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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2814

03/09/2023 Authored by Davids
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; withholding; prohibiting withholding for certain periodic and
1.3 nonperiodic distributions; amending Minnesota Statutes 2022, section 290.92,
1.4 subdivision 20.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2022, section 290.92, subdivision 20, is amended to read:

1.7 Subd. 20. Miscellaneous withholding arrangements. (a) For purposes of this section,
1.8 any payment or distribution to an individual as defined under section 3405(e)(2) or (3) of
1.9 the Internal Revenue Code shall be treated as if it were a payment of wages by an employer
1.10 to an employee for a payroll period. Any payment to an individual of sick pay which does
1.11 not constitute wages, determined without regard to this subdivision, shall be treated as if it
1.12 were a payment of wages by an employer to an employee for a payroll period, if, at the time
1.13 the payment is made a request that such sick pay be subject to withholding under this section
1.14 is in effect. Sick pay means any amount which:

1.15 (1) is paid to an employee pursuant to a plan to which the employer is a party, and

1.16 (2) constitutes remuneration or a payment in lieu of remuneration for any period during
1.17 which the employee is temporarily absent from work on account of sickness or personal
1.18 injuries.

1.19 (b) A request for withholding, the amount withheld, and sick pay paid pursuant to certain
1.20 collective bargaining agreements shall conform with the provisions of section 3402(o)(3),
1.21 (4), and (5) of the Internal Revenue Code.

1.22 (c) The commissioner is authorized by rules to provide for withholding:

2.1 (1) from remuneration for services performed by an employee for the employer which,  
2.2 without regard to this subdivision, does not constitute wages, and

2.3 (2) from any other type of payment with respect to which the commissioner finds that  
2.4 withholding would be appropriate under the provisions of this section, if the employer and  
2.5 the employee, or in the case of any other type of payment the person making and the person  
2.6 receiving the payment, agree to such withholding. Such agreement shall be made in such  
2.7 form and manner as the commissioner may by rules provide. For purposes of this section  
2.8 remuneration or other payments with respect to which such agreement is made shall be  
2.9 treated as if they were wages paid by an employer to an employee to the extent that such  
2.10 remuneration is paid or other payments are made during the period for which the agreement  
2.11 is in effect.

2.12 (d) An individual receiving a payment or distribution under paragraph (a) may elect to  
2.13 have paragraph (a) not apply to the payment or distribution as follows.

2.14 (1) For payments defined under section 3405(e)(2) of the Internal Revenue Code, an  
2.15 election remains in effect until revoked by such individual.

2.16 (2) For distributions defined under section 3405(e)(3) of the Internal Revenue Code, the  
2.17 election is on a distribution-by-distribution basis.

2.18 (e) If an individual elects under paragraph (d) not to have paragraph (a) apply, or it is  
2.19 reasonable to believe that a payment or distribution is not includable in gross income, then  
2.20 for a periodic payment or nonperiodic distribution as defined in section 3405(e)(2) or (3)  
2.21 of the Internal Revenue Code, a payor must not require that any amount of the payment or  
2.22 distribution be withheld for Minnesota tax and must not notify a payee that withholding for  
2.23 Minnesota tax is required on the payment or distribution. Nothing in this paragraph prohibits  
2.24 a payee from making the withholding election in paragraph (d).

2.25 **EFFECTIVE DATE.** This section is effective the day following final enactment.