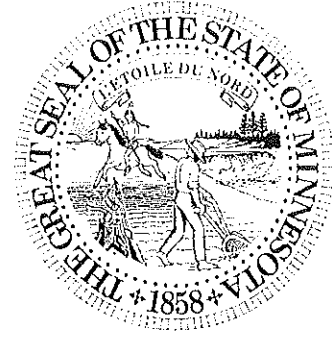


2013 Legislative Session Issues Affecting Business



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House File 677, the 2013 Tax Omnibus Bill, was passed and signed by Governor Dayton. It contains numerous changes to the tax code, including a new tax on business equipment repairs, warehousing/storage, tobacco products, sales tax on equipment, and personal income.

Repair of commercial and industrial equipment now subject to state sales tax, including:

- capital equipment used in manufacturing, mining, and fabricating
- industrial equipment used in restaurants
- farm machinery
- construction machinery
- mining machinery
- shelves in retail and warehouse establishments)
- motor vehicles

Warehousing and storage services are taxable for general warehousing and bulk storage at shipping terminals (i.e. railroads, commercial docks, etc.). This excludes:

- agricultural products – i.e. grain elevators and silos
- refrigerated storage – including food storage, fur storage, and meat locker rental
- electronic data storage
- self-storage services
- storage of motor vehicles, boats, RVs and similar items

The capital equipment exemption for equipment purchased by the telecommunications industry is repealed. This includes telephones and other communication services, cable and satellite services.

A new 4th income tax tier is created at 9.85% for incomes above \$150,000 (single filers) and \$250,000 (married-joint filers).

The cigarette tax is increased to \$2.83 per pack, and the current 35% rate on tobacco products is raised to 95%. The health impact fee (HIF) is eliminated for both cigarettes (\$.75) and other tobacco products (35% of the wholesale price) and converted to a tax. The Commissioner of Revenue is directed to adjust the tax rates annually to take into account the average price of cigarettes sold in Minnesota.

Adopts the Affiliate Nexus language, taxing online sales if they have an affiliate agreement in-state.

The rental car tax is increased from 6.2% to 9.2%.

One positive was adopted, a Republican idea, that provides **an exemption from sales taxes on all qualified capital** equipment at the point of purchase.

LOOKING AHEAD: Minnesota Democrats plan on pursuing a significant minimum wage increase on businesses during the 2014 session next spring.

Some changes for businesses from the Federal Tax Conformity bill (HF 6) passed and signed:

Extends depreciation and expensing schedules for restaurant improvements, motorsports entertainment complexes, mine safety equipment, business property on reservations, and qualified film and TV production expenses.

Allows employers to deduct certain transportation benefits for employees.

Allows pass-through companies (S Corps, LLC's, Sole Proprietors, etc) to deduct charitable food contributions as if they were a C Corporation.

Limits the amount an organization can exempt from federal income taxes may receive from a subsidiary that they control at least 50% of.

Exempts dividends paid by Regulated Investment Companies to foreign shareholders in certain cases.

Allows income subpart F foreign personal holding company income, foreign base company services income, and insurance income for certain income that is derived in the active conduct of a banking, financing, or similar business, or in the conduct of an insurance business.

Allows S Corps a limited adjustment on donated property (stocks) which increases in value, instead of using the fair market value for the property.

Allows for a 100% exclusion of capital gains when selling stock in a qualified small business if the stock was held longer than 5 years. The purchase of the stock must have occurred after September 27, 2010 but before January 1, 2012. A 50% exclusion will exist for stock acquired after January 1, 2014.

Reduces the minimum holding time for an S Corp, after converting from a C Corp, to avoid corporate income taxes on gains realized after 5 years.

Size and Scope of State Government Will Grow:

Total general fund spending over the next two years will be \$38.4 billion, or a 9.3% increase over current spending, while Minnesota's economy is only project to grow 2-3% per year.

The number of full time government workers will grow by at least 1,300, with dozens of new inspectors and supervisors throughout various state agencies such as the DNR, PCA and Dept. of Revenue.

The legislature gave itself a large budget increase of 10%, while the governor, constitutional officers (Attorney General, State Auditor) and the governor's cabinet all received significant pay increases. There was also a multi-million dollar provision passed to build new offices for the Minnesota Senate.

A taxpayer-funded political contribution refund (PCR) program was put back in place which reimburses citizens with tax dollars for giving donations to political candidates.

The legislature also eliminated the Sunset Commission which was set up in cooperation with Gov. Dayton in 2011 to review and eliminate wasteful government agencies and boards.