

in obtaining county residence, but shall not preclude a child from gaining state residence;

(2) is living in a suitable home conducted by a family having as far as practicable the same religious faith as the family of the child and meeting the standards of care and health fixed by the laws of this state and rules and regulations of the state agency thereunder.

Sec. 2. Minnesota Statutes 1949, Section 256.73, Subdivision 4, as amended by Laws 1951, Chapter 229, Section 2, Subdivision 4, is amended to read:

Subd. 4. **County to make payment.** The county responsible for the payment of assistance under sections 256.72 to 256.87 shall be the county in which said child has resided for the year preceding the application for assistance; provided, that if said child has not resided continually in any one county for the year preceding said application, then the county in which said child has resided for the longest period of time during said year shall be responsible for the payment of assistance under sections 256.72 to 256.87, subject to the provisions of section 256.79. *The time during which a child has been an inmate of a hospital, a home of detention, a licensed boarding or foster home, or of any public or private institution, shall be excluded in determining the time of residence of such child.*

Approved March 20, 1953.

CHAPTER 141—S. F. No. 342

An act relating to taxes on and measured by net income; amending Minnesota Statutes 1949, Sections 290.12, Subdivision 2, and 290.16, Subdivision 8; and amending section 290.13, as amended by Laws 1951, Chapter 267, by adding a new subdivision thereto.

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

Section 1. Minnesota Statutes 1949, Section 290.12, Subdivision 2, is amended to read:

Subd. 2. **Adjustments.** In computing the amount of gain or loss under subdivision 1 proper adjustment shall be made for any expenditure, receipt, loss, or other item properly chargeable to capital account by the taxpayer during his ownership thereof, *and for the gain or any part thereof realized from the sale, exchange or involuntary conversion of a residence where, by reason of the provisions of section 290.13,*

such gain or any part thereof is not recognized. The basis shall be diminished by the amount of the deductions for exhaustion, wear, tear, obsolescence, depletion, and the allowance for amortization of bond premium if an election to amortize was made in accordance with section 290.09 (14), which could, during the period of his ownership thereof, have been deducted by the taxpayer under this chapter in respect of such property. In addition, if the property was acquired before January 1, 1933, the basis, if other than the fair market value as of such date, shall be diminished by the amount of exhaustion, wear, tear, obsolescence, or depletion actually sustained before such date. In the case of stock the basis shall be diminished by the amount of tax-free distributions of capital received by the taxpayer in respect of such stock at any time during his ownership thereof. For the purpose of determining the amount of these adjustments the taxpayer who sells or otherwise disposes of property acquired by gift shall be treated as the owner thereof from the time it was acquired by the last preceding owner who did not acquire it by gift, and the taxpayer who sells or otherwise disposes of property acquired by gift through an inter vivos transfer in trust shall be treated as the owner from the time it was acquired by the grantor. The adjustments in case of a sale or other disposition of property received in a transaction of the kind specified in section 290.13, clause (1), and in the case of a transaction referred to in section 290.14, clause (7), shall include those which the taxpayer should have been required to make were he selling or otherwise disposing of the property exchanged, or sold, in any such transaction.

Sec. 2. Minnesota Statutes 1949, Section 290.13, as amended by Laws 1951, Chapter 267, is amended to add a new subdivision to read:

Subd. 9 Old residence, new residence. (1) *If property (hereinafter in this subdivision referred to as "old residence") used by the taxpayer as his principal residence in this state is sold by him and, within a period beginning one year prior to the date of such sale and ending one year after such date, property (hereinafter in this subdivision referred to as "new residence") is purchased and used by the taxpayer as his principal residence in this state, the gain (if any) from such sale shall be recognized only to the extent that the taxpayer's selling price of the old residence exceeds the taxpayer's cost of purchasing the new residence.*

(2) *For the purposes of this subdivision:*

(a) *An exchange by the taxpayer of his residence for other property shall be considered a sale of such residence, and the acquisition of a residence upon the exchange of property*

shall be considered a purchase of such residence.

(b) If the taxpayer's residence (as a result of its destruction in whole or in part, theft, or seizure) is compulsorily or involuntarily converted into property or into money, such destruction, theft, or seizure shall be considered a sale of such residence; and if the residence is so converted into property which is used by the taxpayer as his residence, such conversion shall be considered a purchase of such property by the taxpayer.

(c) In the case of an exchange or conversion of the kind referred to in sub-paragraphs (a) and (b) of Paragraph (2) of this subdivision, in determining the extent to which the selling price of the old residence exceeds the taxpayer's cost of purchasing the new residence, the amount realized by the taxpayer upon such exchange or conversion shall be considered the selling price of the old residence.

(d) A residence any part of which was constructed or reconstructed by the taxpayer shall be considered as purchased by the taxpayer. In determining the taxpayer's cost of purchasing a residence, there shall be included only so much of his cost as is attributable to the acquisition, construction, reconstruction, and improvements made which are properly chargeable to capital account, during the period specified in paragraph (1) of this subdivision.

(e) If a residence is purchased by the taxpayer prior to the date of his sale of the old residence, the purchased residence shall not be treated as his new residence if sold or otherwise disposed of by him prior to the date of the sale of the old residence.

(f) If the taxpayer, during the period set forth in paragraph (1) of this subdivision, purchases more than one residence which is used by him as his principal residence at some time within one year after the date of the sale of the old residence, only the last of such residences so used by him after the date of such sale shall constitute the new residence. If within the one year referred to in the preceding sentence property used by the taxpayer as his principal residence is destroyed, stolen, seized, requisitioned or condemned, or is sold or exchanged under threat or imminence thereof, then for the purposes of the preceding sentence such one year shall be considered as ending with the date of such destruction, theft, seizure, requisition, condemnation, sale or exchange.

(g) In the case of a new residence the construction of which was commenced by the taxpayer prior to the expiration of one year after the date of the sale of the old residence, the one year period specified in paragraph (1) of this subdivision,

and the one year period referred to in sub-paragraph (f) of Paragraph (2) of this subdivision, shall be increased to a period of 18 months from and after the date of the sale of the old residence.

(3) The provisions of paragraph (1) of this subdivision shall not be applicable with respect to the sale of the taxpayer's residence if within one year prior to the date of such sale the taxpayer sold at a gain other property used by him as his principal residence, and any part of such gain was not recognized by reason of the provisions of paragraph (1) of this subdivision. For the purposes of this paragraph, the destruction, theft, seizure, requisition, or condemnation of property or the sale or exchange of property under threat or imminence thereof, shall not be considered a sale of such property.

(4) Where the purchase of a new residence results, under paragraph (1) of this subdivision, in the nonrecognition of gain upon the sale of an old residence, in determining the adjusted basis of the new residence as of any time following the sale of the old residence, the adjustments to basis shall include a reduction by an amount equal to the amount of the gain not so recognized upon the sale of the old residence. For this purpose, the amount of the gain not so recognized upon the sale of the old residence includes only so much of such gain as is not recognized by reason of the cost, up to such time, of purchasing the new residence.

(5) For the purposes of this subdivision, section 290.12, subdivision 2 and section 290.16, subdivision 8, references to property used by the taxpayer as his principal residence, and references to the residence of a taxpayer, shall include stock held by a tenant-stockholder (as defined in section 290.09 (18) in a cooperative apartment corporation (as defined in section 290.09) (18) if

(a) in the case of stock sold, the apartment which the taxpayer was entitled to occupy as such stockholder was used by him as his principal residence;

(b) in the case of stock purchased, the taxpayer used as his principal residence the apartment which he was entitled to occupy as such stockholder.

(6) If the taxpayer and his spouse, in accordance with regulations issued by the commissioner, consent to the application of sub-paragraph (b) of this paragraph of this subdivision, then

(a) for the purposes of this subdivision, the words "the taxpayer's selling price of the old residence" as used in para-

graph (1) of this subdivision shall mean the selling price (of the taxpayer, or of the taxpayer and his spouse) of the old residence, and the words "the taxpayer's cost of purchasing the new residence" as used in paragraph (1) of this subdivision shall mean the cost (to the taxpayer, his spouse, or both) of purchasing the new residence (whether held by the taxpayer, his spouse, or the taxpayer and his spouse); and

(b) so much of the gain upon the sale of the old residence as is not recognized solely by reason of this paragraph, and so much of the adjustment under paragraph (4) of this subdivision to the basis of the new residence as results solely from this paragraph, shall be allocated between the taxpayer and his spouse in accordance with regulations issued by the commissioner.

This paragraph shall apply only if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence. In case the taxpayer and his spouse do not consent to the application of sub-paragraph (b) of this paragraph, then the recognition of gain upon the sale of the old residence shall be determined under this subdivision without regard to the rules provided in this paragraph.

(7) If the taxpayer during a taxable year sells at a gain property used by him as his principal residence, then

(a) the statutory period for the assessment of any deficiency attributable to any part of such gain shall not expire prior to the expiration of three and one-half years from the date the commissioner is notified by the taxpayer (in such manner as the commissioner may by regulations prescribe) of

(1) the taxpayer's cost of purchasing the new residence which the taxpayer claims results in nonrecognition of any part of such gain.

(2) the taxpayer's intention not to purchase a new residence within the period specified in paragraph (1) of this subdivision, or

(3) a failure to make such purchase within such period; and

(b) such deficiency may be assessed prior to the expiration of such three and one-half year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

(8) The running of any period of time specified in paragraphs (1) or (2) of this subdivision (other than the one-year period referred to in paragraph (2) (f)) shall be

suspended during any time that the taxpayer (or his spouse if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence) serves on extended active duty with the Armed Forces of the United States after the date of the sale of the old residence, except that any such period as so suspended shall not exceed beyond the date four years after the date of the sale of the old residence. For the purpose of this paragraph, the term "extended active duty" means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

Sec. 3. Minnesota Statutes 1949, Section 290.16, Subdivision 8, is amended to read:

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 in-

cluded 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.

(6) *In determining the period for which the taxpayer has held a residence, the acquisition of which resulted, under section 290.13, in the nonrecognition of the gain or any part thereof realized from the sale, exchange or involuntary conversion of another residence, there shall be included the period for which such other residence was held as of the date of such sale, exchange or involuntary conversion.*

Sec. 4. Application. *The provisions of this chapter are applicable to all taxable years beginning after December 31, 1950, but only with respect to residences sold after such date.*

Approved March 20, 1953.

CHAPTER 142—S. F. No. 452

[Not Coded]

An act authorizing certain cities to issue bonds for construction of school buildings.

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

Section 1. Cities second class; bonds, school buildings. In any city of the second class in this state lying wholly within one county, which city originally constituted a single school district and in which city the Board of Education is given the power to direct that a levy of school taxes be made, such Board of Education is hereby authorized by written resolution, adopted by a vote of two-thirds of its members, to issue and sell bonds or certificates of indebtedness of any such city of the par value in the aggregate of \$250,000, or so much thereof as said Board of Education may deem necessary for the purpose of providing funds for the erection of an addition to the Senior High School, and to provide plumbing, electrical and heating equipment, and all other necessary equipment and appurtenances for the same.

Sec. 2. Bonds, payment. Such bonds to be made in such denominations and payable at such places and at such