Domicile. Clarifies that the definition of domicile for corporate franchise tax purposes follows the definition established by Minnesota case law. Defines domicile to mean the principal place from which the trade or business of the taxpayer is directed or managed. Effective retroactively for tax years beginning after December 31, 1999.

Individual alternative minimum tax. Allows a deduction from alternative minimum taxable income for the regular tax subtraction the taxpayer is allowed for early 1980's Minnesota additions for IRA, Keogh, state government pensions, and percentage accelerated cost recovery (ACRS) depreciation. Effective retroactively for tax years beginning after December 31, 1999.

Assignment of non-business income for non-residents. Changes the provision which assigns non-business income for non-residents, in response to the Minnesota Supreme Court decision in Victor C. Benda v Commissioner of Revenue. In this case the court held the term "compensation for labor or personal or professional service" did not include wages paid to a corporate executive for managerial or administrative work. The change replaces these terms with the term "wages" thus requiring wages earned by all employees for work in Minnesota to be assigned to Minnesota. Effective retroactively for tax years beginning after December 31, 1999, except that the requirement to withhold is effective for wages paid after December 31, 2000.

Effective dates.

Article 2: Federal Update

General update. Updates the references to the Internal Revenue Code from December 31, 1998 to December 31, 1999 for Chapters 289A, Tax Administration Provisions; 290A, Property Tax Refund; and 291, Estate Tax to the changes made by the two federal bills enacted in 1999, a trade bill that contained a minor change and an "extender" bill that extended various sunset
dates. These reference updates have little substantive impact on Minnesota. Effective day following final enactment.

**2 Taxable income.** Adopts the 1999 federal changes to federal taxable income, which is used as the basis for calculating Minnesota taxable income, and deletes back tax year references from 1986 through 1996. The changes to federal taxable income came as part of the federal extender bill, and provided additional revenue to offset the cost of the sunset extensions, which were primarily to federal credits and the federal alternative minimum tax, neither of which flow through to the Minnesota income tax. The federal changes are:

- Extends the ability of employees to exclude from their income nonemployment related employer provided undergraduate college education benefits of up to $5,250 for courses beginning from May 31, 2001, through December 31, 2001.
- Extends the ability to expense rather than capitalize and depreciate "brownfield" clean-up expenses for expenses paid or incurred from December 31, 2000, through December 31, 2001.
- Continues the suspension of the limit on percentage depletion to net income for an oil or gas well for independent marginal producers for tax years beginning between December 31, 1999, and December 31, 2001.
- Extends the ability of U.S. corporations with foreign banking and insurance subsidiaries to exclude the banking and insurance business income from U.S. taxable income for tax years beginning before January 1, 2002.
- Provides that farmers' option to accelerate the receipt of a payment under a federal production flexibility contract will not accelerate the recognition of income until the option is exercised. Effective after December 17, 1999.
- Provides that commodity derivative financial instruments held by commodity derivative dealers hedging transactions, and supplies consumed by a taxpayer in the ordinary course of business will generate ordinary income or loss rather than capital gain or loss. Effective for assets sold after December 17, 1999.
- Provides that the character of income (ordinary or capital) realized on the sale of a financial asset by a flow-through entity will be the same as if the taxpayer had individually sold the asset. Effective for transactions on or after July 12, 1999.
- Further limits the ability of accrual based taxpayers to use the installment method of reporting income. Effective for sales after December 17, 1999.
- Reduces the tax basis of assets of a corporation whose shares are distributed by a partnership to another corporation if the recipient corporation controls the distributed corporation after the distribution. The reduction equals the excess of the partnership's basis in the stock over the corporate partner's basis in the distributed stock. Effective for distributions after July 14, 1999.
- Limits the ability to receive the tax favored status as a real estate investment trust in a number of ways. Generally, effective for tax years beginning after December 31, 2000.

**Other Minnesota tax references to the Internal Revenue Code.** Updates all other references to the Internal Revenue Code in Chapter 290, Income and Franchise Tax, for federal changes to
the Code made in 1999. The only federal change that substantively affects Minnesota is a change to the definition of "qualified child" for the federal earned income tax credit. This definition determines eligibility for the Minnesota working family tax credit. The change limited the ability of a foster child to be a "qualified child" to brothers, sisters, stepbrothers, or stepsisters of the taxpayer (or a descendant of the above). Effective for tax years beginning after December 31, 1999.

**Effective dates.**

**Article 3: Property Taxes**

1 **Overpayments.** Clarifies that the statute governing property tax overpayments only applies to overpayments that result from:
   - payments that exceed the amount shown on the property tax statement
   - the tax being reduced as the result of a court decision
   - the tax being reduced as the result of an abatement

Effective for overpayments that occur the day following final enactment and thereafter.

**Effective dates.**

**Article 4: Special Taxes**

1-6 **Cigarette stamps.** Allows the Commissioner of Revenue to authorize stamping methods other than heat-applied stamps and deletes all references to heat-applied stamps. Effective the day following final enactment.

**Effective dates.**

**Article 5: Miscellaneous**

1 **Retention of liens after partial write-off.** Clarifies that the Commissioner of Revenue is not required to release tax liens imposed after write-off if a valid balance due remains for any of the periods listed on the lien. Effective for debts written off on or after the day following final enactment.

2 **Date of assessment.** Provides that taxes reported on a return or amended return filed by the taxpayer are assessed when the liability is entered into the records of the Department of Revenue, rather than on the date of filing of the return. Also clarifies that taxes reported on a commissioner-filed return are assessed as of the date of the return. Effective for assessments made on or after the day following final enactment.

3 **Authority to assess taxes.** Clarifies that the Commissioner of Revenue may make determinations and assessments of state taxes, rather than being required to make such determinations in every case. Also provides that when a return is filed by the taxpayer, the liability reported on the return must be entered by the commissioner, subject to possible audit. This second provision conforms to the change made to the date of assessment statute by section 2, and to the first part of this section. Effective the day following final enactment.

4 **Definition of patient services.** Clarifies that services to nursing homes and examinations for employment, litigation, utilization review and insurance are not considered patient services and do not have to be reported by health care providers as gross revenues. Providers now report the receipts for these services and then exclude them under the exemptions provision. Effective for payments received on or after January 1, 2000.

5 **Exemptions.** Exempts payments received under the Federal Employees Health Benefits Act (FEHBA) from the MinnesotaCare tax. Under 5 U.S.C. §8909(f), no state may impose a tax on a FEHBA carrier or a plan subcontractor. In a decision issued by the Minnesota Tax Court in 1999, the court found that the tax as applied to a staff model health plan company violated the
federal statute. This section extends the exemption to all hospitals and health care providers. Effective for payments received on or after January 1, 2000.

**6 Definition of contraband.** Includes in the definition of contraband for purposes of cigarette and tobacco taxes any cigarettes not allowed in the country by federal law (gray market cigarettes), and inventory for which there is no invoice. The gray market cigarette provision is effective the day following final enactment and inventory for which there is no invoice provision is effective July 1, 2000.

**7 Seizure of contraband.** Provides that in a court hearing related to contraband seizure under cigarette and tobacco tax provisions, the issue to be decided is whether the alleged contraband is contraband as defined in statute and not whether there was an intent to evade the tax. Effective for alleged contraband seized on or after the day following final enactment.

**8 Repealer.** Repeals a reference to the date of assessment of additional tax reported on an amended return that is rendered obsolete by section 2. Effective for assessments made on or after the day following final enactment.

**9 Effective dates.**