

CHAPTER 355—H. F. No. 562

[Coded in Part]

An act relating to taxes on and measured by net income; amending Minnesota Statutes 1961, Sections 290.01, Subdivision 20, 290.09, Subdivisions 6 and 10, 290.095, Subdivision 1 and by adding two new subdivisions to said section, 290.18, Subdivision 1, 290.37, Subdivision 1, 290.56, 290.92, Subdivisions 11 and 15 and by adding a new subdivision to said section, 290.93, Subdivision 3, 290.971, Subdivision 1 and 290.972 by adding a new subdivision thereto.

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

Section 1. Minnesota Statutes 1961, Section 290.01, Subdivision 20, is amended to read:

Subd. 20. **Income tax; gross income.** Except as otherwise provided in this chapter, the term "gross income," as applied to corporations 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.

The term "gross income" in its application to individuals, estates and trusts 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.

(a) Modifications increasing federal adjusted 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

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(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.

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.

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(c) *Modification in computing taxable income of the estate of a decedent. Amounts allowable under section 291.07 (2) in computing Minnesota inheritance tax liability shall not be allowed as a deduction in computing the taxable income of the estate unless there is filed within the time and in the manner and form prescribed by the commissioner a statement that the amounts have not been allowed as a deduction under section 291.07 and a waiver of the right to have such amounts allowed at any time as deductions under section 291.07. The provisions of this paragraph shall not apply with respect to deductions allowed under section 290.077 (relating to income in respect of decedents). In the event that the election made for federal tax purposes under section 642 (g) of the Internal Revenue Code differs from the election made under this paragraph appropriate modification of the estate's federal taxable income shall be made to implement the election made under this paragraph, in accordance with regulations prescribed by the commissioner.*

Sec. 2. Minnesota Statutes 1961, Section 290.09, Subdivision 6, is amended to read:

Subd. 6. **Bad debts.** (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

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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 and mutual savings or cooperative bank may take as a reasonable addition to reserve for bad debts such sums as are permitted to such organizations for federal income tax purposes, for the taxable year, under section 593 of the Internal Revenue Code as amended, but the deductions for any such organization for any one year shall not exceed the greater of the following:

(1) *In the case of savings, building and loan associations not to 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, and*

(2) *In the case of mutual savings or cooperative banks $3/10$ of one percent of the deposits as of the beginning of the taxable year or ten percent of the net earnings of such year before the deduction of interest or payments to its members and/or depositors.*

(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 six 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

(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, subdivision 5 (g) (2) (C).

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(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.

Sec. 3. *The provisions of section 2 shall be applicable to all taxable years beginning after December 31, 1962.*

Sec. 4. Minnesota Statutes 1961, Section 290.09, Subdivision 10, is amended to read:

Subd. 10 Medical expenses. 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 *and medical* 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.

Sec. 5. Minnesota Statutes 1961, Section 290.095, Subdivision 1, is amended to read:

290.095 Net operating loss. Subdivision 1. **Defined and limited.** The term "net operating loss" as used in this section shall mean the excess of the deductions of the kind provided for in section 290.09, permitted to be taken in computing a taxpayer's taxable net income, as that term is defined in section 290.01, subdivision 19, over the gross income used in computing such taxable net income, with the exceptions, additions and limitations provided in subdivision 4. *A net operating loss deduction shall be available under this section only to corporate taxpayers except as provided in subdivision 6 hereof.*

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Sec. 6. Minnesota Statutes 1961, Section 290.095, is amended by adding a new subdivision to read:

[Subd. 6.] **Individuals, estates and trusts.** *Any individual, estate or trust who in a taxable year beginning after December 31, 1960 sustains a net operating loss, under the provisions of section 172 of the Internal Revenue Code of 1954 as amended, which net operating loss is under the provisions of the aforesaid code carried back as a net operating loss deduction, for federal income tax purposes, to any taxable year beginning prior to January 1, 1961 shall be entitled, in computing their Minnesota income tax liability for the year in question, to a deduction for such year computed under this section; however, no such deduction shall be allowed with respect to any taxable year beginning after December 31, 1960. A net operating loss sustained in a taxable year beginning prior to January 1, 1961 may not under this section be carried forward to a taxable year beginning after December 31, 1960.*

If such taxpayers by virtue of the deduction provided by this subdivision become entitled to a refund of taxes paid for any taxable year beginning prior to January 1, 1961 a claim for refund based upon said deduction may, notwithstanding any provision of law to the contrary, be filed on or before December 31, 1964. In the case of a taxpayer on the fiscal year basis such claim for refund must be filed on or before April 15, 1965.

Sec. 7. Minnesota Statutes 1961, Section 290.095, is amended by adding a new subdivision to read:

[Subd. 7.] **Tentative carryback adjustments.** (a) *Application for adjustment. A taxpayer may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a net operating loss carryback, provided for by subdivision 2, from any taxable year. The application shall be duly acknowledged and shall be filed on or after the date of filing of the return for the taxable year of the net operating loss from which the carryback results and within a period of 12 months from the end of such taxable year, in the manner and form required by regulations prescribed by the commissioner. The application shall set forth in such detail and with such supporting data and explanation as such regulations shall require:*

- (1) *The amount of the net operating loss;*
- (2) *The amount of the tax previously determined for the prior taxable year affected by such carryback;*
- (3) *The amount of decrease in such tax, attributable to*

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such carryback, such decrease being determined by applying the carryback in the manner provided by law to the items on the basis of which such tax was determined;

(4) *The unpaid amount of such tax;*

(5) *Such other information for purposes of carrying out the provisions of this subdivision as may be required by such regulations.*

An application under this subdivision shall not constitute a claim for credit or refund.

(b) *Allowance of adjustments. Within a period of 90 days from the date on which an application for a tentative carryback adjustment is filed under (a), or from the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for the taxable year of the net operating loss from which such carryback results, whichever is the later, the commissioner shall make, to the extent he deems practicable in such period a limited examination of the application, to discover omissions and errors of computation therein, and shall determine the amount of the decrease in the tax attributable to such carryback upon the basis of the application and the examination, except that the commissioner may disallow, without further action, any application which he finds contains errors of computation which he deems cannot be corrected by him within such 90-day period or material omissions. Such decrease shall be applied against any unpaid amount of the tax decreased and any remainder shall, within such 90-day period, be either credited against any tax or installment thereof then due from the taxpayer, or refunded to the taxpayer.*

(c) *Special period of limitation with respect to net operating loss carrybacks. For the purposes of sections 290.46 and 290.50 if the claim for refund relates to an overpayment attributable to a net operating loss carryback, in lieu of the period of limitation prescribed in sections 290.46 and 290.50, the period shall be that period which ends with the expiration of the 15th day of the 45th month following the end of the taxable year of the net operating loss which results in such carryback.*

Sec. 8. *The provisions of section 7 shall be applicable to all taxable years beginning after December 31, 1961.*

Sec. 9. Minnesota Statutes 1961, Section 290.18, Subdivision 1, is amended to read:

290.18 Taxable net income, adjusted gross income; computation. Subdivision 1. **Taxable net income.** The taxable net income shall, except insofar as section 290.19 is applicable, be com-

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puted by deducting from the gross income assignable to this state under section 290.17 deductions of the kind permitted by section 290.09 in accordance with the following provisions:

(1) Such deductions shall be allowed to the extent that they are connected with and allocable against the production or receipt of such gross income assignable to this state;

(2) That proportion of such deductions, so far as not connected with and allocable against the production or receipt of such gross income assignable to this state and so far as not connected with and allocable against the production or receipt of gross income assignable to other states or countries and so far as not entering into the computation of the net income assignable to this state under section 290.19, shall be allowed which the taxpayer's ~~adjusted~~ gross income from sources within this state, as determined under section 290.17, clauses (1), (2), (3), and (5), bears to his ~~adjusted~~ gross income from all sources, including that entering into the computations provided for by section 290.19; provided that taxes of the kind deductible under section 290.09, subdivision 4, shall, so far as within the description of deductions deductible under this clause, be deductible in their entirety if paid to the state of Minnesota, or any of its subdivisions authorized to impose such taxes, and thereupon be excluded in making the computation of deductions, as in this clause provided.

Sec. 10. *The provisions of section 9 are applicable to all taxable years beginning after December 31, 1960.*

Sec. 11. Minnesota Statutes 1961, Section 290.37, Subdivision 1, is amended to read:

290.37 Persons required to make returns. Subdivision 1. **Persons making returns.** The following persons shall make a return for each taxable year, or fractional part thereof where permitted or required by law:

(a) A single individual with respect to his own taxable net income if that exceeds an amount on which a tax at the rates herein provided would exceed the specified credits allowed, or if his gross income exceeds \$750.

(b) A married individual if his own taxable net income or the combined taxable net income of himself and his spouse exceeds an amount on which a tax at the rates herein provided would exceed the specified credits allowed, or if his gross income or the combined gross income of himself and his spouse exceeds \$1,500.

(c) The executor or administrator of the estate of a decedent

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with respect to the taxable net income of such decedent for that part of the taxable year during which he was alive if such taxable net income exceeds an amount on which a tax at the rates herein provided would exceed the specific credits allowed, or if such decedent's gross income for the aforesaid period exceeds \$750.

(d) The executor or administrator of the estate of a decedent with respect to the taxable net income of such estate if that exceeds an amount on which a tax at the rates herein provided would exceed the specific credits allowed, or if such estate's gross income exceeds \$750.

(e) The trustee or other fiduciary of property held in trust with respect to the taxable net income of such trust if that exceeds an amount on which a tax at the rates herein provided would exceed the specific credits allowed, or if the gross income of such trust exceeds \$750, if in either case such trust belongs to the class of taxable persons.

(f) The guardian of an infant or other incompetent person with respect to such infant's or other person's taxable net income if that exceeds an amount on which a tax at the rates herein provided would exceed the specific credits allowed, or if the gross income of such infant or other incompetent person exceeds \$750.

(g) Every corporation with respect to its taxable net income if in excess of \$500, or if its gross income exceeds \$5,000. The return in this case shall be signed by the president, vice-president, or other principal officer, and by the treasurer or assistant treasurer.

(h) The receivers, trustees in bankruptcy, or assignees operating the business or property of a taxpayer with respect to the taxable net income of such taxpayer if that exceeds an amount on which a tax at the rates herein provided would exceed the specific credits allowed (or, if the taxpayer is a corporation, if the taxable net income exceeds \$500), or if such taxpayer's gross income exceeds \$5,000.

Such return shall (a) be verified or contain a written declaration that it is made under the penalties of criminal liability for willfully making a false return, and (b) shall contain a confession of judgment for the amount of the tax shown due thereon to the extent not timely paid.

For purposes of (a) through (f) the term "gross income" shall mean gross income as defined in Section 61 of the internal revenue code of 1954, as amended.

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Sec. 12. *The provisions of section 11 shall be applicable to all taxable years beginning after December 31, 1962.*

Sec. 13. Minnesota Statutes 1961, Section 290.56, is amended to read:

290.56 Examination of taxpayer's records; change in federal return. (A) For the purpose of determining the correctness of any return or of determining whether or not any person should have made a return or paid taxes hereunder, the commissioner shall have power to examine, or cause to be examined, any books, papers, records, or memoranda relevant to making such determinations, including the taxpayer's retained copy of his return of income to the United States government for any year, whether such books, papers, records, or memoranda are the property of or in the possession of the taxpayer or any other person or corporation. He shall further have power to require the attendance of any taxpayer or other person having knowledge or information in the premises to compel the production of books, papers, records, or memoranda by persons so required to attend, to take testimony on matters material to such determination, and to administer oaths or affirmations.

(B) If the amount of net income for any year of any taxpayer as returned to the United States Treasury Department is changed or corrected by the commissioner of internal revenue or other office of the United States or other competent authority, or where a renegotiation of a contract or subcontract with the United States results in a change in net income, such taxpayer shall report such changed or corrected income, or the results of such renegotiation, within 90 days after the final determination of such change or correction or renegotiation, or as required by the commissioner of taxation and shall concede the accuracy of such determination or state wherein it is erroneous. Any taxpayer filing an amended return with such department shall also file within 90 days thereafter a copy of such amended return with the commissioner of taxation. *Any taxpayer who consents to an extension of time for the assessment of taxes with the internal revenue service shall within 90 days notify the commissioner of taxation of the execution of such consent.*

(C) Failure to report such changed or corrected federal net income or to file a copy of such amended federal return *or notify the commissioner of the execution of such consent* as set forth above and within the time stated shall suspend the running of the period of limitation until such report or copy has been furnished to the commissioner of taxation, *or until six months following the expiration of the federal period of limitation where no change is made or amended return is filed.*

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Sec. 14. *The provisions of section 13 shall apply to all consents to an extension of time for an assessment of taxes entered into by a taxpayer with the internal revenue service after the effective date of this section.*

Sec. 15. Minnesota Statutes 1961, Section 290.92, Subdivision 11, is amended to read:

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. *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.*

Sec. 16. Minnesota Statutes 1961, Section 290.92, Subdivision 15, is amended to read:

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 or deposited with 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 or deposited 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 or deposit 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~~ or make payments to or deposits

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with 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~~ *wilful neglect*, 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 or deposited with 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 deposits, make and file quarterly returns and make payments to the commissioner of amounts withheld, as required by sections 290.92 to 290.97, wilfully fails to withhold such a tax or make such deposits, files a false or fraudulent return, wilfully fails to make such a payment or deposit, or wilfully attempts in any manner to evade or defeat any such tax or the payment or deposit 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 or deposited by such employer on the basis of such false or fraudulent return or deposit) that should have been properly withheld and paid over or deposited with the commissioner. 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 or deposits 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

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return and make such a payment or deposit, 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, includes 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.

Sec. 17. Minnesota Statutes 1961, Section 290.92, is amended by adding a new subdivision to read:

[Subd. 17.] **Reciprocal arrangement with other states.** *The commissioner may enter into an agreement with the commissioner or other taxing officials of another state for the interpretation and administration of the acts of their several states providing for the collection of income tax at source on wages for the purpose of promoting fair and equitable administration of such acts and to eliminate duplicate withholding. Notwithstanding the provisions of section 290.61 the commissioner at his discretion may furnish information on a reciprocal basis to the taxing officials of another state in order to implement the purposes set forth above.*

Sec. 18. Minnesota Statutes 1961, Section 290.93, Subdivision 3, is amended to read:

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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 290.92, subdivision 12, *reduced by the tax credit, if any, provided for by section 290.081.*

Sec. 19. Minnesota Statutes 1961, Section 290.971, Subdivision 1, is amended to read:

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

- (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, *and has elected under the provisions of section 1372 (a) of the Internal Revenue Code of 1954 as amended to be taxed as a small business corporation under the provisions of said Internal Revenue Code.*

Sec. 20. Minnesota Statutes 1961, Section 290.972, is amended by adding a new subdivision to read:

[Subd. 7.] **Election under internal revenue code.** *Any corporation which has prior to the effective date of this act elected under the provisions of this section to be taxed as a small business corporation but has not elected under the provisions of section 1372 of the Internal Revenue Code of 1954 as amended, to be taxed as a small business corporation under the provisions of said Internal Revenue Code shall (on or before the termination of its current taxable year) so elect under the provisions of section 1372 with respect to the next taxable year commencing after the effective date of this act or said corporation's election under this section shall terminate with the close of its current taxable year.*

Approved April 26, 1963.

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