

that would have been assessed had the land been privately owned. Such determination shall be made only after the governing body has held a hearing on the proposed assessment after at least two weeks notice of the hearing has been given by registered or certified mail to the head of the instrumentality, department or agency having jurisdiction over the property. The amount thus determined may be paid by the instrumentality, department or agency from available funds. If no funds are available and such instrumentality, department or agency is supported in whole or in part by appropriations from the general revenue fund, then it shall include in its next budget request the amount thus determined. No instrumentality, department or agency shall be bound by the determination of the governing body and may pay from available funds or recommend payment in such lesser amount as it determines is the measure of the benefit received by the land from the improvement.

When any local improvement has been heretofore made and special assessments have been levied to finance all or part of the cost of such improvement under any law or charter not expressly authorizing assessments against public property, any governmental unit owning property benefited by such improvement may pay to the city, village, borough or town making the improvement the amount of any benefit received therefrom not in excess of the amount that would have been assessable against such property were it privately owned.

This section shall not modify any law or charter provision authorizing the imposition of special assessments against governmental units.

Approved May 19, 1967.

CHAPTER 597—H. F. No. 1118

[Coded in Part]

An act relating to taxes on and measured by net income and net operating loss deductions; amending Minnesota Statutes 1965, Section 290.095, Subdivisions 1 and 7, and adding a new subdivision to the section.

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

Section 1. Minnesota Statutes 1965, Section 290.095, Subdivision 1, is amended to read:

Changes or additions indicated by italics, deletions by strikeout.

290.095 Income tax; 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~~ *subdivisions 6 and 7 hereof and section 3 of this act.*

Sec. 2. Minnesota Statutes 1965, Section 290.095, Subdivision 7, is amended 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 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 ad-

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justment 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 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.

(e)—~~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. 3. Minnesota Statutes 1965, Section 290.095, is amended by adding a new subdivision to read as follows:

Subd. 9. 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 under this section or as the result in the case of an individual of an adjustment of "federal adjusted gross income" because of the carryback under section 172 of the Internal Revenue Code, 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 46th month (or the 45th month, in the case of a corporation) following the end of the taxable year of the net operating loss which results in such carryback or adjustment of "federal adjusted gross income".

Approved May 19, 1967.

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