

## CHAPTER 420—H. F. No. 1335

*An act relating to taxes on and measured by net income; amending Minnesota Statutes 1953, Section 290.09.*

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

Section 1. Minnesota Statutes 1953, 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 employee;

(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 deduc-

tions 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 and premiums paid for hospitalization insurance including non-profit hospital service and non-profit medical service plans. 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 *section 168* of the *Internal Revenue Code of 1954* 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, then 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) Periodic payments to a wife who is divorced or separated from her husband by order of court or by decree of divorce or separate maintenance, received subsequent to such decree in discharge of, or attributable to property transferred in trust or otherwise in discharge of, a legal obligation imposed on the husband by such decree or by written instrument incident to such divorce or separation, 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, subdivision 2. The term "periodic payments" as used in this clause shall not include that part of any amount which is fixed by order of court or by the decree or written instrument as payable for the support of minor children of the husband. To the extent of the amount so fixed, the entire amount of such payment, if less than the total amount payable, shall be considered as payable for the support of minor children. Instalment payments of lump sum obligations fixed in the decree or written instrument shall not be considered periodic

payments under this clause, unless the total amount is to be paid within a period ending more than ten years from the date of the decree or instrument, and then only to the extent that instalment payments paid during the taxable year do not exceed ten percent of the total amount so fixed.

(16) In lieu of all deductions provided for in this chapter other than those enumerated in section 290.18, subdivision 2, and in lieu of the credits enumerated in section 290.21, clause (2), an individual may claim or be allowed a standard deduction as follows:

(a) If his adjusted gross income is \$10,000 or more, the standard deduction shall be \$1,000.

(b) If his adjusted gross income is less than \$10,000, the standard deduction shall be an amount equal to ten percent 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.

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 tax-

payer, the commissioner permits a revocation of such election subject to such conditions as he deems necessary.

(18) In the case of a tenant-stockholder as defined herein, amounts, not otherwise deductible, paid or accrued to a cooperative apartment corporation within the taxable year, if such amounts represent that proportion of (a) the real estate taxes (allowable as deductions under clause (3) of this section) paid or incurred by the corporation on the apartment building and the land on which it is situated, and (b) the interest (allowable as a deduction under clause (2) of this section) paid or incurred by the corporation on its indebtedness contracted in the acquisition, construction, alteration, rehabilitation, or maintenance of such apartment building or in the acquisition of the land on which the building is located, which the stock of the corporation owned by the tenant-stockholder is of the total outstanding stock of the corporation, including that held by the corporation.

As used in this clause the term "cooperative apartment corporation" means a corporation

- (a) having one and only one class of stock outstanding,
- (b) all of the stockholders of which are entitled, solely by reason of their ownership of stock in the corporation, to occupy for dwelling purposes apartments in a building owned or leased by such corporation, and who are not entitled, either conditionally or unconditionally, except upon a complete or partial liquidation of the corporation, to receive any distribution not out of earnings and profits of the corporation, and
- (c) 80 percent or more of the gross income of which for the taxable year in which the taxes and interest described in this clause are paid or incurred is derived from tenant-stockholders.

The term "tenant-stockholder" means an individual who is a stockholder in a cooperative apartment corporation, and whose stock is fully paid-up in an amount not less than an amount shown to the satisfaction of the commissioner as bearing a reasonable relationship to the portion of the value of the corporation's equity in the building and the land on which it is situated which is attributable to the apartment which such individual is entitled to occupy.

Sec. 2. *The provisions of this chapter shall be applicable to all taxable years beginning after December 31, 1954.*

Approved April 13, 1955.

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