

- (1) To take small game, \$2;
- (2) To take deer with firearms, \$3.50;
- (3) To take deer with bow and arrow, \$3.50;
- (4) To take fish by angling, ~~\$1.50~~ \$2.25;
- (5) Combination husband and wife, to take fish by angling, ~~\$2~~ \$2.75;
- (6) To take moose, \$5.25.

Sec. 2. Minnesota Statutes 1957, Section 98.46, Subdivision 15, is amended to read:

Subd. 15. *Fee Fees* for the following ~~license licenses~~, to be issued to nonresidents, shall be:

- (1) To take fish by angling, ~~\$4.~~ \$5.25;
- (2) *Combination husband and wife, to take fish by angling, \$8.25.*

Sec. 3. **Effective date.** *The provisions of this act relating to an increase in the angling fees in Section 1, Subdivision 2, shall take effect January 1, 1962 and in Section 2, Subdivision 15 from and after its passage.*

Approved April 20, 1961.

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CHAPTER 457—S. F. No. 353

[Coded]

*An act relating to income taxation; providing for the election of certain business corporations as to their taxable status and defining the same; and providing for other rules and regulations applicable to said corporations.*

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

Section 1. [290.971] **Election of certain small business corporations as to taxable status; definitions.** Subdivision 1. **Small business corporation.** For purposes of chapter 290, the term "small business corporation" means a domestic corporation of the United States which is not a member of an affiliated group (as defined in section 1504 of the Internal Revenue Code of 1954) and which does not—

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- (1) have more than ten shareholders;
- (2) have as a shareholder a person (other than an estate) who is not an individual;
- (3) have a nonresident alien as a shareholder; and
- (4) have more than one class of stock.

**Subd. 2. Electing small business corporation.** For purposes of chapter 290, the term "electing small business corporation" means, with respect to any taxable year, a small business corporation which has made an election under section 2, subdivision 1, which, under section 2, is in effect for such taxable year.

**Subd. 3. Stock owned by husband and wife.** For purposes of subdivision 1 (1) stock which—

- (1) is community property of a husband and wife (or the income from which is community income) under the applicable community property law of a state, or
- (2) is held by a husband and wife as joint tenants, tenants by the entirety, or tenants in common, shall be treated as owned by one shareholder.

**Sec. 2. [290.972] Election by small business corporation.** Subdivision 1. **Eligibility.** Except as provided in subdivision 6 any small business corporation and its shareholders may, in accordance with the provisions of this section, elect to have said corporation and its shareholders taxed as though said corporation were a partnership. Such election shall be valid only if all persons who are shareholders in such corporation—

(1) on the first day of the first taxable year for which such election is effective, if such election is made on or before such first day, or

(2) on the day on which the election is made, if the election is made after such first day,

consent to such election.

**Subd. 2. Effect.** If a small business corporation makes an election under subdivision 1, then—

(1) with respect to the taxable years of the corporation for which such election is in effect, such corporation shall not be subject to the taxes imposed by chapter 290, and

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(2) with respect to the taxable years of a shareholder of such corporation in which or with which the taxable years of the corporation for which such election is in effect and, the provisions of section 3 shall apply to such shareholder.

**Subd. 3. Where and how made.**

(1) **In general.** An election under subdivision 1 may be made by a small business corporation for any taxable year at any time during the first month of such taxable year, or at any time during the month preceding such first month. Such election shall be made in such manner as the commissioner shall prescribe by regulation.

(2) **Taxable years beginning before date of enactment.** An election may be made under subdivision 1 by a small business corporation for its first taxable year which begins after December 31, 1960, and on or before the date of the enactment of this act, and ends after such date any time—

(A) within the 90-day period beginning on the day after the date of the enactment of this act, or

(B) if its taxable year ends within such 90-day period, before the close of such taxable year.

An election may be made pursuant to this paragraph only if the small business corporation has been a small business corporation (as defined in section 1, subdivision 1) on each day after the date of the enactment of this act and before the day of such election.

**Subd. 4. Years for which effective.** An election under subdivision 1 shall be effective for the taxable year of the corporation for which it is made and for all succeeding taxable years of the corporation, unless it is terminated, with respect to any such taxable year, under subdivision 5.

**Subd. 5. Termination.**

(1) **New shareholders.** An election under subdivision 1 made by a small business corporation shall terminate if any person who was not a shareholder in such corporation—

(A) on the first day of the first taxable year of the corporation for which the election is effective, if such election is made on or before such first day, or

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(B) on the day on which the election is made, if such election is made after such first day,

becomes a shareholder in such corporation and does not consent to such election within such time as the commissioner shall prescribe by regulation. Such termination shall be effective for the taxable year of the corporation in which such person becomes a shareholder in the corporation and for all succeeding taxable years of the corporation.

(2) **Revocation.** An election under subdivision 1 made by a small business corporation may be revoked by it for any taxable year of the corporation after the first taxable year for which the election is effective. An election may be revoked only if all persons who are shareholders in the corporation on the day on which the revocation is made consent to the revocation. A revocation under this paragraph shall be effective—

(A) for the taxable year in which made, if made before the close of the first month of such taxable year,

(B) for the taxable year following the taxable year in which made, if made after the close of such first month,

and for all succeeding taxable years of the corporation. Such revocation shall be made in such manner as the commissioner shall prescribe by regulation.

(3) **Ceases to be small business corporation.** An election under subdivision 1 made by a small business corporation shall terminate if at any time—

(A) after the first day of the first taxable year of the corporation for which the election is effective, if such election is made on or before such first day, or

(B) after the day on which the election is made, if such election is made after such first day,

the corporation ceases to be a small business corporation (as defined in section 1, subdivision 1). Such termination shall be effective for the taxable year of the corporation in which the corporation ceases to be a small business corporation and for all succeeding taxable years of the corporation.

(4) **Foreign income.** An election under subdivision 1 made by a small business corporation shall terminate if for any taxable year of the corporation for which the election is in effect, such corporation derives more than 80 percent of

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its gross receipts from sources outside the United States. Such termination shall be effective for the taxable year of the corporation in which it derives more than 80 percent of its gross receipts from sources outside the United States, and for all succeeding taxable years of the corporation.

(5) **Personal holding company income.** An election under subdivision 1 made by a small business corporation shall terminate if, for any taxable year of the corporation for which the election is in effect, such corporation has gross receipts more than 20 percent of which is derived from royalties, rents, dividends, interest, annuities, and sales or exchanges of stock or securities (gross receipts from such sales or exchanges being taken into account for purposes of this paragraph only to the extent of gains therefrom). Such termination shall be effective for the taxable year of the corporation in which it has gross receipts of such amount, and for all succeeding taxable years of the corporation.

Subd. 6. **Election after termination.** If a small business corporation has made an election under subdivision 1 and if such election has been terminated or revoked under subdivision 5, such corporation (and any successor corporation) shall not be eligible to make an election under subdivision 1 for any taxable year prior to its fifth taxable year which begins after the first taxable year for which such termination or revocation is effective, unless the commissioner consents to such election.

Sec. 3. [290.973] **Corporation taxable income taxed to shareholders.** Subdivision 1. **General rule.** The taxable income of an electing small business corporation for any taxable year shall be included in the gross income of the shareholders of such corporation in the manner and to the extent set forth in this section.

Subd. 2. **Taxable income defined.** For purposes of this section the term "taxable income" means the taxable net income of the small business corporation computed as though said corporation were a partnership and in accordance with the provisions of section 290.31, subdivision 3; however, such computation shall not result in the exclusion of any class of income which would be taxable to the corporation under the provisions of chapter 290.

Subd. 3. **Amount included in gross income.** Each person who is a shareholder of an electing small business corporation on the last day of a taxable year of such corporation

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shall include in his gross income, for his taxable year in which or with which the taxable year of the corporation ends, his pro rata share of the corporation's taxable income for the corporation's taxable year in accordance with the provisions of section 290.31, subdivision 2.

**Subd. 4. Treatment of family groups.** Any amount taxable to a shareholder from an electing small business corporation under section 3, subdivision 3, may be apportioned or allocated by the commissioner between or among shareholders of such corporation who are members of such shareholder's family (as defined in section 290.10 (6)) if he determines that such apportionment or allocation is necessary in order to reflect the value of services rendered to the corporation by such shareholders.

**Sec. 4. [290.974] Return of electing small business corporation.** Every electing small business corporation (as defined in section 1, subdivision 1) shall make a partnership return for each taxable year during which said election is in effect stating specifically the names and addresses of all persons owning stock in the corporation at any time during the taxable year, the number of shares of stock owned by each shareholder at all times during the taxable year, and such other information for the purpose of carrying out the provisions of this act as the commissioner may by forms and regulations prescribe. Any return filed pursuant to this section shall, for purposes of sections 290.49 and 290.50 (relating to limitations), be treated as a return filed by a partnership under section 290.41.

**Sec. 5. [290.975] Classification of income.** The income taxable under the internal Revenue Code to an individual because of his stock ownership in an electing Subchapter S Corporation, shall be considered income of said individual within the measure of the tax imposed by Chapter 290, if for said taxable year during which said corporation is an electing Subchapter S Corporation, an election has also been made under this act for the taxation of said corporation as though it were a partnership.

Approved April 20, 1961.

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