

CHAPTER 301—H. F. No. 255

An act relating to income tax, amending Minnesota Statutes 1953, Section 290.14 as amended.

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

Section 1. Minnesota Statutes 1953, Section 290.14, as amended by Laws 1955, Chapter 191, Section 1, is amended to read:

290.14 **Gain or loss on disposition of property, basis.** The basis for determining the gain or loss from the sale or other disposition of property acquired on or after January 1, 1933, shall be the cost to the taxpayer of such property, with the following exceptions:

(1) If the property should have been included in the last inventory, it shall be the last inventory value thereof;

(2) If the property was acquired by gift; it shall be the same as it would be if it were being sold or otherwise disposed of by the last preceding owner not acquiring it by gift; if the facts required for this determination cannot be ascertained, it shall be the fair market value as of the date, or approximate date, of acquisition by such last preceding owners, as nearly as the requisite facts can be ascertained by the commissioner;

(3) If the property was acquired by gift through an inter vivos transfer in trust, it shall be the same as it would be if it were being sold or otherwise disposed of by the grantor;

(4) *Except as otherwise provided in this clause (4), the basis of property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent shall, if not sold, exchanged or otherwise disposed of before the decedent's death by such person, be the fair market value of the property at the date of decedent's death.*

For the purposes of the preceding paragraph, the following property shall be considered to have been acquired from or to have passed from the decedent:

(a) *Property acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent;*

(b) *Property transferred by the decedent during his lifetime in trust to pay the income for life to or on the order or direction of the decedent, with the right reserved to the decedent at all times before his death to revoke the trust;*

(c) *Property transferred by the decedent during his*

lifetime in trust to pay the income for life to or on the order or direction of the decedent with the right reserved to the decedent at all times before his death to make any change in the enjoyment thereof through the exercise of a power to alter, amend, or terminate the trust;

(d) Property passing without full and adequate consideration under a general power of appointment exercised by the decedent by will;

(e) In the case of a decedent's dying after December 31, 1956, property acquired from the decedent by reason of death, form of ownership, or other conditions (including property acquired through the exercise or non-exercise of a power of appointment), if by reason thereof the property is required to be included in determining the value of the decedent's gross estate for Minnesota inheritance tax purposes. In such case, if the property is acquired before the death of the decedent, the basis shall be the amount determined under the first paragraph of this clause reduced by the amount allowed to the taxpayer as deductions in computing taxable net income under this chapter or prior Minnesota income tax laws for exhaustion, wear and tear, obsolescence, amortization, and depletion on such property before the death of the decedent. Such basis shall be applicable to the property commencing on the death of the decedent. This paragraph shall not apply to annuities described in section 290.08; and property described in paragraphs (a), (b), (c) and (d) of this clause (4).

Clause (4) shall not apply to property which constitutes a right to receive an item of income in respect of a decedent under section 290.077. Nor shall it apply to restricted stock options described in section 290.078 which the employee has not exercised at death.

(5) If the property was acquired after December 31, 1932, upon an exchange described in section 290.13, subdivisions 1 to 4, the basis, except as provided in clause (6), shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized upon such exchange under the law applicable to the year in which the exchange was made. If the property so acquired consisted in part of the type of property permitted by section 290.13, subdivision 1, to be received without the recognition of gain or loss, and in part of other property, the basis provided in this clause shall be allocated between the properties, other than money, received, and for the purpose of the allocation there shall be assigned to such other property an amount equivalent to its

fair market value at the date of the exchange. This clause shall not apply to property acquired by a corporation by the issuance of its stock or securities as the consideration, in whole or in part, for the transfer of the property to it;

(6) If the property was received by a corporation upon a distribution in complete liquidation of another corporation within the meaning of section 290.13, subdivision 1, clause (6), then the basis shall be the same as it would be in the hands of the transferor;

(7) If substantially identical property was acquired in the place of stocks or securities which were sold or disposed of and in respect of which loss was not allowed as a deduction under section 290.09, clause (4), the basis in the case of property so acquired shall be the same as in the case of the stock or securities so sold or disposed of, increased by the excess of the repurchase price of such property over the sale price of such stock or securities, or decreased by the excess of the sale price of such stock or securities over the repurchase price of such property;

(8) If a taxpayer has received a stock dividend in respect to any stock, the amount that would be the loss or gain basis in disposing of the stock in respect of which such stock dividend was received shall be ratably apportioned over such stock and the stock received as a dividend, and the basis thus arrived at for the original and the dividend stock shall be the basis, respectively, when the original stock or dividend stock is sold or otherwise disposed of;

(9) If the property was acquired after December 31, 1932, by a corporation in connection with a reorganization; then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made. This clause shall not apply if the property acquired consists of stock or securities in a corporation a party to the reorganization, unless acquired by the issuance of stock or securities of the transferee as the consideration, in whole or in part, for the transfer;

(10) If the property was acquired after December 31, 1932, by a corporation

(a) By the issuance of its stock or securities in connection with a transaction described in section 290.13, subdivision 1, clause (5), including also cases where part of the consideration for the transfer of such property to the corporation was property or money, in addition to such stock or securities; or

(b) As paid-in surplus or as a contribution to capital, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made;

(11) If the property was acquired after December 31, 1932, as the result of a compulsory or involuntary conversion described in section 290.13, subdivision 5, the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law applicable to the year in which such conversion was made, determining the taxable status of the gain or loss upon such conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

(12) Neither the basis nor the adjusted basis of any portion of real property shall, in the case of a lessor of such property, be increased or diminished on account of income derived by the lessor in respect of such property and excludible from gross income under section 290.08, clause (13).

If an amount representing any part of the value of real property attributable to buildings erected or other improvements made by a lessee in respect of such property was included in gross income of the lessor for any taxable year beginning before January 1, 1943, the basis of each portion of such property shall be properly adjusted for the amount so included in gross income.

(13) Notwithstanding the provisions of clause (10) (b), if property other than money is acquired by a corporation, after December 31, 1954, as a contribution to capital, and is not contributed by a shareholder as such, then the basis of such property shall be zero; and if money is received by a corporation, after December 31, 1954, as a contribution to capital, and is not contributed by a shareholder as such, then the basis of any property acquired with such money during the 12 month period beginning on the day the contribution is received shall be reduced by the amount of such contribution. The excess (if any) of the amount of such contribution over the amount of the reduction under the preceding sentence shall be applied to the reduction (as of the last day of the period specified in the preceding sentence) of the basis of any other property held by the taxpayer. The particular properties to which the reductions required by this paragraph shall be al-

located shall be determined under regulations prescribed by the commissioner.

Sec. 2. The provisions of this chapter are applicable to all taxable years beginning after December 31, 1956.

Approved April 3, 1957.

CHAPTER 302—H. F. No. 269

An act relating to county sanatorium commissions; authorizing the appointment of a tuberculosis control officer, and vesting powers in and defining the jurisdiction of such officer; amending Minnesota Statutes 1953, Section 376.29.

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

Section 1. Minnesota Statutes 1953, Section 376.29, is amended to read:

376.29 Sanatorium commission. Upon the decision to establish and maintain a tuberculosis sanatorium under sections 376.28 to 376.42, the county commissioners of any county shall appoint a commission consisting of three members, residents of the county, at least one of whom shall be a licensed physician. These members shall be chosen with reference to their special fitness for such office and the appointment of the licensed physician, before becoming effective, shall be approved by the state board of health. Under the first appointment one member shall be chosen to hold office for one year, one for two years and one for three years, all from the first Monday of the next July following such appointment, and thereafter one member shall be chosen each year to serve for a period of three years commencing with the first Monday in July in each year, respectively, and each appointee shall hold office until his successor is appointed and has qualified. This commission shall be known as the county sanatorium commission. Its members shall serve without compensation but shall be entitled to reimbursement for all necessary expenses incurred by them in connection with their official duties.

The county sanatorium commission shall have full charge and control, except as provided in sections 376.28 to 376.42, of all moneys received for the credit of the tuberculosis sanatorium fund described therein and full charge and control of the location, establishing, and *maintenance* of any sanatorium building constructed under these sections and make such regulations concerning the same as may seem to it advisable, but no site shall be secured and no building erected or equip-