

Saturdays, Sundays and legal holidays.

(e) Subd. 4. An individual may contest the accuracy or completeness of public or private data concerning himself. To exercise this right, an individual shall notify in writing the responsible authority describing the nature of the disagreement. The responsible authority shall within 30 days either: (a) correct the data if ~~the data~~ is found to be inaccurate or incomplete and attempt to notify past recipients of inaccurate or incomplete data, including recipients named by the individual; or (b) notify the individual of ~~disagreement that he believes the data to be correct.~~ Data in dispute shall ~~not~~ be disclosed ~~except under conditions of demonstrated need and then~~ only if the individual's statement of disagreement is included with the disclosed data.

The determination of the responsible authority is ~~appealable in accordance with~~ may be appealed pursuant to the provisions of the administrative procedure act relating to contested cases.

Sec. 8. This act is effective the day following final enactment.

Approved June 2, 1977.

CHAPTER 376—H.F.No.437

[Coded in Part]

An act relating to taxation; altering the definition of gross income for income tax purposes for individuals, trusts and estates; placing restrictions on certain deductions and allowing certain tax free distributions; extending time for certain sales or exchanges of residential property; making certain changes in treatment of small business corporations; amending Minnesota Statutes 1976, Sections 290.01, Subdivision 20; 290.032, by adding a subdivision; 290.09, Subdivisions 2 and 29; 290.23, by adding a subdivision; 290.26, by adding a subdivision; 290.971, Subdivisions 1 and 3, and by adding subdivisions; 290.972, Subdivision 5; and 290A.03, Subdivision 3 and Chapter 290, by adding a section; repealing Minnesota Statutes 1976, Section 290.13, Subdivision 9.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1976, 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; 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.

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For each of the taxable years beginning after December 31, 1960 and 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 through December 31, 1970 for the applicable taxable year, with the modifications specified in this section.

For each of the taxable years beginning after December 31, 1970, 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 through the date specified herein for the applicable taxable year, with the modifications specified in this section.

(i) The Internal Revenue Code of 1954, as amended through December 31, 1970, shall be in effect for taxable years beginning after December 31, 1970 and prior to January 1, 1973.

(ii) The Internal Revenue Code of 1954, as amended through December 31, 1972, shall be in effect for taxable years beginning after December 31, 1972.

(iii) The Internal Revenue Code of 1954, as amended through December 31, 1973, shall be in effect for taxable years beginning after December 31, 1973.

(iv) The Internal Revenue Code of 1954, as amended through December 31, 1974, shall be in effect for the taxable years beginning after December 31, 1974.

(v) The Internal Revenue Code of 1954, as amended through December 31, 1976, including the amendments made to section 280A (relating to licensed day care centers) in H.R. 3477 as it passed the Congress on May 16, 1977, shall be in effect for the taxable years beginning after December 31, 1976. The provisions of the Tax Reform Act of 1976, P.L. 94-455, which affect adjusted gross income shall become effective for purposes of chapter 290 at the same time they become effective for federal income tax purposes. Section 207 (relating to extension of period for nonrecognition of gain on sale or exchange of residence) and section 402 (relating to time for making contributions to pension plans of self employed people) of P.L. 94-12 shall be effective for taxable years beginning after December 31, 1974.

References to the Internal Revenue Code of 1954 in clauses (a), (b) and (c) following shall mean the code in effect for the purpose of defining gross income for the applicable taxable year.

(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 of 1954;

(2) Interest income on obligations of any authority, commission, or instrumentality

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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 this chapter, to the extent deductible in determining federal adjusted gross income;

(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;

(6) Losses which do not arise from events or transactions which are assignable to Minnesota under the provisions of sections 290.17 to 290.20, including any capital loss or net operating loss carryforwards or carrybacks resulting from such losses, and including any such nonassignable losses which occur prior to the time the individual becomes a resident of the state of Minnesota;

(7) The amount of any federal income tax overpayment for any previous taxable year, received as refund or credited to another taxable year's income tax liability, proportionate to the percentage of federal income tax that was claimed as a deduction in determining Minnesota income tax for such previous taxable year.

The overpayment refund or credit, determined with respect to a husband and wife on a joint federal income tax return for a previous taxable year, shall be reported on joint or separate Minnesota income tax returns. In the case of separate Minnesota returns, the overpayment shall be reported by each spouse proportionately according to the relative amounts of federal income tax claimed as a deduction on his or her separate Minnesota income tax return for such previous taxable year;

(8) In the case of a change of residence from Minnesota to another state or nation, the amount of moving expenses which exceed total reimbursements and which were therefore deducted in arriving at federal adjusted gross income;

(9) In the case of property disposed of on or after January 1, 1973, the amount of any increase in the taxpayer's federal tax liability under section 47 of the Internal Revenue Code of 1954, as amended through December 31, ~~1974~~ 1976, to the extent of the credit under section 38 of the Internal Revenue Code of 1954, as amended through December 31, ~~1974~~ 1976, that was previously allowed as a deduction either under section 290.01, subdivision 20 (b) (9) or under section 290.09, subdivision 24; and

(10) Expenses and losses arising from a farm which are not allowable under section 290.09, subdivision 29;

(11) Expenses and depreciation attributable to substandard buildings disallowed by

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section 290.101;

(12) The amount by which the gain determined pursuant to section 41.59, subdivision 2 exceeds the amount of such gain included in federal adjusted gross income;

(13) Interest income from qualified scholarship funding bonds as defined in section 103(e) of the Internal Revenue Code of 1954, as amended through December 31, 1976, if the nonprofit corporation is domiciled outside of Minnesota;

(14) Exempt-interest dividends, as defined in section 852(b)(5)(A) of the Internal Revenue Code of 1954, as amended through December 31, 1976, not included in federal adjusted gross income pursuant to section 852(b)(5)(B) of the Internal Revenue Code of 1954, as amended through December 31, 1976, except for that portion of such exempt-interest dividends derived from interest income on obligations of the state of Minnesota, any of its political or governmental subdivisions, any of its municipalities, or any of its governmental agencies or instrumentalities;

(15) The amount of any excluded gain realized by a trust on the sale or exchange of property as defined in section 641(c)(1).

(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. This modification shall not be applicable if the difference in basis is due to disallowance of depreciation pursuant to section 290.101.

(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;

(4) Income which does not arise from events or transactions which are assignable to Minnesota under the provisions of sections 290.17 to 290.20;

(5) Losses, not otherwise reducing federal adjusted gross income assignable to Minnesota, arising from events or transactions which are assignable to Minnesota under the provisions of sections 290.17 to 290.20, including any capital loss or net operating loss carryforwards or carrybacks resulting from such losses;

(6) If included in federal adjusted gross income, the amount of any overpayment of

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income tax to Minnesota, or any other state, for any previous taxable year, whether such amount is received as a refund or credited to another taxable year's income tax liability;

(7) The amount of any pension or benefit which is excluded from gross income under the provisions of section 290.08, subdivision 6; and

(8) The amount of compensation for personal services in the armed forces of the United States or the United Nations which is excluded from gross income under the provisions of section 290.65; and

(9) In the case of property acquired on or after January 1, 1973, the amount of any credit to the taxpayer's federal tax liability under section 38 of the Internal Revenue Code of 1954, as amended through December 31, ~~1974~~ 1976, but only to the extent that the credit is connected with or allocable against the production or receipt of income included in the measure of the tax imposed by this chapter;

(10) The amount of any distribution from a qualified pension or profit sharing plan included in federal adjusted gross income in the year of receipt to the extent of any contribution not previously allowed as a deduction by reason of a change in federal law which was not adopted by Minnesota law for a taxable year beginning in 1974 or later .

(c) Modifications affecting shareholders of electing small business corporations under section 1372 of the Internal Revenue Code of 1954, 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 of 1954, 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 of 1954, 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 of 1954 antedates the election under section 290.972 of this chapter and at the close of the taxable year immediately preceding the effective election under section 290.972 the corporation has a reserve of undistributed taxable income previously taxed to shareholders under the provisions of the Internal Revenue Code of 1954, in the event and to the extent that such reserve is distributed to shareholders such distribution shall be taxed as a dividend for purposes of this act.

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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.

(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 of 1954 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 1976, Section 290.032, is amended by adding a subdivision to read:

Subd. 4. The provisions of section 402(e)(4)(L) of the Internal Revenue Code of 1954, as amended through December 31, 1976 (relating to an election on the taxation of lump-sum distributions), may be elected by the taxpayer for the purpose of computing the tax imposed by subdivision 1.

Sec. 3. Minnesota Statutes 1976, Chapter 290, is amended by adding a section to read:

[290.013] ITEMS NOT TO BE TAKEN INTO ACCOUNT REPEATEDLY.
Except as distinctly expressed or manifestly intended, the same item, whether of income, deduction, credit, or otherwise, shall not be taken into account in a taxable year if previously taken into account in a prior taxable year where the reason for the subsequent consideration is solely based on updating a reference to the Internal Revenue Code to take account of an amendment in a later year.

Sec. 4. Minnesota Statutes 1976, Section 290.09, Subdivision 2, is amended to read:

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Subd. 2. **TRADE OR BUSINESS EXPENSES; EXPENSES FOR PRODUCTION OF INCOME.** (a) In General. There shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including

(1) A reasonable allowance for salaries or other compensation for personal services actually rendered;

(2) Traveling expenses (including the entire amount expended for meals and lodging) while away from home in the pursuit of a trade or business; and

(3) Rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity. For purposes of the preceding sentence, the place of residence of a member of congress within the state shall be considered his home, but amounts expended by such members within each taxable year for living expenses shall not be deductible for income tax purposes in excess of \$3,000.

(b) Expenses for Production of Income. In the case of an individual, there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year.

(1) For the production or collection of income;

(2) For the management, conservation, or maintenance of property held for the production of income; or

(3) In connection with the determination, collection, or refund of any tax.

(c) Campaign expenditures in an amount not to exceed the limits set out in section 210A.22, not subsequently reimbursed, which have been personally paid by a candidate for public office if the candidate has complied with the expenditure limitations set out in section 210A.22:

(No deduction shall be allowed under this clause for any contribution or gift which would be allowable as a credit under section 290.21 were it not for the percentage limitations set forth in such section);

(d) All expense money paid by the legislature to legislators;

(e) The provisions of section 280A (disallowing certain expenses in connection with the business use of the home and rental of vacation homes) of the Internal Revenue Code of 1954, as amended through December 31, 1976, shall be applicable in determining the availability of any deduction under this subdivision.

Sec. 5. Minnesota Statutes 1976, Section 290.09, Subdivision 29, is amended to read:

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Subd. 29. **DEDUCTIONS ATTRIBUTABLE TO FARMING.** (a) For purposes of this subdivision, income and gains and expenses and losses shall be considered as "arising from a farm" if such items are received or incurred in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife, and all operations incident thereto, including but not limited to the common use of "hedging".

(b) Except as provided in this subdivision, expenses and losses, except for interest and taxes, arising from a farm shall not be allowed as deductions in excess of income and gains arising from a farm.

(c) For taxable years beginning on or after January 1, 1974, expenses and losses arising from a farm or farms shall be allowed as deductions up to the amount of the income and gains arising from a farm or farms in any taxable year, plus the first \$15,000 of non-farm gross income, or non-farm taxable net income in the case of a corporation, provided however that in any case where non-farm income exceeds \$15,000, the maximum allowable amount of \$15,000 shall be reduced by twice the amount by which the non-farm income exceeds the amount of \$15,000. Any remaining balance of the deductions shall be carried back three years and carried forward five years, in chronological order, provided, however, that in any case in which the taxpayer elects a net operating loss carryforward under section 172(b)(3)(E) of the Internal Revenue Code of 1954, as amended through December 31, 1976, such losses shall not be carried back but shall only be carried forward

Current expenses and losses shall be utilized as deductions in any taxable year, to the extent herein allowable, prior to the application of any carryback or carryover deductions. In any event, the combined amounts of such current expenses and losses and carryback or carryover deductions shall be allowed as deductions up to the amount of the income and gains arising from a farm or farms in any taxable year, plus the first \$15,000 of non-farm gross income, or non-farm taxable net income in the case of a corporation, provided however that in any case where non-farm income exceeds \$15,000, the maximum allowable amount of \$15,000 shall be reduced by twice the amount by which the non-farm income exceeds the amount of \$15,000.

(d) For purposes of this subdivision, individual shareholders of an electing small business corporation shall be considered separate entities.

(e) For the purposes of sections 290.46 and 290.50, if the claim for refund relates to an overpayment attributable to a farm loss limitation carryback under this subdivision, in lieu of the period of limitation prescribed in sections 290.46 and 290.50, the period of limitation 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 farm loss which results in the carryback. No deduction or refund shall be allowed on 1974 returns for farm losses which have been previously carried back to earlier years and for which a tax refund or reduction has been allowed.

(f) In any case in which a taxpayer is entitled to a refund in a carryback year due

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to the carryback of a farm loss, interest shall be computed only from the end of the taxable year in which the loss occurs.

Sec. 6. Minnesota Statutes 1976, Section 290.23, is amended by adding a subdivision to read:

Subd. 15. Notwithstanding the provisions of subdivisions 11, 12, 13, and 14, the provisions of sections 665 to 668 of the Internal Revenue Code of 1954, as amended through December 31, 1976, shall be applicable to all accumulation distributions made by a trust after December 31, 1976.

Sec. 7. Minnesota Statutes 1976, Section 290.26, is amended by adding a subdivision to read:

Subd. 7. The provisions of P.L. 94-267 (relating to tax free rollovers of distributions from employee retirement plans in the event of plan terminations) shall be applicable with respect to such distributions made to an employee on or after July 4, 1974.

Sec. 8. Minnesota Statutes 1976, 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 this chapter, 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, as amended through December 31, ~~1974~~ 1976) and which does not

(1) have (except as provided in subdivision 5) more than ten shareholders;

(2) have as a shareholder a person (other than an estate and other than a trust described in subdivision 6) 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 through December 31, ~~1974~~ 1976 to be taxed as a small business corporation under the provisions of said Internal Revenue Code of 1954, as amended through December 31, ~~1974~~ 1976.

Sec. 9. Minnesota Statutes 1976, Section 290.971, Subdivision 3, is amended to read:

Subd. 3. **STOCK OWNED BY HUSBAND AND WIFE.** For purposes of subdivision 1(1) stock which

(1) is community property of a husband and wife (or the income from which is community income) under the applicable community property law of a state, or

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(2) is held by a husband and wife as joint tenants, tenants by the entirety, or tenants in common, or

(3) was, on the date of death of a spouse, stock described in paragraph (1) or (2), and is, by reason of such death, held by the estate of the deceased spouse and the surviving spouse, or by the estates of both spouses (by reason of their deaths on the same date), in the same proportion as held by the spouses before such death, or

(4) was, on the date of the death of a surviving spouse, stock described in paragraph (3), and is, by reason of such death, held by the estates of both spouses in the same proportion as held by the spouses before their deaths, shall be treated as owned by one shareholder.

Sec. 10. Minnesota Statutes 1976, Section 290.971, is amended by adding subdivisions to read:

Subd. 5. SPECIAL SHAREHOLDER RULES. (1) A small business corporation which has been an electing small business corporation for a period of five consecutive taxable years may not have more than 15 shareholders.

(2) If, during the five year period set forth in paragraph (1), the number of shareholders of an electing small business corporation increased to an amount in excess of ten (but not in excess of 15) solely by reason of additional shareholders who acquired their stock through inheritance, the corporation may have a number of additional shareholders equal to the number by which the inheriting shareholders cause the total number of shareholders of such corporation to exceed ten.

Subd. 6. CERTAIN TRUSTS PERMITTED AS SHAREHOLDERS. For purposes of subdivision 1, the following trusts may be shareholders:

(1) A trust all of which is treated as owned by the grantor under sections 671 to 679 of the Internal Revenue Code of 1954, as amended through December 31, 1976.

(2) A trust created primarily to exercise the voting power of stock transferred to it.

(3) Any trust with respect to stock transferred to it pursuant to the terms of a will, but only for the 60 day period beginning on the day on which such stock is transferred to it.

In the case of a trust described in paragraph (2), each beneficiary of the trust shall, for the purposes of subdivision 1, paragraph (1), be treated as a shareholder.

Sec. 11. Minnesota Statutes 1976, Section 290.972, Subdivision 5, is amended to read:

Subd. 5. TERMINATION. (1) NEW SHAREHOLDERS. (A) An election under subdivision 1 made by a small business corporation shall terminate if any person who was not a shareholder in such corporation

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(A) (i) on the first day of the first taxable year of the corporation for which the election is effective, if such election is made on or before such first day, or

(B) (ii) on the day on which the election is made, if such election is made after such first day.

becomes a shareholder in such corporation and ~~does not affirmatively refuses to consent to such election within such time as the commissioner shall prescribe by regulation on or before the 60th day after the day on which he acquires the stock. Such termination shall be effective for the taxable year of the corporation in which such person becomes a shareholder in the corporation and for all succeeding taxable years of the corporation.~~

(B) If the person acquiring the stock is the estate of a decedent, the period under subparagraph (A) for affirmatively refusing to consent to the election shall expire on the 60th day after whichever of the following is the earlier:

(i) The day on which the executor or administrator of the estate qualifies; or

(ii) The last day of the taxable year of the corporation in which the decedent died.

(C) Any termination of an election under subparagraph (A) by reason of the affirmative refusal of any person to consent to such election shall be effective for the taxable year of the corporation in which such person becomes a shareholder in the corporation and for all succeeding taxable years of the corporation.

(2) **REVOCATION.** An election under subdivision 1 made by a small business corporation may be revoked by it for any taxable year of the corporation after the first taxable year for which the election is effective. An election may be revoked only if all persons who are shareholders in the corporation on the day on which the revocation is made consent to the revocation. A revocation under this paragraph shall be effective

(A) for the taxable year in which made, if made before the close of the first month of such taxable year,

(B) for the taxable year following the taxable year in which made, if made after the close of such first month,

and for all succeeding taxable years of the corporation. Such revocation shall be made in such manner as the commissioner shall prescribe by regulation.

(3) **CEASES TO BE SMALL BUSINESS CORPORATION.** An election under subdivision 1 made by a small business corporation shall terminate if at any time

(A) after the first day of the first taxable year of the corporation for which the election is effective, if such election is made on or before such first day, or

(B) after the day on which the election is made, if such election is made after such

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first day,

the corporation ceases to be a small business corporation (as defined in section 290.971, subdivision 1). Such termination shall be effective for the taxable year of the corporation in which the corporation ceases to be a small business corporation and for all succeeding taxable years of the corporation.

(4) **FOREIGN INCOME.** An election under subdivision 1 made by a small business corporation shall terminate if for any taxable year of the corporation for which the election is in effect, such corporation derives more than 80 percent of its gross receipts from sources outside the United States. Such termination shall be effective for the taxable year of the corporation in which it derives more than 80 percent of its gross receipts from sources outside the United States, and for all succeeding taxable years of the corporation.

(5) **PASSIVE INVESTMENT INCOME.** (A) Except as provided in subparagraph (B), an election under subdivision 1 made by a small business corporation shall terminate if, for any taxable year of the corporation for which the election is in effect, such corporation has gross receipts more than 20 percent of which is derived from royalties, rents, dividends, interest, annuities, and sales or exchanges of stock or securities (gross receipts from such sales or exchanges being taken into account for purposes of this paragraph only to the extent of gains therefrom) passive investment income. Such termination shall be effective for the taxable year of the corporation in which it has gross receipts of such amount, and for all succeeding taxable years of the corporation.

(B) Subparagraph (A) shall not apply with respect to a taxable year in which a small business corporation has gross receipts more than 20 percent of which is passive investment income, if

(i) such taxable year is the first taxable year in which the corporation commenced the active conduct of any trade or business or the next succeeding taxable year; and

(ii) the amount of passive investment income for such taxable year is less than \$3,000.

(C) For purposes of this paragraph, the term "passive investment income" means gross receipts derived from royalties, rents, dividends, interest, annuities, and sales or exchanges of stock or securities (gross receipts from such sales or exchanges being taken into account for purposes of this paragraph only to the extent of gains therefrom). Gross receipts derived from sales or exchanges of stock or securities for purposes of this paragraph shall not include amounts received by an electing small business corporation which are treated under section 331 of the Internal Revenue Code of 1954, as amended through December 31, 1976 (relating to corporate liquidations), as payments in exchange for stock where the electing small business corporation owned more than 50 percent of each class of the stock of the liquidating corporation.

Sec. 12. Minnesota Statutes 1976, Section 290A.03, Subdivision 3, is amended to read:

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Subd. 3. **INCOME.** "Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code of 1954 as amended through December 31, 1974 1976, additions to federal adjusted gross income as provided in Minnesota Statutes, Section 290.01, Subdivision 20, Clause (a)(1), (a)(2), (a)(3), (a)(4), (a)(8), and (a)(10), (a)(13), and (a)(14), and all nontaxable income, including but not limited to the amount of recognized net long term capital gains excluded from adjusted gross income, cash public assistance and relief, the gross amount of any pension or annuity (including railroad retirement benefits, all payments received under the federal social security act, and veterans disability pensions), nontaxable interest received from the state or federal government or any instrumentality thereof, worker's compensation, unemployment benefits, nontaxable strike benefits, and the gross amount of "loss of time" insurance. In the case of an individual who files an income tax return on a fiscal year basis, the term "federal adjusted gross income" shall mean federal adjusted gross income reflected in the fiscal year ending in the calendar year. "Income" does not include gifts from nongovernmental sources, surplus food or other relief in kind supplied by a governmental agency, or relief granted under sections 273.012, subdivision 2 or 290A.01 to 290A.21.

Sec. 13. In the next and subsequent editions of Minnesota Statutes, the revisor of statutes shall substitute the words "Internal Revenue Code of 1954, as amended through December 31, 1976" for the words "Internal Revenue Code of 1954, as amended through December 31, 1974" wherever such words occur in chapter 290, except section 290.01, subdivision 20.

Sec. 14. **REPEALER.** Minnesota Statutes 1976, Section 290.13, Subdivision 9, is repealed.

Sec. 15. **EFFECTIVE DATE.** Section 7 shall be effective for distributions made on or after July 4, 1974. The rest of this act shall be effective for taxable years beginning after December 31, 1976, except as otherwise provided. Section 2 is effective for taxable years beginning after December 31, 1975.

Approved June 2, 1977.

CHAPTER 377—H.F.No.447

[Not Coded]

An act relating to Chisago county; authorizing Chisago county to issue revenue bonds to finance the cost of facilities for the county nursing home; providing for the administration and rental of the facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **CHISAGO COUNTY; NURSING HOME REVENUE BONDS.**
 Subdivision 1. **AUTHORIZATION.** The board of commissioners of Chisago county may by resolution sell and issue revenue bonds of the county in the amount of \$1,500,000 to finance the acquisition and betterment of additional facilities for the county nursing

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