

The rule, method and standard of mortality and value employed by the commissioner of internal revenue in determining valuation for federal estate tax purposes shall be applicable to transfers taxable under this chapter.

Sec. 2. Minnesota Statutes 1969, Section 291.23, is amended to read:

**291.23 INHERITANCES, HOW APPRAISED.** Every inheritance, devise, bequest, legacy, transfer, or gift upon which a tax is imposed under this chapter shall be appraised at its full and true value immediately upon the death of decedent, or as soon thereafter as may be practicable; provided, that when such devise, bequest, legacy, transfer, or gift shall be of such a nature that its full and true value cannot be ascertained, as herein provided, at such time, it shall be appraised in like manner at the time such value first becomes ascertainable; further provided that if a federal estate tax return is filed and the alternate valuation under section 2032 of the Internal Revenue Code is elected for federal estate tax purposes, every inheritance, devise, bequest, legacy, transfer, or gift upon which a tax is imposed under this chapter shall be valued as of the applicable federal valuation date or dates.

Except as provided in Minnesota Statutes 1969, Section 291.09, the applicable federal valuation date or dates provided in section 2032 of the internal revenue code shall be applicable to transfers taxable under this chapter.

Sec. 3. Minnesota Statutes 1969, Section 292.03, Subdivision 2, is amended to read:

Subd. 2. The value of every future or limited estate, income, interest, or annuity dependent upon any life or lives in being, shall be determined by the provisions of section 291.11, subdivision 2, as amended.

Sec. 4. The provisions of this act shall be applicable in all cases where death occurs after December 31, 1970.

Approved June 4, 1971.

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## CHAPTER 769—S.F.No.2661

*An act relating to taxes on and measured by net income; amending Minnesota Statutes 1969, Section 290.01, Subdivision 20.*

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

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

Section 1. Minnesota Statutes 1969, Section 290.01, Subdivision 20, is amended to read:

**Subd. 20. TAXATION; 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; 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.~~

For each of the taxable years beginning after December 31, 1960 and ending prior to January 1, 1971, the term "gross income" in its application to individuals, estates, and trusts, shall mean the adjusted gross income as computed for federal income tax purposes as defined in the Internal Revenue Code of 1954, as amended for the applicable 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;

(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; and

(5) Amounts received as reimbursement for an expense of sickness or injury which was deducted in a prior taxable year to the extent that the deduction for such reimbursed expenditure resulted in a tax benefit.

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

(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.

(c) Modifications affecting shareholders of electing small business corporations under section 1372 of the Internal Revenue Code or section 290.972 of this chapter.

(1) Shareholders in a small business corporation, which has elected to be so taxed under the Internal Revenue Code but has not made an election under section 290.972 of this chapter, shall deduct from federal adjusted gross income the amount of any imputed income from such corporation and shall add to federal adjusted gross income the amount of any loss claimed as a result of such stock ownership. Also there shall be added to federal adjusted gross income the amount of any distributions in cash or property made by said corporation to its shareholders during the taxable year.

(2) In cases where the small business corporation has made an election under section 1372 of the Internal Revenue Code but has not elected under section 290.972 of this chapter and said corporation is liquidated or the individual shareholder disposes of his stock and there is no capital loss reflected in federal adjusted gross income because of the fact that corporate losses have exhausted the shareholders basis for federal purposes, such shareholders shall be entitled, nevertheless, to a capital loss commensurate to their Minnesota basis for the stock.

(3) In cases where the election under section 1372 of the Internal Revenue Code antedates the election under section 290.972 of this chapter and at the close of the taxable year immediately preceding the effective election under 290.972 the corporation has a reserve of undistributed taxable income previously taxed to shareholders under the provisions of the Internal Revenue Code, in the event and to the

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extent that such reserve is distributed to shareholders such distribution shall be taxed as a dividend for purposes of this act.

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.

(d) Modification in computing taxable income of the estate of a decedent. Amounts allowable under section 291.07, subdivision 1(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. The revisor of statutes is hereby directed to make the following changes in the language of chapter 290. Wherever the phrase Internal Revenue Code or Internal Revenue Code of 1954 is included in said chapter, such phrase shall be changed to read "the Internal Revenue Code of 1954, as amended through December 31, 1970".

Approved June 4, 1971.

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