

ployees of bonds, stamps and other securities issued by the federal government, authorizing deductions for such payment to be made from salaries and making an appropriation for the expense of administration thereof.

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

[16.63] Section 1. **Deductions from salary for certain purposes when authorized.** Every officer and employee of the state may purchase and pay for bonds, stamps, and other securities issued by the federal government by directing in writing to the appropriate officer of the department where he is employed that deductions of the amount specified by him be made from his salary. The head of each department of the state is hereby required to cause such deduction to be made from the salary of each said persons [person] on every payroll abstract and to approve one voucher payable to the state treasurer for the aggregate amount so deducted from the salaries covered by said payroll abstract, provided that deductions from salaries of officers or employees paid direct by any institution or agency of the state shall be made by the officer or employee authorized by law to pay such salaries, and remitted by him to the director by check payable to the state treasurer with a statement showing the amount of each of such deductions and the names of the officers and employees on whose account the same have been made. The money so deposited with the state treasurer shall be paid out on authorization of the governor by state warrant payable to the proper federal authority or to the officer or employee from whose salary the money was deducted, as the case may require.

Approved April 23, 1951.

CHAPTER 679—H. F. No. 1033

An act relating to taxes on and measured by net income; amending Minnesota Statutes 1949, Sections 290.09, 290.16, Subdivision 9, 290.21.

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

Section 1. Minnesota Statutes 1949, Section 290.09, is amended to read:

290.09 Deductions from gross income. The following deductions from gross income shall be allowed in computing net income:

(1) Ordinary and necessary expenses paid or incurred in conducting the activity or in carrying on the trade, profession, gainful occupation or business from which the gross income is derived, including a reasonable allowance for salaries and voluntary or compulsory contributions made by employers to maintain a voluntary or compulsory system of unemployment insurance or a system of old age pensions for their employees, and any welfare work for the benefit of such employees;

(2) The interest paid or accrued within the taxable year on indebtedness, except on indebtedness incurred or continued to purchase or carry obligations or securities the income from which is excludible from gross income under section 290.08, or on indebtedness incurred or continued in connection with the purchasing or carrying of an annuity;

(3) Taxes paid or accrued within the taxable year, except (a) income or franchise taxes imposed by this chapter and (b) taxes assessed against local benefits of a kind deemed in law to increase the value of the property assessed; and (c) inheritance, gift and estate taxes. Income taxes permitted to be deducted hereunder shall, regardless of the methods of accounting employed, be deductible only in the taxable year in which paid. Taxes imposed upon a shareholder's interest in a corporation which are paid by the corporation without reimbursement from the shareholder shall be deductible only by such corporation;

(4) Losses sustained during the taxable year not compensated for by insurance or otherwise if incurred in connection with a business or transaction the gains from which, if any, would be includible in gross income; or if arising from fires not attributable to arson by the taxpayer or some one acting for him, or from storms, wrecks, other casualty, or theft. Losses from wagering transactions shall be allowed only to the extent of the gain from such transactions. No deductions shall be allowed under this clause for any loss sustained in any sale or other disposition of shares of stock or other securities

if within 30 days before or after the date of such sale or other disposition the taxpayer has acquired (other than by bequest or inheritance) or entered into a contract or option to acquire substantially identical property and the property so acquired is held by the taxpayer for any period after such sale or disposition; but if such acquisition or the contract or option to acquire is to the extent of part only of substantially identical property, then only a proportionate part of such loss shall be disallowed. Deductible losses arising from fires, storms, wrecks, or other casualty shall be treated as sustained in the taxable year during which the property was injured or destroyed, and deductible losses arising from theft shall be treated as sustained in the taxable year in which the taxpayer discovers the theft. The amount of the deductible loss shall be computed on the same basis as is provided by section 290.12 for determining the gain or loss on the sale or other disposition of property;

(5) Debts which become worthless during the taxable year, provided, that the taxpayer may in the alternative deduct a reasonable addition to a reserve for bad debts; provided further, that the commissioner may allow a bad debt to be deducted or charged off in part. Corporations taxable under the provisions of section 290.361 which have heretofore in any taxable year taken such deductions by the reserve method in their income tax returns to the Federal Government may, on or before July 1, 1949, make application to the commissioner for permission to take such deductions for the same year upon the same method;

(6) A reasonable allowance for the exhaustion, wear and tear of property the periodical income from which is includible in gross income, and of property used in an occupation or business, including a reasonable allowance for obsolescence. In the case of property held by one person for life with remainder to another person the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiary and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each. In the case of buildings or other structures or improvements constructed or made on leased premises by a lessee, and the fixtures and machinery therein installed, the lessee alone shall be entitled to the allowance of this deduction;

(7) In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion. In the case of leases the deduction shall be equitably apportioned between the lessor and lessee in accordance with rules prescribed by the commissioner. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each;

(8) The amount of the deduction under clauses (6) and (7) shall be computed on the basis specified in section 290.16;

(9) The deductions provided for herein shall be taken for the taxable year in which paid or accrued, dependent upon the method of accounting employed in computing net income, unless in order to clearly reflect income they should be taken as of a different year;

(10) No deductions shall be allowed unless the taxpayer, when thereunto requested by the commissioner, furnishes him with information sufficient to enable him to determine the validity and correctness thereof;

(11) Payments for expenses for hospital, nursing, medical, surgical, dental and other healing services, including institutional care and treatment for the mentally ill and physically handicapped, and for medical supplies and ambulance hire, incurred by the taxpayer on account of sickness, mental illness, physical handicap or personal injury to himself or his dependents. Payments for traveling expenses shall not be deductible under the provisions of this subdivision. Payments for hotel or similar lodging expenses shall be deductible in the same manner as payments for hospital services, if the taxpayer or his dependent is not hospitalized but is nevertheless required to remain in a medical center away from his usual place of abode, for the purpose of receiving prescribed medical treatment;

(12) An allowance for amortization of war facilities to the extent that such deduction is finally allowed under

sections 124 or 124A of the internal revenue code provided no deduction has been claimed with respect thereto under clause (6) of this section or any other section, subdivision, or clause of this chapter;

(13) In the case of a corporation, the amount of any income of the taxpayer attributable to the discharge, within the taxable year, of any indebtedness of the taxpayer, or for which the taxpayer is liable evidenced by a security (as hereinafter in this paragraph defined) if the taxpayer makes and files at the time of filing the return, in such manner as the commissioner by regulations prescribes, its consent to the regulations prescribed under section 290.12, subdivision 3, in effect. In such cases the amount of any income of the taxpayer attributable to any unamortized premium (computed as of the first day of the taxable year in which such discharge occurred) with respect to such indebtedness shall not be included in gross income and amount of the deduction attributable to any unamortized discount (computed as of the first day of the taxable year in which such discharge occurred), with respect to such indebtedness shall not be allowed as a deduction. As used in this paragraph the term "security" means any bond, debenture, note, or certificate, or other evidence of indebtedness issued by any corporation.

(14) An allowance for all taxable years beginning after December 31, 1942, for amortization of bond premiums in accordance with the provisions of section 125 of the Internal Revenue Code adapted to the provisions of this chapter under regulations issued by the commissioner, but only to the extent that such deduction has not been allowed under any other section of this chapter.

(15) The amounts included in the gross income of a wife under the provisions of section 290.072 shall be deductible from gross income of the husband except to the extent they are excluded from his gross income as provided in section 290.072 (2);

(16) In the case of an individual, at his election, a standard deduction as follows:

(a) If his adjusted gross income is \$5,000 or more, the standard deduction shall be \$500.

(b) If his adjusted gross income is less than \$5,000,

the standard deduction shall be an amount equal to ten per cent thereof; in such case the standard deduction will be available only through the use of the schedule of taxes provided in section 290.06, subdivision 2. .

The standard deduction shall be in lieu of the credits enumerated in section 290.21, clause (2), and all deductions provided for in this chapter other than those enumerated in section 290.18, subdivision 2.

If the adjusted gross income shown in the return is \$5,000 or more, the standard deduction shall be allowed only if the taxpayer so elects in his return. Claiming the standard deduction in the return shall constitute such election. If the adjusted gross income shown in the return is less than \$5,000, computation of the tax by the taxpayer in his return according to the schedule of taxes provided in section 290.06, subdivision 2 (b), shall constitute an election by him to take the standard deduction. Any election to take the standard deduction shall be irrevocable for the taxable year for which such election is made unless changed on or before the due date for filing the return.

If a taxpayer whose adjusted gross income as shown in his return is \$5,000 or more, has elected to take the standard deduction, that election shall be considered to be an election to have his tax computed according to the schedule of taxes provided in section 290.06, subdivision 2 (b), if his adjusted gross income is corrected to less than \$5,000. If he has not elected to take the standard deduction, and his adjusted gross income is corrected to less than \$5,000, his tax cannot be computed according to the schedule of taxes provided in section 290.06, subdivision 2 (b).

If a taxpayer whose adjusted gross income as shown in his return is less than \$5,000, has elected to take the standard deduction and his adjusted gross income is corrected to \$5,000 or more, that election shall be considered to be an election to take the standard deduction of \$500. If he has not elected to take the standard deduction, and his adjusted gross income is corrected to \$5,000 or more, he shall not be allowed to take the standard deduction of \$500.

In the case of a husband and wife living together, the standard deduction shall not be allowed to either if the net income of one of the spouses is determined without regard to

the standard deduction. For the purposes of this paragraph the determination of whether an individual is living with his spouse shall be made as of the last day of the taxable year unless the spouse dies during the taxable year in which case such determination shall be made as of the date of such spouse's death.

If a taxable year is less than 12 months because of a change in the accounting period or because of a change in domicile, the standard deduction shall not be allowed.

(17) Notwithstanding the provisions of section 290.10 (2), all expenditures (other than expenditures for the purchase of land or depreciable property or for the acquisition of circulation through the purchase of any part of the business of another publisher of a newspaper, magazine, or other periodical) to establish, maintain, or increase the circulation of a newspaper, magazine, or other periodical; except that the deduction shall not be allowed with respect to the portion of such expenditures as, under regulations prescribed by the commissioner, is chargeable to capital account if the taxpayer elects, in accordance with such regulations, to treat such portion as so chargeable. Such election, if made, must be for the total amount of such portion of the expenditures which is so chargeable to capital account, and shall be binding for all subsequent taxable years unless, upon application by the taxpayer, the commissioner permits a revocation of such election subject to such conditions as he deems necessary.

Sec. 2. Minnesota Statutes 1949, Section 290.16, Subdivision 9, is amended to read:

290.16 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 six months, and real property used in the trade or business, held for more than six 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.

For the purposes of this subdivision, livestock used for draft, dairy, or breeding purposes and held for more than six

months, shall not be considered to be held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, irrespective of whether such livestock was raised or otherwise acquired; and livestock which had been used for draft, dairy, or breeding purposes and held for more than six months, shall be considered to be held by the taxpayer, primarily for sale to customers in the ordinary course of his trade or business, irrespective of whether such livestock was raised or otherwise acquired if such livestock is not sold within two months after its use for draft, dairy or breeding purposes has been discontinued.

(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 six 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 six 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 six months shall be considered losses from a compulsory or involuntary conversion.

Gain from the sale or exchange of property, to the extent that the adjusted basis of such property is less than its adjusted basis without regard to the provisions of section 290.09 (12) (relating to amortization deduction), shall be considered as gain from the sale or exchange of property which is neither a capital asset nor property described in this subdivision.

Sec. 3. Minnesota Statutes 1949, Section 290.21, is amended to read:

290.21 **Credit 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) to or for the use of the State of Minnesota, or any of its political subdivisions for exclusively public purposes;
 - (b) 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 stockholder or individual;
 - (c) 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;
 - (d) to or for the use of the United States of America for exclusively public purposes, and 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 clauses (2) (b) and (2) (c), but not operating within this state, in an amount equal to the ratio of Minnesota taxable net income to total net income;
 - (e) The total credit against net income hereunder shall not exceed 15 per cent of the taxpayer's taxable net income;

(3) (a) 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;

(b) If the trade or business of the taxpayer consists principally of the holding of the stocks and the collection of the income and gains therefrom, dividends received by a corporation during the taxable year from another corporation, if the recipient owns 80 per cent or more of all the voting stock of such other corporation, 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 dividends shall be allowed as 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 dividends 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. *For the purposes of this paragraph any dividend or portion thereof declared by a regulated investment company after the close of the taxable year and prior to the time prescribed by law for the filing of its return for the taxable year (including the period of any extension of time granted for filing such return) shall, to the extent the company so elects in such return, be treated as having been paid during such taxable year, but only if distribution of such dividend is actually made to shareholders in the 12-month period following the close of such taxable year and not later than the date of the first regular dividend payment made after such declaration.*

Sec. 4. Application. The provisions of this chapter are applicable to all taxable years beginning after December 31, 1949.

Approved April 23, 1951.

CHAPTER 680—H. F. No. 1079

[Not Coded]

An act relating to water, light, power and building commissions in certain villages; defining and enlarging the powers of such commissions; amendings Laws 1949, Chapter 422.

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