disclaiming for purposes of the gift tax imposed by Minnesota Statutes, Chapter 292, and acts amendatory thereof, even though such disclaimer may result in the transfer of some interest in the property in which the same existed to another person, the vesting of such interest or property in such other person or the enlargement of an interest or property right already possessed by such other person.

Subd. 2. An interest in real or personal property shall be treated as though such interest has been duly disclaimed in whole or in part pursuant to sections 501.211 or 525.532, provided that in the event of a court action over the validity of a gift or the mental capacity of a donor to make a gift or for any other cause, the court having jurisdiction of the matter has issued an order cancelling, modifying or otherwise altering the interests subject to the gift, either subsequent to a hearing on the merits or in accordance with an agreement between the parties prior to termination of the hearing. Nothing contained herein shall be construed as making any settlement between the parties effective as a disclaimer unless the court issues its order confirming and approving such settlement.

Approved June 4, 1971.

CHAPTER 758—S.F.No.2412

An act relating to taxes on and measured by net income; limiting losses from sales or exchanges of capital assets; providing for capital loss carrybacks and carryovers; amending Minnesota Statutes 1969, Section 290.16, Subdivisions 4, 5 and 6.

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

Section 1. Minnesota Statutes 1969, Section 290.16, Subdivision 4, is amended to read:

Subd. 4. **TAXATION; INCOME TAX; CAPITAL GAINS AND LOSSES.** If for any taxable year the net long-term capital gain exceeds the net short-term capital loss, 50 percent of the amount of such excess shall be a deduction from gross income. ~~In the case of an estate or trust, the deduction shall be computed by excluding the portion (if any), of the gains for the taxable year from sales or exchanges of capital assets, which, under section 290.23 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.~~

Sec. 2. Minnesota Statutes 1969, Section 290.16, Subdivision 5, is amended to read:

Subd. 5. **LIMITATIONS OF LOSSES.** Losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from such sales or exchanges~~, plus the net income of the taxpayer, or $1,000, whichever is smaller. For purposes of this paragraph, net income shall be computed without regard to gains or losses from sales or exchanges of capital assets~~ .

Sec. 3. Minnesota Statutes 1969, Section 290.16, Subdivision 6, is amended to read:

Subd. 6. **CAPITAL LOSS CARRYBACKS AND CARRY-OVERS.** ~~If for any taxable year beginning after December 31, 1956, the taxpayer has a net capital loss, the amount thereof shall be a short-term capital loss in each of the five succeeding taxable years to the extent that such amount exceeds the total of any net capital gains of any taxable years intervening between the taxable year in which the net capital loss arose and such succeeding taxable year. For purposes of this paragraph a net capital gain shall be computed without regard to such net capital loss or to any net capital losses arising in any such intervening taxable years.~~

(a) In General. If a corporation has a net capital loss for any taxable year (hereafter in this paragraph referred to as the "loss year"), the amount thereof shall be

(1) a capital loss carryback to each of the three taxable years preceding the loss year, but only to the extent

(i) such loss is not attributable to a foreign expropriation capital loss, as defined in section 1212 (a) (2) of the Internal Revenue Code, and

(ii) the carryback of such loss does not increase or produce a net operating loss, as defined in section 290.095, for the taxable year to which it is being carried back; and

(2) a capital loss carryover to each of the five taxable years (ten taxable years to the extent such loss is attributable to a foreign expropriation capital loss) succeeding the loss year, and shall be treated as a short term capital loss in each such taxable year. The entire amount of the net capital loss for any taxable year shall be carried to the earliest of the taxable years to which such loss may be carried, and the portion of such loss shall be carried to each of the other taxable years to which such loss may be carried shall be the excess, if any, of such loss over the total of the net capital gains for each of the prior taxable years to which such loss may be carried. For purposes of the preceding sentence, the net capital gain for any

such prior taxable year shall be computed without regard to the net capital loss for the loss year or for any taxable year thereafter. In the case of any net capital loss which cannot be carried back in full to a preceding taxable year by reason of clause (ii) of clause (1), the net capital gains for such prior taxable year shall in no case be treated as greater than the amount of such loss which can be carried back to such preceding taxable year upon the application of such clause (ii).

(b) Priority of Application. For purposes of clauses (1) and (2), if a portion of a net capital loss for any taxable year is attributable to a foreign expropriation capital loss, such portion shall be considered to be a separate net capital loss for such year to be applied after the other portion of such net capital loss.

Sec. 4. The provisions of this act shall apply to taxable years beginning after December 31, 1970.

Approved June 4, 1971.

CHAPTER 759—S.F.No.2418

An act relating to taxation; providing for the disposition of the excise tax imposed on national and state banks; amending Minnesota Statutes 1969, Section 290.361, Subdivision 4.

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

Section 1. Minnesota Statutes 1969, Section 290.361, Subdivision 4, is amended to read:

Subd. 4. **TAXATION; BANKS; DISPOSITION OF TAX.** (a) The revenues derived from the excise tax on banks shall be paid into the state treasury and credited to ~~a special~~ the general fund, from which shall be paid all refunds of taxes erroneously collected from banks as certified by the commissioner. The balance of ~~this fund~~ such tax so collected shall be transmitted, on the last days of May and November of each year, to the respective counties in which are located the banks paying the tax. The county auditor shall apportion and distribute the respective amounts paid by each bank in his county, less refunds paid to that bank, in the same manner and on the same basis as he distributes taxes on personal property in the taxing district in which that bank is located , provided that the governing body of any political subdivision receiving such apportionment may place all such amounts to the credit of its general fund .

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