

ness and interest thereon and deficiencies in the proceeds of prior tax levies, if any, in the same manner as the proceeds of taxes provided for in section 3 of this act, and so much thereof as may be necessary is appropriated for such payments.

Subd. 3. Notwithstanding any provision of any other statute appropriating moneys in the state airports fund, all those moneys over and above the amounts required to be transferred as provided by Minnesota Statutes 1953, Sections 360.306, 360.351, 360.371, Subdivision 6, 360.382, Subdivision 6, and 360.383, Subdivision 6, and Minnesota Laws 1955, Chapter 719, and the amounts required to pay the salaries, supplies and expenses of the department of aeronautics as otherwise provided by law, shall be used only for the purpose of making the transfers provided for by subdivision 1 of this section and thus reducing the amounts to be raised by the tax levies provided for by section 3 of this act, until after the date prescribed for the making of the last of those levies, or until they are otherwise canceled by law.

Subd. 4. The appropriation to the commissioner by section 1 is in addition to any other appropriation made to him out of the Minnesota aeronautics fund by any other statutes.

Approved April 29, 1957.

CHAPTER 932—H. F. No. 1333

An act relating to taxes on and measured by net income; amending Minnesota Statutes 1953, Section 290.23.

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

Section 1. Minnesota Statutes 1953, Section 290.23, is amended to read:

290.23 **Estates and trust; computation of net income, credits, deductions.** Subdivision 1. The net income of the estate or trust shall be computed in the same manner and on the same basis as in the case of an individual, except as otherwise provided in this section, and sections 290.24 through 290.28.

Subd. 2. (a) There shall be allowed as a credit (in lieu of the credit for charitable and other contributions authorized by section 290.21, clause (2)), any part of the gross income, without limitation, which pursuant to the terms of the will or deed creating the trust, is during the taxable year

paid or permanently set aside for the purposes and in the manner specified in section 290.21, clause (2), or is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance, or operation of a public cemetery not operated for profit.

(b) *The amount otherwise allowable under paragraph (a) as a deduction shall not exceed 20 percent of the taxable income of the trust if the trust has engaged in a prohibited transaction, as defined in paragraph (c).*

(c) *For purposes of this subdivision, the term "prohibited transaction" means any transaction after December 31, 1956, in which any trust while holding income or corpus which has been permanently set aside or is to be used exclusively for charitable or other purposes described in paragraph (a):*

(1) *lends any part of such income or corpus, without receipt of adequate security and a reasonable rate of interest, to;*

(2) *pays any compensation from such income or corpus, in excess of a reasonable allowance for salaries or other compensation for personal services actually rendered, to;*

(3) *makes any part of its services available on a preferential basis to;*

(4) *uses such income or corpus to make any substantial purchase of securities or any other property, for more than an adequate consideration in money or money's worth, from;*

(5) *sells any substantial part of the securities or other property comprising such income or corpus, for less than an adequate consideration in money or money's worth, to; or*

(6) *engages in any other transaction which results in a substantial diversion of such income or corpus to: the creator of such trust; any person who has made a substantial contribution to such trust; a member of a family of an individual who is the creator of the trust or who has made a substantial contribution to the trust; or a corporation controlled by any such creator or person through the ownership, directly or indirectly, of 50 percent or more of the total combined voting power of all classes of stock entitled to vote or 50 percent or more of the total value of shares of all classes of stock of the corporation.*

(d) *The amount otherwise allowable under paragraph*

(a) as a deduction shall be limited as provided in paragraph (b) only for taxable years after the taxable year during which the trust is notified by the Commission that it has engaged in such transaction, unless such trust entered into such prohibited transaction with the purpose of diverting such corpus or income from the purposes described in paragraph (a), and such transaction involved a substantial part of such corpus or income.

Subd. 3. If on the termination of an estate or trust, the estate or trust has—

(1) a net operating loss carryover under section 290.095 or a capital loss carryover under section 290.16, subdivision 6; or

(2) for the last taxable year of the estate or trust deductions (other than the deductions allowed under subdivision 2) in excess of gross income for such year,

then such carryover or such excess shall be allowed as a deduction, in accordance with regulations prescribed by the commissioner, to the beneficiaries succeeding to the property of the estate or trust.

Subd. 4. The benefit of the deduction for net operating loss allowed by section 290.095 shall be allowed to estates and trusts under regulations prescribed by the commissioner. The benefit of such deduction shall not be allowed to a common trust fund but shall be allowed to the participants in the common trust fund under regulation prescribed by the commissioner.

Subd. 5. (1) For purposes of sections 290.22 through 290.28, the term "distributable net income" means, with respect to any taxable year, the taxable net income of the estate or trust computed with the following modifications—

(a) No deduction shall be taken under subdivisions 6 and 8 (relating to additional deductions).

(b) Gains from the sale or exchange of capital assets shall be excluded to the extent that such gains, less applicable expenses, are allocated to corpus and are not (1) paid, credited, or required to be distributed to any beneficiary during the taxable year, or (2) paid, permanently set aside, or to be used for the purposes specified in subdivision 2. Losses from the sale or exchange of capital assets shall be excluded, except to the extent such losses are taken into account in determining the amount of gains from the sale or exchange of capital assets which are paid, credited, or required to be distributed to any beneficiary during the taxable year.

(c) For purposes only of subdivisions 6 and 7 (relating to trusts which distribute current income only), there shall be excluded those items of gross income constituting extraordinary dividends or taxable stock dividends which the fiduciary, acting in good faith, does not pay or credit to any beneficiary by reason of his determination that such dividends are allocable to corpus under the terms of the governing instrument and applicable law.

(d) There shall be included any tax-exempt interest to which section 290.08 (6) and (7) applies, reduced by any amounts which would be deductible in respect of disbursements allocable to such interest but for the provisions of sections 290.09 (2) and 290.10 (9) (relating to disallowance of certain deductions).

If the estate or trust is allowed a credit under subdivision 2, the amount of the modification specified in subparagraph (d) shall be reduced to the extent that the amount of income which is paid, permanently set aside, or to be used for the purposes specified in subdivision 2 is deemed to consist of items specified in that subparagraph. For this purpose, such amount shall (in the absence of specific provisions in the governing instrument) be deemed to consist of the same proportion of each class of items of income of the estate or trust as the total of each class bears to the total of all classes.

(2) For purposes of this section and section 290.22, the term "income," when not preceded by the words "taxable net," "distributable net," "undistributable net," or "gross," means the amount of income of the estate or trust for the taxable year determined under the terms of the governing instrument and applicable law. Items of gross income constituting extraordinary dividends or taxable stock dividends which the fiduciary, acting in good faith, determines to be allocable to corpus under the terms of the governing instrument and applicable law shall not be considered income.

(3) For purposes of sections 290.22 through 290.28, the term "beneficiary" includes heir, legatee, devisee.

Subd. 6. (1) In the case of any trust the terms of which—

(a) provide that all of its income is required to be distributed currently, and

(b) do not provide that any amounts are to be paid, permanently set aside, or used for the purposes specified in subdivision 2,

there shall be allowed as a deduction in computing the taxable net income of the trust the amount of the income for

the taxable year which is required to be distributed currently. This subdivision shall not apply in any taxable year in which the trust distributes amounts other than amounts of income described in subparagraph (a).

(2) *If the amount of income required to be distributed currently exceeds the distributable net income of the trust for the taxable year, the deduction shall be limited to the amount of the distributable net income. For this purpose, the computation of distributable net income shall not include items of income which are not included in the gross income of the trust and the deductions allocable thereto.*

Subd. 7. (1) *Subject to paragraph (2), the amount of income for the taxable year required to be distributed currently by a trust described in subdivision 6 shall be included in the gross income of the beneficiaries to whom the income is required to be distributed, whether distributed or not. If such amount exceeds the distributable net income, there shall be included in the gross income of each beneficiary an amount which bears the same ratio to distributable net income as the amount of income required to be distributed to such beneficiary bears to the amount of income required to be distributed to all beneficiaries.*

(2) *The amounts specified in paragraph (1) shall have the same character in the hands of the beneficiary as in the hands of the trust. For this purpose, the amounts shall be treated as consisting of the same proportion of each class of items entering into the computation of distributable net income of the trust as the total of each class bears to the total distributable net income of the trust, unless the terms of the trust specifically allocate different classes of income to different beneficiaries. In the application of the preceding sentence, the items of deduction entering into the computation of distributable net income shall be allocated among the items of distributable net income in accordance with regulations prescribed by the commissioner.*

(3) *If the taxable year of a beneficiary is different from that of the trust, the amount which the beneficiary is required to include in gross income in accordance with the provisions of this subdivision shall be based upon the amount of income of the trust for any taxable year or years of the trust ending within or with his taxable year.*

Subd. 8. (1) *In any taxable year there shall be allowed as a deduction in computing the taxable net income of an estate or trust (other than a trust to which subdivision 6 and 7 apply), the sum of*

(a) any amount of income for such taxable year required to be distributed currently (including any amount required to be distributed which may be paid out of income or corpus to the extent such amount is paid out of income for such taxable year): and

(b) any other amounts properly paid or credited or required to be distributed for such taxable year:

but such deduction shall not exceed the distributable net income of the estate or trust.

(2) The amount determined under paragraph (1) shall be treated as consisting of the same proportion of each class of items entering into the computation of distributable net income of the estate or trust as the total of each bears to the total distributable net income of the estate or trust in the absence of the allocation of different classes of income under the specific terms of the governing instrument. In the application of the preceding sentence, the items of deduction entering into the computation of distributable net income (including the credit allowed under subdivision 2) shall be allocated among the items of distributable net income in accordance with regulations prescribed by the commissioner.

(3) No deduction shall be allowed under paragraph (1) in respect of any portion of the amount allowed as a deduction under that paragraph (without regard to this paragraph) which is treated under paragraph (2) as consisting of any item of distributable net income which is not included in the gross income of the estate or trust.

Subd. 9. (1) Subject to paragraph 2, there shall be included in the gross income of a beneficiary to whom an amount specified in subdivision 8 (1) is paid, credited, or required to be distributed (by an estate or trust described in subdivision 8), the sum of the following amounts:

(a) The amount of income for the taxable year required to be distributed currently to such beneficiary, whether distributed or not. If the amount of income required to be distributed currently to all beneficiaries exceeds the distributable net income (computed without the credit allowed by subdivision 2, relating to credit for charitable, etc. purposes) of the estate or trust, then, in lieu of the amount provided in the preceding sentence, there shall be included in the gross income of the beneficiary an amount which bears the same ratio to distributable net income (as so computed) as the amount of income required to be distributed currently to such beneficiary bears to the amount required to be distributed currently to all beneficiaries. For purposes of this subdivision, the phrase "the amount of income for the taxable year re-

quired to be distributed currently" includes any amount required to be paid out of income or corpus to the extent such amount is paid out of income for such taxable year.

(b) All other amounts properly paid, credited, or required to be distributed to such beneficiary for the taxable year. If the sum of—

(i) the amount of income for the taxable year required to be distributed currently to all beneficiaries, and

(ii) all other amounts properly paid, credited, or required to be distributed to all beneficiaries

exceeds the distributable net income of the estate or trust, then, in lieu of the amount provided in the preceding sentence, there shall be included in the gross income of the beneficiary an amount which bears the same ratio to distributable net income (reduced by the amounts specified in (1)) as the other amounts properly paid, credited or required to be distributed to the beneficiary bear to the other amounts properly paid, credited, or required to be distributed to all beneficiaries.

(2) The amounts determined under paragraph (1) shall have the same character in the hands of the beneficiary as in the hands of the estate or trust. For this purpose, the amounts shall be treated as consisting of the same proportion of each class of items entering into the computation of distributable net income as the total of each class bears to the total distributable net income of the estate or trust unless the terms of the governing instrument specifically allocate different classes of income to different beneficiaries. In the application of the preceding sentence, the items of deduction entering into the computation of distributable net income (including the credit allowed under subdivision 2) shall be allocated among the items of distributable net income in accordance with regulations prescribed by the commissioner. In the application of this paragraph to the amount determined under subparagraph (a) of paragraph (1), distributable net income shall be computed without regard to any portion of the credit under subdivision 2 which is not attributable to income of the taxable year.

Subd. 10. (1) There shall not be included as amounts falling within subdivision 8 (1) or subdivision 9 (1)—

(a) Any amount which, under the terms of the governing instrument, is properly paid or credited as a gift or bequest of a specific sum of money or of specific property and which is paid or credited all at once or in not more than 3 installments. For this purpose an amount which can be paid

or credited only from the income of the estate or trust shall not be considered as a gift or bequest of a specific sum of money.

(b) Any amount paid or permanently set aside or otherwise qualifying for the credit provided in subdivision 2.

(c) Any amount paid, credited, or distributed in the taxable year, if subdivision 6 or subdivision 8 applied to such amount for a preceding taxable year of an estate or trust because credited or required to be distributed in such preceding taxable year.

(2) If within the first 65 days of any taxable year of a trust, an amount is properly paid or credited, such amount shall be considered paid or credited on the last day of the preceding taxable year. This paragraph (2) shall apply only to a trust.

(a) which was in existence prior to January 1, 1956.

(b) which, under the terms of its governing instrument, may not distribute in any taxable year amounts in excess of the income of the preceding taxable year, and

(c) On behalf of which the fiduciary elects to have this paragraph (2) apply.

The election authorized by subparagraph (c) shall be made for the first taxable year to which sections 290.22 through 290.28 are applicable in accordance with such regulations as the commissioner shall prescribe and shall be made not later than the time prescribed by law for filing the return for such year (including extensions thereof). If such election is made with respect to a taxable year, this paragraph (2) shall apply to all amounts paid or credited within the first 65 days of all subsequent taxable years of such trust.

(3) For the sole purpose of determining the amount of distributable net income in the application of subdivisions 8 and 9, in the case of a single trust having more than one beneficiary, substantially separate and independent shares of different beneficiaries in the trust shall be treated as separate trusts. The existence of such substantially separate and independent shares and the manner of treatment as separate trusts, including the application of subdivision 11 through 14, shall be determined in accordance with regulations prescribed by the commissioner.

Subd. 11. For purposes of subdivisions 11 through 14—

(1) The term "undistributed net income" for any taxable year means the amount by which distributable net in

come of the trust for such taxable year exceeds the sum of—

(a) the amounts for such taxable year specified in subdivision 8 (1) (a) and (b); and

(b) the amount of taxes imposed on the trust.

(2) The term "accumulation distribution" for any taxable year of the trust means the amount (if in excess of \$2,000) by which the amounts specified in subdivision 8 (1) (b) for such taxable year exceed distributable net income reduced by the amounts specified in subdivision 8 (1) (a). For purposes of this paragraph, the amount specified in subdivision 8 (1) (b) shall be determined without regard to subdivision 12 and shall not include—

(a) amounts paid, credited, or required to be distributed to a beneficiary as income accumulated before the birth of such beneficiary or before such beneficiary attains the age of 21;

(b) amounts properly paid or credited to a beneficiary to meet the emergency needs of such beneficiary.

(c) amounts properly paid or credited to a beneficiary upon such beneficiary's attaining a specified age or ages if (1) the total number of such distributions cannot exceed 4 with respect to such beneficiary, (2) the period between each such distribution to such beneficiary is 4 years or more, and (3) as of January 1, 1956, such distributions are required by the specific terms of the governing instrument; and

(d) amounts properly paid or credited to a beneficiary as a final distribution of the trust if such final distribution is made more than 9 years after the date of the last transfer to such trust.

(3) The term "taxes imposed on the trust" means the amount of the taxes which are imposed for any taxable year on the trust under this chapter (without regard to subdivisions 11 through 14) and which, under regulations prescribed by the commissioner, are properly allocable to the undistributed portion of the distributable net income. The amount determined in the preceding sentence shall be reduced by any amount of such taxes allowed, under subdivisions 13 and 14, as a credit to any beneficiary on account of any accumulation distribution determined for any taxable year.

(4) The term "preceding taxable year" does not include any taxable year of the trust to which sections 290.22 through 290.28 do not apply. In the case of a preceding taxable year with respect to which a trust qualifies (without regard to subdivisions 11 through 14) under the provisions of subdi-

visions 6 and 7, for purposes of the application of subdivisions 11 through 14 to such trust for such taxable year, such trust shall, in accordance with regulations prescribed by the commissioner, be treated as a trust to which subdivisions 8, 9 and 10 apply.

Subd. 12. (1) In the case of a trust which for a taxable year beginning after December 31, 1956, is subject to subdivision 8, 9 and 10, the amount of the accumulation distribution of such trust for such taxable year shall be deemed to be an amount within the meaning of subdivision 8 (1) (b) distributed on the last day of each of the 5 preceding taxable years to the extent that such amount exceeds the total of any undistributed net income for any taxable years intervening between the taxable year with respect to which the accumulation distribution is determined and such preceding taxable year. The amount deemed to be distributed in any preceding taxable year under the preceding sentence shall not exceed the undistributed net income of such preceding taxable year. For purposes of this paragraph, undistributed net income for each of such 5 preceding taxable years shall be computed without regard to such accumulation distribution and without regard to any accumulation distribution determined for any succeeding taxable year.

(2) If any portion of an accumulation distribution for any taxable year is deemed under paragraph (1) to be an amount within the meaning of subdivision 8 (1) (b) distributed on the last day of any preceding taxable year, and such portion of such accumulation distribution is not less than the undistributed net income for such preceding taxable year, the trust shall be deemed to have distributed on the last day of such preceding taxable year an additional amount within the meaning of subdivision 8 (1) (b). Such additional amount shall be equal to the taxes imposed on the trust for such preceding taxable year. For purposes of this paragraph, the undistributed net income and the taxes imposed on the trust for such preceding taxable year shall be computed without regard to such accumulation distribution and without regard to any accumulation distribution determined for any succeeding taxable year.

(3) If any portion of an accumulation distribution for any taxable year is deemed under paragraph (1) to be an amount within the meaning of subdivision 8 (1) (b) distributed on the last day of any preceding taxable year and such portion of the accumulation distribution is less than the undistributed net income for such preceding taxable year, the trust shall be deemed to have distributed on the last day of such preceding taxable year an additional amount within the

meaning of subdivision 8 (1) (b). Such additional amount shall be equal to the taxes imposed on the trust for such taxable year multiplied by the ratio of the portion of the accumulation distribution to the undistributed net income of the trust for such year. For purposes of this paragraph, the undistributed net income and the taxes imposed on the trust for such preceding taxable year shall be computed without regard to the accumulation distribution and without regard to any accumulation distribution determined for any succeeding taxable year.

Subd. 13. The amount of taxes imposed on the trust under this chapter, which would not have been payable by the trust for any preceding taxable year had the trust in fact made distributions at the times and in the amounts deemed under subdivision 12, shall not be refunded or credited to the trust, but shall be allowed as a credit under subdivision 14 (2) against the tax of the beneficiaries who are treated as having received the distributions. For purposes of the preceding sentence, the amount of taxes which may not be refunded or credited to the trust shall be an amount equal to the excess of (1) the taxes imposed on the trust for any preceding taxable year (computed without regard to the accumulation distribution for the taxable year) over (2) the amount of taxes for such preceding taxable year imposed on the undistributed portion of distributable net income of the trust for such preceding taxable year after the application of subdivisions 11 through 14 on account of the accumulation distribution determined for such taxable year.

Subd. 14. (1) The total of the amounts which are treated under subdivision 12 as having been distributed by the trust in preceding taxable year shall be included in the income of a beneficiary or beneficiaries of the trust when paid, credited, or required to be distributed to the extent that such total would have been included in the income of such beneficiary or beneficiaries under subdivision 9 (1) (b) and (2) if such total had been paid to such beneficiary or beneficiaries on the last day of such preceding taxable year. The portion of such total included under the preceding sentence in the income of any beneficiary shall be based upon the same ratio as determined under the second sentence of subdivision 9 (1) (b) for the taxable year in respect of which the accumulation distribution is determined, except that proper adjustment of such ratio shall be made, in accordance with regulations prescribed by the commissioner, for amounts which fall within subparagraphs (a) through (d) of paragraph (2) of subdivision 11. The tax of the beneficiaries attributable to the amounts treated as having been received on the last day of such preceding tax-

able year of the trust shall not be greater than the aggregate of the taxes attributable to those amounts had they been included in the gross income of the beneficiaries on such day in accordance with subdivision 9 (1) (b) and (2).

(2) The tax imposed on beneficiaries under this chapter shall be credited with a pro rata portion of the taxes imposed on the trust under this chapter for such preceding taxable year which would not have been payable by the trust for such preceding taxable year had the trust in fact made distributions to such beneficiaries at the times and in the amounts specified in subdivision 12.

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

Approved April 29, 1957.

CHAPTER 933—H. F. No. 1742

[Not Coded]

An act relating to any city of the first class now or hereafter operating under a home rule charter providing for a commission form of government consisting of a mayor, a comptroller, and six commissioners, and authorizing the fixing and payment of the annual salaries of such officials; amending Laws 1949, Chapter 604, Section 1, as amended.

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

Section 1. Laws 1949, Chapter 604, Section 1, as amended by Laws 1955, Chapter 702, Section 1, is amended to read:

Section 1. **St. Paul city officers, salaries.** Notwithstanding any provision contained in any charter of any city of the first class now or hereafter operating under a home rule charter providing for a commission form of government, consisting of a mayor, a comptroller, and six commissioners, the mayor shall be paid an annual salary of \$10,000, the comptroller shall be paid an annual salary of \$9,500, and the commissioners shall each be paid an annual salary of \$9,000, all payable in equal monthly installments.

Approved April 29, 1957.
