

claims; amending Minnesota Statutes 1969, Section 290.988, Subdivisions 2 and 3.

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

Section 1. Minnesota Statutes 1969, Section 290.988, Subdivision 2, is amended to read:

Subd. 2. **TAXATION; INCOME TAX; FRAUDULENT, EXCESSIVE OR NEGLIGENT CLAIMS; INTEREST.** In any case in which it is determined that a claim is or was excessive and was filed with fraudulent intent, the claim shall be disallowed in full, and, if the claim has been paid or a credit has been allowed against income taxes otherwise payable, the credit shall be cancelled and the amount paid may be recovered by assessment as income taxes are assessed. A penalty of 25 percent shall be imposed and such assessment shall bear interest from the due date of the return, until refunded or paid, at the rate of ~~four~~ six percent per annum. The claimant in such case, and any person who assisted in the preparation or filing of such excessive claim or supplied information upon which such excessive claim was prepared, with fraudulent intent, shall be guilty of a misdemeanor.

Sec. 2. Minnesota Statutes 1969, Section 290.988, Subdivision 3, is amended to read:

Subd. 3. **EXCESSIVE OR NEGLIGENT CLAIM.** In any case in which it is determined that a claim is or was excessive, a ten percent penalty shall be imposed on such excess and if the claim has been paid, or credited against income taxes otherwise payable, the credit shall be reduced or cancelled, and the proper portion of any amount paid shall be similarly recovered by assessment as income taxes are assessed and such assessment shall bear interest at ~~four~~ six percent per annum from the date of payment until refunded or paid.

Approved May 25, 1971.

CHAPTER 512—S.F.No.2419

An act relating to taxes on and measured by net income and the sale or exchange of a residence; amending Minnesota Statutes 1969, Section 290.13, Subdivision 9.

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

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

Section 1. Minnesota Statutes 1969, Section 290.13, Subdivision 9, is amended to read:

Subd. 9. TAXATION; INCOME TAX; SALE OR EXCHANGE OF A RESIDENCE. (1) If property (hereinafter in this subdivision referred to as "old residence") used by the taxpayer as his principal residence ~~in this state~~ is sold by him and, within a period beginning one year prior to the date of such sale and ending one year after such date, property (hereinafter in this subdivision referred to as "new residence") is purchased and used by the taxpayer as his principal residence ~~in this state~~, the gain (if any) from such sale shall be recognized only to the extent that the taxpayer's adjusted sales price (as defined in paragraph (2)) of the old residence exceeds the taxpayer's cost of purchasing the new residence.

(2) For purposes of this subdivision

(a) The term "adjusted sales price" means the amount realized (the nominal sales price minus selling expenses), reduced by the aggregate of the expenses for work performed on the old residence in order to assist in its sale.

(b) The reduction provided in subparagraph (a) applies only to expenses

(1) for work performed during the 90-day period ending on the day on which the contract to sell the old residence is entered into,

(2) which are paid on or before the 30th day after the date of the sale of the old residence, and

(3) which are not allowable as deductions in computing net income and taxable net income under section 290.18, subdivision 1 (defining net income and taxable net income), and not taken into account in computing the amount realized from the sale of the old residence.

(c) The reduction provided in subparagraph (a) applies to expenses for work performed in any taxable year (whether beginning before, on, or after January 1, 1955), but only in the case of a sale or exchange of an old residence which occurs after December 31, 1954.

(3) For the purposes of this subdivision:

(a) An exchange by the taxpayer of his residence for other property shall be considered a sale of such residence, and the acquisition of a residence upon the exchange of property shall be considered a purchase of such residence.

(b) A residence any part of which was constructed or reconstructed by the taxpayer shall be considered as purchased by the taxpayer.

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

In determining the taxpayer's cost of purchasing a residence, there shall be included only so much of his cost as is attributable to the acquisition, construction, reconstruction, and improvements made which are properly chargeable to capital account, during the period specified in paragraph (1).

(c) If a residence is purchased by the taxpayer prior to the date of his sale of the old residence, the purchased residence shall not be treated as his new residence if sold or otherwise disposed of by him prior to the date of the sale of the old residence.

(d) If the taxpayer, during the period set forth in paragraph (1), purchases more than one residence which is used by him as his principal residence at some time within one year after the date of the sale of the old residence, only the last of such residences so used by him after the date of such sale shall constitute the new residence.

(e) In the case of a new residence the construction of which was commenced by the taxpayer prior to the expiration of one year after the date of the sale of the old residence, the one year period specified in paragraph (1), and the one year period referred to in subparagraph (d) of paragraph (3), shall be increased to a period of 18 months from and after the date of the sale of the old residence.

(4) The provisions of paragraph (1) shall not be applicable with respect to the sale of the taxpayer's residence if within one year prior to the date of such sale the taxpayer sold at a gain other property used by him as his principal residence, and any part of such gain was not recognized by reason of the provisions of paragraph (1).

(5) Where the purchase of a new residence results, under paragraph (1), in the nonrecognition of gain upon the sale of an old residence, in determining the adjusted basis of the new residence as of any time following the sale of the old residence, the adjustments to basis shall include a reduction by an amount equal to the amount of the gain not so recognized upon the sale of the old residence. For this purpose, the amount of the gain not so recognized upon the sale of the old residence includes only so much of such gain as is not recognized by reason of the cost, up to such time, of purchasing the new residence.

(6) For the purposes of this subdivision, section 290.12, subdivision 2 and section 290.16, subdivision 8, references to property used by the taxpayer as his principal residence, and references to the residence of a taxpayer, shall include stock held by a tenant-stockholder (as defined in section 290.09, subdivision 17) in a cooperative apartment corporation (as defined in section 290.09, subdivision 17) if

(a) in the case of stock sold, the apartment which the taxpayer was entitled to occupy as such stockholder was used by him as his principal residence;

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

(b) in the case of stock purchased, the taxpayer used as his principal residence the apartment which he was entitled to occupy as such stockholder.

(7) If the taxpayer and his spouse, in accordance with regulations issued by the commissioner, consent to the application of subparagraph (b), then

(a) for the purposes of this subdivision, the words "the taxpayer's adjusted sales price of the old residence" as used in paragraph (1) shall mean the adjusted sales price (of the taxpayer, or of the taxpayer and his spouse) of the old residence, and the words "the taxpayer's cost of purchasing the new residence" as used in paragraph (1) shall mean the cost (to the taxpayer, his spouse, or both) of purchasing the new residence (whether held by the taxpayer, his spouse, or the taxpayer and his spouse); and

(b) so much of the gain upon the sale of the old residence as is not recognized solely by reason of this paragraph, and so much of the adjustment under paragraph (5) to the basis of the new residence as results solely from this paragraph, shall be allocated between the taxpayer and his spouse in accordance with regulations issued by the commissioner. This paragraph shall apply only if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence. In case the taxpayer and his spouse do not consent to the application of subparagraph (b), then the recognition of gain upon the sale of the old residence shall be determined under this subdivision without regard to the rules provided in this paragraph.

(8) If the taxpayer during a taxable year sells at a gain property used by him as his principal residence, then

(a) the statutory period for the assessment of any deficiency attributable to any part of such gain shall not expire prior to the expiration of three and one-half years from the date the commissioner is notified by the taxpayer (in such manner as the commissioner may by regulations prescribe) of

(1) the taxpayer's cost of purchasing the new residence which the taxpayer claims results in nonrecognition of any part of such gain.

(2) the taxpayer's intention not to purchase a new residence within the period specified in paragraph (1), or

(3) a failure to make such purchase within such period; and

(b) such deficiency may be assessed prior to the expiration of such three and one-half year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

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

(9) The running of any period of time specified in paragraphs (1) or (3) (other than the one-year period referred to in paragraph (3) (e)) shall be suspended during any time that the taxpayer (or his spouse if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence) serves on extended active duty with the Armed Forces of the United States after the date of the sale of the old residence, except that any such period as so suspended shall not extend beyond the date four years after the date of the sale of the old residence. For the purpose of this paragraph, the term "extended active duty" means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

(10) For purposes of this subdivision, the destruction, theft, seizure, requisition, or condemnation of property, or the sale or exchange of property under threat or imminence thereof

(a) if occurring after December 31, 1950, and before January 1, 1955, shall be treated as the sale of such property; and

(b) if occurring after December 31, 1954, shall not be treated as the sale of such property.

Approved May 25, 1971.

CHAPTER 513—S.F.No.2425

[Coded in Part]

An act relating to inheritance taxes; providing a deduction for state and federal income taxes on income in respect of a decedent; amending Minnesota Statutes 1969, Sections 291.07, Subdivisions 1 and 2, and 291.07, by adding a subdivision.

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

Section 1. Minnesota Statutes 1969, Section 291.07, Subdivision 1, is amended to read:

291.07 TAXATION; INHERITANCE TAX; DEDUCTIONS; COMPUTATION. Subdivision 1. In determining the tax imposed by section 291.01, where the estate has been submitted to the jurisdiction of the probate court, the following deductions shall be allowed:

(1) funeral expenses

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