

turer to the exclusion, in whole or in part, of the products of other manufacturers.

Subd. 11. Any retailer who shall be a part to any violation of *Subdivision 8* or *Subdivision 9*, or who shall receive the benefits thereof, shall be equally guilty of a violation of the provisions thereof and shall be subject to the penalty hereinafter provided.

Subd. 12. Any person who shall violate the provisions of *Subdivision 8* or *Subdivision 9* hereof shall be guilty of a gross misdemeanor and each violation shall constitute a separate offense.

Approved April 23, 1945.

CHAPTER 596—H. F. No. 930

An act relating to taxes on and measured by net income and amending Minnesota Statutes 1941, Section 290.16, as amended by Laws 1943, Chapter 656, Section 10; Section 290.13, Subdivision 5; and Section 290.31.

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

Section 1. Minnesota Statutes 1941, Section 290.16, as amended by Laws 1943, Chapter 656, Section 10, is hereby amended to read as follows:

290.16. Deductions. Subdivision 1. The basis upon which exhaustion, wear, tear, obsolescence, or depletion is to be allowed in respect to any property shall be the same as provided in sections 290.14 and 290.15 for the purpose of determining the loss or gain on the sale or other disposition thereof.

Subd. 2. Gains and losses from sales or exchanges of capital assets shall be taken into account in computing net income only to the extent provided in subdivisions 3 through 9 of this section, 290.09, clause (6), 290.09, clause (12).

Subd. 3. As used in this section

(1) The term "capital assets" shall mean property held by the taxpayer (whether or not connected with his trade or business), but does not include stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the

taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, or property, used in the trade or business, of a character which is subject to the allowance for depreciation provided in section 290.09, clause (6), or amortization allowance provided in section 290.09, clause (12), or real property used in the trade or business of the taxpayer;

(2) The term "short-term capital gain" means gain from the sale or exchange of a capital asset held for not more than 6 months, if and to the extent such gain is taken into account in computing net income;

(3) The term "short-term capital loss" means loss from the sale or exchange of a capital asset held for not more than 6 months, if and to the extent such loss is taken into account in computing net income;

(4) The term "long-term capital gain" means gain from the sale or exchange of a capital asset held for more than 6 months, if and to the extent such gain is taken into account in computing net income;

(5) The term "long-term capital loss" means loss from the sale or gain of a capital asset held for more than 6 months, if and to the extent such loss is taken into account in computing net income;

(6) The term "net short-term capital gain" means the excess of short-term capital gains for the taxable year over the short-term capital losses for such year;

(7) The term "net short-term capital loss" means the excess of short-term capital losses for the taxable year over the short-term capital gains for such year;

(8) The term "net long-term capital gain" means the excess of long-term capital gains for the taxable year over the long-term capital losses for such year;

(9) The term "net long-term capital loss" means the excess of long-term capital losses for the taxable year over the long-term capital gains for such year.

(10) The term "net capital gain" means the excess of (i) the sum of the gains from sales or exchanges of capital assets, plus net income of the taxpayer or \$2,000, whichever is smaller, over (ii) the losses from such sales or exchanges. For this purpose, net income shall be computed without regard to gains or losses from sales or exchanges of capital assets.

(11) The term "net capital loss" means the excess of the losses from sales or exchanges of capital assets over the sum allowed under subdivision 5. For the purpose of determining losses under this paragraph, amounts which are short-term capital losses under subdivision 6 shall be excluded.

Subd. 4. Only the following percentages of the gain or loss recognized upon the sale or exchange of a capital asset shall be taken into account in computing net capital gain, net capital loss, and net income;

100 per centum if the capital asset has been held for not more than 6 months;

50 per centum if the capital asset has been held for more than 6 months.

Subd. 5. Losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from such sales or exchanges, plus the net income of the taxpayer or \$2,000, whichever is smaller. For purposes of this paragraph, net income shall be computed without regard to gains or losses from sales or exchanges of capital assets.

Subd. 6. If for any taxable year beginning after December 31, 1944, the taxpayer has a net capital loss, the amount thereof shall be a short-term capital loss in each of the two succeeding taxable years to the extent that such amount exceeds the total of any net capital gains of any taxable years intervening between the taxable year in which the net capital loss arose and such succeeding taxable year. For purposes of this paragraph a net capital gain shall be computed without regard to such net capital loss or to any net capital losses arising in any such intervening taxable years.

Subd. 7. For the purposes of this section, amounts received by the holder upon the retirement of bonds, debentures, notes or certificates or other evidences of indebtedness issued by any corporation (including those issued by a government or political subdivision thereof), with interest coupons or in registered form, shall be considered as amounts received in exchange therefor.

Subd. 8. For the purpose of this section

(1) In determining the period for which the taxpayer has held property received on an exchange there shall be included the period for which he held the property exchanged, if under the provisions of sections 290.12 through 15, the property received has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in

part in his hands as the property exchanged. For the purposes of this paragraph, an involuntary conversion described in section 290.13, subdivision 5, shall be considered an exchange of the property converted for the property acquired.

(2) In determining the period for which the taxpayer has held property however acquired there shall be included the period for which such property was held by any other person, if under the provisions of sections 290.12 through 15, such property has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as it would have in the hands of such other person.

(3) In determining the period for which the taxpayer has held stock or securities received upon a distribution where no gain was recognized to the distributee under the provisions of section 290.13, subdivision 6, there shall be included the period for which he held the stock or securities in the distribution corporation prior to the receipt of the stock or securities upon such distribution.

(4) In determining the period for which the taxpayer has held stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under section 290.09 (4) third sentence relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, there shall be included the period for which he held the stock or securities the loss from the sale or other disposition of which was not deductible.

(5) In determining the period for which the taxpayer has held stock or securities acquired from a corporation by the exercise of rights to acquire such stock or securities, there shall be included only the period beginning with the date upon which the right to acquire was exercised.

Subd. 9. (1) For the purposes of this subdivision, the term "property used in the trade or business" means property used in the trade or business of a character which is subject to the allowance for depreciation provided in section 290.09 (6), held for more than 6 months, and real property used in the trade or business, held for more than 6 months, which is not (A) property of a kind which would properly be includible in the inventory of the taxpayer if on hand at the close of the taxable year, or (B) property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business.

(2) If, during the taxable year, the recognized gains upon sale or exchanges of property used in the trade or business, plus the recognized gains from the compulsory or involuntary conversion (as a result of destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation or the threat or imminence thereof) of property used in the trade or business and capital assets held for more than 6 months into other property or money, exceed the recognized losses from such sales, exchanges, and conversions, such gains and losses shall be considered as gains and losses from sales or exchanges of capital assets held for more than 6 months. If such gains do not exceed such losses, such gains and losses shall not be considered as gains and losses from sales or exchanges of capital assets. For the purposes of this paragraph:

(A) In determining under this paragraph whether gains exceed losses, the gains and losses described therein shall be included only if and to the extent taken into account in computing net income, except that subdivisions 4 and 5 shall not apply.

(B) Losses upon the destruction, in whole or in part, theft or seizure, or requisition or condemnation of property used in the trade or business or capital assets held for more than 6 months shall be considered losses from a compulsory or involuntary conversion.

Sec. 2. Minnesota Statutes 1941, Section 290.31, is hereby amended to read as follows:

290.31. Partnerships not taxed. *Subdivision 1.* The tax imposed by this chapter shall not be imposed on partnerships; but (1) the net income of the partnership shall be computed in the same manner and on the same basis as in the case of an individual, except (A) there shall be segregated the gains and losses from sales or exchanges of capital assets, and (B) after excluding all items of gain or loss from the sale or exchange of capital assets, there shall be computed the ordinary net income or net loss; and (2) each partner in computing his net income shall include (whether or not distribution is made to him), (A) as part of his gains or losses from sales of capital assets held for not more than 6 months, his distributive share of the gains and losses of the partnership from sales or exchanges of capital assets held for more than 6 months, (B) as part of his gains or losses from sales or exchanges of capital assets held for more than 6 months, his distributive share of the gains and losses of the partnership from sales or exchanges of capital assets held for more than 6 months, and (C) his

distributive share of the ordinary net income or net loss of the partnership computed in accordance with the provisions of this paragraph.

Subd. 2. If the taxable year of a partner is different from that of the partnership, each partner shall include in his taxable net income his distributive share (whether distributed or not) of the taxable net income of the partnership for its taxable year ending during such partner's taxable year.

Subd. 3. The taxable net income of the partnership shall be assigned to this state under sections 290.17 to 290.36 and 290.37 to 290.39.

Subd. 4. Each partner shall be allowed as a credit against his taxable net income his proportionate part of the contributions or gifts that are within section 290.21, clause (2), made by the partnership during its taxable year, but the sum of this latter credit allowed hereunder and that allowed the partner under section 290.21, clause (2), shall not exceed the limit therein specified.

Subd. 5. The taxable net income of a partnership which a partner is required hereunder to take into his taxable net income shall be taxed at the rates applicable to the partner's taxable year during which he is required to include it in his taxable net income.

Sec. 3. Minnesota Statutes 1941, Section 290.13, Subdivision 5, is hereby amended to read as follows:

290.13. Subdivision 5. **Loss from conversion of property.** If property, as a result of its destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation, or the threat or imminence thereof, is compulsory or involuntarily converted into property similar or related in service or use to the property so converted, or into money which is forthwith in good faith, under regulations prescribed by the commissioner, expended in the acquisition of other property similar or related in service or use to the property so converted, or in the acquisition of control of a corporation owning such other property, or in the establishment of a replacement fund, no gain shall be recognized, *but loss shall be recognized.* If any part of the money is not so expended, the gain, if any, shall be recognized, but in an amount not in excess of the money which is not so expended

(regardless of whether such money is received in one or more taxable years and regardless of whether or not the money which is not so expended constitutes gain).

Sec. 4. Application. The provisions of this act shall apply to all taxable years beginning after December 31, 1944.

Approved April 23, 1945.

CHAPTER 597—H. F. No. 975

An act relating to salaries and compensation of county officers in counties having not less than 41, nor more than 43, whole or fractional congressional townships and an assessed valuation of not less than \$6,000,000, nor more than \$12,000,000, exclusive of money and credits and a population of not less than 25,000, nor more than 30,000, according to the federal census of 1930; amending Laws 1939, Chapter 99; Section 13.

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

Section 1. Laws 1939, Chapter 99, Section 13, is amended to read as follows :

Sec. 13. Salary of county engineer. The county engineer, shall receive such sum as the board of county commissioners shall fix and determine, not however exceeding the sum of \$3,600 per year.

Approved April 23, 1945.

CHAPTER 598—H. F. No. 990

An act relating to the state civil service, providing for basic rates of pay and economic adjustment increases thereunder; amending Minnesota Statutes 1941, Section 43.12, Subdivision 2, as amended by Laws 1943, Chapter 639, and