2021 INDIVIDUAL INCOME & CORPORATE FRANCHISE TAX LEGISLATIVE BULLETIN

(2021 1st Special Session)

DEPARTMENT OF REVENUE

Appeals and Legal Services Division
600 North Robert Street
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Unless otherwise noted, the provisions discussed in this bulletin can be found in 2021 Minn. Laws, 1st Spec. Sess., Ch. 14.

FEDERAL CONFORMITY

Minnesota's income tax code generally conforms to the Internal Revenue Code as amended through December 31, 2018. Article 1, sections 4-6 adopt 19 sections of federal law enacted by Congress after December 31, 2018, found in the following federal acts:

Public Law	Federal Act(s)
116-94	Further Consolidated Appropriations Act, 2020 (FCAA 2020), includes: • Taxpayer Certainty and Disaster Tax Relief Act of 2019 (TCDTR2019); and • Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019
116-136	Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES)
116-260	Consolidated Appropriations Act, 2021 (CAA 2021), includes: • Taxpayer Certainty and Disaster Tax Relief Act of 2020 (TCDTR 2020); and • COVID-related Tax Relief Act (CTRA) of 2020
177-2	American Rescue Plan Act (ARPA)

Minn. Stat. § 290.01, subds. 19(f) and 31, were amended to cross reference and generally adopt into the definition of Internal Revenue Code (IRC), the specific public law sections conformed to in new section 290.0111. Effective July 2, 2021, except that the changes incorporated by federal changes are effective retroactively at the same time as the changes were effective for federal purposes. Art. 1, §§ 4 and 5.

Minn. Stat. Ch. 290 was amended by adding Minn. Stat. § 290.0111 to temporarily conform to certain federal tax changes. Effective July 2, 2021, except the changes incorporated by federal changes are effective retroactively at the same time as the changes were effective for federal purposes. Minn. Stat. § 290.0111, subd. 4(b) is effective retroactively for taxable years beginning after December 31, 2019, and before January 1, 2021. Art. 1, § 6. The specific public law sections are:

Federal Act, Sec	Description	Effective Date
TCDTR 2019, 101	Provides an exclusion from gross income for loan forgiveness on discharged mortgages on taxpayer's principal residence.	Effective for discharges of indebtedness after December 31, 2017 and before January 1, 2021.
TCDTR 2019, 116	Extends, for businesses on an Indian Reservation, the accelerated depreciation for business property.	Effective for property placed in service after December 31, 2017 and before January 1, 2021.
TCDTR 2019, 117	Allows up to $15 million of qualified film, television, and live theater production costs to be expensed in the year incurred under IRC section 181.	Effective for productions commencing after December 31, 2017 and before January 1, 2021.
TCDTR 2019, 130	Extends the additional deduction that may be taken the year that certain biofuel plan property is placed in service.	Effective for property placed in service after December 31, 2017 and before January 1, 2021.
TCDTR 2019, 131	Extends the deduction for energy efficient commercial property.	Effective for property placed in service after December 31, 2017 and before January 1, 2021.
TCDTR 2019, 132	Extends the special rule for sales or dispositions to implement FERC or state electric restructuring policy for qualified electric utilities.	Effective for dispositions after December 31, 2017 and before January 1, 2021.
TCDTR 2019, 144	Creates an exception from the capitalization rules for interest paid during the aging period for beer, wine, and spirits, allowing a deduction in the year the costs are incurred.	Effective for various triggers after December 31, 2019 and before January 1, 2021.
TCDTR 2019, 201	Defines "qualified disaster area," "qualified disaster zone," "qualified disaster," and "incident period."	Effective for qualified disasters determined after January 1, 2018 and before February 20, 2020.
TCDTR 2019, 202	Allows up to $100,000 for disaster-related distributions for retirement accounts. Amount of distribution is included in gross income in the three years following the distribution.	Effective for disaster-related distributions within 180 days of a declared disaster, for qualified disasters between January 1, 2018 and before February 20, 2020.

TCDTR 2019, 204	Charitable Contributions: Allows cash charitable contributions for disaster relief efforts up to 100% of the contribution base and allowing any excess to be carried over (ordinarily, the limit is 60% of the contribution base). Casualty Losses: Allows deduction for the full amount of disaster-related casualty losses – current Minnesota law limits the casualty loss itemized deduction to losses greater than $100 in excess of 10% of AGI.	Effective for contributions and casualty losses between January 1, 2018, and February 20, 2020.
SECURE, 301	Increases an exclusion from gross income for up to $50/month (was $30/month) in benefits paid to volunteer firefighters and emergency medical responders.	Effective for taxable years beginning after December 31, 2019 and before January 1, 2021.
CARES, 1106(i)	Provides an exclusion from gross income for loan amounts forgiven as a part of the federal Paycheck Protection Program (PPP).	Effective for PPP loan amounts forgiven after February 15, 2020.
CARES, 2202	Allows up to $100,000 of coronavirus-related distributions for retirement accounts and forgives the 10 percent penalty that would ordinarily apply. Amount of distribution is included in gross income in the three years following the distribution. Taxpayers may repay all or a portion of the distribution anytime during the 3-year period beginning the day after the date the distribution was received. Repaid distributions will not be taxed.	Effective for coronavirus-related distributions between January 1, 2020, and December 31, 2020.
CTRA, 275	Requires the Secretary of Treasury to issue regulation or guidance to clarify that personal protective equipment (PPE), disinfectant, and other supplies to control COVID-19 are eligible for the federal educator expense deduction.	Effective for expenses paid or incurred after March 12, 2020.
CTRA, 276	Allows businesses to deduct PPP loan forgiveness-related expenses.	Effective for PPP loan forgiveness-related expenses incurred after February 15, 2020.
CTRA, 277	Provides an exclusion from gross income for emergency financial aid grants provided to students under the CARES Act.	Effective for qualified emergency financial aid grants made after March 26, 2020.
CTRA, 278(b)	Provides an exclusion from gross income for advances through the COVID-19 Economic Disaster Loan (EIDL) and Targeted EIDL Advance programs. Allows a deduction for associated expenses.	Federally effective for taxable years ending after March 27, 2020, and is effective for all EIDL and Targeted

		EIDL Advances, which occurred in 2020 and 2021. The bill adopts the provision for payments in taxable year 2020 only.
CTRA, 278(c)	Provides an exclusion from gross income for small business loan subsidy payments under section 1112(c) of CARES. Allows a deduction for related expenses.	Federally effective for taxable years ending after March 27, 2020, and is effective for 1112(c) payments, which occurred in 2020 and 2021. The bill adopts the provision for payments in taxable year 2020 only.
ARPA, 9042	Provides an exclusion from gross income for up to $10,200 of unemployment insurance compensation. The exclusion is limited to taxpayers with FAGI less than $150,000. For joint returns, the exclusion is $10,200 of compensation received by each spouse.	Effective for taxable years beginning in 2020.

PARTNERSHIP AUDITS

Various conforming changes. Minn. Stat. §§ 270C.445, subd. 6; 289A.31, subd. 1; 289A.37, subd. 2; 289A.38, subds. 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; were amended to correct cross references and generally comport with the changes in other sections. Art. 2, §§ 1-5, 7, and 10-15.

Estimated payments relating to pending federal audit. Minn. Stat. § 289A.38, subd. 9, was amended to correct cross references, generally comport with changes in other sections, and provide that taxpayers may make estimated payments on expected Minnesota tax liabilities while under audit by the Internal Revenue Service (IRS). The estimated payments must relate to the expected result from the IRS audit and must be applied to Minnesota tax liability assessed. Estimated payments limit the accrual of statutory interest, and taxpayers are entitled to a refund of excess estimated payment amounts if claimed within one year of the final determination date. Art. 2, § 6.

Definitions relating to federal adjustments. Minn. Stat. Ch. 289A, was amended by adding Minn. Stat. § 289A.381, which contains various definitions relating to the reporting of federal adjustments, and federal adjustments to partnership returns. Art. 2, § 8.

Adjustments following a partnership level audit. Minn. Stat. Ch. 289A, was amended 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 after the final determination date. 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.

Select partnerships reporting federal adjustments after a partnership level audit are 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 individual, trust, and estate partners, and information pertaining to all other direct partners as required by the commissioner, and pay tax on the properly allocated and apportioned share of all income at the highest marginal rate for its individual, estate, trust, and corporate partners. Art. 2, § 9.

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.

PASS-THROUGH ENTITY TAX

Pass-through entity tax established. This provision establishes a fully refundable pass-through entity tax ("PTE") that allows electing pass-through businesses to pay state income tax at the entity level rather than at the owner level by adding Minn. Stat. §§ 289A.08, subd. 7a, 289A.60, subd. 22a, and 290.06, subd. 40; and by amending Minn. Stat. §§ 289A.08, subd. 7, 290.06, subds. 2c and 22, and 290.92, subds. 4b and 4c. By making the PTE election, owners of the pass-through entity can avoid the $10,000 limit on their federal income tax itemized deduction of state and local taxes (commonly referred to as the SALT Cap) enacted under the Tax Cuts and Jobs Act, P.L. 115-94, and endorsed federally under Notice 2020-75. Pass-through entities may only make this election in taxable years where the SALT Cap is in place, at least one owner is impacted by the SALT Cap, and when owners collectively holding more than 50 percent ownership in the entity elect to do so. Elections once made are irrevocable. The PTE tax is calculated in the same manner as required for composite tax and provides similar withholding, penalty, credit and nonresident allocation requirements. Effective for taxable years beginning after December 30, 2020. Art. 3, §§ 1-8.

INDIVIDUAL INCOME AND CORPORATE FRANCHISE TAX

Small business investment credit. Minn. Stat. §§ 116J.8737, subd. 5, was amended to extend the small business investment credit (angel credit) through 2022, appropriating $10,000,000 for 2021 and $5,000,000 for 2022. Effective July 2, 2021. Art. 1, §§ 1 and 2.

Film production credit. Minn. Stat. chs. 116U, 290, and 297I were amended by adding Minn. Stat. § 116U.27 and amending Minn. Stat. §§ 290.06 and 297I.20 to add, respectively, subds. 39 and 4, to establish the nonrefundable film production credit for 25% of "eligible production costs." The tax credit is administered by the Department of Employment and Economic Development (DEED) and the Revenue department, in consultation with the Minnesota Film and TV Board. DEED may issue $4,950,000 of credits each year. Unused credit amounts may be carried over by DEED for the next five years. The credit may be assigned one time. The credit sunsets after December 31, 2024.

By January 15, 2025, the commissioner of revenue must provide a report to the legislature showing the amount of credit certifications, use of the credit, types of projects funded, the economic impact of the credit, tax types and assignees claiming the credit, and annual tax paid by film and TV businesses in the state from 2019 through 2023. The commissioner of revenue is to transfer $50,000 annually from the general fund to DEED to administer the program. The premium tax provision change in § 297I.20 is effective for taxable years beginning after and for premiums received after December 31, 2020, and before January 1, 2025. The chapter 290 provisions are effective for taxable years beginning after December 31, 2020, and before January 1, 2025, except that the legislative report requirement expires July 1, 2025. Art. 1, §§ 3, 9, and 14.

Composite income tax returns for nonresident partners, shareholders, and beneficiaries. Minn. Stat. § 289A.08, subd. 7, was amended 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. Art. 12, § 1.

Withholding. The following sections were amended: Minn. Stat. § 289A.09, subd. 2; Minn. Stat. § 290.92, subds. 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. Minn. Stat. § 290.92, subd. 5, was also amended 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 beginning after December 31, 2020. Art. 12, §§ 2, 4-11 and 13.

Inflation Adjustment. Minn. Stat. § 290.0121, subd. 3, was amended 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 July 2, 2021. Art. 12, § 3.

Losses. Minn. Stat. § 290.0122, subd. 8, was amended 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 July 2, 2021. Art. 1, § 7.

Volunteer driver reimbursement. Minn. Stat. § 290.0132 was amended to add subdivision 30 to provide a subtraction to volunteer drivers for the amount of mileage reimbursements paid by charitable organizations. Currently charitable organizations can reimburse a volunteer driver up to fourteen cents per mile. The subtraction allows volunteer drivers to subtract an amount equal to the excess of the 14 cents per mile reimbursed but not to exceed the 56 cent business mileage reimbursement rate. Effective for taxable years beginning after December 31, 2020. Art. 1, § 8.

Property tax refund. Minn. Stat. § 290A.03, subd. 3(b), was amended to provide that veteran's disability compensation is excluded for purposes of determining household income for the homestead and renter's property tax refund. Effective for refund claims based on property taxes payable in 2022 and rent paid in 2021 and thereafter. Art. 6, § 14.

Working family credit. Minn. Stat. § 290.0671, subd. 7, was amended to lower the age requirement for taxpayers with no qualifying children from 21 to 19. Effective for taxable years beginning after December 31, 2020. Art. 1, § 10.

Historic structure rehabilitation credit. Minn. Stat. § 290.0681, subd. 10, was amended to extend the credit for historic structure rehabilitation through fiscal year 2022. Effective July 2, 2021. Art. 1, § 11.

Student loan credit. Minn. Stat. § 290.0682, subds. 1 and 2, were amended to modify the definition of earned income so that married taxpayers filing joint returns are not penalized if both spouses earn income. Effective for taxable years beginning after December 31, 2020. Art. 1, § 12.

Minnesota housing tax credit. Minn. Stat. chs. 290, 297I, and 462A, were amended by adding Minn. Stat. §§ 290.0683, 297I.20, subds. 4 and 5, and 462A.40, to establish the nonrefundable Minnesota housing tax credit for 85% of taxpayer contributions between $1,000 and $2,000,000 to the Minnesota housing tax credit contribution account. The tax credit is administered by the Minnesota Housing Finance Agency and the department. The aggregate amount of allowable tax credits is limited to $9,900,000 each year. Taxpayers may carry over unused credit amounts for ten years. The credit sunsets after December 31, 2028. The Minnesota Housing Finance Agency must issue an annual legislative report breaking down the tax credits, grants, and loans by region of the state as well as information on planned financing in the current fiscal year. The premium tax provision change in § 297I.20 is effective for taxable years beginning after and for premiums received after December 31, 2022 and before January 1, 2029. The chapter 290 provisions are effective for taxable years beginning after December 31, 2022. Art. 1, §§ 13, 15, and 16.

Miscellaneous withholding arrangements. Minn. Stat. § 290.92, subd. 20, was amended 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. Art. 12, §12.

Special Limited Adjustment. Minn. Stat. § 290.993 was amended 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. Art. 12, § 14.

Section 179 expensing conformity. An uncodified provision makes clear that for taxable years beginning after December 31, 2019, no addition is required under chapter 290 for any taxpayer, including carryover amounts for property placed in service in taxable years beginning before January 1, 2020, and for property placed in service before January 1, 2020 by a partnership or S-corporation filing on a fiscal year with a partner or shareholder filing on a calendar year. Effective retroactively for taxable years beginning after December 31, 2019. Art. 1, § 17.