

Senator moves to amend the delete-everything amendment (SCS2255A-3) to S.F. No. 2255 as follows:

Page 107, after line 7, insert:

"ARTICLE 12
VARIOUS TAX PROVISIONS

Section 1. Minnesota Statutes 2024, section 290.015, subdivision 1, is amended to read:

Subdivision 1. **General rule.** (a) Except as provided in subdivision 3, a person that conducts a trade or business that has a place of business in this state, regularly has employees or independent contractors conducting business activities on its behalf in this state, or owns or leases real property that is located in this state or tangible personal property, including but not limited to mobile property, that is present in this state is subject to the taxes imposed by this chapter.

(b) Except as provided in subdivision 3, a person that conducts a trade or business not described in paragraph (a) is subject to the taxes imposed by this chapter if the trade or business obtains or regularly solicits business from within this state, without regard to physical presence in this state.

(c) For purposes of paragraph (b), business from within this state includes, but is not limited to:

(1) sales of products or services of any kind or nature to customers in this state who receive the product or service in this state;

(2) sales of services which are performed from outside this state but the services are received in this state;

(3) transactions with customers in this state that involve intangible property and result in receipts attributed to this state as provided in section 290.191, subdivision 5 or 6;

(4) leases of tangible personal property that is located in this state as defined in section 290.191, subdivision 5, paragraph ~~(g)~~ (f), or 6, paragraph (e); and

(5) sales and leases of real property located in this state.

(d) For purposes of paragraph (b), solicitation includes, but is not limited to:

(1) the distribution, by mail or otherwise, without regard to the state from which such distribution originated or in which the materials were prepared, of catalogs, periodicals, advertising flyers, or other written solicitations of business to customers in this state;

2.1 (2) display of advertisements on billboards or other outdoor advertising in this state;

2.2 (3) advertisements in newspapers published in this state;

2.3 (4) advertisements in trade journals or other periodicals, the circulation of which is
2.4 primarily within this state;

2.5 (5) advertisements in a Minnesota edition of a national or regional publication or a
2.6 limited regional edition of which this state is included of a broader regional or national
2.7 publication which are not placed in other geographically defined editions of the same issue
2.8 of the same publication;

2.9 (6) advertisements in regional or national publications in an edition which is not by its
2.10 contents geographically targeted to Minnesota, but which is sold over the counter in
2.11 Minnesota or by subscription to Minnesota residents;

2.12 (7) advertisements broadcast on a radio or television station located in Minnesota; or

2.13 (8) any other solicitation by telephone, computer database, cable, optic, microwave, or
2.14 other communication system.

2.15 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
2.16 31, 2024.

2.17 Sec. 2. Minnesota Statutes 2024, section 290.191, subdivision 5, is amended to read:

2.18 Subd. 5. **Determination of sales factor.** For purposes of this section, the following rules
2.19 apply in determining the sales factor.

2.20 (a) The sales factor includes all sales, gross earnings, or receipts received in the ordinary
2.21 course of the business, except that the following types of income are not included in the
2.22 sales factor:

2.23 (1) interest;

2.24 (2) dividends;

2.25 (3) sales of capital assets as defined in section 1221 of the Internal Revenue Code;

2.26 (4) sales of property used in the trade or business, except sales of leased property of a
2.27 type which is regularly sold as well as leased; and

2.28 (5) sales of debt instruments as defined in section 1275(a)(1) of the Internal Revenue
2.29 Code or sales of stock.

2.30 (b) Sales of tangible personal property are made within this state if:

(1) the property is received by a purchaser at a point within this state, regardless of the f.o.b. point, other conditions of the sale, or the ultimate destination of the property; or

(2) the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government or the taxpayer is not taxable in the state of the purchaser.

(c) Tangible personal property delivered to a common or contract carrier or foreign vessel for delivery to a purchaser in another state or nation is a sale in that state or nation, regardless of f.o.b. point or other conditions of the sale.

(d) Notwithstanding paragraphs (b) and (c), when intoxicating liquor, wine, fermented malt beverages, cigarettes, or tobacco products are sold to a purchaser who is licensed by a state or political subdivision to resell this property only within the state of ultimate destination, the sale is made in that state.

~~(e) Sales made by or through a corporation that is qualified as a domestic international sales corporation under section 992 of the Internal Revenue Code are not considered to have been made within this state.~~

~~(f)~~ (e) Sales, rents, royalties, and other income in connection with real property is attributed to the state in which the property is located.

~~(g)~~ (f) Receipts from the lease or rental of tangible personal property, including finance leases and true leases, must be attributed to this state if the property is located in this state and to other states if the property is not located in this state. Receipts from the lease or rental of moving property including, but not limited to, motor vehicles, rolling stock, aircraft, vessels, or mobile equipment are included in the numerator of the receipts factor to the extent that the property is used in this state. The extent of the use of moving property is determined as follows:

(1) A motor vehicle is used wholly in the state in which it is registered.

(2) The extent that rolling stock is used in this state is determined by multiplying the receipts from the lease or rental of the rolling stock by a fraction, the numerator of which is the miles traveled within this state by the leased or rented rolling stock and the denominator of which is the total miles traveled by the leased or rented rolling stock.

(3) The extent that an aircraft is used in this state is determined by multiplying the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft.

(4) The extent that a vessel, mobile equipment, or other mobile property is used in the state is determined by multiplying the receipts from the lease or rental of the property by a fraction, the numerator of which is the number of days during the taxable year the property was in this state and the denominator of which is the total days in the taxable year.

~~(h)~~ (g) Royalties and other income received for the use of or for the privilege of using intangible property, including patents, know-how, formulas, designs, processes, patterns, copyrights, trade names, service names, franchises, licenses, contracts, customer lists, or similar items, must be attributed to the state in which the property is used by the purchaser. If the property is used in more than one state, the royalties or other income must be apportioned to this state pro rata according to the portion of use in this state. If the portion of use in this state cannot be determined, the royalties or other income must be excluded from both the numerator and the denominator. Intangible property is used in this state if the purchaser uses the intangible property or the rights therein in the regular course of its business operations in this state, regardless of the location of the purchaser's customers.

~~(h)~~ (h) Sales of intangible property are made within the state in which the property is used by the purchaser. If the property is used in more than one state, the sales must be apportioned to this state pro rata according to the portion of use in this state. If the portion of use in this state cannot be determined, the sale must be excluded from both the numerator and the denominator of the sales factor. Intangible property is used in this state if the purchaser used the intangible property in the regular course of its business operations in this state.

~~(i)~~ (i) Receipts from the performance of services must be attributed to the state where the services are received. For the purposes of this section, receipts from the performance of services provided to a corporation, partnership, or trust may only be attributed to a state where it has a fixed place of doing business. If the state where the services are received is not readily determinable or is a state where the corporation, partnership, or trust receiving the service does not have a fixed place of doing business, the services shall be deemed to be received at the location of the office of the customer from which the services were ordered in the regular course of the customer's trade or business. If the ordering office cannot be determined, the services shall be deemed to be received at the office of the customer to which the services are billed. If the taxpayer is not taxable in the state of the purchaser, the sale is attributable to this state if the greater proportion of the service is performed in this state.

~~(j)~~ (j) For the purposes of this subdivision and subdivision 6, paragraph (l), receipts from management, distribution, or administrative services performed by a person or

corporation for a fund of a person or corporation regulated under United States Code, title 15, chapter 2D, subchapter I, must be attributed to the state where the shareholder of the fund resides. Under this paragraph, receipts for services attributed to shareholders are determined on the basis of the ratio of: (1) the average of the outstanding shares in the fund owned by shareholders residing within Minnesota at the beginning and end of each year; and (2) the average of the total number of outstanding shares in the fund at the beginning and end of each year. Residence of the shareholder, in the case of an individual, is determined by the mailing address furnished by the shareholder to the fund. Residence of the shareholder, when the shares are held by an insurance company as a depositor for the insurance company policyholders, is the mailing address of the policyholders. In the case of an insurance company holding the shares as a depositor for the insurance company policyholders, if the mailing address of the policyholders cannot be determined by the taxpayer, the receipts must be excluded from both the numerator and denominator. Residence of other shareholders is the mailing address of the shareholder.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2024.

Sec. 3. Minnesota Statutes 2024, section 290.191, subdivision 6, is amended to read:

Subd. 6. **Determination of receipts factor for financial institutions.** (a) For purposes of this section, the rules in this subdivision and subdivisions 5, paragraph ~~(k)~~ (j), and 8 apply in determining the receipts factor for financial institutions.

(b) "Receipts" for this purpose means gross income, including net taxable gain on disposition of assets, including securities and money market instruments, when derived from transactions and activities in the regular course of the taxpayer's trade or business.

(c) "Money market instruments" means federal funds sold and securities purchased under agreements to resell, commercial paper, banker's acceptances, and purchased certificates of deposit and similar instruments to the extent that the instruments are reflected as assets under generally accepted accounting principles.

(d) "Securities" means United States Treasury securities, obligations of United States government agencies and corporations, obligations of state and political subdivisions, corporate stock, bonds, and other securities, participations in securities backed by mortgages held by United States or state government agencies, loan-backed securities and similar investments to the extent the investments are reflected as assets under generally accepted accounting principles.

(e) Receipts from the lease or rental of real or tangible personal property, including both finance leases and true leases, must be attributed to this state if the property is located in this state. Receipts from the lease or rental of tangible personal property that is characteristically moving property, including, but not limited to, motor vehicles, rolling stock, aircraft, vessels, or mobile equipment are included in the numerator of the receipts factor to the extent that the property is used in this state. The extent of the use of moving property is determined as follows:

(1) A motor vehicle is used wholly in the state in which it is registered.

(2) The extent that rolling stock is used in this state is determined by multiplying the receipts from the lease or rental of the rolling stock by a fraction, the numerator of which is the miles traveled within this state by the leased or rented rolling stock and the denominator of which is the total miles traveled by the leased or rented rolling stock.

(3) The extent that an aircraft is used in this state is determined by multiplying the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft.

(4) The extent that a vessel, mobile equipment, or other mobile property is used in the state is determined by multiplying the receipts from the lease or rental of property by a fraction, the numerator of which is the number of days during the taxable year the property was in this state and the denominator of which is the total days in the taxable year.

(f) Interest income and other receipts from assets in the nature of loans that are secured primarily by real estate or tangible personal property must be attributed to this state if the security property is located in this state under the principles stated in paragraph (e).

(g) Interest income and other receipts from consumer loans not secured by real or tangible personal property that are made to residents of this state, whether at a place of business, by traveling loan officer, by mail, by telephone or other electronic means, must be attributed to this state.

(h) Interest income and other receipts from commercial loans and installment obligations that are unsecured by real or tangible personal property or secured by intangible property must be attributed to this state if the proceeds of the loan are to be applied in this state. If it cannot be determined where the funds are to be applied, the income and receipts are attributed to the state in which the office of the borrower from which the application would be made in the regular course of business is located. If this cannot be determined, the transaction is disregarded in the apportionment formula.

(i) Interest income and other receipts from a participating financial institution's portion of participation and syndication loans must be attributed under paragraphs (e) to (h). A participation loan is an arrangement in which a lender makes a loan to a borrower and then sells, assigns, or otherwise transfers all or a part of the loan to a purchasing financial institution. A syndication loan is a loan transaction involving multiple financial institutions in which all the lenders are named as parties to the loan documentation, are known to the borrower, and have privity of contract with the borrower.

(j) Interest income and other receipts including service charges from financial institution credit card and travel and entertainment credit card receivables and credit card holders' fees must be attributed to the state to which the card charges and fees are regularly billed.

(k) Merchant discount income derived from financial institution credit card holder transactions with a merchant must be attributed to the state in which the merchant is located. In the case of merchants located within and outside the state, only receipts from merchant discounts attributable to sales made from locations within the state are attributed to this state. It is presumed, subject to rebuttal, that the location of a merchant is the address shown on the invoice submitted by the merchant to the taxpayer.

(l) Receipts from the performance of fiduciary and other services must be attributed to the state in which the services are received. For the purposes of this section, services provided to a corporation, partnership, or trust must be attributed to a state where it has a fixed place of doing business. If the state where the services are received is not readily determinable or is a state where the corporation, partnership, or trust does not have a fixed place of doing business, the services shall be deemed to be received at the location of the office of the customer from which the services were ordered in the regular course of the customer's trade or business. If the ordering office cannot be determined, the services shall be deemed to be received at the office of the customer to which the services are billed.

(m) Receipts from the issuance of travelers checks and money orders must be attributed to the state in which the checks and money orders are purchased.

(n) Receipts from investments of a financial institution in securities and from money market instruments must be apportioned to this state based on the ratio that total deposits from this state, its residents, including any business with an office or other place of business in this state, its political subdivisions, agencies, and instrumentalities bear to the total deposits from all states, their residents, their political subdivisions, agencies, and instrumentalities. In the case of an unregulated financial institution subject to this section, these receipts are apportioned to this state based on the ratio that its gross business income, excluding such

receipts, earned from sources within this state bears to gross business income, excluding such receipts, earned from sources within all states. For purposes of this subdivision, deposits made by this state, its residents, its political subdivisions, agencies, and instrumentalities must be attributed to this state, whether or not the deposits are accepted or maintained by the taxpayer at locations within this state.

(o) A financial institution's interest in property described in section 290.015, subdivision 3, paragraph (b), is included in the receipts factor in the same manner as assets in the nature of securities or money market instruments are included in paragraph (n).

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2024.

Sec. 4. Minnesota Statutes 2024, section 297A.61, subdivision 4, is amended to read:

Subd. 4. **Retail sale.** (a) A "retail sale" means:

(1) any sale, lease, or rental of tangible personal property for any purpose, other than resale, sublease, or subrent of items by the purchaser in the normal course of business as defined in subdivision 21; and

(2) any sale of a service enumerated in subdivision 3, for any purpose other than resale by the purchaser in the normal course of business as defined in subdivision 21.

(b) A sale of property used by the owner only by leasing it to others or by holding it in an effort to lease it, and put to no use by the owner other than resale after the lease or effort to lease, is a sale of property for resale.

(c) A sale of master computer software that is purchased and used to make copies for sale or lease is a sale of property for resale.

(d) A sale of building materials, supplies, and equipment to owners, contractors, subcontractors, or builders for the erection of buildings or the alteration, repair, or improvement of real property is a retail sale in whatever quantity sold, whether the sale is for purposes of resale in the form of real property or otherwise.

(e) A sale of carpeting, linoleum, or similar floor covering to a person who provides for installation of the floor covering is a retail sale and not a sale for resale since a sale of floor covering which includes installation is a contract for the improvement of real property.

(f) A sale of shrubbery, plants, sod, trees, and similar items to a person who provides for installation of the items is a retail sale and not a sale for resale since a sale of shrubbery,

9.1 plants, sod, trees, and similar items that includes installation is a contract for the improvement
9.2 of real property.

9.3 (g) A sale of tangible personal property that is awarded as prizes is a retail sale and is
9.4 not considered a sale of property for resale.

9.5 (h) A sale of tangible personal property utilized or employed in the furnishing or
9.6 providing of services under subdivision 3, paragraph (g), clause (1), including, but not
9.7 limited to, property given as promotional items, is a retail sale and is not considered a sale
9.8 of property for resale.

9.9 (i) A sale of tangible personal property used in conducting lawful gambling under chapter
9.10 349 or the State Lottery under chapter 349A, including, but not limited to, property given
9.11 as promotional items, is a retail sale and is not considered a sale of property for resale.

9.12 (j) a sale of machines, equipment, or devices that are used to furnish, provide, or dispense
9.13 goods or services, including, but not limited to, coin-operated devices, is a retail sale and
9.14 is not considered a sale of property for resale.

9.15 (k) In the case of a lease, a retail sale occurs (1) when an obligation to make a lease
9.16 payment becomes due under the terms of the agreement or the trade practices of the lessor
9.17 or (2) in the case of a lease of a motor vehicle, as defined in section 297B.01, subdivision
9.18 11, but excluding vehicles with a manufacturer's gross vehicle weight rating greater than
9.19 10,000 pounds and rentals of vehicles for not more than 28 days, at the time the lease is
9.20 executed.

9.21 (l) In the case of a conditional sales contract, a retail sale occurs upon the transfer of
9.22 title or possession of the tangible personal property.

9.23 (m) A sale of a bundled transaction in which one or more of the products included in
9.24 the bundle is a taxable product is a retail sale, except that if one of the products is a
9.25 telecommunication service, ancillary service, Internet access, audio or video programming
9.26 service, ~~a suite license exempt under section 297A.67, subdivision 35, or a right to purchase~~
9.27 ~~season tickets to collegiate events exempt under section 297A.67, subdivision 38,~~ and the
9.28 seller has maintained books and records identifying through reasonable and verifiable
9.29 standards the portions of the price that are attributable to the distinct and separately
9.30 identifiable products, then the products are not considered part of a bundled transaction.
9.31 For purposes of this paragraph:

10.1 (1) the books and records maintained by the seller must be maintained in the regular
10.2 course of business, and do not include books and records created and maintained by the
10.3 seller primarily for tax purposes;

10.4 (2) books and records maintained in the regular course of business include, but are not
10.5 limited to, financial statements, general ledgers, invoicing and billing systems and reports,
10.6 and reports for regulatory tariffs and other regulatory matters; and

10.7 (3) books and records are maintained primarily for tax purposes when the books and
10.8 records identify taxable and nontaxable portions of the price, but the seller maintains other
10.9 books and records that identify different prices attributable to the distinct products included
10.10 in the same bundled transaction.

10.11 (n) A sale of motor vehicle repair paint and materials by a motor vehicle repair or body
10.12 shop business is a retail sale and the sales tax is imposed on the gross receipts from the retail
10.13 sale of the paint and materials. The motor vehicle repair or body shop that purchases motor
10.14 vehicle repair paint and motor vehicle repair materials for resale must either:

10.15 (1) separately state each item of paint and each item of materials, and the sales price of
10.16 each, on the invoice to the purchaser; or

10.17 (2) in order to calculate the sales price of the paint and materials, use a method which
10.18 estimates the amount and monetary value of the paint and materials used in the repair of
10.19 the motor vehicle by multiplying the number of labor hours by a rate of consideration for
10.20 the paint and materials used in the repair of the motor vehicle following industry standard
10.21 practices that fairly calculate the gross receipts from the retail sale of the motor vehicle
10.22 repair paint and motor vehicle repair materials. An industry standard practice fairly calculates
10.23 the gross receipts if the sales price of the paint and materials used or consumed in the repair
10.24 of a motor vehicle equals or exceeds the purchase price paid by the motor vehicle repair or
10.25 body shop business. Under this clause, the invoice must either separately state the "paint
10.26 and materials" as a single taxable item, or separately state "paint" as a taxable item and
10.27 "materials" as a taxable item. This clause does not apply to wholesale transactions at an
10.28 auto auction facility.

10.29 (o) A sale of specified digital products or other digital products to an end user with or
10.30 without rights of permanent use and regardless of whether rights of use are conditioned
10.31 upon payment by the purchaser is a retail sale. When a digital code has been purchased that
10.32 relates to specified digital products or other digital products, the subsequent receipt of or
10.33 access to the related specified digital products or other digital products is not a retail sale.

(p) A payment made to a cooperative electric association or public utility as a contribution in aid of construction is a contract for improvement to real property and is not a retail sale.

EFFECTIVE DATE. This section is effective on July 1, 2025.

Sec. 5. Minnesota Statutes 2024, section 297A.82, subdivision 4, is amended to read:

Subd. 4. **Exemptions.** (a) The following transactions are exempt from the tax imposed in this chapter to the extent provided.

(b) The purchase or use of aircraft previously registered in Minnesota by a corporation or partnership is exempt if the transfer constitutes a transfer within the meaning of section 351 or 721 of the Internal Revenue Code.

(c) The sale to or purchase, storage, use, or consumption by a licensed aircraft dealer of an aircraft for which a commercial use permit has been issued pursuant to section 360.654 is exempt, if the aircraft is resold while the permit is in effect.

(d) Air flight equipment when sold to, or purchased, stored, used, or consumed by airline companies, as defined in section 270.071, subdivision 4, is exempt. For purposes of this subdivision, "air flight equipment" includes airplanes and parts necessary for the repair and maintenance of such air flight equipment, and flight simulators, but does not include aircraft with a maximum takeoff weight of less than 30,000 pounds.

(e) Sales of, and the storage, distribution, use, or consumption of aircraft, as defined in section 360.511 and approved by the Federal Aviation Administration, and which the seller delivers to a purchaser outside Minnesota or which, without intermediate use, is shipped or transported outside Minnesota by the purchaser are exempt, but only if the purchaser is not a resident of Minnesota and provided that the aircraft is not thereafter returned to a point within Minnesota, except in the course of interstate commerce or isolated and occasional use, and will be registered in another state or country upon its removal from Minnesota. This exemption applies even if the purchaser takes possession of the aircraft in Minnesota and uses the aircraft in the state exclusively for training purposes for a period not to exceed ten days prior to removing the aircraft from this state.

~~(f) The sale or purchase of the following items that relate to aircraft operated under Federal Aviation Regulations, Parts 91 and 135, and associated installation charges: equipment and parts necessary for repair and maintenance of aircraft; and equipment and parts to upgrade and improve aircraft.~~

EFFECTIVE DATE. This section is effective July 1, 2025.

- 12.1 **Sec. 6. REPEALER.**
- 12.2 Minnesota Statutes 2024, sections 297A.67, subdivisions 34, 35, and 38; and 297A.68,
- 12.3 subdivision 46, are repealed.
- 12.4 **EFFECTIVE DATE.** This section is effective July 1, 2025."
- 12.5 Amend the title accordingly