

CHAPTER 504—S. F. No. 1287

An act relating to taxes on and measured by net income; amending Minnesota Statutes 1957, Sections 290.10 and 290.12, Subdivision 2.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1957, Section 290.10, is amended to read:

290.10 Non-deductible items. In computing the net income no deduction shall in any case be allowed for:

- (1) Personal, living or family expenses;
- (2) Amounts paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate, except as otherwise provided in this chapter;
- (3) Amounts expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made;
- (4) Premiums paid on any life insurance policy covering the life of the taxpayer or of any other person;
- (5) The shrinkage in value, due to the lapse of time, of a life or terminable interest of any kind in property acquired by gift, devise, bequest or inheritance;
- (6) Losses from sales or exchanges of property, directly or indirectly, between members of a family, or, except in the case of distributions in liquidation, between an individual and a corporation in which such individual owns, directly or indirectly, more than 50 percent in value of the outstanding stock; or between any person or corporation and a trust created by him or it or of which he or it is a beneficiary, directly or indirectly; for the purpose of this clause, an individual shall be considered as owning the stock owned, directly or indirectly, by his family; and the family of an individual shall include only his brothers and sisters (whether by the whole or half blood), spouse, ancestor, and lineal descendants, but such losses shall be allowed as deductions if the taxpayer shows to the satisfaction of the commissioner that the sale or exchange was bona fide and for a fair and adequate consideration;
- (7) In computing net income, no deduction shall be allowed under section 290.09, clause (1), relating to expenses

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incurred or under section 290.09, clause (2), relating to interest accrued;

(a) If such expenses or interest not paid within the taxable year or within two and one-half months after the close thereof; and

(b) If, by reason of the method of accounting of the person to whom the payment is to be made, the amount thereof is not, unless paid, includible in the gross income of such person for the taxable year in which or with which the taxable year of the taxpayer ends; and

(c) If, at the close of the taxable year of the taxpayer or at any time within two and one-half months thereafter, both the taxpayer and the person to whom the payment is to be made are persons between whom losses would be disallowed under clause (6);

(8) Contributions by employees under the federal railroad retirement act, the federal social security act, or to Minnesota or federal public employee retirement funds.

(9) Expenses, interest and taxes connected with or allocable against the production or receipt of all income not included in the measure of the tax imposed by this act. When the federal income tax liability is joint and several under a joint federal return of husband and wife, the allowable federal income tax paid on the income included in the joint federal return may be taken as a deduction from gross income by the spouse who paid the federal income tax.

(10) *Amounts paid or accrued for such taxes and carrying charges as, under regulations prescribed by the commissioner, are chargeable to capital account with respect to property, if the taxpayer elects, in accordance with such regulations, to treat such taxes or charges as so chargeable.*

Sec. 2. Minnesota Statutes 1957, Section 290.12, Subdivision 2, is amended to read:

Subd. 2. **Adjustments.** In computing the amount of gain or loss under subdivision 1 proper adjustment shall be made for any expenditure, receipt, loss, or other item properly chargeable to capital account by the taxpayer during his ownership thereof, and for the gain or any part thereof realized from the sale, exchange or involuntary conversion of a residence where, by reason of the provisions of section

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290.13, such gain or any part thereof is not recognized. The basis shall be diminished by the amount of the deductions for exhaustion, wear and tear, obsolescence, amortization, depletion, and the allowance for amortization of bond premium if an election to amortize was made in accordance with section 290.09 (14), which could, during the period of his ownership thereof, have been deducted by the taxpayer under this chapter in respect of such property. In addition, if the property was acquired before January 1, 1933, the basis, if other than the fair market value as of such date, shall be diminished by the amount of exhaustion, wear and tear, obsolescence, amortization, or depletion actually sustained before such date. In respect of any period since December 31, 1932, during which property was held by a person or an organization not subject to income taxation under this act, proper adjustment shall be made for exhaustion, wear and tear, obsolescence, amortization, and depletion of such property to the extent sustained. ~~In the case of stock the basis shall be diminished by the amount of tax free distributions of capital received by the taxpayer in respect of such stock at any time during his ownership thereof.~~ For the purpose of determining the amount of these adjustments the taxpayer who sells or otherwise disposes of property acquired by gift shall be treated as the owner thereof from the time it was acquired by the last preceding owner who did not acquire it by gift, and the taxpayer who sells or otherwise disposes of property acquired by gift through an inter vivos transfer in trust shall be treated as the owner from the time it was acquired by the grantor. The adjustments in case of a sale or other disposition of property received in a transaction of the kind specified in section 290.13, clause (1), and in the case of a transaction referred to in section 290.14, clause (5), shall include those which the taxpayer should have been required to make were he selling or otherwise disposing of the property exchanged, or sold, in any such transaction.

No adjustment shall be made:

(1) for taxes or other carrying charges described in section 290.10 (10), or

(2) for expenditures described in section 290.09 (17) (relating to circulation expenditures),

for which deductions have been taken by the taxpayer in determining taxable income for the taxable year or prior years.

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Sec. 3. *The provisions of this act shall be applicable to all taxable years beginning after December 31, 1960.*

Approved April 20, 1961.

CHAPTER 505—S. F. No. 1289

An act relating to taxes on and measured by net income; amending Minnesota Statutes 1957, Section 290.49, Subdivisions 4 and 7.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1957, Section 290.49, Subdivision 4, is amended to read:

Subd. 4. **Omission of corporate liquidation proceeds.** If the taxpayer omits from gross income an amount properly includible therein under section 290.01, subdivision 21, as an amount distributed in liquidation of a corporation, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun at any time within *four six and one-half* years after the return was filed.

Sec. 2. Minnesota Statutes 1957, Section 290.49, Subdivision 7, is amended to read:

Subd. 7. **Court proceedings.** Where the assessment of any tax is hereafter made within the period of limitation properly applicable thereto, such tax may be collected by a proceeding in court, but only if begun

(1) within ~~nine~~ *eighteen* months after the expiration of the period for the assessment of the tax, or

(2) within ~~nine~~ *eighteen* months after the expiration of the period agreed upon by the commissioner and the taxpayer, pursuant to the provisions of subdivision 8, or

(3) within ~~nine~~ *eighteen* months after final disposition of any appeal from the order of assessment.

Approved April 20, 1961.

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