

of any state hospital to which any patient who is mentally ill, senile, or inebriate is committed or transferred may provisionally discharge such patient; and, unless such patient is readmitted to a state hospital within 12 months after the date of such provisional discharge, or unless proceedings were commenced for the appointment of a guardian for such patient, or unless the period of the provisional discharge is extended by the superintendent, the provisional discharge becomes absolute and operates to restore such patient to capacity. *If, while on provisional discharge or extended provisional discharge, a patient is discharged as provided in section 253.16, the discharge shall be absolute and shall operate to restore such patient to capacity.*

Notice of the expiration of the 12 months' period or of the extended period shall be given by the superintendent to the committing court and to the *commissioner of public welfare.*

Approved April 7, 1955.

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#### CHAPTER 385—H. F. No. 819

*An act relating to taxes on and measured by net income; amending Minnesota Statutes 1953, Sections 290.01, Subdivision 21 and 290.21.*

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

Section 1. Minnesota Statutes 1953, Section 290.01, Subdivision 21, is amended to read:

Subd. 21. **Dividends.** (1) The term "dividends" means any distribution made by a corporation to its shareholders, whether in money or in other property, (a) out of its earnings or profits accumulated after December 31, 1932, or (b) out of the earnings or profits of the taxable year (computed as of the close of the taxable year without diminution by reason of any distributions made during the taxable year), without regard to the amount of the earnings and profits at the time the distribution was made. Dividends paid in property other than cash shall be included in the recipient's income at the fair market value of such property on the date the action ordering their distribution was taken, or if no such action was taken, on the date of the actual payment or credit thereof to the shareholder.

(2) For the purposes of this section every distribution is presumed to be made out of earnings or profits to the extent

thereof, and from the most recently accumulated earnings or profits. Any earnings or profits accumulated, or increase in value of tangible property with situs in Minnesota, accrued, before January 1, 1933, may be distributed exempt from tax, after the earnings and profits accumulated after December 31, 1932, have been distributed, but any such tax-free distribution shall be applied against and reduce the cost or other income tax basis of the stock with respect to which such distribution is made. If such or any similar tax-free distributions exceed such cost or other income tax basis, any excess shall be treated in the same manner as a gain from the sale or exchange of property for the taxable year in which received by the distributee.

(3) A distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock shall not be treated as a dividend to the extent that it does not constitute income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution of the United States. Whenever a distribution by a corporation is, at the election of any of the shareholders (whether exercised before or after the declaration thereof), payable either (a) in its stock or in rights to acquire its stock or (b) in money or any other property (including its stock or rights to acquire its stock) then the distribution shall constitute a taxable dividend in the hands of all shareholders, regardless of the medium in which paid. If a corporation cancels or redeems its stock, whether or not such stock was issued as a stock dividend, at such time and in such manner as to make the distribution and cancelation or redemption, in whole or in part, essentially equivalent in cancelation or redemption of the stock shall be treated as a taxable dividend to the extent that it represents a distribution of earnings or profits.

(4) Amounts distributed in liquidation of a corporation shall be treated as payment in exchange for the stock, and the gain or loss to the distributee resulting from such exchange shall be determined under section 290.12, but shall be recognized only to the extent provided in section 290.13, and shall be taken into account in computing net income only to the extent provided in section 290.16, subdivision 2. No amounts received in liquidation shall be taxed as a gain until the distributee shall have received in liquidation an amount in excess of the applicable loss or gain basis of the stock in respect of which the distribution is received, and any such excess shall be taxed as gain in the year in which received. No amount received in liquidation shall be treated as the distribution of an ordinary dividend.

(5) Amounts distributed by a regulated investment

company, as that term is defined and limited by section 851 of the Internal Revenue Code of 1954, which are designated as capital gain dividends, as that term is defined in section 852 (b) (3) (C) of the Internal Revenue Code of 1954, shall be treated by the shareholders of such a company as gains from the sale or exchange of capital assets held for more than six months and shall be taken into account in computing net income only to the extent provided in section 290.16, subdivision 2.

Sec. 2. Minnesota Statutes 1953, Section 290.21, is amended to read:

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) 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, public cemetery, 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 percent of the taxpayer's taxable net income;

(3) (a) 85 percent 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 percent shall be allowed if the recipient owns 80 percent 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 percent 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 *section 851 of the Internal Revenue Code of 1954*, 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. 3. *The provisions of this chapter are applicable to all taxable years beginning after December 31, 1954.*

Approved April 7, 1955.

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## CHAPTER 386—H. F. No. 848

[Not Coded]

*An act legalizing and validating certain deeds executed by the trustees of religious corporations.*

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

Section 1. **Validation, deeds of trustees of religious corporations.** All deeds of real property heretofore made by the trustees of any religious corporation conveying real property within this state belonging to such corporation which were recorded prior to January 1, 1948, in the office of the register of deeds of the county in which the real estate conveyed thereby is situate, and the record thereof, are hereby legalized, validated and confirmed, notwithstanding that the church records