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S.F. No. 3692 – Omnibus tax bill (as proposed to be amended by the A-3 delete everything amendment)

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Article 1 - Federal Update

Section 1. Internal Revenue Code. Updates the reference date for the definition of “Internal Revenue Code” in the tax administration chapter. Effective the day following final enactment, except that changes incorporated by federal changes are effective retroactively at the same time the changes were effective for federal purposes, but are subject to the applicable provisions of section 20.

Section 2. Composite income tax returns for nonresident partners, shareholders, and beneficiaries. Updates cross references to the composite income definition for modifications to Minnesota conformity in later sections to meals expensing, the special limited adjustment, and delayed business interest. Effective beginning in tax year 2022.

Section 3. Net income. Updates the reference date for the Internal Revenue Code for purposes of the definition of net income. Effective the day following final enactment, except that changes incorporated by federal changes are effective retroactively at the same time the changes were effective for federal purposes, but are subject to the applicable provisions of section 20.

Section 4. Internal Revenue Code. Updates the reference date for the definition of “Internal Revenue Code” in the income and corporate franchise tax chapter. Effective the day following final enactment, except that changes incorporated by federal changes are effective retroactively at the same time the changes were effective for federal purposes, but are subject to the applicable provisions of section 20.

In updating the reference date for the definition of “Internal Revenue Code” and for purposes of the definition in calculation net income, the bill conforms to the following federal provisions:

Further Consolidated Appropriations Act, 2019

- Expansion of allowable uses of section 529 plans to include payments for certain student loans and apprenticeship programs (beginning with distributions in 2019); and
- Seven-year depreciation schedule for motorsports entertainment complexes (2018-2020).

CARES Act, 2020

- Increased limit on for qualifying contributions of food inventory in 2020 from 15 percent to 25 percent of modified income (2020);
- Inclusion of certain over the counter medical products as qualified medical expenses (2020);
- Increased limit on charitable deduction for corporations from 10 percent of modified income to 25 percent (2020)

Consolidated Appropriations Act,

- Exclusion from gross income of discharge of indebtedness on qualified principal residence (2021-2025)
- Exclusion from gross income of certain state payments to volunteer firefighters and emergency responders (2021)
- Exclusion of up to \$5,250 for employer payments of employee student loans (2021-2025);
- Up to \$300 (\$600 MFJ) above the line deduction for cash charitable contributions made by nonitemizers (2021);
- Increased limitation of deduction for individuals for cash charitable contributions from 60 percent of modified income to 100 percent and from 10 percent of modified income to 25 percent (2021);
- Exclusion from gross income of Small Business Administration loans (2021);
- Exclusion from gross income of Shuttered Venue Grants (2021);
- Accelerated depreciation for business property on Indian reservations (2021);
- Allowance of depreciation of certain residential rental property over 30 years instead of 40 years (2018);
- Special expensing rules for certain film, television, and live theatrical productions to allow immediate deduction of up to \$15 million in production costs in the tax year incurred; \$20 million allowed for productions produced in certain low-income and distressed communities (2021-2025);
- Energy-efficient commercial building deduction (2021);
- Special rule for the production period for of beer, wine and distilled spirits (2021);
- Special rules for disaster-related use of retirement funds (2021-2022);
- Special rules for disaster-related personal casualty losses (2020); and
- Special rules for contributions made by corporations to allow a deduction of up to 100 percent of taxable income made to qualifying charities in a qualified disaster area (2021-2022).

American Rescue Plan Act, 2021

- Increase amount of maximum investment income to qualify for the earned income tax credit (and therefore the working family credit) (2021);
- Increase exclusion amount for employer-provided dependent care assistance (2021);
- Exclusion from gross income for forgiven student loans (2021-2025);
- Extension of limitation on excess business losses for noncorporate taxpayers (2026);
- Exclusion from gross income of EIDL advances (2021);
- Exclusion from gross income of restaurant revitalization grants (2021);
- Repeal of worldwide interest allocation rules (2021); and
- Denial of deduction for certain highly compensated executives (beginning 2027).

Infrastructure Investment and Jobs Act, 2021

- Allow tax-exempt private activity bonds for qualified broadband projects (2022);
- Allow tax-exempt private activity bonds for funding carbon capture technologies projects (2022); and
- Modification of tax treatment of contributions to capital of corporations to exclude contributions to a regulated public utility for water or sewage disposal services (2021).

Section 5. Amount for dependents. Specifies that taxpayers must use earned income from the current taxable year for purposes of calculating the standard deduction for dependents. Effective retroactively to tax year 2018.

Section 6. Meal expenses. Requires an addback for individual filers of the amount in excess of the 50 percent limitation for meal expenses that was taken for federal income tax purposes. Effective beginning in tax year 2022.

Section 7. Special limited adjustment. Requires an addback of the nonconformity adjustment in section 20 for individual filers if the amount calculated increases net income. Requires partners, shareholder, or beneficiaries who file returns on a calendar year basis and received an addition from a PTE filing a return on a fiscal year basis to claim the addition in the taxable year it is received as required for federal tax purposes. Effective for tax years 2022 and 2023.

Section 8. Net operating losses. Provides a subtraction for individual filers for a net operating loss carryover or carryback arising in tax years 2018 to 2019, to the extent that it would have been allowed for federal income tax purposes under the Internal Revenue Code as amended through December 31, 2018 (Minnesota's IRC reference date under current law). The subtraction equals the lesser of the unused portion of the net operating loss to the extent not already deducted or to 80 percent of taxable net income in a single taxable year. Effective beginning in tax year 2022.

Section 9. Special limited adjustment. Provides a subtraction of the nonconformity adjustment in section 20 for individual filers if the amount calculated increases net income. Requires partners, shareholder, or beneficiaries who file returns on a calendar year basis and received a subtraction from a PTE filing a return on a fiscal year basis to claim the subtraction in the taxable year it is received as required for federal tax purposes. Effective for tax years 2022 and 2023.

Section 10. Delayed business interest. Allows a subtraction for individual filers equal to one-fifth of the adjustment amount, to the extent not already deducted, for the exclusion in section 20 from the nonconformity adjustment of the CARES Act temporary increase in the deduction for delayed business interest. Effective beginning in tax year 2022.

Section 11. Meal expenses. Requires an addback for corporate filers of the amount in excess of the 50 percent limitation for meal expenses that was taken for federal income tax purposes. Effective beginning in tax year 2022.

Section 12. Special limited adjustment. Requires an addback of the nonconformity adjustment in section 20 for corporate filers if the amount calculated increases net income. Effective for tax years 2022 and 2023. Requires partners, shareholder, or beneficiaries who file returns on a calendar year basis and received an addition from a PTE filing a return on a fiscal year basis to claim the subtraction in the taxable year it is received as required for federal tax purposes. Effective for tax years 2022 and 2023.

Section 13. Special limited adjustment. Provides a subtraction of the nonconformity adjustment in section 20 for corporate filers if the amount calculated increases net income. Requires partners, shareholder, or beneficiaries who file returns on a calendar year basis and received a subtraction from a PTE filing a return on a fiscal year basis to claim the subtraction in the taxable year it is received as required for federal tax purposes. Effective for tax years 2022 and 2023.

Section 14. Delayed business interest. Allows a subtraction for individual filers equal to one-fifth of the adjustment amount, to the extent not already deducted, for the exclusion in section 20 from the nonconformity adjustment of the CARES Act temporary increase in the deduction for delayed business interest. Effective beginning in tax year 2022.

Section 15. Schedules of rates for individuals, estates, and trusts. Updates cross references for purposes of calculating nonresident income tax to include modifications to Minnesota conformity in later sections to meals expensing, the special limited adjustment, and delayed business interest. Effective beginning in tax year 2022.

Section 16. Definitions. Specifies that taxpayers must use earned income from the current taxable year for purposes of the working family credit. Effective retroactively to tax year 2018.

Section 17. Definitions. Specifies that taxpayers must use earned income from the current taxable year for purposes of the marriage penalty credit. Effective retroactively to tax year 2018.

Section 18. Definitions. Updates cross references for purposes of calculating AMT to include modifications to Minnesota conformity in later sections to meals expensing, the special limited adjustment, and delayed business interest. Effective beginning in tax year 2022.

Section 19. Carryback or carryover adjustments. Provides that a net operating loss carryover or carryback arising in taxable years beginning after December 31, 2017 and before December 31, 2020, is allowed to the extent it would have been allowed for federal income tax purposes under the Internal Revenue Code as amended through December 31, 2018. The unused portion of the net operating loss, to the extent not already deducted, must be carried to the earliest taxable year and any unused portion may be carried forward for 20 taxable years. The portion of the loss that may be carried to each of the other taxable years is the excess, if any, of the amount of the loss over the

greater of taxable net income or AMT income for each of the taxable years to which the loss may be carried. Effective retroactively for losses arising in taxable years 2018 to 2019.

Section 20. Special limited adjustment. Provides new rules for the special limited adjustment for nonconformity to the Internal Revenue Code for tax years 2017 to 2021 resulting from the amount calculated through the amendments to the income tax chapter as of the 2021 First Special Session omnibus tax bill and the amount calculated under the income tax chapter incorporating changes to the Internal Revenue Code as amended through November 15, 2021.

The nonconformity adjustment is allowed only to the extent the taxpayer reported a nonconformity adjustment on their return in tax years beginning in 2017 and ending in 2021 and to the extent allowed under this section.

The adjustment does not include the following federal changes, but the bill conforms to the provisions:

- Exclusion from gross income of discharge of qualified principal residence indebtedness (TYs 2021-2025);
- Special rules for disaster-related personal casualty losses (TY 2020), allowing individuals who have a net disaster loss related to a non-COVID federally declared disaster after December 31, 2019 through 60 days after December 27, 2020, to increase their standard deduction amount by the amount of the net disaster loss. The limit for each casualty is increased from \$100 limit casualty is to \$500, the 10 percent of AGI limit is waived.
- Modification of treatment of student loan forgiveness (TY 2021-2025), allowing the amount of forgiven student loan indebtedness to be excluded from gross income.

The nonconformity adjustment equals the difference between FAGI (for individual taxpayers) and FTI (for all other taxpayers) resulting from the amount calculated through the amendments to the income tax chapter as of the 2021 First Special Session omnibus tax bill and the amount calculated under the income tax chapter incorporating changes to the Internal Revenue Code as amended through November 15, 2021 but does not include impacts to state credits. The nonconformity adjustment excludes the following provisions:

Taxpayer Certainty and Disaster Relief Act (TCDRA), 2019:

- Deduction of qualified tuition and related expenses (2018-2020); and
- Employee retention credit for employers affected by qualified disasters (disasters declared after January 1, 2019 and 61 days before December 20, 2019).

Families First Coronavirus Response Act (FFCRA), 2020:

- Payroll credit for required paid sick leave (2020); and
- Payroll credit for required paid family leave (2020);

CARES Act, 2020

- Up to \$300 above the line deduction for cash charitable contributions made by nonitemizers (2020);

- Temporary lift of the cap on deductibility of individual annual giving from 10 percent of AGI to 25 percent for cash contributions (2020)
- Exclusion of up to \$5,250 of employer payments of employees' student loans (2020)
- Employee retention credit (2020);
- Modifications for net operating losses, including allowance of retroactive NOL carrybacks and suspension of 80% limit (losses arising in tax years beginning in 2017 and before 2021);
- Temporary suspension of limitation on losses for taxpayers other than corporations (2018-2020); and
- Temporary increase from 30 percent of adjusted taxable income to 50 percent for the limitation on the business interest deduction (except for partnerships) (2018-2020).

Taxpayer Certainty and Disaster Relief Act, 2020

- Extension and modification of CARES Act employee retention and rehiring tax credit (wages paid after December 31, 2020 and before July 1, 2021);
- Temporary allowance of full deduction for business meals (2021-2022);
- Employee retention credit for employers affected by qualified disasters other than COVID-19 (disasters declared after December 31, 2019 and 60 days after December 27, 2020);

American Rescue Plan Act, 2021

- Employer payroll tax credit for providing COBRA continuation coverage (April 1, 2021 to September 30, 2021);
- Refundability and enhancement of child and dependent care credit (2021);
- Sick and family leave payroll tax credit (leave taken after March 31, 2021 and before September 30, 2021); and
- Extension of employee retention credit (wages paid after June 30, 2021, and before January 1, 2022).

Effective retroactively to taxable years beginning after December 31, 2017, and before January 1, 2024.

Section 21. Internal Revenue Code. Updates the reference date for the definition of “Internal Revenue Code” in the property tax refund chapter. Effective for property tax refunds based on property taxes payable in 2022 and rent paid in 2021 and thereafter.

Section 22. Scope. Updates the reference date for the definition of “Internal Revenue Code” in the estate tax chapter. Effective the day following final enactment, except that changes incorporated by federal changes are effective retroactively at the same time the changes were effective for federal purposes.

Article 2 - Income and Estate Taxes

Section 1. Return required. Strikes obsolete language regarding the phased-in estate tax exclusion for purposes of the filing requirement for estate tax returns. A return is required to be filed if either

a federal return is required to be filed, or if the sum of the federal gross estate and adjusted taxable gifts made within three years of the decedent's date of death exceeds \$3 million. Effective the day following final enactment.

Section 2. Election of portability of deceased spousal unused exclusion amounts; election irrevocable; deemed elections. Requires the personal representative of a decedent's estate to elect to allow the decedent's surviving spouse to use the DSUE as calculated in a later section. The election is irrevocable. The election is deemed to have been made when the return required under section 1 is filed unless the representative affirmatively states that the decedent's estate is not electing portability. Effective the day following final enactment.

Section 3. Election of portability of deceased spousal unused exclusion amounts when election not required. Provides that a personal representative of a decedent's estate that is not required to file a return under section 1 to elect to allow the decedent's surviving spouse to use the DSUE as calculated in a later section. Effective the day following final enactment.

Section 4. Social Security benefits. Allows a full subtraction of taxable Social Security benefits. Effective beginning in tax year 2022.

Section 5. Schedules of rates for individuals; estates; and trusts. Reduces the first tier income tax rate from 5.35 percent to 2.8 percent. Updates the four brackets for inflation as provided under current law. Effective beginning in tax year 2022.

Section 6. Inflation adjustment of brackets. Updates the statutory year for the inflation requirement under current law. Effective beginning in tax year 2022.

Section 7. Subtraction. Strikes obsolete language regarding the phased-in estate tax exclusion amount and the qualified small business property and farm property subtraction amount. Allows a surviving spouse an additional subtraction for purposes of calculating the surviving spouse's taxable estate equal to the lesser of \$3 million or the amount of the deceased spouse's unused exclusion. Effective for estates of decedents dying after June 30, 2022.

Section 8. Tax amount. Strikes obsolete language for calculating the estate tax during years the years the exclusion amount was phased in. Effective the day following final enactment.