

April 3, 2023

	Yes	No
DOR Administrative Costs/Savings	X	

Department of Revenue
Analysis of S.F. 1258 (Seeberger), 2nd Engrossment

	Fund Impact			
	<u>F.Y. 2024</u>	<u>F.Y. 2025</u>	<u>F.Y. 2026</u>	<u>F.Y. 2027</u>
		(000's)		
General Fund	(\$100)	(\$100)	(\$100)	(\$100)

The subtraction is effective beginning with tax year 2023.

The exclusion of settlement payments from wages or severance pay is effective the day following enactment for settlements entered into on or after that date.

EXPLANATION OF THE BILL

Current Law: Public Law 115-97, known as the Tax Cuts and Jobs Act (TCJA), was enacted on December 22, 2017. The TCJA does not allow a deduction for sexual harassment or abuse payments subject to a nondisclosure agreement. Minnesota conforms to the federal provision. Although compensation for physical injuries or sickness is excluded from the income of the recipient, settlement payments for sexual harassment are generally included in the income of the recipient.

Proposed Law: The bill would create a subtraction from taxable income for individual income tax purposes for damages received under a sexual harassment or abuse claim that are not excluded from gross income, or severance pay received under a settlement of a sexual harassment or abuse claim that does not include a nondisclosure agreement. The bill would also prohibit the use of sexual harassment or abuse financial settlements as severance pay or wages regardless of whether there is a nondisclosure agreement.

REVENUE ANALYSIS DETAIL

- The estimate is based on information on sexual harassment payments from the U.S. Equal Employment Opportunity Commission.
- In federal fiscal years 2018 through 2021, \$299.8 million in sexual harassment payments were made to 8,147 individuals, including settlement payments and damages recovered through litigation. The average payment was about \$36,800.
- Minnesota taxpayers are estimated to account for 1.9% of the total or about \$1.4 million, based on Minnesota’s share of civilian employment in 2021.
- An average marginal rate of 8% is assumed.
- No growth is assumed, since the number and amount of payments is unpredictable.
- Tax year impacts are allocated to the following fiscal year.

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