HOUSE RESEARCH

Bill Summary

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Subject: Income and corporate tax – one year federal conformity by administrative action

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This bill establishes an ongoing administrative method to conform the Minnesota individual income tax and corporate franchise tax laws to extensions of existing federal tax benefits that Congress enacts after the legislature adjourns its regular session and that apply to that tax year. The extension is accomplished by the commissioner of the Department of Revenue (DOR) taking action and allocating money set aside in an account for that purpose.

The bill's administrative mechanism can apply when all of the following conditions are met:

- A listed expiring federal tax provision (see below for details) is extended.
- Federal enactment occurs after the regular legislative session adjourned.
- The extension affects a tax year that ends before the next regular legislative session convenes.
- There are sufficient funds available in the tax conformity account to offset the revenue loss from conformity.

The conformity applies only to the one tax year that ends before the regular legislative session convenes. That is, it does not permanently conform to the extension, if Congress makes the extension permanent (or conform for two years, if Congress extends the provisions for two tax years and so forth).

Federal tax conformity account. Conforming to future extensions of the listed provisions will reduce state tax collections (i.e., they are tax reductions). To offset the revenue loss, the bill sets aside $20 million from the general fund in a federal tax conformity account on July 1, 2017. As money in this account is used to offset revenue losses resulting from administrative conformity, the account is automatically "re-filled" to the $20 million level (i.e., DOR and the commissioner of Minnesota Management and Budget are directed to transfer general fund money to the account to maintain a $20 million balance when administrative conformity requires withdrawals).

Covered federal tax provisions. The following federal tax extender provisions, all of which expire under current federal law and all of which have been conformed to by prior legislatures, are "eligible federal tax preferences" for administrative conformity:

- Exclusion of discharge of qualified principal residence indebtedness
- Itemized deduction of mortgage insurance premiums
- Deduction of qualified tuition and related expenses
- Itemized deduction rules (7.5% adjusted gross income threshold) for medical care expenses by individuals aged 65 or older
- Classification of certain race horses as 3-year property
- 7-year recovery period for motorsports entertainment complexes
- Accelerated depreciation for business property on an Indian reservation
- Election to expense mine safety equipment
- Special expensing rules for certain film and television productions
- Special allowance for second-generation biofuel plant property
- Energy efficient commercial buildings deduction
- 5-year recovery period for property qualifying for certain energy credits
- Additional section 179 allowance in an empowerment zone
- Bonus depreciation (under Minnesota's special rule allowing only 20 percent to be deducted in the tax year and the remainder recovered over the following five years)

Conformity rules and procedures (subdivision 4). When the conditions for administrative conformity are met (see above), DOR is directed to adopt the eligible federal tax provisions by administrative action for the designated tax year. Doing so is contingent upon the federal tax conformity account having sufficient money to offset the revenue loss. In determining whether there is sufficient money to cover a provision, the bill sets out a list of priorities—that is, the commissioner determines whether there are adequate funds to offset the first priority and if so, then makes a similar determination for the second priority, and so forth. The first item to be adopted is continuation of Minnesota's special rule for treatment of bonus depreciation; this item results in a small revenue gain in the first tax year and thus would not reduce the amount available in the account for subsequent items. This is the order of priorities:

- Computation of adjusted gross income used in Minnesota income tax, property tax refund, or homestead credit refund computations
- Computation of Minnesota tax credits
- "Timing" rules—i.e., rules that determine the period over which capital items are deducted (all of the bulleted items in the list except the first four and bonus depreciation)
- The first four bulleted items above

DOR is, then, directed to publish the qualifying items on its website and the federal provisions are in effect for Minnesota tax purposes for the designated tax year. DOR is directed to prepare forms that reflect the administrative conformity provisions, as well as to draft conformity legislation that can provide for permanent (ongoing) conformity to the covered and any other federal provisions that the commissioner of revenue determines appropriate.

DOR’s actions under the bill are not subject to the administrative procedures act—i.e., the designation of conformity items is not an administrative rule.

Effective date: Day following final enactment