFORMITY BILL LEGISLATIVE BULLETIN**



Appeals, Legal Services, and Disclosure Division
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FINAL

Unless otherwise noted, the provision discussed in this bulletin can be found in 2023 Minn. Laws, Ch. 1.

Internal Revenue Code. Minn. Stat. § 289A.02, subd. 7, was amended to update the definition of the Internal Revenue Code for changes through December 15, 2022. Effective January 13, 2023, except the changes incorporated by federal changes are effective retroactively at the same time the changes were effective for federal purposes.

Composite income tax returns for nonresident partners, shareholders, and beneficiaries. Minn. Stat. § 289A.08, subd. 7, was amended to update the definition of “income” for composite tax income tax return filers, so it includes additions and subtractions for business interest and net operating losses. Effective retroactively for taxable years beginning after December 31, 2022.

Pass-through entity tax. Minn. Stat. § 289A.08, subd. 7a, was amended to add a new paragraph that does not allow an entity to claim a refund after the qualify owner has claimed the credit on their return. When a qualifying owner has claimed the credit on their return, any refund must be claimed by the qualifying owner, and not by the qualifying entity. Effective retroactively for taxable years beginning after December 31, 2020.

Net income. Minn. Stat. § 290.01, subd. 19, was amended to update the definition of the Internal Revenue Code to include changes through December 15, 2022. It also strikes a reference to Minn. Stat. 290.0111, which is repealed. Effective January 13, 2023, except the changes incorporated by federal changes are effective retroactively at the same time the changes were effective for federal purposes.

Internal Revenue Code. Minn. Stat. § 290.01, subd. 31, was amended to update the definition of the Internal Revenue Code to include changes through December 15, 2022. It also strikes a reference to Minn. Stat. 290.0111, which is repealed. Effective January 13, 2023, except the changes incorporated by federal changes are effective retroactively at the same time the changes were effective for federal purposes.

Earned Income. Minn. Stat. § 290.01 was amended to create new subd. 33, defining “earned income” for Minnesota tax purposes. It specifies that earned income must be in the taxable year for which the taxpayer filed a return. Effective January 13, 2023.

Amount for Dependents. Minn. Stat. § 290.0123, subd. 3, was amended to update the

definition of “earned income” for the dependent exemption in Minnesota statute. Effective January 13, 2023.

Disallowed business interest deduction. Minn. Stat. § 290.0131, was amended to create new subd. 19, which requires an addition for the increased business interest deduction allowed under the federal Coronavirus Aid, Relief, and Economic Securities Act (CARES Act). Effective January 13, 2023, except the changes incorporated by federal changes are effective retroactively at the same time the changes were effective for federal purposes.

Disallowed net operating loss deduction. Minn. Stat. § 290.0131, was amended to create new subd. 20, which requires the addition for the increased net operating loss and excess business loss deductions allowed under the CARES Act. Effective January 13, 2023, except the changes incorporated by federal changes are effective retroactively at the same time the changes were effective for federal purposes.

Delayed business interest. Minn. Stat. § 290.0132 was amended to create new subd. 31, which will allow for a retroactive and prospective subtraction for the amount of business interest required to be added back retroactively under new Minn. Stat. § 290.0131, subd. 19. No amended returns would be allowed or required under this subdivision, as the retroactive portion would only maintain current nonconformity treatment of this deduction through tax year 2022 and so it does not affect tax liability. Starting in tax year 2023, the aggregate remaining amount of the retroactive addition not yet subtracted at the state level would be allowed as a subtraction in equal parts for five subsequent tax years. Effective in two parts: paragraphs (a) and (c) are effective retroactively for taxable years beginning after December 31, 2019. Paragraph (b) is effective for taxable years beginning after December 31, 2022.

Delayed net operating loss deduction. Minn. Stat. § 290.0132 was amended to create new subd. 32, which allows a retroactive and prospective subtraction for the retroactive net operating losses and excess business loss provisions in new Minn. Stat. 290.0131, subd. 20. No amended returns would be allowed or required under this subtraction, as the subtraction would only maintain current nonconformity treatment (essentially, the federal Tax Cuts and Jobs Act (TCJA) rules for net operating losses and excess business losses for the affected years) of these deductions and so not to affect tax liability. Going forward, the disallowed net operating losses could be taken under the TCJA rules until the later of when they are used up or 20 years after the loss arose. Effective retroactively for taxable years beginning after December 31, 2018.

Excess business losses. Minn. Stat. § 290.0132 was amended to create new subd. 33, which allows taxpayers a subtraction for excess business losses that are included in federal adjusted gross income. The limitation under excess business losses does not set to begin until tax year 2026, so this provision is not set to be effective until taxable years beginning after December 31, 2025. **This provision was subsequently repealed in 2023 Minn. Laws, Ch. 64, Art. 2, § 8.**

Disallowed business interest deduction. Minn. Stat. § 290.0133 was amended to create new subd. 15, which provides for the same addition for business interest under the corporate franchise tax as the addition provided for individuals. Effective January 13, 2023, except the changes incorporated by federal changes are effective retroactively at the same time the changes were

effective for federal purposes.

Delayed business interest. Minn. Stat. § 290.0134 was amended to create new subd. 20, which provides the same subtraction for business interest under the corporate franchise tax as provided to individuals. Effective in two parts: paragraphs (a) and (c) are effective retroactively for taxable years beginning after December 31, 2019. Paragraph (b) is effective for taxable years beginning after December 31, 2022.

Schedules of rates for individuals, estates, and trusts. Minn. Stat. § 290.06, subd. 2c, was amended to add the business interest and net operation loss and excess business loss additions and subtractions to the numerator and denominator of the residency percentage calculation. Effective retroactively for taxable years beginning after December 31, 2022.

Definitions. Minn. Stat. § 290.0671, subd. 1a, was amended to update the definition of “earned income” for purposes of the working family credit to reference the new definition. Effective January 13, 2023.

Definitions. Minn. Stat. § 290.0675, subd. 1, was amended to update the definition of “earned income” for purposes of the marriage penalty credit to reference the new definition. Effective January 13, 2023.

Definitions. Minn. Stat. § 290.091, subd. 2, was amended to make a nonsubstantive change to a cross-reference in the Minnesota individual alternative minimum tax. The federal Inflation Reduction Act moved the Internal Revenue Code section that Minnesota Statutes referenced, so the reference must be updated. This section also includes additions and subtractions for business interest and net operating losses and excess business losses to the additions and subtractions for the Minnesota alternative minimum tax. The effective date is split for these changes: the changes in paragraph (a), clause (1), are effective at the same time as the changes in the federal bill for federal purposes; and all other changes are effective retroactively for taxable years beginning after December 31, 2022.

Carryback or carryover adjustments. Minn. Stat. § 290.095, subd. 11, was updated to specify that the amount of net operating loss carried forward must be reduced by amounts in the new section 290.0132, subd. 33, in the next taxable year following the claiming of the net operating loss. This section is effective for taxable years beginning after December 31, 2025.

Internal Revenue Code. Minn. Stat. § 290A.03, subd. 15, was updated to include the definition of the Internal Revenue Code for changes through December 15, 2022. Effective retroactively beginning with refunds based on rent paid in 2021 and property taxes payable in 2022.

Scope. Minn. Stat. § 291.005, subd. 1, was amended to update the definition of the Internal Revenue Code for changes through December 15, 2022. Effective January 13, 2023, except the changes incorporated by federal changes are effective retroactively at the same time the changes were effective for federal purposes.

Temporary additions and subtractions; individuals, estates, and trusts. Created an

uncodified section of law to address temporary provisions in federal law that Minnesota is decoupling from – or treating differently than the federal code does. The provisions are as follows:

- The limitation on the deductibility of wages used to claim the employee retention credit, enacted in the CARES Act;
- Increased gross income of a business that claimed the payroll credit for required sick leave, the payroll credit for required family leave, and the continuation coverage premium assistance credit. The sick and family leave credits were originally enacted in the CARES Act, and the premium assistance credit was enacted in the federal American Rescue Plan Act (ARPA).
- The “above the line” deduction for qualified tuition and related expenses, which was extended to tax year 2018 through 2020, under the Further Consolidated Appropriations Act of 2020 (FCAA 2020).
- The “above the line” deduction for certain cash charitable contributions, originally enacted in the CARES Act and extended in the Consolidated Appropriations Act of 2021 (CAA 2021). That provision was effective for tax year 2020 and 2021.
- Business meals deducted in excess of the 50% limitation. The limitation temporarily increased to 100% in CAA 2021, effective for tax year 2021 and 2022.
- For trusts, increases in the adjusted gross income limitation for charitable contribution deductions. The limitation was increased under the CARES Act and CAA 2021, effective for tax year 2020 and 2021.

For property tax refunds, it excludes the business credit provisions from affecting the calculation of “household income” for the property tax refund program.

This section is effective in different parts. Paragraphs (a) to (d) are effective retroactively at the same time the changes were effective for federal purposes. Paragraph (e), which deals with the property tax refund, is effective retroactively beginning with refunds based on rent paid in 2021 and property taxes payable in 2022.

Temporary additions and subtractions; corporations. Created an uncodified section of law to address temporary provisions in federal law that Minnesota is decoupling from – or treating differently than the federal code does. The provisions are as follows:

- The limitation on the deductibility of wages used to claim the employee retention credit, which was originally enacted in the CARES Act.
- Increases in the gross income of a business that claimed the payroll credit for required sick leave, the payroll credit for required family leave, and the continuation coverage premium assistance credit. The sick and family leave credits were originally enacted in the CARES Act, and the premium assistance credit was enacted in ARPA.
- Business meals deducted in excess of the 50% limitation. The limitation temporarily increased to 100% in CAA 2021, effective for tax year 2021 and 2022.
- For C corporations, charitable corporations deducted in excess of 10%, but not more than 25% of taxable income. The limitation was increased under the CARES Act and CAA 2021, effective for tax year 2020 and 2021.

Effective retroactively at the same time the changes were effective for federal purposes.

Charitable contribution deduction; special rule for 2020. Created an uncodified law which

decouples from the temporary increases in the charitable deduction limitation for individuals, estates, and trusts. Federally, the limitation was increased from 60% to 100% of adjusted gross income for only certain cash contributions. Effective retroactively at the same time the changes were effective for federal purposes.

Dependent care credit; special rule for 2021. This uncodified section decouples Minnesota statutes from the temporary increases in the dependent care credit that were enacted in ARPA. Effective retroactively at the same time the changes were effective for federal purposes.

Casualty loss deduction; special rule for 2021. This uncodified section decouples from federal special rules for disaster related casualty losses, which were enacted in FCAA 2020 and CAA 2021. Effective retroactively at the same time the changes were effective for federal purposes.

Working family credit; special rule for tax year 2021. This uncodified section decouples from the temporary changes to the federal earned income credit that was enacted in the federal ARPA bill. The changes, which would otherwise flow through to the Minnesota working family credit, allowed the credit to childless individuals who were at least: 18 years old; or 65 years or older; or were certain homeless youths or foster children. Effective retroactively at the same time the changes were effective for federal purposes.

Extension of statute of limitations. This uncodified section allows taxpayers to file amended returns for taxable years in which their liability changed as a result of this act. It also requires amended returns to be filed within six months after the enactment date. This section allows the Department of Revenue to review and assess the return of a taxpayer covered by the extended filing deadline. Effective retroactively at the same time the changes incorporated in this act were effective for federal purposes.

Property tax refunds; coronavirus related retirement distributions. This uncodified provision excludes coronavirus related provisions related to retirement account distributions from the property tax refund calculation of household income. This section is effective retroactively beginning with refunds based on rent paid in 2021 and property taxes due in 2022.

Repealer. Repeals the partial conformity language in Minn. Stat. § 290.0111, because with full conformity the language is obsolete. Effective January 13, 2023.