

HOUSE RESEARCH

Bill Summary

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Overview

This bill is the governor's proposal for a new jobs tax credit. The reduced tax revenues from the credit are offset by reducing the rates of the foreign royalty subtraction and the deemed dividend deduction for Foreign Operating Corporations (FOCs) and by expanding the sales tax nexus rules to include online retailers that use resident affiliates.

Article 1: Jobs Now Tax Credit

Overview

This article provides a refundable jobs credit for employers that hire new employees before July 1, 2013.

- 1 Jobs Now tax credit.** Allows a refundable credit against the individual income and corporate franchise tax for new hires. The credit equals \$3,000 per employee for individuals hired in the last nine months of 2012, and \$1,500 per employee for those hired in the first six months of 2013.

Employers must apply for a tentative credit after hiring new employees, using an Internet application to be developed by the commissioner of revenue. The credit is limited to the first 14,000 employees hired, on a first-come, first-served basis. The employer claims the credit after the individual hired has worked for the employer for 12 consecutive months. An employer may claim the credit for up to 16 employees hired in 2012, and up to 33 employees hired in 2013.

Special rules for construction and trades employers require them to renew tentative credits between 180 and 210 days after the employee was hired, verifying that the employee is still employed, and that the employer expects them to remain employed for the 12 consecutive months necessary for claiming the credit. Any tentative credits that are not renewed by construction and trades employers are available to be reissued.

Article 2: Corporate Franchise Tax

Overview

This article reduces the rates of the subtraction for foreign royalties and the deemed dividend deduction for FOC income from 80 percent to 70 percent.

- 1 **Foreign royalty subtraction.** Reduces the subtraction for foreign royalties from 80 percent to 70 percent. This subtraction is allowed for royalties and similar payments made by a foreign corporation or an FOC that is part of the unitary business. This section also makes a cross reference change to be consistent with the recodification of the deemed dividend deduction for FOCs in section 3
- 2 **Cross reference.** Makes a cross reference change to be consistent with the recodification of the deemed dividend deduction for FOCs made in section 3.
- 3 **FOCs; deemed dividend deduction.** Reduces the rate of the deemed dividend deduction allowed for the income of an FOC that is part of a unitary business from a rate of 80 percent (comparable to the general dividend received deduction) to 70 percent.

Article 3: Sales and Use Taxes

Overview

This article creates a presumption that remote sellers (i.e., those without employees or property in Minnesota) are obligated to collect Minnesota sales tax, if they use resident affiliates to refer sales to them and those referrals generate at least \$10,000 in annual Minnesota sales.

- 1 **Solicitor, definition.** Defines "solicitor" under the law that impose an obligation on sellers to collect Minnesota sales tax to include Minnesota residents who directly or indirectly refer potential customers to the seller through an Internet website or similar link for a commission or other consideration. The presumption is that a retailer has nexus if the total receipts of sales to Minnesota customers generated by Internet referrals made through websites operated by Minnesota residents exceed \$10,000 in the last 12-month period. A rebuttal process to this presumption is provided.

Background. Current law imposes a duty to collect sales tax on retailers with a physical presence (nexus) in the state. Physical presence is defined as having property in this state or employees in this state, including "an affiliate, agent, salesperson, canvasser, or *solicitor* operating in the state."

The provisions of this section are modeled on "Amazon" or "affiliate nexus" bills that have been passed in six other states: New York, Rhode Island, North Carolina, Connecticut, Illinois, and Arkansas. California has passed a similar bill that will go into effect if no federal legislation is passed this year, and Vermont passed the same law but made it effective when 15 other states have passed similar provisions.