Overview

This bill allows corporate and individual income taxpayers to exclude or reduce the share of income from gains on sales of assets, if they are taxed by another state under some circumstances.

1 **Exclusion of gains.** Allows a corporation or individual taxpayer to exclude the gain on a sale or exchange of an asset if another state assigns the gain to it as non-business income (i.e., the gains is subject to taxation in full in the other state). Second, if gain on an asset sales is apportioned to another state and "multiple" taxation results, the Minnesota income is reduced. The language of the bill is not precise, but it appears to permit reducing the Minnesota share so that only 100% of the income is taxed by all of the states that are taxing it. It seems likely that this was intended to apply only to business assets, but the language of the bill does not explicitly limit it and, thus, it could apply to personal assets (e.g., a vacation home), if gain on the sale was subject to individual taxation in the other state. This would appear to take precedence over the credit for taxes paid to other states, although the bill appears to allow an individual taxpayer to claim the credit as well as excluding the gain. The section also provides special rules for apportioning gains on sales or exchanges of "a significant interest" in "a trade or business." If another state taxes the gain on an apportioned separate entity basis (i.e., not on a combined return), Minnesota tax would apply only to the share of the gain that is not apportioned to the other state(s). To qualify for these rules the taxpayer would be required to sell at least a 20 percent equity interest in the business and the gain would have to exceed 20 percent of the separate entity's income (excluding the gain itself that is apportioned to the other state(s)). The sale or exchange could be made by an asset or stock sale.

2 **Petitions for other apportionment.** Allows taxpayers to petition the Commissioner of Revenue to use alternative methods to determine the Minnesota share of their income that deviate from the assignment or allocation rules under section 290.17. This authority now applies only to the apportionment rules under section 290.191.