(4) **Years of service.** *In determining the number of years of service for purposes of this subdivision, there shall be included—*

(A) one year for each full year during which the individual was a full-time employee of the organization purchasing the annuity for him, and

(B) a fraction of a year (determined in accordance with regulations prescribed by the commissioner) for each full year during which such individual was a part-time employee of such organization and for each part of a year during which such individual was a full-time or part-time employee of such organization.

In no case shall the number of years of service be less than one.

(5) **Application to more than one annuity contract.** *If for any taxable year of the employee this subdivision applies to 2 or more annuity contracts purchased by the employer, such contracts shall be treated as one contract.*

(6) **Forfeitable rights which become nonforfeitable.** *For purposes of this subdivision and section 290.08, subdivision 4(f) (relating to special rules for computing employees' contributions to annuity contracts), if rights of the employee under an annuity contract described in subparagraphs (A) and (B) of paragraph (1) change from forfeitable to nonforfeitable rights, then the amount (determined without regard to this subdivision) includible in gross income by reason of such change shall be treated as an amount contributed by the employer for such annuity contract as of the time such rights become nonforfeitable.*

Approved April 20, 1961.

CHAPTER 502—S. F. No. 1283

An act relating to taxes on and measured by net income; amending Minnesota Statutes 1957, Section 290.09, as amended.

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

Section 1. 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 net income:

[(1)] (a) In General. There shall be allowed as 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 necesssary 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
(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, 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~~.~~ *except as provided in Minnesota Statutes 290.077, Subdivision 4, and (d) cigarette and tobacco products excise tax imposed on the consumer.* 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.

(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 allow 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 debt 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 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 "nonbusiness 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

(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). 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 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),

(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 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 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 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.

(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 in-*

terest (allowable as a deduction under clause (2) of this section) paid or incurred by the corporation on its indebtedness contracted in the acquisition, construction, alteration, 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 un-

der this paragraph shall apply to all expenditures described herein. 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.

(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 commissoner, 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 pur-

poses 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 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 acquisi-

tion) in the 60-month period elected under paragraph (b) by the person who constructed, reconstructed, or erected such facility.

(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

(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 sep-

arate 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 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 ero-

sion 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 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 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.

Approved April 20, 1961.

CHAPTER 503—S. F. No. 1285

An act relating to the excise tax on gasoline and gasoline substitutes; amending Minnesota Statutes 1957, Sections 296.10; 296.12, subdivisions 1 and 2; and 296.22, Subdivision 7.

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

Section 1. Minnesota Statutes 1957, Section 296.10, is amended to read:

296.10 **Transport permits.** Any person who*:*

(a) transports petroleum products into this state or *from refineries or terminals* within this state *to destinations in this state,* ~~for storage, sale, distribution or use therein,~~ *or*

(b) transports petroleum products from refineries or terminals within this state to destinations outside this state, in truck transports, shall make application for and secure from the commissioner a transport permit which shall bear a distinctive number for each cargo tank so used. The permit shall be carried in an accessible container attached to the cargo tank while the transport is in this state, and the permit number shall be painted in six inch letters in a conspicuous place on the left front and right rear ends of the cargo tank for which the permit number is issued. The permit shall expire annually on January 31.

Section 2. Minnesota Statutes 1957, Section 296.12, Subdivision 1, is amended to read: