

290.01 DEFINITIONS.

Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of this chapter, shall be given the meanings subjoined to them.

Subd. 1a. **Uniform Probate Code.** The definitions set forth in section 524.1-201, wherever appropriate to the administration of the provisions of this chapter, are incorporated by reference herein.

Subd. 2. **Person.** The term "person" includes individuals, fiduciaries, estates, trusts, and partnerships and may, where the context requires, include corporations as herein defined.

Subd. 3. **Partnership; partner.** The terms "partnership" and "partner" have the meanings given in section 7701(a)(2) of the Internal Revenue Code.

Subd. 3a. **Trust.** The term "trust" has the meaning provided under the Internal Revenue Code, and also means designated settlement fund as defined in and taxed federally under section 468B of the Internal Revenue Code.

Subd. 3b. **Limited liability company.** For purposes of this chapter and chapter 289A, a limited liability company that is formed under either the laws of this state or under similar laws of another state, will be treated as an entity similar to its treatment for federal income tax purposes.

Subd. 4. **Corporation.** The term "corporation" shall include every entity which is a corporation under section 7701(a)(3) or is treated as a corporation under section 851(g) or 7704 of the Internal Revenue Code and financial institutions. A corporation's franchise is its authorization to exist and conduct business, whether created by legislation, by executive order, by a governmental agency, by contract or other private action, or by some combination thereof. Every corporation is deemed to have a corporate franchise. An entity described in section 646(b) of the Tax Reform Act of 1986, Public Law 99-514, as amended by section 1006(k) of the Technical and Miscellaneous Revenue Act of 1988, Public Law 100-647, shall be classified in the same manner for purposes of this chapter as it is for federal income tax purposes.

Subd. 4a. **Financial institution.** (a) "Financial institution" means:

- (1) a holding company;
- (2) any regulated financial corporation; or

(3) any other corporation organized under the laws of the United States or organized under the laws of this state or any other state or country that is carrying on the business of a financial institution.

(b) "Holding company" means any corporation registered under the Federal Bank Holding Company Act of 1956, as amended, or registered as a savings and loan holding company under the Federal National Housing Act, as amended, or a federal savings bank holding company.

(c) "Regulated financial corporation" means an institution, the deposits or accounts of which are insured under the Federal Deposit Insurance Act or by the Federal Savings and Loan Insurance Corporation, any institution which is a member of a Federal Home Loan Bank, any other bank or thrift institution incorporated or organized under the laws of any state or any foreign country which is engaged in the business of receiving deposits, any corporation organized under the provisions of United States Code, title 12, sections 611 to 631 (Edge Act Corporations), and any agency of a foreign depository as defined in United States Code, title 12, section 3101.

(d) "Business of a financial institution" means:

(1) the business that any corporation organized under the authority of the United States or organized under the laws of this state or any other state or country does or has authority to do which is substantially similar to the business which a corporation may be created to do under chapters 46 to 55 or any business which a corporation is authorized to do by those laws; or

(2) the business that any corporation organized under the authority of the United States or organized under the laws of this state or any other state or country does or has authority to do if the corporation derives more than 50 percent of its gross income from lending activities (including discounting obligations) in substantial competition with the businesses described in clause (1). For purposes of this clause, the computation of the gross income of a corporation does not include income from nonrecurring, extraordinary items.

Subd. 4b. [Repealed, 2014 c 308 art 9 s 94]

Subd. 4c. **Mutual insurance holding companies.** A "mutual insurance holding company" is not an insurance company for purposes of this chapter.

Subd. 5. **Domestic corporation.** The term "domestic" when applied to a corporation means a corporation:

(1) created or organized in the United States, or under the laws of the United States or of any state, the District of Columbia, or any political subdivision of any of the foregoing but not including the Commonwealth of Puerto Rico, or any possession of the United States; or

(2) which qualifies as a DISC, as defined in section 992(a) of the Internal Revenue Code.

Subd. 5a. **Foreign corporation.** The term "foreign," when applied to a corporation, means a corporation other than a domestic corporation.

Subd. 5b. **Insurance company.** The terms "insurance company," "life insurance company," and "insurance company other than life," have the meanings given in the Internal Revenue Code.

Subd. 6. **Taxpayer.** The term "taxpayer" means any person or corporation subject to a tax imposed by this chapter. For purposes of section 290.06, subdivision 23, the term "taxpayer" means an individual eligible to vote in Minnesota under section 201.014.

Subd. 6a. [Repealed, 1989 c 28 s 26]

Subd. 6b. [Repealed, 2013 c 143 art 6 s 34]

Subd. 7. **Resident.** (a) The term "resident" means any individual domiciled in Minnesota, except that an individual is not a "resident" for the period of time that the individual is a "qualified individual" as defined in section 911(d)(1) of the Internal Revenue Code, if the qualified individual notifies the county within three months of moving out of the country that homestead status be revoked for the Minnesota residence of the qualified individual, and the property is not classified as a homestead while the individual remains a qualified individual.

(b) "Resident" also means any individual domiciled outside the state who maintains a place of abode in the state and spends in the aggregate more than one-half of the tax year in Minnesota, unless:

(1) the individual or the spouse of the individual is in the armed forces of the United States; or

(2) the individual is covered under the reciprocity provisions in section 290.081.

For purposes of this subdivision, presence within the state for any part of a calendar day constitutes a day spent in the state. Individuals shall keep adequate records to substantiate the days spent outside the state.

The term "abode" means a dwelling maintained by an individual, whether or not owned by the individual and whether or not occupied by the individual, and includes a dwelling place owned or leased by the individual's spouse.

(c) Neither the commissioner nor any court shall consider charitable contributions made by an individual within or without the state in determining if the individual is domiciled in Minnesota.

Subd. 7a. **Resident estate.** Resident estate means the estate of a deceased person where (1) the decedent was domiciled in Minnesota at the date of death, or (2) the personal representative or fiduciary was appointed by a Minnesota court in a proceeding other than an ancillary proceeding, or (3) the administration of the estate is carried on in Minnesota in a proceeding other than an ancillary proceeding.

Subd. 7b. **Resident trust.** (a) Resident trust means a trust, except a grantor type trust, which either (1) was created by a will of a decedent who at death was domiciled in this state or (2) is an irrevocable trust, the grantor of which was domiciled in this state at the time the trust became irrevocable. For the purpose of this subdivision, a trust is considered irrevocable to the extent the grantor is not treated as the owner thereof under sections 671 to 678 of the Internal Revenue Code. The term "grantor type trust" means a trust where the income or gains of the trust are taxable to the grantor or others treated as substantial owners under sections 671 to 678 of the Internal Revenue Code. This paragraph applies to trusts, except grantor type trusts, that became irrevocable after December 31, 1995, or are first administered in Minnesota after December 31, 1995.

(b) This paragraph applies to trusts, except grantor type trusts, that are not governed under paragraph (a). A trust, except a grantor type trust, is a resident trust only if two or more of the following conditions are satisfied:

(1) a majority of the discretionary decisions of the trustees relative to the investment of trust assets are made in Minnesota;

(2) a majority of the discretionary decisions of the trustees relative to the distributions of trust income and principal are made in Minnesota;

(3) the official books and records of the trust, consisting of the original minutes of trustee meetings and the original trust instruments, are located in Minnesota.

(c) For purposes of paragraph (b), if the trustees delegate decisions and actions to an agent or custodian, the actions and decisions of the agent or custodian must not be taken into account in determining whether the trust is administered in Minnesota, if:

(1) the delegation was permitted under the trust agreement;

(2) the trustees retain the power to revoke the delegation on reasonable notice; and

(3) the trustees monitor and evaluate the performance of the agent or custodian on a regular basis as is reasonably determined by the trustees.

Subd. 8. **Fiduciary.** The term "fiduciary" means a guardian, trustee, receiver, conservator, personal representative, or any person acting in any fiduciary capacity for any person or corporation.

Subd. 8a. **Personal representative.** The term "personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status.

Subd. 9. **Taxable year.** The term "taxable year" means the period for which the taxes levied by this chapter are imposed. It shall be a calendar year, a fiscal year, or, in cases where returns for a fractional part of a year are permitted or required, the period for which such return is made.

Subd. 10. **Fiscal year.** The term "fiscal year" means an accounting period of 12 months ending on the last day of any month other than December. In the case of any taxpayer who has made the election provided by section 289A.08, subdivision 5, the term means the annual period (varying from 52 to 53 weeks) so elected.

Subd. 11. **Paid or incurred, paid or accrued, received, or received or accrued.** The terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which net income is computed for the purposes of the taxes imposed by this chapter; and the terms "received" and "received or accrued" shall be similarly construed.

Subd. 12. **Stock or share.** The term "stock" or "share" means the interest of a member in a corporation however evidenced.

Subd. 13. **Stockholder or shareholder.** The term "stockholder" or "shareholder" means the owner of any such "stock" or "share."

Subd. 14. **State or this state.** The term "state" or "this state" means the state of Minnesota.

Subd. 15. **Includes.** The term "includes" and its derivatives, when used in a definition contained in this chapter, shall not exclude other things otherwise within the meaning of the term defined.

Subd. 16. **Commissioner.** The term "commissioner" means the commissioner of revenue of the state of Minnesota.

Subd. 17. **Property.** The term "property" includes every form of property, real, personal, or mixed, tangible or intangible, and every interest therein, legal or equitable, irrespective of how created or arising. Property pledged or mortgaged shall be treated as owned by the pledgor or mortgagor.

Subd. 18. **Duty on estate or trust.** When, in this chapter, the estate of a decedent or a trust is referred to as a taxable person, or a duty is imposed on such estate or trust, the reference may be construed as meaning the fiduciary in charge of the property of such estate or trust, and the duty shall be treated as imposed on such fiduciary.

Subd. 19. **Net income.** The term "net income" means the federal taxable income, as defined in section 63 of the Internal Revenue Code of 1986, as amended through the date named in this subdivision, incorporating the federal effective dates of changes to the Internal Revenue Code and any elections made by the taxpayer in accordance with the Internal Revenue Code in determining federal taxable income for federal income tax purposes, and with the modifications provided in sections 290.0131 to 290.0136.

In the case of a regulated investment company or a fund thereof, as defined in section 851(a) or 851(g) of the Internal Revenue Code, federal taxable income means investment company taxable income as defined in section 852(b)(2) of the Internal Revenue Code, except that:

(1) the exclusion of net capital gain provided in section 852(b)(2)(A) of the Internal Revenue Code does not apply;

(2) the deduction for dividends paid under section 852(b)(2)(D) of the Internal Revenue Code must be applied by allowing a deduction for capital gain dividends and exempt-interest dividends as defined in sections 852(b)(3)(C) and 852(b)(5) of the Internal Revenue Code; and

(3) the deduction for dividends paid must also be applied in the amount of any undistributed capital gains which the regulated investment company elects to have treated as provided in section 852(b)(3)(D) of the Internal Revenue Code.

The net income of a real estate investment trust as defined and limited by section 856(a), (b), and (c) of the Internal Revenue Code means the real estate investment trust taxable income as defined in section 857(b)(2) of the Internal Revenue Code.

The net income of a designated settlement fund as defined in section 468B(d) of the Internal Revenue Code means the gross income as defined in section 468B(b) of the Internal Revenue Code.

The Internal Revenue Code of 1986, as amended through December 31, 2014, shall be in effect for taxable years beginning after December 31, 1996.

Except as otherwise provided, references to the Internal Revenue Code in this subdivision and sections 290.0131 to 290.0136 mean the code in effect for purposes of determining net income for the applicable year.

Subd. 19a. [Repealed, 2016 c 158 art 3 s 32]

[See Note.]

Subd. 19b. [Repealed, 2016 c 158 art 3 s 32]

[See Note.]

Subd. 19c. [Repealed, 2016 c 158 art 3 s 32]

[See Note.]

Subd. 19d. [Repealed, 2016 c 158 art 3 s 32]

[See Note.]

Subd. 19e. [Repealed, 2014 c 308 art 9 s 94]

Subd. 19f. [Renumbered 290.0135]

[See Note.]

Subd. 19g. [Repealed, 2002 c 377 art 10 s 32]

Subd. 19h. [Renumbered 290.0136]

[See Note.]

Subd. 20. **Gross income.** The term "gross income" means the gross income as defined in section 61 of the Internal Revenue Code of 1986, as amended through the date named in subdivision 19 for the applicable taxable year, plus any additional items of income taxable under this chapter but not taxable under the Internal Revenue Code, less any items included in federal gross income but of a character exempt from state income tax under the laws of the United States.

Subd. 20a. [Repealed, 1987 c 268 art 1 s 127]

Subd. 20b. [Repealed, 1987 c 268 art 1 s 127]

Subd. 20c. [Repealed, 1Sp1985 c 14 art 1 s 59]

Subd. 20d. [Repealed, 1987 c 268 art 1 s 127]

Subd. 20e. [Repealed, 2014 c 308 art 9 s 94]

Subd. 20f. [Repealed, 1987 c 268 art 1 s 127]

Subd. 21. [Repealed, 1987 c 268 art 1 s 127]

Subd. 22. **Taxable net income.** For tax years beginning after December 31, 1986, the term "taxable net income" means:

(1) for resident individuals the same as net income;

(2) for individuals who were not residents of Minnesota for the entire year, the same as net income except that the tax is imposed only on the Minnesota apportioned share of that income as determined pursuant to section 290.06, subdivision 2c, paragraph (e);

(3) for all other taxpayers, the part of net income that is allocable to Minnesota by assignment or apportionment under one or more of sections 290.17, 290.191, 290.20, and 290.36.

Subd. 23. [Repealed, 1983 c 342 art 1 s 44]

Subd. 24. [Repealed, 1987 c 268 art 1 s 127]

Subd. 25. [Repealed, 1983 c 15 s 33]

Subd. 26. [Repealed, 1Sp1985 c 14 art 1 s 59]

Subd. 27. [Repealed, 1983 c 342 art 1 s 44]

Subd. 28. [Repealed, 1983 c 207 s 44; 1983 c 342 art 1 s 44]

Subd. 29. **Taxable income.** The term "taxable income" means:

(1) for individuals, estates, and trusts, the same as taxable net income;

(2) for corporations, the taxable net income less

(i) the net operating loss deduction under section 290.095;

(ii) the dividends received deduction under section 290.21, subdivision 4; and

(iii) the exemption for operating in a job opportunity building zone under section 469.317.

Subd. 29a. **State itemized deduction.** "State itemized deduction" means federal itemized deductions, as defined in section 63(d) of the Internal Revenue Code, disregarding any limitation under section 68 of the Internal Revenue Code, and reduced by the amount of the addition required under section 290.0131, subdivision 13.

Subd. 30. **References to Internal Revenue Code.** Except when inappropriate, a reference in this chapter (1) to the Internal Revenue Code of 1954 includes a reference to the Internal Revenue Code of 1986, and

(2) to the Internal Revenue Code of 1986 includes a reference to the provisions of law formerly known as the Internal Revenue Code of 1954.

Subd. 31. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 2014. Internal Revenue Code also includes any uncodified provision in federal law that relates to provisions of the Internal Revenue Code that are incorporated into Minnesota law. When used in this chapter, the reference to "subtitle A, chapter 1, subchapter N, part 1, of the Internal Revenue Code" is to the Internal Revenue Code as amended through March 18, 2010.

Subd. 32. [Repealed, 2002 c 377 art 10 s 32]

History: (2394-1, 2394-10, 2394-21, 2394-22) 1933 c 405 s 1,10,11,21,22; Ex1937 c 49 s 16; 1941 c 550 s 4,11; 1943 c 656 s 1,11; 1945 c 604 s 1,2,19; 1947 c 635 s 1; 1949 c 541 s 1; 1949 c 734 s 1-3; 1953 c 648 s 1; 1955 c 21 s 1; 1955 c 122 s 1; 1955 c 385 s 1; 1957 c 621 s 9; 1957 c 769 s 1; Ex1959 c 83 s 1; 1961 c 213 art 4 s 1; Ex1961 c 51 s 1; 1963 c 355 s 1; 1967 c 579 s 1; 1969 c 575 s 1; 1971 c 206 s 1; 1971 c 769 s 1,2; 1971 c 771 s 1; 1973 c 232 s 1; 1973 c 582 s 3; 1973 c 711 s 1,3; 1973 c 737 s 1; 1974 c 157 s 2; 1974 c 201 s 1; 1975 c 47 s 1; 1975 c 226 s 2; 1975 c 349 s 1-6,29; 1976 c 2 s 101; 1976 c 210 s 12; 1977 c 298 s 1; 1977 c 376 s 1,13; 1977 c 423 art 1 s 1; 1977 c 429 s 63; 1978 c 674 s 30; 1978 c 721 art 6 s 1; 1978 c 763 s 2; 1978 c 767 s 14,15; 1979 c 50 s 38; 1979 c 303 art 1 s 1; 1980 c 419 s 1; 1980 c 439 s 1; 1980 c 512 s 8; 1980 c 607 art 1 s 1,2,32; 1981 c 49 s 1; 1981 c 60 s 1,27; 1981 c 178 s 1-9; 1981 c 254 s 2; 1981 c 261 s 20; 1981 c 344 s 1; 1Sp1981 c 1 art 9 s 5; 3Sp1981 c 2 art 3 s 2; 1982 c 523 art 1 s 1,2; art 7 s 1; art 40 s 1,2,14; 3Sp1982 c 1 art 5 s 1,2; 1983 c 207 s 2-6,43; 1983 c 342 art 1 s 1-5,43; 1984 c 502 art 2 s 3; 1984 c 514 art 1 s 1,2,8; art 2 s 3-7; 1984 c 655 art 1 s 47; 1985 c 2 s 1; 1Sp1985 c 14 art 1 s 7-12; art 13 s 1; art 21 s 1,2,49; 1Sp1985 c 16 art 2 s 27; 1986 c 398 art 21 s 1; 1986 c 444; 1Sp1986 c 1 art 1 s 1,9; 1987 c 268 art 1 s 4-21,126; 1988 c 719 art 1 s 1-5; art 2 s 7-14; art 3 s 1-3,12; 1989 c 27 art 1 s 2; 1989 c 28 s 1-9,25; 1Sp1989 c 1 art 10 s 5,6; 1990 c 480 art 1 s 46; 1990 c 604 art 2 s 2,16; 1990 c 612 s 1; 1991 c 291 art 6 s 18-20,46; art 7 s 4; 1992 c 511 art 6 s 11,19; 1992 c 517 art 1 s 10; 1992 c 549 art 9 s 4; 1993 c 375 art 8 s 5-8,14; 1994 c 510 art 2 s 4,5; 1994 c 587 art 1 s 6-9,24; 1995 c 186 s 55,56; 1995 c 255 art 3 s 1; 1995 c 264 art 1 s 2,4; art 10 s 6; 1996 c 471 art 1 s 3; art 4 s 3,4; 1997 c 31 art 1 s 13,14; 1997 c 231 art 5 s 2-4; art 6 s 2-7; art 15 s 15; 1Sp1997 c 4 art 13 s 1; 1998 c 389 art 6 s 2-5; art 7 s 2-5,12; 1998 c 397 art 11 s 3; 1999 c 243 art 2 s 2-7; art 3 s 2-4; 2000 c 260 s 50; 2000 c 490 art 4 s 5-8; art 12 s 2,3; 2000 c 499 s 7; 1Sp2001 c 5 art 9 s 1-7; art 10 s 2-6; 2002 c 377 art 1 s 1; art 2 s 3-8; 2003 c 127 art 3 s 6-9; art 4 s 2,3; 1Sp2003 c 21 art 1 s 3,4; art 2 s 3; art 3 s 2,3; 2005 c 1 s 1; 2005 c 56 s 1; 2005 c 151 art 6 s 11-14; 1Sp2005 c 3 art 3 s 5-7; art 4 s 2-7; art 10 s 2,3; 1Sp2005 c 7 s 38; 2006 c 259 art 2 s 2-5; 2007 c 1 s 1-3; 2008 c 154 art 3 s 2-4; art 4 s 2-5; art 11 s 11,12; 2008 c 233 art 3 s 1; 2008 c 277 art 1 s 97; 2008 c 366 art 4 s 3-6; art 12 s 2; 2009 c 12 art 1 s 2-7; 2009 c 86 art 1 s 90; 2009 c 88 art 1 s 2-7; art 7 s 7; 2010 c 187 s 1,2; 2010 c 216 s 8,9; 2010 c 389 art 3 s 8-10; 2011 c 8 s 2-5; 2011 c 112 art 6 s 1,2; 1Sp2011 c 7 art 2 s 2-5; 2012 c 294 art 2 s 9,10; 2013 c 3 s 3,4; 2013 c 143 art 6 s 6-9; 2014 c 150 art 1 s 9-13; 2014 c 157 art 2 s 5; 2014 c 308 art 4 s 10-13; art 9 s 60-63; 2015 c 1 s 2,3; 2016 c 158 art 1 s 159; art 3 s 6,7,31; 2016 c 189 art 13 s 57

NOTE: Minnesota Statutes 2014, section 290.01, subdivisions 19a to 19d, were repealed and the general and permanent provisions of those subdivisions were reenacted and recodified as sections 290.0131 to 290.0134 by Laws 2016, chapter 158, article 3, sections 8 to 11.

NOTE: Minnesota Statutes 2014, subdivisions 19f and 19h, were renumbered as sections 290.0135 and 290.0136 by Laws 2016, chapter 158, article 3, section 31.