departments, bureaus, agencies, or divisions, operating under Laws 1939, Chapter 431, financed by funds appropriated or receipts or fees of any nature whatsoever, when making requests or preparing budgets to be submitted to the Federal Government in support of or in request of funds, equipment, materials, or services, from the Federal Government, shall, upon completion of such request or budget, first submit it to the Commissioner of Administration. When such Federal authority has approved such request or budget, the state agency shall resubmit it to the Commissioner of Administration for recording before any allotment or encumbrance of the Federal funds can be made.

Approved April 28, 1947.

CHAPTER 635—H. F. No. 1560

An act relating to taxes on and measured by net income; amending Minnesota Statutes 1945, Sections 290.01, Subdivision 20; 290.02; 290.05; 290.06, Subdivisions 1 and 3; 290.07, Subdivision 3; 290.08; 290.10; 290.16, adding Subdivision 10; 290.20; 290.21; 290.31, Subdivision 1; 290.36; 290.361, Subdivision 2; 290.46; 290.49, Subdivision 8 and adding Subdivision 9; 290.50, Subdivision 1; 290.53; 290.65; Subdivision 15; and Section 290.37, Subdivision 2; and repealing Minnesota Statutes 1945, Section 290.074.

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

Section 1. Minnesota Statutes 1945, Section 290.01, Subdivision 20, is amended to read as follows:

290.01. **Definitions.** Subd. 20. **Gross income.** The term "gross income" includes every kind of compensation for labor or personal services of every kind from any private or public employment, office, position or services; income derived from the ownership or use of property; gains or profits derived from every kind of disposition of, or every kind of dealings in, property; income derived from the transaction of any trade or business; and income derived from any source. Items of gross income includible within these definitions shall be deemed such regardless of the form in which received. Items of gross income shall be included in gross income of the taxable year in which received by a taxpayer unless properly to be accounted for as of a different taxable year under methods of accounting permitted by section 290.07, except that (1) amounts transferred from a reserve or other account, if in effect transfers to surplus, shall, to the extent that such amounts were accumulated through deductions from gross income or entered into the computation of taxable net income during any taxable year, be treated as gross income for the year in which the transfer occurs, but only to the extent that such amounts resulted in a reduction of the tax imposed by this act, and (2) amounts received as refunds on account of taxes deducted from gross income during any taxable year shall be treated as gross income for the year in which actually received, *but only to the extent that such amounts resulted in a reduction of the tax imposed by this act.*

Sec. 2. Minnesota Statutes 1945, Section 290.02, is amended to read as follows:

290.02. **Imposition of privilege tax on corporations; measurement.** An annual *excise* tax is hereby imposed upon every domestic corporation, except those included within section 290.03, for the privilege of existing as a corporation during any part of its taxable year, and upon every foreign corporation, except those included within section 290.03, for the grant to it of the privilege of transacting or for the actual transaction by it of any local business within this state during any part of its taxable year, in corporate or organized form.

The tax so imposed shall be measured by such corporations' taxable net income for the taxable year for which the tax is imposed, and computed in the manner and at the rates provided in this chapter.

Sec. 3. Minnesota Statutes 1945, Section 290.05, is amended to read as follows:

290.05. **Exemptions from tax.** The following corporations, individuals, estates, trusts, and organizations shall be exempted from taxation under this chapter, provided that every such person or corporation claiming exemption under this chapter, in whole or in part, must *establish to the satisfaction of the commissioner* the taxable status of any income or activity;

(1) *National and state banks, except as such banks are subject to the excise tax imposed by Sections 290.361 and 290.362;*

(2) Corporations, individuals, estates, and trusts engaged in the business of mining or producing iron ore; but if any such corporation, individual, estate, or trust engages in any other business or activity or has income from any property not used

in such business it shall be subject to this tax computed on the net income from such property or such other business or activity. Royalty (as defined in Section 299.02) shall not be considered as income from the business of mining or producing iron ore within the meaning of this section;

(3) Farmers' mutual insurance companies organized and existing under the laws of the state and credit unions organized under chapter 52;

(4) Fraternal beneficiary associations wherever organized, and public department relief associations of public employees of this state or of any of its political subdivisions;

(5) Cooperative or mutual rural telephone associations; and cooperative associations organized under the provisions of Laws 1923, Chapter 326, as amended, which are engaged in the transmission and distribution of electrical heat, light or power upon a mutual, and cooperative plan in areas outside the corporate limits of any city or village; but if any such cooperative association engages in supplying electrical heat, light or power to consumers within the corporate limits of any city, village or borough, then such association shall be subject to this tax computed on that portion of its net income which its gross receipts from consumers within such corporate limits bears to its total gross receipts;

(6) Labor, agricultural, and horticultural organizations, no part of the net income of which inures to the benefit of any private member, stockholder, or individual;

(7) Farmers', fruit growers', or like associations organized and operated on a cooperative basis (a) for the purpose of processing or marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary expenses, on the basis of either the quantity or the value of the products furnished by them, or (b) for the purpose of purchasing supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses; exemption shall not be denied any such association because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the state of incorporation or eight per cent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than non-voting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the association, upon dissolution or otherwise,

beyond the fixed dividends) is owned by producers who process or market their products or purchase their supplies and equipment through the association; nor shall exemption be denied any such association because there is accumulated and maintained by it a reserve required by state law or a reasonable reserve for any necessary purpose; such an association may market the products of non-members in an amount the value of which does not exceed the value of the products marketed for members, and may purchase supplies and equipment for non-members in an amount the value of which does not exceed the value of the supplies and equipment purchased for members, provided the value of the purchases made for persons who are neither members nor producers does not exceed 15 per cent of the value of all its purchases; business done for the United States or any of its agencies shall be disregarded in determining the right to exemption under this clause;

(8) Corporations operating or conducting public burying grounds, public schoolhouses, public hospitals, academies, colleges, universities, seminaries of learning, churches, houses of worship, and institutions of purely public charity, no part of the net income of which inures to the benefit of any private member, stockholder, or individual;

(9) Any corporation, fund, foundation, trust or association organized for exclusively scientific, literary, religious, charitable, educational, or artistic purposes, no part of the net income of which inures to the benefit of any private member, stockholder, or individual;

(10) Business leagues and commercial clubs, not organized for profit and no part of the net income of which inures to the benefit of any private member, stockholder, or individual;

(11) Clubs organized and operated exclusively for pleasure, recreation, or other non-profitable purposes, no part of the net income of which inures to the benefit of any private member, stockholder, or individual;

(12) Any corporation all the stock of which is owned by the United States or which may be exempt from a state franchise or income tax by federal law;

(13) The United States of America, the State of Minnesota or any political subdivision of either agencies, or instrumentalities, whether engaged in the discharge of governmental or proprietary functions;

(14) Corporations organized by an association exempt under the provisions of clause (7), or members thereof, for

the purpose of financing the ordinary crop operations of such members or other producers, and operated in conjunction with such association; exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixd at not to exceed the legal rate of interest in the state of incorporation or eight per cent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than non-voting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, upon dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by state law or a reasonable reserve for any necessary purpose;

(15) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this chapter;

(16) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents if no part of their net earnings inures (other than through such payments) to the benefit of any private shareholder or individual.

Sec. 4. Minnesota Statutes 1945, Section 290.06, Subdivisions 1 and 3, are amended to read as follows:

290.06. **Rates of tax.** Subdivision 1. **Computation.** The privilege and income taxes imposed by this chapter upon corporations shall be computed by applying to their taxable net income in excess of the applicable credits allowed under section 290.21 the rate of six per cent. *The amount of tax payable by a corporation required to file a return shall not be less than $10.00.*

Subd. 3. **Credits.** The taxes due under the foregoing computation shall be credited with the following amounts:

(1) In the case of an unmarried individual, and, except as provided in paragraph 6, in the case of the estate of a decedent, $10.00, and in the case of a trust, $5.00;

(2) In the case of a married individual, living with husband or wife, and in the case of a head of a household,

$30.00. If such husband and wife make separate returns the personal exemption may be taken by either or divided between them;

(3) In the case of an individual, $10.00 for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer. One taxpayer only shall be allowed this credit with respect to any given dependent. In the case of the head of the household, a credit for one dependent shall be disallowed. A payment to a divorced or separated wife which is includible under this act in the gross income of such wife, shall not be considered a payment by the husband for the support of any dependent. A husband who makes periodic payments to a divorced, separated or remarried wife, who is not a resident of this state shall be entitled to the same personal credit as provided in the preceding paragraph 2;

(4) In the case of a corporation, an amount computed by applying to the tax a fraction equal to one-tenth of the average of the following ratios:

(a) The ratio of the fair value of tangible property, real, personal and mixed, owned and used by the taxpayer in this state in connection with his trade or business during the taxable year to the total fair value of such property of the taxpayer owned and used by him in connection with trade or business everywhere; cash on hand or in bank, shares of stocks, notes, bonds, accounts receivable or other evidence of indebtedness, special privileges, franchises, goodwill or property the income of which is not taxable or is separately allocable, shall not be considered tangible property nor included in the apportionment;

(b) The ratio of the total wages and salaries paid or incurred during the taxable year in this state to the total wages and salaries paid or incurred during the taxable year everywhere;

(5) In the case of an insurance company, it shall receive a credit on the tax computed as above equal in amount to any taxes based on premiums paid by it during the period for which the tax under this act is imposed by virtue of any law of this state, other than the surcharge on premiums imposed by Extra Session Laws 1933, Chapter 53, as amended;

(6) If the status of a taxpayer, insofar as it affects the credits allowed under paragraphs 1, 2 and 3 of this subdivision shall change during the taxable year, or if the taxpayer shall

either become or cease to be a resident of the state during such taxable year, such credit shall be apportioned, in accordance with the number of months before and after such change. For the purpose of such apportionment, a fractional part of a month shall be disregarded unless more than one-half of a month, in which case it shall be considered as a month. In case of death during a taxable year a credit shall be allowed to the decedent, in proportion to the number of months before his death, and to his estate, in proportion to the number of months after his death, and in any event a minimum credit of $5.00 shall be allowed to the decedent and his estate, respectively;

(7) In the case of a non-resident individual, credits under paragraph 1, 2 and 3 of this subdivision shall be apportioned in the proportion of the gross income from sources in Minnesota to the gross income from all sources, and in any event a minimum credit of $5.00 shall be allowed.

Sec. 5. Minnesota Statutes 1945, Section 290.07, Subdivision 3, is amended to read as follows:

290.07. **Computation of net income.** Subd. 3. **Upon annual accounting period.** *(1)* The commissioner may, whenever in his opinion the fair distribution of income as between taxable years will be promoted thereby, permit, under such regulations as he may prescribe, taxpayers who regularly dispose of property on the instalment plan, or who make a casual disposition of property on terms under which the initial payment in cash or property other than the purchaser's evidences of indebtedness does not exceed *30* per cent of the purchase price, to return their income from such transactions over the taxable years during which they occurred.

(2) If an instalment obligation is satisfied at other than its face value or distributed, transmitted, sold or otherwise disposed of, gain or loss shall result to the extent of the difference between the basis of the obligation, and (a) in the case of satisfaction at other than face value or a sale or exchange— the amount realized, or (b) in case of a distribution, transmission, or disposition otherwise than by sale or exchange the fair market value of the obligation at the time of such distribution, transmission, or disposition. Any gain or loss so resulting shall be considered as resulting from the sale or exchange of the property in respect of which the instalment obligation was received. The basis of the obligation shall be the excess of the face value of the obligation over an amount equal to the income which would be returnable were the obliga-

tion satisfied in full. This subsection shall not apply to the transmission at death of instalment obligations if there is filed with the commissioner, at such time as he may by regulation prescribe, a bond in such amount and with such sureties as he may deem necessary, conditioned upon the return as income, by the person receiving any payment on such obligations, of the same proportion of such payment as would be returnable as income by the decedent if he had lived and had received such payment. If an instalment obligation is distributed by one corporation to another corporation in the course of a liquidation, and under Section 290.13, Subdivision 1 (6) no gain or loss with respect to the receipt of such obligation is recognized in the case of the recipient corporation, then no gain or loss with respect to the distribution of such obligation shall be recognized in the case of the distributing corporation.

Sec. 6. Minnesota Statutes 1945, Section 290.08, is amended to read as follows:

290.08. **Exemptions from gross income.** The following items shall not be included in gross income:

(1) The value of property acquired by gift, devise, bequest or inheritance, but the income from such property shall be included in gross income; the income received under a gift, devise, bequest or inheritance of a right to receive income shall also be included in gross income. Amounts paid, credited, or to be distributed at intervals, under the terms of the gift, devise or inheritance, shall be included in gross income of the recipient to the extent paid, credited, or to be distributed out of income;

(2) Amounts received under a life insurance contract payable by reason of the death of the insured, whether in a single sum or in instalments; but the interest accruing after December 31, 1932, and paid by the insurer on any such amount held by it after the death of the insured shall be included in gross income;

(3) Amounts received, other than those specified in clause (2), *and other than amounts received as annuities,* under a life insurance, or endowment contract; but, if such amounts when added to the amounts received under such contract before the taxable year (after deducting from the aggregate of amounts received such proportion as is represented by interest accrued prior to January 1, 1933) exceed the aggregate premiums or consideration paid, whether or not paid during the taxable year, then the excess shall be

included in gross income. Amounts received as an annuity under an annuity or endowment contract shall be included in gross income; except that there shall be excluded from gross income the excess of the amount received in the taxable year over an amount equal to three per cent of the aggregate premiums or consideration paid for such annuity, whether or not paid during the taxable year, until the aggregate amount excluded from gross income under the income tax laws of this state plus the amounts received prior to January 1, 1933 (after deducting such proportion of such aggregate amount and amounts received as is represented by interest accrued prior to January 1, 1933), in respect to such annuity equal the aggregate premiums or consideration paid for such annuity. The amount which a transferee for a valuable consideration of any such contract, or interest therein, shall be permitted to exclude from his gross income shall be the actual value of the consideration paid by him plus the amount of the premiums and other sums subseqeuntly paid by him hereunder;

(4) Amounts received as compensation for personal injuries or sickness by the injured or sick taxpayer, whether received under accident or health insurance contracts, workmen's compensation acts, any plan maintained by employers for such purpose, or by way of damages received in any suit or by agreement; also amounts received as compensation for the death of any member of the taxpayer's family, whether received under insurance contracts, workmen's compensation acts, any plan maintained by employers for such purposes, or by way of damages received in a suit or by agreement; and amounts received under any arrangement entered into by the taxpayer to provide a fund specifically intended to defray the funeral expenses of himself or any member of his family. The words "compensation" and "damages," as used in this clause, shall include reimbursement for medical, hospital, and funeral expenses in connection with such sickness, injury, or death;

(5) Amounts received by any person from the United States or the State of Minnesota by way of a pension, public employee retirement benefit, *unemployment compensation benefit,* social security benefit or railroad retirement *or unemployment compensation* benefit, family allotment, or other similar allowance;

(6) Interest upon obligations of the State of Minnesota, any of its political or governmental subdivisions, any of its municipalities, or any of its governmental agencies or instrumentalities;

(7) Interest upon obligations of the United States, its possessions, its agencies, or its instrumentalities, so far as immune from state taxation under federal law; provided, that salaries, wages, fees, commissions or other compensation received from the United States, its possessions, its agencies, or its instrumentalities shall be excluded from gross income for all taxable years ending prior to January 1, 1939; provided, that salaries, wages, fees, commissions, or other compensation received from the United States, its possessions, its agencies, or its instrumentalities for taxable years ending prior to January 1, 1939, shall be excluded only to the extent that salaries, wages, commissions, fees, and other compensation received from the State of Minnesota, its political or governmental subdivisions, its municipalities, or its governmental agencies or instrumentalities for that year are excluded from gross income under the federal revenue acts; provided, that salaries, wages, fees, commissions, or other compensation received from the United States, its possessions, its agencies, or its instrumentalities by federal employees residing in "federal areas" shall be excluded from gross income for all taxable years ending prior to January 1, 1941;

(8) The rental value of the premises occupied by the taxpayer as his home, or for his business, except where the occupancy by such taxpayer of such premises for such purposes constitutes in whole or in part the consideration received by him in connection with a transaction such that, had such consideration been received thereunder in cash or other property, the amount thereof would have been required, either in whole or in part, to be included in his gross income;

(9) The value of food and goods produced by the taxpayer and consumed or used by his immediate family;

(10) Amounts deducted from the wages or salaries of employees by employers under a voluntary or compulsory plan of unemployment insurance shall not be included in the gross income of such employees;

(11) The amounts distributed by cooperative buying, selling or producing associations, however organized, as patronage dividends shall not be included in the gross income of such associations;

(12) Clauses (3), (4), (9), and (10) shall not apply to corporations and clauses (6) and (7) shall not apply to corporations taxable under section 290.02 or under section 290.361;

(13) Income, other than rent, derived by a lessor of real property upon the termination of a lease, representing the value of such property attributable to buildings erected or other improvements made by a lessee;

(14) The rental value of a dwelling house and of appurtenances thereof furnished to a minister of the gospel as part of his compensation;

(15) Amounts received during the taxable year as mustering-out payments with respect to service in the military or naval forces of the United States or the United Nations.

This amendment set forth in clause (15) shall apply to all taxable years beginning after December 31, 1943.

Sec. 7. Minnesota Statutes 1945, Section 290.10, is amended to read as follows:

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;

(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 per cent 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 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 measure of the tax imposed by this Act.

Sec. 8. Minnesota Statutes 1945, Section 290.16, is amended by adding a new subdivision thereto, to read as follows:

290.16. **Adjustment of basis; limitation of capital losses.** *Subd. 10. Property of a building and loan or savings and loan association acquired in liquidation of a real estate mortgage shall be deemed to be property held primarily for sale to customers in the ordinary course of the taxpayer's trade or business.*

Sec. 9. Minnesota Statutes 1945, Section 290.20, is amended to read as follows:

290.20. **Commissioner to prescribe methods.** The methods prescribed by section 290.19 shall be presumed to determine fairly and correctly the taxpayer's net income allocable to this state. Any taxpayer feeling aggrieved by the application to his case of the methods so prescribed may petition the commissioner for determination of such net income *by the use of* some other *method,* including separate accounting. Thereupon, if the commissioner finds that the application of the methods prescribed by section 290.19 will be unjust to the taxpayer, he may allow the use of the methods *so petitioned for* by the taxpayer, or may determine *such* net income by other methods if satisfied that such *other* methods will fairly reflect *such* net income. *A petition within the meaning of this section shall be deemed to have been filed by the taxpayer if the taxpayer in his return uses a method other than the methods prescribed by section 290.19, and if such return shall have attached thereto a statement setting forth the reasons for the use of such other method.*

Sec. 10. Minnesota Statutes 1945, Section 290.21, is amended to read as follows:

290.21. **Credits against taxable net income.** The taxes imposed by this chapter shall be on, or measured by, as the case may be, the taxable net income less the following credits against it:

(1) A credit of $500 in the case of each corporation;

(2) An amount for contributions or gifts made within the taxable year;

(a) *Within Minnesota* to or for the use of the United States of America, the State of Minnesota, or political subdivisions of either, for exclusively public purposes;

(b) *Within Minnesota* to or for the use of any community chest, corporation, organization, trust, fund, association, or foundation operating within this state, organized and operating exclusively for religious, charitable, scientific, literary, artistic or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(c) *Without Minnesota* to or for the use of any community chest, corporation, trust, fund, association, or foundation, organized and operated exclusively, for any of the purposes specified in clause (2) (b) *and (2) (d), but not operating within this state in an amount equal to the ratio of Minnesota taxable net income to total net income;*

(d) *Within Minnesota* to a fraternal society, order, or association, operating under the lodge system if such contributions or gifts are to be used within this state exclusively for the purposes specified in clause (2) (b); or for or to posts or organizations of war veterans or auxiliary units or societies of such posts or organizations, if they are within the state and no part of their net income inures to the benefit of any private shareholder or individual;

(e) The total credit against net income hereunder shall not exceed 15 per cent of the taxpayer's taxable net income;

(3) *85 per cent* of dividends received by a corporation during the taxable year from another corporation, *when the corporate stock with respect to which dividends are paid does not constitute the stock in trade of the taxpayer or would not be included in the inventory of the taxpayer, or does not constitute property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, or when the trade or business of the taxpayer does not consist principally of the holding of the stocks and the collection of the income and gains therefrom. The remaining 15 per cent shall be allowed* if the recipient owns 80 per cent or more of all the voting stock of such other corporation, *and the dividends were paid* from income arising out of business done in this state by the corporation paying such dividends; but, if the income out of which the dividends are declared was derived from business done within and without this state, then so much of the *remainder* shall be allowed as a credit as the amount of the taxable net income of the corporation paying the dividends assignable to this state bears to the entire net income of the corporation, such rate being determined by the returns under this chapter of the corporation paying such dividends for the taxable year preceding the distribution thereof; except that with respect to dividends distributed during the year 1933 the rate shall be determined by the corporation's return for that year; the burden shall be on the taxpayer of showing that the amount of *remainder* claimed as a credit has been received from income arising out of business done in this state;

(4) To each mutual savings bank organized and existing as such under the laws of this state, an amount equal to the interest and dividends paid or credited during the taxable year of its depositors;

(5) To each *regulated* investment company as *that term is* defined *and limited* by the United States internal revenue code, section 361, *(a) and (b)* an amount equal to the interest and dividends paid during the taxable year, and to each building

and loan and savings and loan association, an amount equal to the dividends paid during the taxable year to its members as members.

Sec. 11. Minnesota Statutes 1945, Section 290.31, Subdivision 1, is amended to read as follows:

290.31. **Partnerships not taxed.** Subd. 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 six months, his distributive share of the gains and losses of the partnership from sales or exchanges of capital assets held for *not* more than six months, (B) as part of his gains or losses from sales or exchanges of capital assets held for more than six months, his distributive share of the gains and losses of the partnership from sales or exchanges of capital assets held for more than six 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.

Sec. 12. Minnesota Statutes 1945, Section 290.361, Subdivision 2, is amended to read as follows:

290.361. **Tax on income of national banks.** Subd. 2. The taxable net income shall be computed in the manner provided by this chapter except that in the case of national and state banks: (a) the rate shall be eight per cent instead of six per cent; (b) the basic date for the purpose of computing gain or loss and depreciation shall be January 1, 1940, instead of January 1, 1933; (c) property consisting of investments in bonds, stocks, notes, debentures, mortgages, certificates, or any evidence of indebtedness, and any property acquired in liquidation thereof when such property is held for investment or for sale, shall not be deemed to be capital assets; and (d) in computing net income there shall be allowed as a deduction from gross income, in addition to deductions otherwise provided for in this act, any dividend (not including any distribution in liquidation) paid, within the taxable year, to the United States or to any instrumentality thereof exempt from Federal income taxes, on the preferred stock of the bank owned by the United States or such instrumentality.

Sec. 13. Minnesota Statutes 1945, Section 290.46, is amended to read as follows:

290.46. **Shall examine taxpayers' records.** The commissioner shall, as soon as practicable after the return is filed, examine the same and make any investigation or examination of the taxpayer's records and accounts that he may deem necessary for determining the correctness of the return. The tax computed by him on the basis of such examination and investigation shall be the tax to be paid by such taxpayer. If the tax found due shall be greater than the amount reported as due on the taxpayer's return, the commissioner shall assess a tax in the amount of such excess and the whole amount of such excess shall be paid to the commissioner within 30 days after notice of the amount and demand for its payment shall have been mailed to the taxpayer by the commissioner. If the understatement of the tax on the return was false and fraudulent with intent to evade the tax, the instalments of the tax shown by the taxpayer on his return which have not yet been paid shall be paid to the commissioner within 30 days after notice of the amount thereof and demand for payment shall have been mailed to the taxpayer by the commissioner. If the amount of the tax found due by the commissioner shall be less than that reported as due on the taxpayer's return, the excess shall be refunded to the taxpayer in the manner provided by Section 290.50 (except that no demand therefor shall be necessary), if he has already paid the whole of such tax, or cerdited against any unpaid instalment thereof; provided, that no refundment shall be made except as provided in section 290.50, after the expiration of three and one half years after the filing of the return; *except with respect to taxable years beginning after December 31, 1942, and ending before December 31, 1946, in which cases no refundment shall be made except as provided in Section 290.50 after the expiration of four years and six months after the filing of the return.*

The notices and demands provided for by sections 290.46 to 290.48 shall contain a brief statement of the computation of the tax and shall be sent by registered mail to the taxpayer at the address given in his return, if any, and if no such address is given, then to his last known address.

Sec. 14. Minnesota Statutes 1945, Section 290.49, Subdivision 8, is amended to read as follows, and there is added a new subdivision 9:

290.49. **Time for assessment and collection of tax.** Subd. 8. If the commissioner has effected an examination of the taxpayer's return and has prepared a proposed redetermination of the tax liability and mailed a copy of *his* proposed redetermination to the taxpayer and has afforded the taxpayer an opportunity to appear before him and duly protest such redetermination *before the expiration of the time prescribed by subdivision 1 hereof for the assessment of the tax,* and if the commissioner and the taxpayer are unable to agree upon the correct tax liability because of a disagreement as to a material fact or point of law, the taxpayer may consent in writing to *an extension or extensions of time for* the assessment of the tax, and the tax not exceeding the amount of the proposed redetermination herein provided for, may be assessed at any time prior to the expiration of the time agreed upon.

Subd. 9. For taxable years beginning after December 31, 1942, and ending before December 31, 1946, except as to the eighteen months limitations provided for in Subdivision 2, the limitations of time provided in Subdivisions 1, 2, 3, 4 and 7 (1) shall be extended for an additional year.

Sec. 15. Minnesota Statutes 1945, Section 290.50, Subdivision 1, is amended to read as follows:

290.50. **Refundment of overpayments.** Subd. 1. A taxpayer who has paid, voluntarily or otherwise, or from whom there has been collected (other than by the methods provided for in subdivisions 1 and 5 of section 290.48) an amount of tax for any year in excess of the amount legally due for that year, may file with the commissioner a claim for refund of such excess. No such claim shall be entertained unless filed within two years after such tax was paid or collected, or within three and one-half years from the filing of the return, whichever period is the longer; except that if the claim relates to *taxable years beginning after December 31, 1942, and ending before December 31, 1946, such claim will not be entertained unless filed within two years after such tax was paid or collected or within four and one-half years from the filing of the return whichever period is the longer. If the claim relates to* an overpayment on account of failure to deduct a loss due to a bad debt or to a security becoming worthless, the period shall be *five* years from the date the return was filed, and in such case the refund shall be limited to the amount of such overpayment; but no claim for any year ending prior to January 1, 1939, shall be allowed, unless (1) the deduction was claimed by the taxpayer with respect to a subsequent year, and disallowed by the commissioner of taxation prior to

January 1, 1943, and (2) the claim is filed before December 1, 1943. If the claim is not filed within thre and one-half years after the return is filed, *(four and one-half years if the return covers a taxable period beginning after December 31, 1942, and ending before December 31, 1946)*, or, to the extent that it refers to bad debt or worthless stock losses, within *five* years after the return is filed, the refund shall not exceed the amount paid within two years prior to the filing of the claim. Upon the filing of a claim the commissioner shall examine the same and shall make and file written findings thereon denying or allowing the claim in whole or in part and shall mail a notice thereof by registered mail to the taxpayer at the address stated upon the return. If such claim is allowed in whole or in part, the commissioner shall issue his certificate for the refundment of the excess paid by the taxpayer, with interest at the rate of two per cent per annum computed from the date of the payment or collection of the tax until the date the refund is paid to the taxpayer, and the state auditor shall cause such refund to be paid out of the proceeds of the taxes imposed by this act, as other state moneys are expended. So much of the proceeds of such taxes as may be necessary are hereby appropriated for that purpose.

Sec. 16. Minnesota Statutes 1945, Section 290.53, is amended to read as follows:

290.53. **Penalties and interest.** Subdivision 1. If any tax imposed by this act, or any portion thereof, is not paid within the time herein specified for the payment thereof, or within 30 days after final determination of an appeal to the board of tax appeals relating thereto, there shall be added thereto a specific penalty equal to five per cent of the amount so remaining unpaid. Such penalty shall be collected as part of said tax, and the amount of said tax not timely paid, together with said penalty shall bear interest at the rate of four per cent per annum from the time such tax should have been paid until paid. Interest accruing upon the tax due as disclosed by the return or upon the amount determined as a deficiency from the date prescribed for the payment of the tax (if the tax is paid in instalments, from the date prescribed for the payments of the first instalment) shall be added to the tax and be collected as a part thereof. Where an extension of time for payment has been granted under section 290.45, subdivision 2, interest shall be paid at the rate of four per cent per annum from the date when such payment should have been made if no extension had been granted, until such tax is paid. If payment is not made at the expiration of the extended period the penalties provided in this section shall apply.

Subd. 2. In case of any failure to make and file a return as required by this chapter within the time prescribed by law or prescribed by the commissioner in pursuance of law, unless it is shown that such failure is not due to wilful neglect, there shall be added to the tax in lieu of the five per cent specific penalty provided in subdivision 1: five per cent if the failure is for not more than thirty days with an additional five per cent for each additional thirty days or fraction thereof during which such failure continues, not exceeding 25 per cent in the aggregate. The amount so aded to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax.

Subd. *3.* If any person, with intent to evade the tax imposed by this act, shall fail to file any return required by this act, or shall with such intent file a false or fraudulent return, there shall also be imposed on him as a penalty an amount equal to 50 per cent of any tax (less any amounts paid by him on the basis of such false or fraudulent return) found due from him for the period to which such return related. The penalty imposed by this subdivision shall be collected as part of the tax, and shall be in addition to any other penalties, civil and criminal, provided by this section.

Subd. *4.* In addition to the penalties hereinbefore prescribed, any person who wilfully fails to make a return or wilfully makes a false return, with an intent to evade the tax, or a part thereof, imposed by this act, shall be guilty of a felony. The term "person" as used in this subdivision includes any officer or employee of a corporation or a member or employee of a partnership who as such officer, member or employee is under a duty to perform the act in respect to which the violation occurs.

Subd. *5.* All payments received shall be credited first to penalties, next to interest, and then to the tax due.

Subd. *6.* The commissioner shall have power to abate penalties when in his opinion their enforcement would be unjust and inequitable. The exercise of this power shall be subject to the approval of the attorney general.

Sec. 17. Minneota Statutes 1945, Section 290.65, subdivision 15, is amended to read as follows:

290.65. **Exemptions, members of armed forces.** Subd. 15. In the case of any individual who dies on or after December

7, 1941, while in active service as a member of the military or naval forces of the United States or of any of the United Nations prior to the termination of hostilities as proclaimed by Congress or by the President of the United States, any income tax imposed under the provisions of sections 290.01 through 290.63, shall not be imposed with respect to the taxable year in which falls the date of his death, and such tax imposed for any prior taxable years which is unpaid at the date of his death (including additions to the tax, interest and penalties) shall not be assessed, and if assessed, the assessment shall be abated. In addition, upon the filing of a claim for refund within seven years after the termination of hostilities as set forth above, the tax paid or collected with respect to any taxable year *beginning after December 31, 1940*, during which such decedent was in active service shall be refunded.

Sec. 18. Minnesota Statutes 1945, Section 290.37, Subdivision 2, is amended to read as follows:

290.37. **Who shall make returns.** Subd. 2. The following persons shall make a return under oath for each taxable year, or a fractional part thereof where permitted or required by law:

(a) The executor or administrator of the estate of a decedent with respect to the taxable net income of such decedent for that part of the taxable year during which he was alive if such taxable net income exceeds an amount on which a tax at the rates herein provided would exceed the specific credit allowed or if such decedent's gross income for the aforesaid period exceeds $1,000.

(b) The executor or administrator of the estate of a decedent with respect to the taxable net income of such estate if that exceeds an amount on which a tax at the rates herein provided would exceed the specific credit allowed or if such estate's gross income exceeds $1,000.

(c) The trustee or other fiduciary of property held in trust with respect to the taxable net income of such trust if that exceeds an amount on which a tax at the rates herein provided would exceed the specific credit allowed, or if the gross income of such trust exceeds $1,000, if in either case such trust belongs to the class of taxable persons.

(d) The guardian of an infant or other incompetent person with respect to such infant's or other person's taxable net income if that exceeds an amount on which a tax at the rates herein provided would exceed the specific credit allowed, or if their gross income exceeds $1,000.

(e) Every corporation with respect to its taxable net income if in excess of $500, or if its gross income exceeds $5,000. The return in this case shall be sworn to by the president, vice-president, or other principal officer, and by the treasurer or assistant treasurer.

(f) The receivers, trustees in bankruptcy, or assignees operating the business or property of a taxpayer with respect to the taxable net income of such taxpayer if that exceeds an amount on which a tax at the rates herein provided would exceed the specific credit allowed (or, if the taxpayer is a corporation, if the taxable net income exceeds $500), or if such taxpayer's gross income exceeds $5,000.

Sec. 19. Minnesota Statutes 1945, Section 290.36, is amended to read as follows:

290.36. **Investment companies; report of net income; computation of amount of income allocable to state.** The taxable net income of investment companies shall be computed and be exclusively as follows:

Each investment company transacting business as such in this state shall report to the commissioner the net income returned by the company for the taxable year to the United States under the provisions of the act of Congress known as the revenue act of 1936, less the credits provided therein, or the net income that such company would be required to return under such act less such credits, if such act were in effect. The commissioner shall compute therefrom the taxable net income of the investment company by assigning to this state that proportion of such net income, less such credits which the aggregate of the gross payments collected by the company during the taxable year from old and new business upon investment contracts issued by the company and held by residents of this state, bears to the total amount of the gross payments collected during such year by the company from such business upon investment contracts issued by the company and held by persons residing within the state and elsewhere.

As used in this section, the term "investment company" means any person, copartnership, association, or corporation, whether local or foreign, coming with the purview of Section 54.26, who or which solicits *or receives* payments to be made to himself or itself *and which issues therefor, or has issued therefor and has or shall have outstanding* so-called bonds, shares, coupons, certificates of membership, or other evidences of obligation or agreement or pretended agreement to return *to the holder or owners thereof money or anything of* value at some future date; and the term "investment contract" shall mean any such so-called bonds, shares, coupons, certificates of membership, or other evidences of obligation or agreement or pretended agreement issued by an investment company.

Sec 20. **Effective dates.** The amendment supplied by Section 3, the amendments to Minnesota Statutes 1945, Section 290.49, Subdivision 8, supplied by Section 14, and the amendment supplied by Section 15 shall take effect on passage.

All other provisions of this act shall apply to all taxable years beginning after December 31, 1946, except as otherwise provided therein.

Sec. 21. **Repealer.** Minnesota Statutes 1945, Section 290.074, is repealed.

Approved April 28, 1947.

CHAPTER 636—H. F. No. 1573
[Not Coded]

An act to appropriate money from the general revenue fund to the Minnesota State Building Fund for the construction, remodeling, altering, and equipping of buildings and the purchase of land and houses and from the Minnesota State Building Fund for the construction, remodeling, altering and equipping of buildings and the purchase of land and houses; leving a tax to provide funds therefor, including a tax on homesteads notwithstanding the provisions of Extra Session Laws 1937, Chapter 86; authorizing the issuance of certificates of indebtedness and the purchase thereof by the State Board of Investment; appropriating the proceeds of such tax levy for the payment of such certificates; and appropriating money from the Prison Revolving Fund for the construction of a service building at the Minnesota State Prison.

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

State Building Fund

Section 1. **Appropriations to Minnesota State Building Fund.** Subdivision 1. **Additional appropriation.** There is hereby appropriated for the purposes hereinafter specified from the Minnesota State Building Fund the sums of money