

**290.27 Revocable trusts, income taxable to grantor.**

(1) *The grantor shall be treated as the owner of any portion of a trust, whether or not he is treated as such owner under any other provision of sections 290.22 through 290.28, where at any time the power to revest in the grantor title to such portion is exercisable by the grantor or a nonadverse party, or both.*

(2) *Paragraph (1) shall not apply to a power the exercise of which can only effect the beneficial enjoyment of the income for a period commencing after the expiration of a period such that a grantor would not be treated as the owner under section 290.25, subdivision 3, if the power were a reversionary interest. But the grantor may be treated as the owner after the expiration of such period unless the power is relinquished.*

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

Approved April 27, 1957.

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CHAPTER 760—H. F. No. 1335

*An act relating to taxes on and measured by net income; amending Minnesota Statutes 1953, Section 290.28.*

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

Section 1. Minnesota Statutes 1953, Section 290.28, is amended to read:

**290.28 Trusts, income taxable to grantor.** *Subdivision 1. (1) The grantor shall be treated as the owner of any portion of a trust, whether or not he is treated as such owner under section 290.25, subdivision 4, whose income without the approval or consent of any adverse party is, or, in the discretion of the grantor or a nonadverse party, or both, may be—*

(a) *distributed to the grantor;*

(b) *held or accumulated for future distribution to the grantor; or*

(c) *applied to the payment of premiums on policies of insurance on the life of the grantor (except policies of insurance irrevocably payable for a purpose specified in section 290.21 (2) (relating to charitable contributions)).*

*This paragraph (1) shall not apply to a power the exer-*

*cise of which can only affect the beneficial enjoyment of the income for a period commencing after the expiration of a period such that the grantor would not be treated as the owner under section 290.25, subdivision 3 if the power were a reversionary interest; but the grantor may be treated as the owner after the expiration of the period unless the power is relinquished.*

(2) *Income of a trust shall not be considered taxable to the grantor under paragraph (1) or any other provision of this chapter merely because such income in the discretion of another person, the trustee, or the grantor acting as trustee or co-trustee, may be applied or distributed for the support or maintenance of a beneficiary whom the grantor is legally obligated to support or maintain, except to the extent that such income is so applied or distributed. In cases where the amounts so applied or distributed are paid out of corpus or out of other than income for the taxable year, such amounts shall be considered to be an amount paid or credited within the meaning of section 290.23, subdivision 8 (1) (b) and shall be taxed to the grantor under section 290.23, subdivision 9.*

Subd. 2 (1) *A person other than the grantor shall be treated as the owner of any portion of a trust with respect to which:*

(a) *such person has a power exercisable solely by himself to vest the corpus or the income therefrom in himself, or*

(b) *such person has previously partially released or otherwise modified such a power and after the release or modification retains such control as would, within the principles of sections 290.25, 290.27, and subdivision 1 of this section, subject a grantor of a trust to treatment as the owner thereof.*

(2) *Paragraph (1) shall not apply with respect to a power over income, as originally granted or thereafter modified, if the grantor of the trust is otherwise treated as the owner under sections 290.25, 290.27, and subdivision 1 of this section.*

(3) *Paragraph (1) shall not apply to a power which enables such person, in the capacity of trustee or co-trustee, merely to apply the income of the trust to the support or maintenance of a person whom the holder of the power is obligated to support or maintain except to the extent that such income is so applied. In cases where the amounts so applied or distributed are paid out of corpus or out of other than income of the taxable year, such amounts shall be considered to be an*

amount paid or credited within the meaning of section 290.23, subdivision 8 (1) (b) and shall be taxed to the holder of the power under section 290.23, subdivision 9.

(4) Paragraph (1) shall not apply with respect to a power which has been renounced or disclaimed within a reasonable time after the holder of the power first became aware of its existence.

Subd. 3. (1) There shall be included in the gross income of a wife who is divorced or legally separated under a decree of divorce or of separate maintenance (or who is separated from her husband under a written separation agreement) the amount of the income of any trust which such wife is entitled to receive and which, except for this subdivision, would be includible in the gross income of her husband, and such amount shall not, despite any other provision of this chapter, be includible in the gross income of such husband. This paragraph shall not apply to that part of any such income of the trust which the terms of the decree, written separation agreement, or trust instrument fix, in terms of an amount of money or a portion of such income, as a sum which is payable for the support of minor children of such husband. In case such income is less than the amount specified in the decree, agreement, or instrument, for the purpose of applying the preceding sentence, such income, to the extent of such sum payable for such support, shall be considered a payment for such support.

(2) For purposes of computing the taxable income of the estate or trust and the taxable income of a wife to whom paragraph (1) or section 290.072 applies, such wife shall be considered as the beneficiary specified in sections 290.22 through 290.28. A periodic payment under section 290.072 to any portion of which sections 290.22 through 290.28 applies shall be included in the gross income of the beneficiary in the taxable year in which under sections 290.22 through 290.28 such portion is required to be included.

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

Approved April 27, 1957.

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#### CHAPTER 761—H. F. No. 1336

An act relating to taxes on and measured by net income; amending Minnesota Statutes 1953, Section 290.077, Subdivision 1.

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