

CHAPTER 851—H. F. No. 1590

An act relating to taxes on and measured by net income; amending Minnesota Statutes 1953, Section 290.16, Subdivision 12; repealing Minnesota Statutes 1953, Section 290.16, Subdivision 11.

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

Section 1. Minnesota Statutes 1953, Section 290.16, Subdivision 12, is amended to read:

Subd. 12. **Short sales.** (a) For the purposes of this section gain or loss from the short sale of property, *other than a hedging transaction in commodity futures*, shall be considered as gain or loss from the sale or exchange of a capital asset *to the extent that the property, including a commodity future, used to close the short sale constitutes a capital asset in the hands of the taxpayer.*

(b) *If gain or loss from a short sale is considered as gain or loss from the sale or exchange of a capital asset under paragraph (a) and if on the date of such short sale substantially identical property has been held by the taxpayer for not more than six months, or if substantially identical property is acquired by the taxpayer after such short sale and on or before the date of the closing thereof, any gain upon the closing of such short sale shall be considered as a short-term capital gain (notwithstanding the period of time any property used to close such short sale has been held). In such case the holding period of the substantially identical property held by the taxpayer on the date of the short sale shall be considered to begin (notwithstanding the provisions of paragraph 4 of subdivision 8 of this section) on the date of the closing of the short sale or on the date of a sale, gift or other disposition of such property, whichever date occurs first, but shall apply only to so much of such property as does not exceed the quantity sold short in the order of the dates of the acquisition of such property. For the purposes of this paragraph, the acquisition of an option to sell property at a fixed price shall be considered a short sale, and the exercise of or failure to exercise such option shall be considered as a closing of such short sale. This paragraph shall not include an option to sell property at a fixed price acquired on the same day on which the property identified as intended to be used in exercising such option is acquired and which, if exercised, is exercised through the sale of the property so identified. If the option is not exercised, the cost of the option shall be added to the basis of the property with which the option is identified. This paragraph shall apply only to options acquired after the date of this chapter.*

(c) If on the date of a short sale substantially identical property has been held by the taxpayer for more than six months, any loss upon the closing of such short sale shall be considered as a long-term capital loss (notwithstanding the period of time any property used to close such short sale has been held, and notwithstanding the provisions of paragraph (a) of this subdivision).

(d) For the purposes of this subdivision

(1) The term "property" includes only stocks and securities (including stocks and securities dealt with on a "when issued" basis), and commodity futures, which are capital assets in the hands of the taxpayer.

(2) In the case of futures transactions in any commodity on or subject to the rules of a board of trade or commodity exchange, a commodity future requiring delivery in one calendar month shall not be considered as property substantially identical to another commodity future requiring delivery in a different calendar month; and

(3) In the case of a short sale of property by an individual, the term "taxpayer" shall be read as "taxpayer or his spouse," but an individual who is legally separated from the taxpayer under a decree of divorce or separate maintenance shall not be considered as the spouse of the taxpayer.

(e) Where the taxpayer enters into two commodity futures transactions on the same day, one requiring delivery by him in one market and the other requiring delivery to him of the same (or substantially identical) commodity in the same calendar month in a different market, and the taxpayer subsequently closes both such transactions on the same day, this subdivision shall have no application to so much of the commodity involved in either such transaction as does not exceed in quantity the commodity involved in the other.

(f) Neither the provisions of paragraphs (b) or (c) shall apply to the gain or loss, respectively, on any quantity of property used to close a short sale which is in excess of the quantity of the substantially identical property referred to in the applicable paragraph.

Sec. 2. Minnesota Statutes 1953, Section 290.16, Subdivision 11, is hereby repealed.

Sec. 3. *The provisions of this chapter are applicable to all taxable years beginning after December 31, 1956.*

Approved April 29, 1957.
