

pose of making minor emergency disbursements and providing change, may be established, from existing appropriations, for the following state departments and agencies, in amounts not exceeding the following limits:

Department or Agency	Limit
Division of Employment & Security	\$ 350.00
Department of Highways, Drivers' License Division	100.00
Secretary of State	1,100.00
Department of Taxation, Income Tax Division	500.00 1,500.00
Department of Public Welfare	300.00
Department of Conservation, Game and Fish Division	5,000.00
Department of Rural Credit	500.00
Minnesota Soldiers' Home Board	1,500.00
Mankato State College	500.00
Winona State College	500.00
Moorhead State College	500.00
Bemidji State College	500.00
St. Cloud State College	500.00
Commissioner of Administration	50.00

Approved April 5, 1961.

CHAPTER 213—H. F. No. 1

[Coded in Part]

An act relating to taxes on and measured by net income; providing for declarations of estimated taxes by individuals where gross income is from sources other than wages on which tax has been collected at source; imposing a tax at source on wages of individuals and providing for the assessment and collection thereof and the disposition of the proceeds thereof; prescribing penalties for violations thereof and defining certain crimes in connection therewith; providing for forgiveness of income tax; appropriating moneys for the purposes of this act; and providing for the compliance of those contracting with governmental contracting agencies with the provisions relating to the collection of the tax at source on wages of individuals; amending Minnesota

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Statutes 1957, Sections 290.01, Subdivision 20, as amended; 290.08, Subdivision 1; 290.081, as amended; 290.09, as amended; 290.18, Subdivision 2; 290.38, as amended; 290.45, Subdivision 1; and 290.49.

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

ARTICLE I

Section 1. [290.92] **Tax withheld at source upon wages.** *Subdivision 1. Definitions. (1) Wages. For purposes of this section, the term "wages" means all remuneration, other than fees paid to a public official for services performed by an employee for his employer, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include remuneration paid—*

(a) *For active service as a member of the armed forces of the United States, or*

(b) *For agricultural labor, as defined in section §121 (g) of the Internal Revenue Code of 1954, or*

(c) *For domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, or*

(d) *For service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is \$50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For purposes of this paragraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if—*

(i) *On each of some 24 days during such quarter such individual performs for such employer for some portion of the day, service not in the course of the employer's trade or business, or,*

(ii) *Such individual was regularly employed (as determined under (i)) by such employer in the performance of such service during the preceding calendar quarter, or,*

(e) *For services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order, or,*

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(f) (i) *For service performed by an individual under the age 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution, or*

(ii) *For services performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such services, or is entitled to be credited with the unsold newspapers or magazines turned back, or*

(g) *For services not in the course of the employer's trade or business, to the extent paid in any medium other than cash, or*

(h) *To, or on behalf of, an employee or his beneficiary, from or to a trust described in Minnesota Statutes, Section 290.26, which is exempt from tax under Minnesota Statutes, Section 290.05, at the time of such payment, unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or under or to an annuity plan which, at the time of such payment, meets the requirements of Minnesota Statutes, Section 290.26;*

(2) **Payroll period.** *For purposes of section this section the term "payroll period" means a period for which a payment of wages is ordinarily made to the employee by his employer, and the term "miscellaneous payroll period" means a payroll period other than a daily, weekly, bi-weekly, semi-monthly, monthly, quarterly, semi-annual, or annual payroll period.*

(3) **Employee.** *For purposes of this section the term "employee" means any resident individual performing services for an employer, either within or without, or both within and without the State of Minnesota, and every non-resident individual performing services within the State of Minnesota, the performance of which services constitute, establish, and determine the relationship between the parties as that of employer and employee. As used in the preceding sentence, the term "employee" includes an officer of a corporation, and an officer, employee, or elected official of the*

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United States, a state, territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing.

(4) **Employer.** *For purposes of this section the term "employer" means any person, including individuals, fiduciaries, estates, trusts, partnerships, and corporations transacting business in or deriving any income from sources within the State of Minnesota for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that if the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term "employer," except for purposes of paragraph (1), means the person having control of the payment of such wages. As used in the preceding sentence, the term "employer" includes any corporation, individual, estate, trust, or organization which is exempt from taxation under Minnesota Statutes, Section 290.05.*

(5) **Number of withholding exemptions claimed.** *For purposes of this section, the term "number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under subdivision 5, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero.*

Subd. 2. Collection at source. (1) Deductions. *Every employer making payment of wages on or after January 1, 1962 shall deduct and withhold upon such wages a tax as provided in this section.*

(2) **Withholding on payroll period.** *The employer shall withhold the tax on the basis of each payroll period or as otherwise provided in this section.*

(3) **Withholding tables.** *Unless the amount of tax to be withheld is determined as provided in subdivision 3, the amount of tax to be withheld for each individual shall be based upon tables to be prepared and distributed by the commissioner. The tables shall be computed for the several permissible withholding periods and shall take account of exemptions allowed under this section; and the amounts computed for withholding shall be such that the amount withheld for any individual during his taxable year shall approximate in the aggregate as closely as possible the tax which is levied and imposed under Minnesota Statutes, Chapter 290 for that*

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taxable year, upon his salary, wages, or compensation for personal services of any kind for the employer, and shall take into consideration the allowable deduction for federal income tax and the deduction allowable under Minnesota Statutes, Section 290.09 (16) and the credits against the tax allowable under the Minnesota Income Tax Act.

(4) **Miscellaneous payroll period.** *If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which such wages are paid.*

(5) **Miscellaneous payroll period.** (a) *In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of such wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January 1st of such year, whichever is the later.*

(b) *In any case in which the period, or the time described in (a), in respect of any wages is less than one week, the commissioner, under regulations prescribed by him, may authorize an employer to determine the amount to be deducted and withheld under the tables applicable in the case of a weekly payroll period, in which case the aggregate of the wages paid to the employee during the calendar week shall be considered the weekly wages.*

(6) **Wages computed to nearest dollar.** *If the wages exceed the highest bracket, in determining the amount to be deducted and withheld under this subdivision, the wages may, at the election of the employer, be computed to the nearest dollar.*

(7) **Regulations on withholding.** *The commissioner may, by regulations, authorize employers:*

(a) *To estimate the wages which will be paid to any employee in any quarter of the calendar year;*

(b) *To determine the amount to be deducted and withheld upon each payment of wages to such employee during*

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such quarter as if the appropriate average of the wages so estimated constituted the actual wages paid; and

(c) To deduct and withhold upon any payment of wages to such employee during such quarter such amount as may be necessary to adjust the amount actually deducted and withheld upon the wages of such employee during such quarter to the amount required to be deducted and withheld during such quarter without regard to this paragraph (7).

(8) Additional withholding. *The commissioner is authorized to provide by regulation, under such conditions and to such extent as he deems proper, for withholding in addition to that otherwise required under this subdivision and subdivision 3 in cases in which the employer and the employee agree to such additional withholding. Such additional withholding shall for all purposes be considered tax required to be deducted and withheld under this section.*

Subd. 3. Withholding, irregular period. *If payment of wages is made to an employee by an employer—*

(a) With respect to a payroll period or other period, any part of which is included in a payroll period or other period with respect to which wages are also paid to such employees by such employer, or

(b) Without regard to any payroll period or other period, but on or prior to the expiration of a payroll period or other period with respect to which wages are also paid to such employee by such employer, or

(c) With respect to a period beginning in one and ending in another calendar year, or

(d) Through an agent, fiduciary, or other person who also has the control, receipt, custody, or disposal of or pays, the wages payable by another employer to such employee.

The manner of withholding and the amount to be deducted and withheld under subdivision 2 shall be determined in accordance with regulations prescribed by the commissioner under which the withholding exemption allowed to the employee in any calendar year shall approximate the withholding exemption allowable with respect to an annual payroll period.

Subd. 4. Remuneration, when not "wages". *If the remuneration paid by an employer to an employee for serv-*

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ices performed during one-half or more of any payroll period of not more than 31 consecutive days constitutes wages, all the remuneration paid by such employer to such employee for such period shall be deemed to be wages; but if the remuneration paid by an employer to an employee for services performed during more than one-half of any such payroll period does not constitute wages, then none of the remuneration paid by such employer to such employee for such period shall be deemed to be wages.

Subd. 4. (a) **Tax withheld from nonresidents. (1) "Wages" paid to nonresident employees.** For purposes of this section: The term "wages" means all remuneration taxable under this chapter 290 including all remuneration paid to a nonresident employee for services performed in this state.

(2) **"Employer", "wages" and "employee" concerning nonresidents.** Notwithstanding any other provision of this section, under rules and regulations to be prescribed by the tax commissioner, for purposes of this section any person having control, receipt, custody, disposal or payment of compensation taxable under this chapter 290 and earned by a nonresident for personal services, shall be deemed an employer, any compensation taxable under this chapter 290 and earned by a nonresident for personal services shall be deemed wages, and a nonresident entitled to compensation taxable under this chapter 290 and earned by him for personal services shall be deemed an employee.

Subd. 5. Exemptions. (1) Entitlement. An employee receiving wages shall on any day be entitled to the following withholding exemptions:

(a) One exemption for himself;

(b) One additional exemption for himself, if, on the basis of facts existing at the beginning of such day, there may reasonably be expected to be allowable a credit for the taxable year under Minnesota Statutes, Section 290.06, Subdivision 3 (4) (a) or (c) for having attained the age of 65 before the close of such year;

(c) One additional exemption for himself if, on the basis of facts existing at the beginning of such day, there may reasonably be expected to exist a credit for the taxable year under Minnesota Statutes, Section 290.06, Subdivision 3 (4) (b) or (c) for being blind at the close of such year;

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(d) *If the individual is married, any exemption to which his spouse is entitled, or would be entitled, under subparagraph (a), (b) or (c), if such spouse were an employee receiving wages, but only if such spouse does not have in effect a withholding exemption certificate claiming such exemption;*

(e) *One dependent exemption for each dependent as that term is defined in Minnesota Statutes, Section 290.06, Subdivision 3 (3).*

(2) **Withholding exemption certificate.** *Every employee shall, on or before January 1, 1962, or before the date of commencement of employment, whichever is the later, furnish his employer with a signed withholding exemption certificate relating to the number of withholding exemptions which he claims, which shall in no event exceed the number to which he is entitled.*

(3) **Effective date of exemption certificate.** *Withholding exemption certificates shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished. Certificates furnished before January 1, 1962, shall be considered as furnished on that date.*

(4) **New exemption certificate.** *A withholding exemption certificate which takes effect under this subdivision shall continue in effect with respect to the employer until another such certificate takes effect under this subdivision. If a withholding exemption certificate is furnished to take the place of an existing certificate, the employer, at his option, may continue the old certificate in force with respect to all wages paid on or before the first status determination date, January 1st or July 1st, which occurs at least 30 days after the date on which such new certificate is furnished.*

(5) **Change of number to reflect next tax year.** *If, on any day during the calendar year, the number of withholding exemptions to which the employee may reasonably be expected to be entitled at the beginning of his next taxable year is different from the number to which the employee is entitled on such day, the employee shall in such cases and at such times as the commissioner may prescribe, furnish the employer with a withholding exemption certificate relating to the number of exemptions which he claims with respect to such next taxable year, which shall in no event exceed the*

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number to which he may reasonably be expected to be so entitled. Exemption certificates issued pursuant to this paragraph shall not take effect with respect to any payment of wages made in the calendar year in which the certificate is furnished.

(6) **Change of number.** *If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is less than the number of withholding exemptions claimed by the employee on the withholding exemption certificate then in effect with respect to him, the employee shall, within ten days thereafter, furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day. If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is greater than the number of withholding exemptions claimed, the employee may furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day.*

(7) **Form of certificate.** *Withholding exemption certificates shall be in such form and contain such information as the commissioner may by regulation prescribe.*

Subd. 6. Employer to furnish information. *(1) Every employer required to deduct and withhold tax under subdivision 2 or subdivision 3 shall, (a) for the period beginning January 1, 1962 and ending March 31, 1962, file with the commissioner of taxation, on or before April 30, 1962, and pay over the tax required to be withheld under subdivision 2 and subdivision 3, and (b) for the quarterly period beginning April 1, 1962 and ending June 30, 1962, and for each quarterly period thereafter, on or before the last day of the month following the close of each quarterly period make and file with the commissioner a return and pay over to him the tax required to be withheld under subdivision 2 or subdivision 3, except that, if during any calendar month, other than the last month of the calendar quarter, the aggregate amount of the tax withheld under subdivision 2 or subdivision 3 exceeds \$25, such employer shall deposit such aggregate amount within 15 days after the close of such calendar month with the commissioner of taxation. However, any such return may be filed on or before the tenth day of the second calen-*

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dar month following such period if such return is accompanied by depositary receipts showing timely deposits in full payment of such taxes due for such period. For the purpose of the preceding sentence, a deposit which is not required to be made within such return period, may be made on or before the last day of the first calendar month following the close of such period. The commissioner shall upon receipt of such deposit issue to the employer a depositary receipt in duplicate evidencing such deposit. Every employer making monthly deposits pursuant to this subdivision shall attach to his return for the period with respect to which such deposits are made, depositary receipts evidencing deposits made for such period and shall pay to the commissioner of taxation the balance, if any, of the taxes due for such period. If the aggregate amount of the taxes deposited as shown on the depositary receipt or receipts attached to such return is in excess of the taxes shown on such return, a credit or refund may be obtained in accordance with regulations to be prescribed by the commissioner of taxation.

Such return shall be in such form and contain such information as the commissioner may by regulations prescribe. The commissioner may grant a reasonable extension of time for making such return and paying such tax, but no such extension shall be granted for more than six months.

(2) If less than the correct amount of such tax is paid to the commissioner, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as the commissioner may by regulations prescribe. If such underpayment cannot be so adjusted the amount of the underpayment shall be assessed and collected in such manner and at such times as the commissioner may by regulations prescribe.

(3) If any employer fails to make and file any return required by paragraph (1) at the time prescribed therefor, or makes and files a false or fraudulent return, the commissioner shall make for him a return from his own knowledge and from such information as he can obtain through testimony, or otherwise, and assess a tax on the basis thereof. The amount of tax shown thereon shall be paid to the commissioner at such times as the commissioner may by regulations prescribe. Any such return or assessment so made by the commissioner shall be prima facie correct and valid, and the employer shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

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(4) *If the commissioner, in any case, has reason to believe that the collection of the tax provided for in paragraph (1) of this subdivision, and any added penalties and interest, if any, will be jeopardized by delay, he may immediately assess such tax, whether or not the time otherwise prescribed by law for making and filing the return and paying such tax has expired.*

(5) *Any assessment under this subdivision shall be made by recording the liability of the employer in the office of the commissioner in accordance with regulations prescribed by the commissioner. Upon request of the employer, the commissioner shall furnish the employer a copy of the record of assessment.*

(6) *Any assessment of tax under this subdivision shall be made within three and one-half years after the due date of the return required by paragraph (1), or the date the return was filed, whichever is later; except that in the case of a false or fraudulent return or failure to file a return, the tax may be assessed at any time.*

(7) (a) *Except as provided in (b) of this paragraph, every employer who fails to pay to the commissioner any sum or sums required by this section to be deducted, withheld and paid, shall be personally and individually liable to the state of Minnesota for such sum or sums (and any added penalties and interest); and any sum or sums deducted and withheld in accordance with the provisions of subdivision 2 or subdivision 3 shall be held to be a special fund in trust for the state of Minnesota.*

(b) *If the employer, in violation of the provision of this section, fails to deduct and withhold the tax under this section, and thereafter the taxes against which such tax may be credited are paid, the tax so required to be deducted and withheld shall not be collected from the employer; but this shall in no case relieve the employer from liability for any penalties and interest otherwise applicable in respect of such failure to deduct and withhold.*

(8) *Upon the failure of any employer to pay to the commissioner within the time provided by paragraphs (1), (2) or (3) of this subdivision any tax required to be withheld in accordance with the provisions of subdivision 2 or subdivision 3, or if the commissioner has assessed a tax pursuant to paragraph (4), such tax shall become immediately due and payable, and the commissioner may deliver to the Attorney*

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General a certified statement of the tax, penalties and interest due from such employer. The statement shall also give the address of the employer owing such tax, the period for which the tax is due, the date of the delinquency, and such other information as may be required by the Attorney General. It shall be the duty of the Attorney General to institute legal action in the name of the state to recover the amount of such tax, penalties, interest and costs. The commissioner's certified statement to the Attorney General shall for all purposes and in all courts be prima facie evidence of the facts therein stated and that the amount shown therein is due from the employer named in the statement. In event action is instituted as herein provided, the court shall, upon application of the Attorney General, appoint a receiver of the property and business of the delinquent employer for the purpose of impounding the same as security for any judgment which has been or may be recovered. Any such action shall be brought within four years and three months after the due date of the return required by paragraph (1), or the date the return was filed, whichever is later; except that in the case of failure to make and file such return or if such return is false or fraudulent, such action may be brought at any time.

(9) *The tax required to be withheld under subdivision 2 or subdivision 3 or paid to the commissioner under subdivision 6, together with penalties, interest and costs, shall become a lien upon all of the real property of the employer within this state, except his homestead, from and after the filing by the commissioner of a notice of such lien in the offices of the register of deeds of the county in which such real property is situated.*

(10) *Either party to an action for the recovery of any tax, interest or penalties under this subdivision may remove the judgment to the supreme court by appeal, as provided for appeals in civil cases.*

(11) *No suit shall lie to enjoin the assessment or collection of any tax imposed by this section, or the interest and penalties added thereto.*

Subd. 7. Withholding statement to employee and to commissioner. (1) *Every person required to deduct and withhold from an employee a tax under subdivision 2 or subdivision 3, or who would have been required to deduct and withhold a tax under subdivision 2 or subdivision 3 if the employee had claimed no more than one withholding exemption, shall furnish to each such employee in respect to the*

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remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of remuneration is made, a written statement showing the following:

- (a) Name of such person,
- (b) The name of the employee and his social security account number,
- (c) The total amount of wages as that term is defined in subdivision 1 (1),

(d) The total amount deducted and withheld as tax under subdivision 2 or subdivision 3,

(2) The statement required to be furnished by this subdivision in respect of any remuneration shall be furnished at such other times, shall contain such other information, and shall be in such form as the commissioner may by regulations prescribe.

(3) The commissioner may prescribe regulations providing for reasonable extensions of time, not in excess of 30 days, to employers required to furnish such statements to their employees under this subdivision.

(4) A duplicate of any statement made pursuant to this subdivision and in accordance with regulations prescribed by the commissioner shall be filed with the commissioner at such time as he may by regulations prescribe. Such duplicate when so filed shall constitute the information return required to be made in respect of wages, salaries and commissions under Minnesota Statutes, Section 290.41, Subdivision 2.

Subd. 8. Employer liable for tax withheld. *The employer shall be liable for the payment of the tax required to be deducted and withheld under subdivision 2 or subdivision 3, and shall not be liable to any person for the amount of any such payment.*

Subd. 9. Determination of tax due. *The commissioner may grant permission to employers, who do not desire to use the withholding tax tables provided in accordance with paragraph (3) of subdivision 2, to determine the amount of tax to be withheld by use of a method of withholding other than withholding tax tables, provided such method will with-*

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hold from each employee substantially the same amount of tax as would be withheld by use of the withholding tax tables. Employers who desire to determine the amount of tax to be withheld by a method other than by use of the withholding tax tables shall obtain permission from the commissioner before the beginning of a payroll period for which the employer desires to withhold the tax by such other method. Applications to use such other method must be accompanied by evidence establishing the need for the use of such method.

Subd. 10. Remuneration, not in cash. In the case of remuneration paid in any medium other than cash for services performed by an individual as a retail salesman for a person, where the service performed by such individual for such person is ordinarily performed for remuneration solely by way of cash commission an employer shall not be required to deduct or withhold any tax under this section with respect to such remuneration provided that such employer files with the commissioner such information with respect to such remuneration as the commissioner may by regulation prescribe.

Subd. 11. Refunds. Where there has been an overpayment of tax imposed by this section, refund of such overpayment or credit shall be made to the employer in accordance with regulations prescribed by the commissioner, but only to the extent that the amount of such overpayment was not deducted and withheld under subdivision 2 or subdivision 3 by the employer. Any overpayment which is refunded shall bear interest at the rate of two percent per annum, computed from the date of payment until the date the refund is paid to the employer. The state auditor shall cause any such refund of tax and interest to be paid out of the income tax school fund in accordance with the provisions of Minnesota Statutes, Section 290.62 and so much of said fund as may be necessary is hereby appropriated for that purpose.

Subd. 12. Withheld amount, credit against tax. The amount deducted and withheld as tax under subdivision 2 or subdivision 3 during any calendar year upon the wages of any individual shall be allowed as a credit to the recipient of the income against the taxes imposed by Minnesota Statutes, Chapter 290, for a taxable year beginning in such calendar year. If more than one taxable year begins in such calendar year, such amount shall be allowed as a credit against the taxes for the last taxable year so beginning.

Subd. 13. Refunds. (1) Where the amount of the tax withheld at the source under subdivision 2 or subdivision

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3 exceeds by \$1 or more the taxes (and any added penalties and interest) reported in the return of the employee taxpayer or imposed upon him by Minnesota Statutes, Chapter 290, the amount of such excess shall be refunded to the employee taxpayer. If the amount of such excess is less than \$1 the commissioner shall not be required to refund in accordance with the provisions of Laws Ex 1959, Chapter 57, Section 13. Where any amount of such excess to be refunded exceeds \$10, such amount shall bear interest at the rate of two percent per annum, computed from 90 days after the due date of the return of the employee taxpayer or the date on which his return is filed, whichever is later, to the date the refund is paid to the taxpayer. Notwithstanding the provisions of Minnesota Statutes, Section 290.50, written findings by the commissioner, notice by mail to the taxpayer, and certificate for refundment by the commissioner, shall not be necessary. The provisions of Minnesota Statutes, Section 270.10, shall not be applicable.

(2) Any action of the commissioner in refunding the amount of such excess shall not constitute a determination of the correctness of the return of the employee taxpayer within the purview of Minnesota Statutes, Section 290.46.

(3) The state auditor shall cause any such refund of tax and interest, to be paid out of the income tax school fund in accordance with the provisions of Minnesota Statutes, Section 290.62, and so much of said fund as may be necessary is hereby appropriated for that purpose.

Subd. 14. Records must be kept. Every person liable for any tax imposed by this section, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such regulations, as the commissioner may from time to time prescribe. Any such return or statement shall include therein the information required by such regulations and by the forms prescribed by the commissioner. For the purpose of determining compliance with the provisions of this subdivision, the commissioner shall have power to examine, or cause to be examined, any books, papers, records, or memoranda relevant to making such determination, whether such books, papers, records, or memoranda are the property of or in the possession of such person or any other person or corporation. The commissioner shall further have power to require the attendance of any persons having knowledge or information in the premises, to compel the production of books, papers, records, or memoranda by

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persons so required to attend, to take testimony on matters material to such determination, and to administer oaths or affirmations.

Subd. 15. Penalties. (1) If any tax required to be deducted and withheld under subdivision 2 or subdivision 3, or any portion thereof, is not paid to the commissioner within the time specified in subdivision 6 for the payment thereof, there shall be added thereto a penalty equal to five percent of the amount so remaining unpaid. Such penalty shall be collected as part of said tax, and the amount of said tax not timely paid, together with said penalty, shall bear interest at the rate of four percent per annum from the time such tax should have been paid until paid. Where an extension of time for payment has been granted under the provisions of subdivision 6, interest shall be paid at the rate of four percent per annum from the date when such payment should have been made if no extension had been granted, until such tax is paid. If payment is not made at the expiration of the extended period the penalties provided in this subdivision shall apply.

(2) In the case of any failure to withhold a tax on wages, make and file quarterly returns and make payments to the commissioner of amounts withheld, as required by this section, within the time prescribed by law, unless it is shown that such failure is not due to negligence, there shall be added to the tax in lieu of the five percent penalty provided in paragraph (1) a penalty equal to 25 percent of the amount of tax that should have been properly withheld and paid over to the commissioner. The amount so added to the tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

(3) If any employer required to withhold a tax on wages, make and file quarterly returns and make payments to the commissioner of amounts withheld, as required by sections 1 to 5, wilfully fails to withhold such a tax, files a false or fraudulent return, wilfully fails to make such a payment, or wilfully attempts in any manner to evade or defeat any such tax or the payment thereof, there shall also be imposed on such employer as a penalty an amount equal to 50 percent of the amount of tax (less any amount paid by such employer on the basis of such false or fraudulent return) that should have been properly withheld and paid over to the com-

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missioner. The penalty imposed by this paragraph shall be collected as a part of the tax, and shall be in addition to any other penalties civil and criminal, prescribed by this subdivision.

(4) *If any person required under the provisions of subdivision 7 to furnish a statement to an employee and a duplicate statement to the commissioner, wilfully furnishes a false or fraudulent statement to an employee or a false or fraudulent duplicate statement to the commissioner, or wilfully fails to furnish a statement in the manner, at the time, and showing the information required by the provisions of subdivision 7, or regulations prescribed by the commissioner thereunder, there shall be imposed on such a person a penalty of \$10 for each such act or failure to act. The penalty imposed by this paragraph shall become due and payable within ten days after the mailing of a written demand therefor, and may be collected in the manner prescribed in subdivision 6 (8).*

(5) *In addition to the penalties hereinbefore prescribed, any person required to withhold a tax on wages, make and file quarterly returns and make payments to the commissioner of amounts withheld, as required by this section, who wilfully fails to withhold such a tax or truthfully make and file such a quarterly return and make such a payment, shall be guilty of a gross misdemeanor.*

(6) *In lieu of any other penalty provided by law (except the penalty provided by paragraph (4)), any person required under the provisions of subdivision 7 to furnish a statement to an employee and a duplicate statement to the commissioner, who wilfully furnishes a false or fraudulent statement to an employee or a false or fraudulent duplicate statement to the commissioner, or who wilfully fails to furnish a statement in the manner, at the time, and showing the information required by the provisions of subdivision 7, or regulations prescribed by the commissioner thereunder, shall be guilty of a gross misdemeanor.*

(7) *Any employee required to supply information to his employer under the provisions of subdivision 5, who wilfully fails to supply information thereunder which would require an increase in the tax to be deducted and withheld under subdivision 2 or subdivision 3, shall be guilty of a misdemeanor.*

(8) *The term "person", as used in this section, in-*

Changes or additions indicated by italics, deletions by ~~strikeout~~.

cludes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(9) All payments received shall be credited first to penalties, next to interest, and then to the tax due.

(10) The commissioner shall have power to abate any civil penalties prescribed in this subdivision when in his opinion their enforcement would be unjust and inequitable. The exercise of this power shall be subject to the approval of the attorney general.

Subd. 16. Agreement with secretary of treasury. The commissioner is authorized to enter into an agreement with the secretary of treasury of the United States pursuant to the provisions of public law 587 (66 United States Statutes at Large 765), enacted July 17, 1952.

Sec. 2. [290.93] Declaration of estimated tax.
Subdivision 1. Requirement of declaration. (1) Every individual shall, at the time prescribed in subdivision 5 of this section, make and file with the commissioner a declaration of his estimated tax for the taxable year if—

(a) *The gross income (as defined in Minnesota Statutes, Section 290.01, Subdivision 20) for the taxable year can reasonably be expected to exceed—*

(i) *\$750 in the case of a single individual or in the case of a married individual not entitled to file a joint declaration with his spouse; or*

(ii) *\$1,500 in the case of a married individual entitled under subdivision 2 to file a joint declaration with his spouse, whether a gross income is his alone or is the combined gross income of himself and his spouse; and*

(b) *Such gross income can reasonably be expected to include more than \$200 from sources other than wages upon which a tax has been deducted and withheld under section 1, subdivision 2 or subdivision 3.*

(2) *If the individual is an infant or incompetent person, the declaration shall be made by his guardian.*

(3) *Notwithstanding the provisions of this section, no declaration is required if the estimated tax (as defined in subdivision 3) can reasonably be expected to be less than \$20.*

Changes or additions indicated by italics, deletions by ~~strikeout~~.

Subd. 2. Joint declaration. A joint declaration may be made by husband and wife, in which case the liability with respect to the estimated tax shall be joint and several. No joint declaration may be made if they are separated under a decree of separate maintenance or if they have different taxable years. If a joint declaration is made but a joint return is not made for the taxable year, the estimated tax for such year may be treated as the estimated tax of either the husband or the wife or may be divided between them.

Subd. 3. Estimated tax defined. For purposes of this section, in the case of an individual, the term "estimated tax" means the amount which the individual estimates as the sum of the taxes imposed by Minnesota Statutes, Chapter 290, for the taxable year, minus the amount which the individual estimates as his allowable credits against income tax under Minnesota Statutes, Section 290.06, Subdivision 3, not exceeding the amount of such income tax, and minus the credit allowed under section 1, subdivision 12.

Subd. 4. Commissioner to prescribe declaration. The declaration shall be in such form and shall contain such information as the commissioner may by regulations prescribe.

Subd. 5. Date required. (1) Declarations of estimated tax required by subdivision 1 from individuals other than farmers shall be filed on or before April 15 of the taxable year, except that if the requirements of subdivision 1 are first met—

(a) After April 1 and before June 2 of the taxable year, the declaration shall be filed on or before June 15 of the taxable year, or

(b) After June 1 and before September 2 of the taxable year, the declaration shall be filed on or before September 15 of the taxable year, or

(c) After September 1 of the taxable year, the declaration shall be filed on or before January 15 of the succeeding taxable year.

(2) The first declaration of estimated tax required to be filed during 1962 shall be filed not later than April 15, 1962, if the requirements of this section are fulfilled at any time prior to April 2, 1962. If the requirements of this section are first met after April 1, 1962, the declaration shall be filed on or before June 15, 1962.

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(3) *Declarations of estimated tax required by subdivision 1 from individuals whose estimated gross income from farming for the taxable year is at least two-thirds of the total estimated gross income from all sources for the taxable year may, in lieu of the time prescribed in paragraphs (1) and (2) be filed at any time on or before January 15 of the succeeding taxable year.*

(4) *An individual shall make amendments of a declaration filed during the taxable year, under regulations prescribed by the commissioner.*

(5) *If on or before January 31 (or February 15, in the case of an individual referred to in paragraph (3)) of the succeeding taxable year the taxpayer files a return for the taxable year for which the declaration is required, and pays in full the amount computed on the return as payable, then, under regulations prescribed by the commissioner—*

(a) *If the declaration is not required to be filed during the taxable year, but is required to be filed on or before January 15, such return shall be considered as such declaration; and*

(b) *If the tax shown on the return is greater than the estimated tax shown in the declaration previously made, or in the last amendment thereof, such return shall be considered as the amendment of the declaration permitted by paragraph (4) to be filed on or before January 15.*

(6) *The commissioner may grant a reasonable extension of time for filing the declaration and paying the estimated tax. Except in the case of a taxpayer who is outside the continental limits of the United States, no such extension shall be granted for more than six months.*

Subd. 6. Time payment required. (1) *The amount of estimated tax with respect to which a declaration is required by subdivision 1 shall be paid at the time of the filing of the declaration if it does not exceed \$10. If the amount of the estimated tax exceeds \$10, it shall be paid as follows:*

(a) *If the declaration is filed on or before April 15 of the taxable year, it shall be paid in four equal installments. The first installment shall be paid at the time of the filing of the declaration, the second and third on June 15 and September 15, respectively, of the taxable year, and the fourth on January 15 of the succeeding taxable year.*

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(b) *If the declaration is filed after April 15 and not after June 15 of the taxable year, and is not required by subdivision 5 (1) of this section to be filed on or before April 15 of the taxable year, the estimated tax shall be paid in three equal installments. The first installment shall be paid at the time of the filing of the declaration, the second on September 15 of the taxable year, and the third on January 15 of the succeeding taxable year.*

(c) *If the declaration is filed after June 15 and not after September 15 of the taxable year, and is not required by subdivision 5 (1) to be filed on or before June 15 of the taxable year, the estimated tax shall be paid in two equal installments. The first installment shall be paid at the time of the filing of the declaration, and the second on January 15 of the succeeding taxable year.*

(d) *If the declaration is filed after September 15 of the taxable year, and is not required by subdivision 5 (1) or (2) to be filed on or before September 15 of the taxable year, the estimated tax shall be paid in full at the time of the filing of the declaration.*

(e) *If the declaration is filed after the time prescribed in subdivision 5 (1) or (2) including cases in which an extension of time for filing the declaration has been granted under subdivision 5 (6)), subparagraphs (b), (c), and (d) of this paragraph shall not apply, and there shall be paid at the time of such filing all installments of estimated tax which would have been payable on or before such time if the declaration had been filed within the time prescribed in subdivision 5 (1) or (2), and the remaining installments shall be paid at the times at which, and in the amounts in which, they would have been payable if the declaration had been so filed.*

(2) *If an individual referred to in subdivision 5 (3) (relating to income from farming) makes a declaration of estimated tax after September 15 of the taxable year and on or before January 15 of the succeeding taxable year, the estimated tax shall be paid in full at the time of the filing of the declaration.*

(3) *If any amendment of a declaration is filed, the remaining installments, if any, shall be ratably increased or decreased, as the case may be, to reflect such increase or decrease in the estimated tax by reason of such amendment, and if such amendment is made after September 15 of the taxable year, any increase in the estimated tax by reason thereof shall be paid at the time of making such amendment.*

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(4) *At the election of the individual, any installment of the estimated tax may be paid prior to the date prescribed for its payment.*

(5) *Payment of the estimated tax, or any installment thereof, shall be considered payment on account of the taxes imposed upon the individual by Minnesota Statutes, Chapter 290, for the taxable year.*

Subd. 7. Fiscal year. *The application of this section to taxable years beginning other than January 1, and to taxable years of less than 12 months, shall be made pursuant to regulations issued by the commissioner.*

Subd. 8. Exception, estates and trusts. *The provisions of this section shall not apply to an estate or trust.*

Subd. 9. Overpayment of estimated tax. (1) *Where the amount of an installment payment of estimated tax exceeds the amount determined to be the correct amount of such installment payment, the overpayment shall be credited against the unpaid installments, if any. Where the total amount of the estimated tax payments plus (1) the total amount of tax withheld at the source under section 1, subdivision 2 or subdivision 3 (if any) and (2) and other payments (if any) exceeds by \$1.00 or more the taxes (and any added penalties and interest) reported in the return of the taxpayer or imposed upon him by Minnesota Statutes, Chapter 290, the amount of such excess shall be refunded to the taxpayer. If the amount of such excess is less than \$1 the commissioner shall not be required to refund in accordance with the provisions of Laws Ex 1959, Chapter 57, section 13. Where any amount of such excess to be refunded exceeds \$10, such amount shall bear interest at the rate of two percent per annum, computed from 90 days after the due date of the return of the taxpayer or the date on which his return is filed, whichever is later, until the date the refund is paid to the taxpayer. Notwithstanding the provisions of Minnesota Statutes, Section 290.50, written findings by the commissioner, notice by mail to the taxpayer, and certificate for refund by the commissioner, shall not be necessary. The provisions of Minnesota Statutes, Section 270.10, shall not be applicable.*

(2) *Any action of the commissioner in refunding the amount of such excess shall not constitute a determination of the correctness of the return of the taxpayer within the purview of Minnesota Statutes, Section 290.46.*

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(3) *The state auditor shall cause any such refund of tax and interest to be paid out of the income tax school fund in accordance with the provisions of Minnesota Statutes, Section 290.62, and so much of said fund as may be necessary is hereby appropriated for that purpose.*

Subd. 10. Underpayment of estimated tax. (1) In the case of any underpayment of estimated tax by an individual, except as provided in paragraph (4), there may be added to and become a part of the taxes imposed by Minnesota Statutes, Chapter 290, for the taxable year an amount determined at the rate of six percent per annum upon the amount of the underpayment for the period of the underpayment.

(2) *For purposes of the preceding paragraph, the amount of underpayment shall be the excess of—*

(a) *The amount of the installment which would be required to be paid if the estimated tax were equal to 70 percent (66-2/3 percent in the case of farmers referred to in subdivision 5 (3) of this section) of the taxes shown on the return for the taxable year or the taxes for such year if no return was filed, over*

(b) *The amount, if any, of the installment paid on or before the last day prescribed for such payment.*

(3) *The period of the underpayment shall run from the date the installment was required to be paid to whichever of the following dates is the earlier—*

(a) *The 15th day of the fourth month following the close of the taxable year.*

(b) *With respect to any portion of the underpayment, the date on which such portion is paid. For purposes of this sub-paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under paragraph (2) (a) for such installment date.*

(4) *The addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds whichever of the following is the lesser—*

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(a) *The total tax liability shown on the return of the individual for the preceding taxable year (if a return showing a liability for such taxes was filed by the individual for the preceding taxable year of 12 months), or*

(b) *An amount equal to the tax computed, at the rates applicable to the taxable year, on the basis of the taxpayer's status with respect to credits allowed by section 290.06, subdivision 3, for the taxable year, but otherwise on the basis of the facts shown on his return for, and the law applicable to the preceding taxable year, or*

(c) *An amount equal to 70 percent (66-2/3 percent in the case of farmers referred to in subdivision 5 (3) of this section) of the tax for the taxable year (after deducting personal credits) computed by placing on an annualized basis the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid. For purposes of this subparagraph, the taxable income shall be placed on an annualized basis by—*

(i) *Multiplying by 12 (or in the case of a taxable year of less than 12 months, the number of months in the taxable year) the taxable income computed for the months in the taxable year ending before the month in which the installment is required to be paid.*

(ii) *Dividing the resulting amount by the number of months in the taxable year ending before the month in which such installment date falls, or*

(d) *An amount equal to 90 percent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual taxable income for the months in the taxable year ending before the month in which the installment is required to be paid.*

(5) *For the purposes of applying this subdivision, the estimated tax shall be computed without any reduction for the amount which the individual estimates as his credit under section 1, subdivision 12 (relating to tax withheld at source on wages), and the amount of such credit for the taxable year shall be deemed a payment of estimated tax, and an equal part of such amount shall be deemed paid on each installment date (determined under subdivisions 6 and 7 of this section) for such taxable year, unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts so withheld shall be deemed payments of*

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estimated tax on the dates on which such amounts were actually withheld.

(6) *The application of this subdivision to taxable years of less than 12 months shall be in accordance with regulations prescribed by the commissioner.*

Subd. 11. Failure to pay. *Any individual required under this section to pay any estimated tax, who wilfully fails to pay such estimated tax at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a gross misdemeanor.*

Subd. 12. Disposition of revenues. *All revenues derived from the taxes, interest, penalties, and charges under this act shall be paid into the state treasury and credited to the income tax school fund but such revenues shall be distributed first to the payment of any deficiencies in such fund as shall appear on July 1, 1961 before being distributed as required by Minnesota Statutes 1957, Section 290.62.*

Sec. 3. [290.94] Credit for 1961 tax. *Each individual shall, for the calendar year 1961, or, in the case of an individual on the fiscal year basis, for his fiscal year beginning in 1961, be entitled to a credit of 100 percent of an amount determined by computing the normal income tax less personal credits plus surtax liability for that taxable year or for the next preceding taxable year, whichever is the lesser.*

For the purpose of computing the applicable credit where a joint return is filed by husband and wife, such return shall be considered as that of an individual.

In the case of more than one taxable year beginning during the calendar year 1961, the 100 percent credit shall apply against such amount determined as specified in this subdivision for the first taxable year so beginning in 1961.

The provisions of this section shall be applicable only to those taxpayers who have duly filed income tax returns required to be filed for taxable years commencing after December 31, 1954, and who have paid all taxes, interest and penalties shown to be due on such returns for all such taxable years.

Sec. 4. [290.95] Distribution. *All revenues derived from taxes, interest, penalties, and charges under section 1 shall, notwithstanding any other provision of law, be*

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paid into the state treasury and credited to a special fund to be known as the income tax school fund and shall be distributed in accordance with the provisions of section 290.62.

Sec. 5. [290.96] Appropriation. *The commissioner may employ such assistants and may incur such other expense as may be necessary to carry out the provisions of sections 1 to 5, within the limitations herein. To carry out the provisions of sections 1 to 5 there is appropriated out of any money in the state treasury, credited to the income tax school fund, the sum of \$600,000 to be available until expended and to cover the period of fiscal years 1961-62 and 1962-63.*

Sec. 6. [290.97] Contracts with state; withholding. *No department of the state of Minnesota, nor any political or governmental subdivision of the state shall make final settlement with any contractor under a contract requiring the employment of employees for wages by said contractor, until satisfactory showing is made that said contractor has complied with the provisions of section 1 of this article. A certificate by the commissioner of taxation shall satisfy this requirement. The provisions of this section shall apply only to contracts executed after the effective date of this article.*

Art. II

Section 1. Minnesota Statutes 1957, Section 290.45, Subdivision 1, is amended to read:

290.45 Payment of tax, time for. Subdivision 1. **Date due installments.** The tax imposed by this chapter shall be paid at the time fixed for filing the return on which the tax is based, except that at the election of the *following taxpayer taxpayers* the tax may be paid in two equal installments, as follows:

(a) as to ~~individuals~~, estate and trusts, the first shall be paid at the time fixed for filing the return, and the second on or before six months thereafter.

(b) as to corporations, the first shall be paid at the time fixed for filing the return and the second on or before three months thereafter. If any installment is not paid on or before the date fixed for its payment the whole amount of the tax unpaid shall become due and payable. They shall be paid to the commissioner or to the local officers designated by the commissioner with whom the return is filed as hereinbefore provided.

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Sec. 2. **Effective date.** *The provisions of this article shall be applicable to all taxable years beginning after December 31, 1961.*

Art. III

Section 1. Minnesota Statutes 1957, Section 290.081, as amended by Laws 1959, Chapter 10, is amended to read:

290.081 **Income taxed in another state, credit.** (a) ~~The compensation received for the performance of personal or professional services within this state by an individual who resides and has his place of abode and place to which he customarily returns at least once a month in another state, shall be excluded from gross income to the extent such compensation is subject to an income tax imposed by the state of his residence; provided that such state allows a similar exclusion of compensation received by residents of Minnesota for services performed therein; or~~

(b) ~~Whenever a nonresident taxpayer (other than those coming within the purview of (a) hereof) has become liable for income taxes to the state where he resides upon his net income for the taxable year derived from the performance of personal or professional services within this state, and subject to taxation under Chapter 290, there shall be allowed as a credit against the amount of income tax payable by him under this chapter, such proportion of the tax so paid by him to the state where he resides as his gross income subject to taxation under this chapter bears to his entire gross income upon which the tax so paid to such other state was imposed; provided, that such credit shall be allowed only if the laws of such state grant a substantially similar credit to residents of this state subject to income tax under such laws; or~~

(c) ~~If any taxpayer who is a resident of this state, or a domestic corporation or corporation commercially domiciled therein, has become liable for income taxes on or measured by net income to another state upon income derived from the performance of personal or professional services within such other state and subject to taxation under this chapter he or it shall be entitled to a credit against the amount of taxes payable under this chapter, of such proportion thereof, as such gross income subject to taxation in such state bears to his entire gross income subject to taxation under this chapter; provided (1) that such credit shall in no event exceed the amount of tax so paid to such other state on~~

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the gross income earned within such other state and subject to taxation under this chapter, and (2) that such credit shall not be allowed if such other state allows residents of this state a credit against the taxes imposed by such state for taxes payable under this chapter substantially similar to the credit provided for by paragraph (b) of this section; and (3) that the allowance of such credit shall not operate to reduce the taxes payable under this chapter to an amount less than would have been payable if the gross income earned in such other state had been excluded in computing net income under this chapter.

(d) The commissioner shall by regulation determine with respect to gross income earned in any other state the applicable clause of this section.

(e) "Tax So Paid" as used in this section means income taxes on or measured by net income payable to another state on income earned within the taxable year for which the credit is claimed, provided that such tax is actually paid in that taxable year, or subsequent taxable years.

Sec. 2. *The provisions of this article shall be applicable to all taxable years beginning after December 31, 1960.*

Art. IV.

Section 1. Minnesota Statutes 1957, Section 290.01, Subdivision 20, as amended by Extra Session Laws 1959, Chapter 83, Section 1, is amended to read:

Subd. 20. **Gross income.** Except as otherwise provided in this chapter, the term "gross income" includes every kind of compensation for labor or personal services of every kind from any private or public employment, office, position or services (including amounts paid, by or on behalf of an employer, whether as gifts or otherwise, by reason of the death of an employee); income derived from the ownership or use of property; gains or profits derived from every kind of disposition of, or every kind of dealing in, property; income derived from the transaction of any trade or business; and income derived from any source.

(1) **Individuals, estates and trusts.** *The term "gross income" means the adjusted gross income as computed for federal income tax purposes as defined in the laws of the United States for the taxable year with the modifications specified in this section.*

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(a) *Modifications increasing federal gross income. There shall be added to federal adjusted gross income:*

(1) *Interest income on obligations of any state other than Minnesota or a political subdivision of any such other state exempt from federal income taxes under the Internal Revenue Code:*

(2) *Interest income on obligations of any authority, commission, or instrumentality of the United States, which the laws of the United States exempt from federal income tax, but not from state income taxes;*

(3) *Income taxes imposed by this state or any other taxing jurisdiction, to the extent deductible in determining federal adjusted gross income and not credited against federal income tax; and*

(4) *Interest on indebtedness incurred or continued to purchase or carry securities the income from which is exempt from tax under chapter 290, to the extent deductible in determining federal adjusted gross income.*

(b) *Modifications reducing federal adjusted gross income. There shall be subtracted from federal adjusted gross income:*

(1) *Interest income on obligations of any authority, commission or instrumentality of the United States to the extent includible in gross income for federal income tax purposes but exempt from state income tax under the laws of the United States;*

(2) *The portion of any gain, from the sale or other disposition of property having a higher adjusted basis for Minnesota income tax purposes than for federal income tax purposes, that does not exceed such difference in basis; but if such gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to fifty per centum of such portion of the gain;*

(3) *Interest or dividend income on securities to the extent exempt from income tax under the laws of this state authorizing the issuance of such securities but includible in gross income for federal income tax purposes.*

(2) **Corporations.** *The term "gross income" means all income, as that term is defined and limited by Section 61 of the Internal Revenue Code of 1954 and acts amendatory thereto.*

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(3) **Form of income.** Items of gross income includible within these definitions shall be deemed such regardless of the form in which received. Items of gross income shall be included in gross income of the taxable year in which received by a taxpayer unless properly to be accounted for as of a different taxable year under methods of accounting permitted by section 290.07, except that (1) amounts transferred from a reserve or other account, if in effect transfers to surplus, shall, to the extent that such amounts were accumulated through deductions from gross income or entered into the computation of taxable net income during any taxable year, be treated as gross income for the year in which the transfer occurs, but only to the extent that such amounts resulted in a reduction of the tax imposed by this act, and (2) amounts received as refunds on account of taxes deducted from gross income during any taxable year shall be treated as gross income for the year in which actually received, but only to the extent that such amounts resulted in a reduction of the tax imposed by this act. If a husband and wife have filed a joint federal income tax return and separate Minnesota income tax returns for the same taxable period, amounts received as refunds on account of federal income taxes paid shall be included in gross income in the same ratio as the deductions for federal income taxes were claimed in the separate Minnesota tax returns.

Sec. 2. Minnesota Statutes 1957, Section 290.08, Subdivision 1, is amended to read:

290.08 **Exemptions from gross income.** Subdivision 1. **In general.** The following items shall not be included in gross income, *provided that the amount of any item which was excluded in arriving at gross income under the provisions of section 290.01, subdivision 20, shall not be again excluded under this section.*

Sec. 3. Minnesota Statutes 1957, Section 290.09, as amended by Extra Session Laws 1959, Chapter 70, Article III, Section 7, and Article XI, is amended to read:

290.09 **Deductions from gross income.** The following deductions from gross income shall be allowed in computing ~~gross~~ ^{net} income, *provided that the amount of any item which was deducted in arriving at gross income under the provisions of section 290.01, subdivision 20, shall not be again deducted under this section:*

[(1)] (a) In General. There shall be allowed as

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a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including

(1) A reasonable allowance for salaries or other compensation for personal services actually rendered;

(2) Traveling expenses (including the entire amount expended for meals and lodging) while away from home in the pursuit of a trade or business; and

(3) Rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity. For purposes of the preceding sentence, the place of residence of a member of congress within the state shall be considered his home, but amounts expended by such members within each taxable year for living expenses shall not be deductible for income tax purposes in excess of \$3,000.

(b) Expenses for Production of Income. In the case of an individual, there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year

(1) For the production or collection of income;

(2) For the management, conservation, or maintenance of property held for the production of income; or

(3) In connection with the determination, collection, or refund of any tax.

(c) Within the following listed limitations any part of his campaign expenditures not subsequently reimbursed, which have been personally paid by a candidate for public office if the candidate has complied with the expenditure limitations set out in Minnesota Statutes, Section 211.06:

(1)	A candidate for governor or United States Senator	\$5,000
(2)	A candidate for other state office or United States Representative	3,500
(3)	A candidate for State Senator	500
(4)	A candidate for State Representative	500
(5)	A candidate for presidential elector at large	500

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- (6) A candidate for presidential elector from a congressional district 100
- (7) A candidate for any other public office
1/4 annual salary.

(No deduction shall be allowed under this clause for any contribution or gift which would be allowable as a credit under section 290.21 were it not for the percentage limitations set forth in such section) ;

(d) All expense money paid by the legislature to legislators.

(2) (a) All interest paid or accrued within the taxable year on indebtedness, except as hereinafter provided.

(b) Interest paid or accrued within the taxable year on indebtedness incurred or continued to purchase or carry obligations or securities the income from which is excludable from gross income under section 290.08, or on indebtedness incurred or continued in connection with the purchasing or carrying of a single premium life insurance, annuity, or endowment contract, shall not be allowed as a deduction. (For purposes of this paragraph, a contract shall be treated as a single premium contract if substantially all the premiums on the contract are paid within a period of four years from the date on which the contract is purchased, or if an amount is deposited after January 1, 1955 with the insurer for payment of a substantial number of future premiums on the contract.)

(c) If personal property is purchased under a contract which provides that payment of part or all of the purchase price is to be made in installments, and in which carrying charges are separately stated but the interest charge cannot be ascertained, then the payments made during the taxable year under the contract shall be treated for purposes of this paragraph as if they included interest equal to 6 percent of the average unpaid balance under the contract during the taxable year, and such interest shall be allowed as a deduction. For purposes of the preceding sentence, the average unpaid balance is the sum of the unpaid balance outstanding on the first day of each month beginning during the taxable year, divided by 12. In the case of any contract to which this paragraph applies, the amount treated as interest for any taxable year shall not exceed the aggregate carrying charges which are properly attributable to such taxable year.

(3) Taxes paid or accrued within the taxable year,

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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) (a) **General Rule.** There shall be allowed as a deduction any loss sustained during the taxable year and not compensated for by insurance or otherwise.

(b) **Amount of Deduction.** For purposes of paragraph (a), the basis for determining the amount of the deduction for any loss shall be the adjusted basis provided in sections 290.14 and 290.15 for determining the loss from the sale or other disposition of property.

(c) **Limitation on Losses of Individuals.** In the case of an individual, the deduction under paragraph (a) shall be limited to

(1) Losses incurred in a trade or business;

(2) Losses incurred in any transaction entered into for profit, though not connected with a trade or business; and

(3) Losses of property not connected with a trade or business, if such losses arise from fire, storm, shipwreck, or other casualty, or from theft. No loss described in this paragraph shall be allowed if, at the time of the filing of the return, such loss has been claimed for inheritance tax purposes.

(d) **Wagering Losses.** Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions.

(e) **Theft Losses.** For purposes of paragraph (a), any loss arising from theft shall be treated as sustained during the taxable year in which the taxpayer discovers such loss.

(f) **Capital Losses.** Losses from sales or exchanges of capital assets shall be allowed only to the extent allowed in section 290.16.

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(g) Worthless Securities.

(1) General Rule. If any security which is a capital asset becomes worthless during the taxable year, the loss resulting therefrom shall, for purposes of this chapter, be treated as a loss from the sale or exchange, on the last day of the taxable year, of a capital asset.

(2) Security Defined. For purposes of this paragraph, the term "security" means:

(A) A share of stock in a corporation;

(B) A right to subscribe for, or to receive, a share of stock in a corporation; or

(C) A bond, debenture, note, or certificate, or other evidence of indebtedness, issued by a corporation or by a government or political subdivision thereof, with interest coupons or in registered form.

(3) Securities in Affiliated Corporation. For purposes of paragraph (1), any security in a corporation affiliated with a taxpayer which is a domestic corporation shall not be treated as a capital asset. For purposes of the preceding sentence, a corporation shall be treated as affiliated with the taxpayer only if:

(A) At least 95 percent of each class of its stock is owned directly by the taxpayer, and

(B) More than 90 percent of the aggregate of its gross receipts for all taxable years has been from sources other than royalties, rents (except rents derived from rental from properties to employees of the corporation in the ordinary course of its operating business), dividends, interest (except interest received on deferred purchase price of operating assets sold), annuities, and gains from sales or exchanges of stocks and securities. In computing gross receipts for purposes of the preceding sentence, gross receipts from sales or exchanges of stocks and securities shall be taken into account only to the extent of gains therefrom.

(5) (a) General Rule.

(1) Wholly worthless debts. There shall be allowed as a deduction any debt which becomes worthless within the taxable year.

(2) Partially worthless debts. When satisfied that a debt is recoverable only in part, the commissioner may al-

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low such a debt, in an amount not in excess of the part charged off within the taxable year, as a deduction.

(b) Amount of Deduction. For purposes of paragraph (a), the basis for determining the amount of the deduction for any bad debts shall be the adjusted basis provided in sections 290.14 and 290.15 for determining the loss from the sale or other disposition of property.

(c) Reserve for Bad Debts. In lieu of any deduction under paragraph (a), there shall be allowed (in the discretion of the commissioner) a deduction for a reasonable addition to a reserve for bad debts. Provided that banks taxable under the provisions of Minnesota Statutes 1957, Section 290.361, which have heretofore in any taxable year taken such deductions by the reserve method for federal income tax purposes pursuant to the Federal Internal Revenue Code of 1954 and regulations adopted pursuant thereto may take such deductions by the same method; and provided further that each savings, building and loan association may take as a reasonable addition to reserve for bad debts such sums as are permitted to such associations for federal income tax purposes under Section 593 of the Federal Internal Revenue Code of 1954, but the deductions by any such association for any one year shall not exceed $\frac{3}{10}$ of one percent of the outstanding share capital as of the beginning of the taxable year or ten percent of the net earnings of such year, before the deduction of interest or dividends payable to its members, whichever is greater.

(D) Nonbusiness Debts.

(1) General Rule. In the case of a taxpayer other than a corporation:

(A) Paragraphs (a) and (c) shall not apply to any nonbusiness debt; and

(B) Where any nonbusiness debt becomes worthless within the taxable year, the loss resulting therefrom shall be considered a loss from the sale or exchange, during the taxable year, of a capital asset held for not more than 6 months.

(2) For purposes of subparagraph (1), the term "non-business debt" means a debt other than:

(A) A debt created or acquired (as the case may be) in connection with a trade or business of the taxpayer; or

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(B) A debt the loss from the worthlessness of which is incurred in the taxpayer's trade or business.

(e) **Worthless Securities.** This section shall not apply to a debt which is evidenced by a security as defined in section 290.09 (4) (g) (2) (C).

(f) **Guarantor of Certain Noncorporate Obligations.** A payment by the taxpayer (other than a corporation) in discharge of part or all of his obligation as a guarantor, endorser, or indemnitor of a noncorporate obligation the proceeds of which were used in the trade or business of the borrower shall be treated as a debt becoming worthless within such taxable year for purposes of this subdivision (except that paragraph (d) shall not apply), but only if the obligation of the borrower to the person to whom such payment was made was worthless (without regard to such guaranty, endorsement, or indemnity) at the time of such payment.

(6) [(A)] (a) There shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear and tear (including a reasonable allowance for obsolescence):

(1) of property used in the trade or business, or

(2) of property held for the production of income.

(b) The term "reasonable allowance" as used in clause (a) shall include (but shall not be limited to) an allowance computed in accordance with regulations prescribed by the Commissioner, under any of the following methods:

(1) the straight line method.

(2) the declining balance method, using a rate not exceeding twice the rate which would have been used had the annual allowance been computed under the method described in paragraph (1).

(3) the sum of the years-digits method, and

(4) any other consistent method productive of an annual allowance, which, when added to all allowances for the period commencing with the taxpayer's use of the property and including the taxable year, does not, during the first two-thirds of the useful life of the property, exceed the total of such allowances which would have been used had such allowances been computed under the method described in (2).

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Nothing in this clause (b) shall be construed to limit or reduce an allowance otherwise allowable under clause (a).

(c) Paragraphs (2), (3), and (4) of clause (b) shall apply only in the case of property (other than intangible property) described in clause (a) with a useful life of 3 years or more.

(1) the construction, reconstruction, or erection of which is completed after December 31, 1958, and then only to that portion of the basis which is properly attributable to such construction, reconstruction, or erection after December 31, 1958, or

(2) acquired after December 31, 1958, if the original use of such property commenced with the taxpayer and commences after such date.

(d) Where, under regulations prescribed by the commissioner, the taxpayer and the commissioner have, after the date of enactment of this act, entered into an agreement in writing specifically dealing with the useful life and rate of depreciation of any property, the rate so agreed upon shall be binding on both the taxpayer and the commissioner in the absence of facts or circumstances not taken into consideration in the adoption of such agreement. The responsibility of establishing the existence of such facts and circumstances shall rest with the party initiating the modification. Any change in the agreed rate and useful life specified in the agreement shall not be effective for taxable years before the taxable year in which notice in writing by registered mail is served by the party to the agreement initiating such change.

(e) In the absence of an agreement under clause (d) containing a provision to the contrary, a taxpayer may at any time elect in accordance with regulations prescribed by the commissioner to change from the method of depreciation prescribed in clause (b) (2) to the method described in clause (c) (1).

(f) The basis on which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in sections 290.14 and 290.15 for the purpose of determining the gain on the sale or other disposition of such property.

(g) 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

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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 an estate, the allowable deduction shall be apportioned between the estate and the heirs, legatees, and devisees on the basis of the income of the estate allocable to each.

(h) 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;

[(B)] (A) In the case of section 1 property, the term "reasonable allowance" as used in section 290.09 (6) may, at the election of the taxpayer, include an allowance, for the first taxable year for which a deduction is allowable under section 290.09 (6) to the taxpayer with respect to such property, of 20 percent of the cost of such property.

(B) If in any one taxable year the cost of section 1 property with respect to which the taxpayer may elect an allowance under subsection (A) for such taxable year exceeds \$10,000, then subsection (A) shall apply with respect to those items selected by the taxpayer, but only to the extent of an aggregate cost of \$10,000. In the case of a husband and wife who file a joint return under section 290.38 for the taxable year, the limitation under the preceding sentence shall be \$20,000 in lieu of \$10,000.

(C) (1) The election under this section for any taxable year shall be made within the time prescribed by law (including extensions thereof) for filing the return for such taxable year. The election shall be made in such manner as the commissioner may be regulations prescribe.

(2) Any election made under this section may not be revoked except with the consent of the commissioner.

(D) (1) For purposes of this section, the term "Section 1 property" means tangible personal property (excluding buildings and structures)

(A) of a character subject to the allowance for depreciation under section 290.09 (6),

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(B) acquired by purchase after December 31, 1958, for use in a trade or business or for holding for production of income, and

(C) with a useful life (determined at the time of such acquisition) of 6 years or more.

(2) For purposes of paragraph (1), the term "purchase" means any acquisition of property, but only if

(A) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 290.10 (6),

(B) the property is not acquired by one member of an affiliated group from another member of the same affiliated group and

(C) the basis of the property in the hands of the person acquiring it is not determined

(i) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

(ii) under section 290.14 (4) (relating to property acquired from a decedent).

(3) For purposes of this section, the cost of property does not include so much of the basis of such property as is determined by reference to the basis of other property held at any time by the person acquiring such property.

(4) This section shall not apply to trusts.

(5) In the case of an estate, any amount apportioned to an heir, legatee, or devisee shall not be taken into account in applying subsection (B) of this section to section 1 property of such heir, legatee, or devisee not held by such estate.

(6) For purposes of subsection (B) of this section

(A) all members of an affiliated group shall be treated as one taxpayer, and

(B) the commissioner shall apportion the dollar limitation contained in such subsection (B) among the members of such affiliated group in such manner as he shall by regulations prescribe.

(7) For purposes of paragraphs (2) and (6), the term "affiliated group" has the meaning assigned to it by section

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1504 of the Internal Revenue Code of 1954, except that, for such purposes, the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in section 1504 (A) of the Internal Revenue Code of 1954.

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

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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) No amount shall be included in gross income by reason of the discharge, in whole or in part, within the taxable year, of any indebtedness for which the taxpayer is liable, or subject to which the taxpayer holds property, if the indebtedness was incurred or assumed by a corporation, or by an individual in connection with property used in his trade or business, and such taxpayer makes and files a consent to the regulations prescribed under the last paragraph of this clause then in effect at such time and in such manner as the commissioner by regulation prescribes.

In such case, the amount of any income of such 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 the 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.

Where any amount is excluded from gross income under this clause the whole or a part of the amount so excluded from gross income shall be applied in reduction of the basis of any property held (whether before or after the time of the discharge) by the taxpayer during any portion of the taxable year in which such discharge occurred. The amount to be so applied (not in excess of the amount so excluded from gross income, reduced by the amount of any reduction disallowed under the preceding paragraph) and the particular properties to which the reduction shall be allocated, shall be determined under regulations (prescribed by the commissioner) in effect at the time of the filing of the consent by the taxpayer. The reduction shall be made as of the first day of the taxable year in which the discharge occurred, except in the case of property not held by the taxpayer on such first day, in which

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case it shall take effect as of the time the holding of the taxpayer began.

(14) An allowance for all taxable years beginning after December 31, 1954, for amortization of bond premiums in accordance with the provisions of section 171 of the Internal Revenue Code of 1954 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, periodic payments to a wife, who is separated from her husband, made under a written separation agreement, and periodic payments to a wife separated from her husband under a decree requiring the husband to make payments for her support or maintenance, received 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. Installment 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 installment 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.

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(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 taxpayer, 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, al-

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teration, 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.

(19) (a) A taxpayer may treat research or experimental expenditures which are paid or incurred by him during the taxable year in connection with his trade or business as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction. A taxpayer may, without the consent of the commissioner, adopt the method provided herein for his first taxable year which begins after December 31, 1954, and for which expenditures described herein are paid or incurred. A taxpayer may, with the consent of the commissioner, adopt at any time the method provided in this paragraph. The method adopted under this paragraph shall apply to all expenditures described herein. The method adopted shall be adhered to in

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computing net income for the taxable year and for all subsequent taxable years unless, with the approval of the commissioner, a change to a different method is authorized with respect to part or all of such expenditures.

(b) At the election of the taxpayer, made in accordance with regulations prescribed by the commissioner, research or experimental expenditures which are paid or incurred by the taxpayer in connection with his trade or business, not treated as expenses under paragraph (a), and chargeable to capital account but not chargeable to property of a character which is subject to the allowance under clause (6) of this section (relating to allowance for depreciation, etc.) or clause (7) of this section (relating to allowance for depletion), may be treated as deferred expenses. In computing net income, such deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months as may be selected by the taxpayer (beginning with the month in which the taxpayer first realizes benefits from such expenditures). Such deferred expenses are expenditures properly chargeable to capital account for purposes of section 290.12, subdivision 2 (relating to adjustments to basis of property). The election provided in this paragraph may be made for any taxable year beginning after December 31, 1954, but only if made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). The method so elected, and the period selected by the taxpayer, shall be adhered to in computing net income for the taxable year for which the election is made and for all subsequent taxable years unless, with the approval of the commissioner, a change to a different method (or to a different period) is authorized with respect to part or all of such expenditures. The election shall not apply to any expenditure paid or incurred during any taxable year before the taxable year for which the taxpayer makes the election.

(c) This clause shall not apply to any expenditure for the acquisition or improvement of land, or for the acquisition or improvement of property to be used in connection with the research or experimentation and of a character which is subject to the allowance under clause (6) of this section (relating to allowance for depreciation, etc.) or clause (7) of this section (relating to allowance for depletion); but for purposes of this clause allowances under clause (6), and allowances under clause (7), shall be considered as expenditures.

(d) This clause shall not apply to any expenditure paid

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or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (including oil and gas).

(20) The organizational expenditures of a corporation may, at the election of the corporation (made in accordance with regulations prescribed by the commissioner), be treated as deferred expenses and in computing net income, such deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months as may be selected by the corporation (beginning with the month in which the corporation begins business). The term "organizational expenditures" means any expenditure which is incident to the creation of the corporation; is chargeable to capital account; and is of a character which, if expended incident to the creation of a corporation having a limited life, would be amortizable over such life. The election provided herein may be made for any taxable year beginning after December 31, 1954, but only if made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). The period so elected shall be adhered to in computing the net income of the corporation for the taxable year for which the election is made and all subsequent taxable years. The election shall apply only with respect to expenditures paid or incurred on or after January 1, 1955.

(21) (A) (1) Any person who constructs, reconstructs, or erects a grain-storage facility (as defined in paragraph (d)) shall, at his election, be entitled to a deduction with respect to the amortization of the adjusted basis (for determining gain) of such facility based on a period of 60 months. The 60-month period shall begin as to any such facility, at the election of the taxpayer, with the month following the month in which the facility was completed, or with the succeeding taxable year.

(2) Any person who acquires a grain-storage facility from a taxpayer who elected under paragraph (b) to take the amortization deduction provided by this paragraph with respect to such facility, and did not discontinue the amortization deduction pursuant to paragraph (c), shall, at his election, be entitled to a deduction with respect to the adjusted basis (determined under paragraph (e) (2)) of such facility based on the period, if any, remaining (at the time of acquisition) in the 60-month period elected under paragraph (b) by the person who constructed, reconstructed, or erected such facility.

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(3) The amortization deduction provided in subparagraphs (1) and (2) shall be an amount, with respect to each month of the amortization period within the taxable year, equal to the adjusted basis of the facility at the end of such month, divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such adjusted basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction above provided with respect to any month shall be in lieu of the depreciation deduction with respect to such facility for such month provided by section 290.09 (6).

(b) The election of the taxpayer under paragraph (a) (1) to take the amortization deduction and to begin the 60-month period with the month following the month in which the facility was completed shall be made only by a statement to that effect in the return for the taxable year in which the facility was completed. The election of the taxpayer under paragraph (a) (1) to take the amortization deduction and to begin such period with the taxable year succeeding such year shall be made only by a statement to that effect in the return for such succeeding taxable year. The election of the taxpayer under paragraph (a) (2) to take the amortization deduction shall be made only by a statement to that effect in the return for the taxable year in which the facility was acquired. Notwithstanding the preceding three sentences, the election of the taxpayer under paragraph (a) (1) or (2) may be made, under such regulations as the commissioner may prescribe, before the time prescribed in the applicable sentence.

(c) A taxpayer which has elected under paragraph (b) to take the amortization deduction provided in paragraph (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the commissioner before the beginning of such month. The depreciation deduction provided under section 290.09 (6) shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction with respect to such facility.

(d) For purposes of this clause, the term "grain-storage facility" means

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(1) any corn crib, grain bin, or grain elevator, or any similar structure suitable primarily for the storage of grain, which crib, bin, elevator, or structure is intended by the taxpayer at the time of his election to be used for the storage of grain produced by him (or, if the election is made by a partnership, produced by the members thereof); and

(2) any public grain warehouse permanently equipped for receiving, elevating, conditioning, and loading out grain, the construction, reconstruction, or erection of which was completed after December 31, 1954, and on or before December 31, 1956. If any structure described in subparagraph (1) or (2) of the preceding sentence is altered or remodeled so as to increase its capacity for the storage of grain, or if any structure is converted, through alteration or remodeling, into a structure so described, and if such alteration or remodeling was completed after December 31, 1954, and on or before December 31, 1956, such alteration or remodeling shall be treated as the construction of a grain-storage facility. The term "grain-storage facility" shall include only property of a character which is subject to the allowance for depreciation provided in section 290.09 (6). The term "grain-storage facility" shall not include any facility any part of which is an emergency facility within the meaning of section 290.09 (12).

(e) (1) For purposes of paragraph (a) (1) in determining the adjusted basis of any grain-storage facility, the construction, reconstruction, or erection of which was begun before January 1, 1955, there shall be included only so much of the amount of the adjusted basis (computed without regard to this paragraph) as is properly attributable to such construction, reconstruction, or erection after December 31, 1954; and in determining the adjusted basis of any facility which is grain-storage facility within the meaning of the second sentence of paragraph (d), there shall be included only so much of the amount otherwise included in such basis as is properly attributable to the alteration or remodeling.

If any existing grain-storage facility as defined in the first sentence of paragraph (d) is altered or remodeled as provided in the second sentence of paragraph (d), the expenditures for such remodeling or alteration shall not be applied in adjustment of the basis of such existing facility but a separate basis shall be computed in respect of such facility as if the part altered or remodeled were a new and separate grain-storage facility.

(2) For purposes of paragraph (a) (2), the adjusted

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basis of any grain-storage facility shall be whichever of the following amounts is the smaller: The basis (unadjusted) of such facility for purposes of this section in the hands of the transferor, donor, or grantor, adjusted as if such facility in the hands of the taxpayer had a substituted basis, or so much of the adjusted basis (for determining gain) of the facility in the hands of the taxpayer (as computed without regard to this paragraph) as is properly attributable to construction, reconstruction, or erection after December 31, 1954. The term "substituted basis" as used in the preceding sentence means a basis determined under any provision of this chapter, providing that the basis shall be determined

(1) By reference to the basis in the hands of a transferor, donor, or grantor, or

(2) By reference to other property held at any time by the person for whom the basis is to be determined.

(f) If the adjusted basis of the grain-storage facility (computed without regard to paragraph (e)) exceeds the adjusted basis computed under paragraph (e), the depreciation deduction provided by section 290.09 (6) shall, despite the provisions of paragraph (a) (3) of this clause, be allowed with respect to such grain-storage facility as if the adjusted basis for the purpose of such deduction were an amount equal to the amount of such excess.

(g) In the case of property held by one person for life with remainder to another person, the amortization deduction provided in paragraph (a) 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.

(22) Expenditures which are paid or incurred during the taxable year by a taxpayer engaged in the business of farming for the purpose of soil or water conservation in respect of land used in farming, or for the prevention of erosion of land used in farming, may be treated by him as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction, but the amount deductible for any taxable year shall not exceed 25 percent of the gross income derived from farming during the taxable

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year. If for any taxable year the total of the expenditures treated as expenses which are not chargeable to capital account exceeds 25 percent of the gross income derived from farming during the taxable year, such excess shall be deductible for succeeding taxable years in order of time; but the amount deductible under this clause for any one such succeeding taxable year (including the expenditures actually paid or incurred during the taxable year) shall not exceed 25 percent of the gross income derived from farming during the taxable year.

For purposes of this clause the term "expenditures which are paid or incurred by him during the taxable year for the purpose of soil or water conservation in respect of land used in farming, or for the prevention of erosion of land used in farming" means expenditures paid or incurred for the treatment or moving of earth, including (but not limited to) leveling, grading and terracing, contour furrowing, the construction, control, and protection of diversion channels, drainage ditches, earthen dams, watercourses, outlets, and ponds, the eradication of brush, and the planting of windbreaks. Such term does not include the purchase, construction, installation, or improvement of structures, appliances, or facilities which are of a character which is subject to the allowance for depreciation provided in section 290.09 (6), or any amount paid or incurred which is allowable as a deduction without regard to this clause.

The term "land used in farming" means land used (before or simultaneously with the expenditures described in the foregoing paragraphs of this clause) by the taxpayer or his tenant for the production of crops, fruits, or other agricultural products or for the sustenance of livestock.

A taxpayer may, without the consent of the commissioner, adopt the method provided in this clause for his first taxable year which begins after December 31, 1954, and for which expenditures described in this clause are paid or incurred. A taxpayer may, with the consent of the commissioner, adopt at any time the method provided in this clause. The method adopted shall apply to all expenditures described in this clause. The method adopted shall be adhered to in computing net income for the taxable year and for all subsequent taxable years unless, with the approval of the commissioner, a change to a different method is authorized with respect to part or all of such expenditures.

(23) The amount he has paid to others for tuition of

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each dependent and the cost of transportation of each dependent in attending an elementary or secondary school; provided that the deduction for each dependent shall not exceed \$200.

Sec. 4. Minnesota Statutes 1957, Section 290.18, Subdivision 2, is amended to read:

Subd. 2. **Adjusted gross income.** The adjusted gross income shall, except in so far as section 290.19 is applicable, be computed by deducting from the gross income assignable to this state under section 290.17, the following deductions:

(1) The deductions allowed by sections 290.09, 290.075 and 290.077 which are attributable to a trade or business carried on by the taxpayer, if such trade or business does not consist of the performance of services by the taxpayer as an employee;

(2) The deductions allowed by section 290.09 which consist of expenses of travel, meals, and lodging while away from home, paid or incurred by the taxpayer in connection with the performance by him of services as an employee;

(3) The deductions allowed by section 290.09, which consist of expenses paid or incurred by the taxpayer in connection with the performance by him of services as an employee under a reimbursement or other expense allowance arrangement with his employer;

(4) The deductions allowed by section 290.09 which consist of expenses of transportation paid or incurred by the taxpayer in connection with the performance by him of services as an employee;

(5) The deductions allowed by section 290.09 which are attributable to a trade or business carried on by the taxpayer, if such trade or business consists of the performance of services by the taxpayer as an employee and if such trade or business is to solicit, away from the employer's place of business, business for the employer;

(6) The deductions (other than those provided in paragraphs 1, 8, and 9) allowed by section 290.89 and 290.977 which are attributable to property held for the production of rents or royalties;

(7) The deductions (other than those provided in paragraph (1)) for depreciation and depletion allowed by

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section ~~298.89 (6) and (7)~~ to a life tenant of property or to an income beneficiary of property held in trust;

~~(8) The deductions (other than those provided in paragraph (1)) allowed by sections 298.89, 298.16, subdivision 5, as losses from the sale or exchange of property;~~

~~(9) Allowable federal income taxes determined under the provisions of sections 290.09 (3), 290.10 (9) and 290.18.~~

~~(10) The deductions allowed by section 290.16, subdivision 3, relating to long term capital gains.~~

The ~~deductions~~ *deduction* enumerated in this subdivision shall be allowed to the extent provided in subdivision 1.

Sec. 5. Minnesota Statutes 1957, Section 290.38, as amended by Extra Session Laws 1959, Chapter 70, Article III, Section 13, is amended to read:

290.38 Joint returns of husband and wife. A husband and wife may make a single return jointly even though one of the spouses has neither gross income nor deductions. If a joint return is made the tax shall be computed on the aggregate income and the liability with respect to the tax shall be joint and several. If both husband and wife have gross income they may elect to either file a single return jointly or may file separate returns. This election to file a joint or separate returns may be changed within the period provided for the assessment of additional taxes on said return or returns. This election shall be applicable only for taxable years beginning after December 31, 1957.

No joint return shall be made if the husband and wife have different taxable years; except that if such taxable years begin on the same day and end on different days because of the death of either or of both, then the joint return may be made with respect to the taxable year of each. The above exception shall not apply if the surviving spouse remarries before the close of his taxable year or if the taxable year of either spouse is a fractional part of a year under section 290.32.

In the case of the death of one spouse or both spouses the joint return with respect to the decedent may be made only by the executor or administrator of his estate; except that in the case of the death of one spouse the joint return may be made by the surviving spouse with respect to both himself and the decedent if (a) no return for the taxable

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year has been made by the decedent, (b) no executor or administrator has been appointed, and (c) no executor or administrator is appointed before the last day prescribed by law for filing the return of the surviving spouse. If an executor or administrator of the estate of the decedent is appointed after the joint return has been filed by the surviving spouse, the executor or administrator may disaffirm such joint return by filing, within one year after the last day prescribed by law for filing the return of the surviving spouse, a separate return for the taxable year of the decedent with respect to which the joint return was made, in which case the return made by the survivor shall constitute his separate return.

If husband and wife determine their federal income tax on a joint return but determine their Minnesota income taxes separately, they shall determine their Minnesota gross income separately as if their federal adjusted gross incomes had been determined separately.

Sec. 6. Minnesota Statutes 1957, Section 290.49, is amended by adding a new subdivision to read:

[Subd. 10.] Incorrect determination of federal adjusted gross income. *Notwithstanding any other provision of Chapter 290, if a taxpayer whose gross income is determined under section 290.01, subdivision 20 (1), omits from income such an amount as will under the Internal Revenue Code of 1954, extend the statute of limitations for the assessment of federal income taxes; or otherwise incorrectly determines his federal adjusted gross income resulting in adjustments by the Internal Revenue Service then the period of assessment and determination of tax shall be the same as that under the Internal Revenue Code of 1954.*

Sec. 7. *The provisions of this act shall be applicable to all taxable years beginning after December 31, 1960.*

Approved April 6, 1961.

CHAPTER 214—S. F. No. 387

[Coded]

An act relating to the public health; requiring employees of school districts to show freedom from tuberculosis.

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