

deems appropriate. The bureau shall analyze the data by type of license and by agency responsible and shall make its findings available to the public.

Sec. 15. **REPEALER.**

Minnesota Statutes 1980, Section 362.45, is repealed.

Sec. 16. **[362.489] REVOLVING FUND.**

There is established a business license revolving fund. Any other law notwithstanding, every agency issuing a business license after the effective date of this act shall impose a two percent surcharge or \$10, whichever is the lesser amount, for the issuance or renewal of a business license through the period ending June 30, 1982. A surcharge of one percent or \$10, whichever is the lesser amount, shall be imposed beginning July 1, 1982. Proceeds from the license surcharge shall be deposited in the business license revolving fund.

Sec. 17. **APPROPRIATION.**

There is appropriated from the general fund to the bureau of business licenses the sum of \$450,000 for the purpose of implementing sections 1 to 14 of this article. This appropriation is available until June 30, 1983. The complement of the department of economic development is increased by four. The funds deposited in the business license revolving fund shall be transferred to the general fund in an amount not to exceed \$450,000 for the biennium ending June 30, 1983.

Sec. 18. **EFFECTIVE DATE.**

Sections 1 to 15 of this article are effective the day following final enactment.

Approved June 1, 1981

CHAPTER 343 — H.F.No. 1143

An act relating to taxation; income; property tax refund; adopting federal income tax limitations on the deduction of interest; authorizing the commissioner to provide a short form income tax return; clarifying the computation of the low income alternative tax; providing for the computation of net operating loss; allowing the commissioner to obtain information required on returns by court action; allowing the commissioner to designate the places returns may be filed; conforming information return requirements to the federal requirements; requiring certain statements to be furnished to subjects of information returns; providing that payment of taxes of a decedent shall be made by successors in the absence of a personal representative; adopting the federal requirements for withholding and reporting on tips; clarifying the liability of employers in regard to withholding tax returns; conforming information

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requirements of withholding statements to federal law; allowing notification of an employer by the department that a withholding certificate is invalid; providing for verification of withholding exemptions and appeal by the claimant; allowing certain spouses to file a joint property tax return claim; conforming estimated tax requirements with federal law; altering the computation of the corporate estimated tax; conforming tax exempt provisions with federal law; altering filing requirements for corporations; allowing the commissioner to adjust the computation of federal adjusted gross income in certain circumstances; specifying or increasing interest rates on certain delinquent taxes and penalties; abolishing an election relating to the lump sum distribution tax; providing penalties; providing the computation of basis; providing for the liability of taxes due on a combined return; amending Minnesota Statutes 1980, Sections 10A.31, Subdivision 1; 290.05; 290.06, Subdivision 3d; 290.067, Subdivision 2; 290.09, Subdivision 3; 290.095, Subdivisions 1, 9, and by adding a subdivision; 290.14; 290.37, Subdivision 1; 290.39, Subdivisions 1, 2, and by adding a subdivision; 290.41, Subdivision 2, and by adding subdivisions; 290.42; 290.43; 290.44; 290.46; 290.53, Subdivisions 3 and 3a; 290.61; 290.92, Subdivisions 1, 2a, 7, 15, and by adding subdivisions; 290.93, Subdivisions 1, 3 and 10; 290.931, Subdivision 1; 290.934, Subdivisions 4 and 5; 290A.03, Subdivision 8; 290A.07, Subdivisions 2 and 3; 290A.08; 290A.11, Subdivisions 2 and 4; repealing Minnesota Statutes 1980, Sections 290.032, Subdivision 4; and 290A.07, Subdivision 4.

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

Section 1. Minnesota Statutes 1980, Section 10A.31, Subdivision 1, is amended to read:

Subdivision 1. ~~Effective with the taxable years beginning after December 31, 1977,~~ Every individual resident of Minnesota who files a tax return or a renter and homeowner property tax refund return with the commissioner of revenue may designate that \$1 shall be paid from the general fund of the state into the state elections campaign fund. If a husband and wife file a joint return, each spouse may designate that \$1 shall be paid. An individual who is 18 years of age or older, who is a resident of Minnesota, and who is a dependent of another individual who files a tax return or a renter and homeowner property tax refund return, may designate that \$1 shall be paid from the general fund of the state into the state elections campaign fund. No individual shall be allowed to designate \$1 more than once in any year.

Sec. 2. Minnesota Statutes 1980, Section 290.05, is amended to read:

290.05 EXEMPT INDIVIDUALS, ORGANIZATIONS, ESTATES, TRUSTS.

Subdivision 1. The following corporations, individuals, estates, trusts, and organizations shall be exempted from taxation under this chapter, provided that every such person or corporation claiming exemption under this chapter, in whole or in part, must establish to the satisfaction of the commissioner the taxable status of any income or activity:

(a) ~~National and state banks, except as such banks are subject to the excise tax imposed by sections 290.085 and 290.361;~~

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(b) Corporations, individuals, estates, and trusts engaged in the business of mining or producing iron ore and other ores the mining or production of which is subject to the occupation tax imposed by sections 298.01 and 298.011; but if any such corporation, individual, estate, or trust engages in any other business or activity or has income from any property not used in such business it shall be subject to this tax computed on the net income from such property or such other business or activity. Royalty (as defined in section 299.02) shall not be considered as income from the business of mining or producing iron ore within the meaning of this section;

(c) (b) Farmers' mutual insurance companies organized and existing under the laws of the state and credit unions organized under chapter 52;

(d) (c) Fraternal beneficiary associations wherever organized, and public department relief associations of public employees of this state or of any of its political subdivisions;

(e) (d) Cooperative or mutual rural telephone associations; and cooperative associations organized under the provisions of ~~Laws 1923, Chapter 326, as amended chapter 308,~~ which are engaged in the transmission and distribution of electrical heat, light or power upon a mutual and cooperative plan in areas outside the corporate limits of any city; but if any such cooperative association engages in supplying electrical heat, light or power to consumers within the corporate limits of any city, then such association shall be subject to this tax computed on that portion of its net income which its gross receipts from consumers within such corporate limits bears to its total gross receipts;

(f) ~~Labor, agricultural, and horticultural organizations, no part of the net income of which inures to the benefit of any private member, stockholder, or individual;~~

(g) ~~Farmers', fruit growers', or like associations organized and operated on a cooperative basis (a) for the purpose of processing or marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary expenses, on the basis of either the quantity or the value of the products furnished by them; or (b) for the purpose of purchasing supplies and equipment for the use of members or other persons; and turning over such supplies and equipment to them at actual cost, plus necessary expenses; exemption shall not be denied any such association because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the state of incorporation or eight percent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than non-voting preferred stock, the owners of which are not entitled or permitted to participate directly or indirectly, in the profits of the association, upon dissolution or otherwise, beyond the fixed dividends) is owned by producers who process or market their products or purchase their supplies and equipment through the~~

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association; nor shall exemption be denied any such association because there is accumulated and maintained by it a reserve required by state law or a reasonable reserve for any necessary purpose; such an association may market the products of non-members in an amount the value of which does not exceed the value of the products marketed for members, and may purchase supplies and equipment for non-members in an amount the value of which does not exceed the value of the supplies and equipment purchased for members, provided the value of the purchases made for persons who are neither members nor producers does not exceed 15 percent of the value of all its purchases; business done for the United States or any of its agencies shall be disregarded in determining the right to exemption under this clause;

(h) Corporations operating or conducting public burying grounds, public schoolhouses, public hospitals, academies, colleges, universities, seminaries of learning, churches, houses of worship, and institutions of purely public charity, no part of the net income of which inures to the benefit of any private member, stockholder, or individual;

(i) Any corporation, fund, foundation, trust or association organized for exclusively scientific, literary, religious, charitable, educational, or artistic purposes, or for the purpose of making contributions to or for the use of the United States of America, the state of Minnesota or any of its political subdivisions for exclusively public purposes, or for any combination of the above enumerated purposes, if no part of the net income of any such corporation, fund, foundation, trust or association inures to the benefit of any private member, stockholder, or individual;

(j) Business leagues and commercial clubs, not organized for profit and no part of the net income of which inures to the benefit of any private member, stockholder, or individual;

(k) Clubs organized and operated exclusively for pleasure, recreation, or other non-profitable purposes, no part of the net income of which inures to the benefit of any private member, stockholder, or individual;

(l) Any corporation all the stock of which is owned by the United States or which may be exempt from a state franchise or income tax by federal law;

(m) (c) The United States of America, the state of Minnesota or any political subdivision of either agencies or instrumentalities, whether engaged in the discharge of governmental or proprietary functions;

(n) Corporations organized by an association exempt under the provisions of clause (g), or members thereof, for the purpose of financing the ordinary crop operations of such members or other producers, and operated in conjunction with such association; exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the state of incorporation or

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eight percent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than non-voting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, upon dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by state law or a reasonable reserve for any necessary purpose;

(e) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this chapter;

(p) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents if no part of their net earnings inures (other than through such payments) to the benefit of any private shareholder or individual.

Subd. 2. (a) Corporations, individuals, estates, trusts or organizations claiming exemption under the provisions of subdivision 1, clauses (d), (f), (g), (h), (j), (k), (n), (o) or (p) shall furnish information as to their exempt status under the Internal Revenue Code of 1954, as amended through December 31, 1979.

(b) Such corporations, individuals, estates, trusts, and organizations shall file with the commissioner of revenue a copy of any annual report that is required to be filed with the Internal Revenue Service, no later than 10 days after filing the same with the Internal Revenue Service.

Any person required to file a copy of a federal return pursuant to the preceding paragraph who willfully fails to file such return shall be guilty of a misdemeanor.

(e) In the event that the Internal Revenue Service revokes, cancels or suspends the exempt status of any corporation, individual, estate, trust or organization referred to in clause (a) of this subdivision, such corporation, individual, estate, trust or organization shall notify the commissioner in writing of such action within 90 days after receipt of notice from the Internal Revenue Service.

Except as provided in subdivisions 1 and 3, organizations are exempted from taxation under this chapter if they are exempt from income taxation pursuant to Subchapter F of the Internal Revenue Code.

Subd. 3. (a) An organization exempt from taxation under subdivision 2 shall, nevertheless, be subject to tax under this chapter to the extent provided in the following provisions of the Internal Revenue Code:

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(i) Section 527 (dealing with political organizations) and (ii) section 528 (dealing with certain homeowners associations) but

notwithstanding this subdivision, shall be considered an organization exempt from income tax for the purposes of any law which refers to organizations exempt from income taxes.

(b) The tax shall be imposed on the taxable income of political organizations or homeowner associations. The tax shall be at the corporate rates. The tax shall only be imposed on income and deductions assignable to this state under sections 290.17 to 290.20. Except for section 290.09, subdivision 29, to the extent deducted in computing federal taxable income, the deductions contained in sections 290.09 and 290.21 shall not be allowed in computing Minnesota taxable net income.

Subd. 4. (a) Corporations, individuals, estates, trusts or organizations claiming exemption under the provisions of subdivision 1, clause (c), or subdivision 2 shall furnish information as to their exempt status under the Internal Revenue Code.

(b) Such corporations, individuals, estates, trusts, and organizations shall file with the commissioner of revenue a copy of any annual report that is required to be filed with the Internal Revenue Service, no later than ten days after filing the same with the Internal Revenue Service.

Any person required to file a copy of a federal return pursuant to the preceding paragraph who wilfully fails to file such return shall be guilty of a misdemeanor.

(c) In the event that the Internal Revenue Service revokes, cancels or suspends, in whole or part, the exempt status of any corporation, individual, estate, trust or organization referred to in clause (a) of this subdivision, or if the amount of gross income, deductions, credits, items of tax preference or taxable income is changed or corrected by either the taxpayer or the Internal Revenue Service, or if the taxpayer consents to any extension of time for assessment of federal income taxes such corporation, individual, estate, trust or organization shall notify the commissioner in writing of such action within 90 days thereafter.

(d) The periods of limitations contained in section 290.56 shall apply whenever there has been any action referred to in clause (c), notwithstanding any period of limitations to the contrary.

Subd. 5. In the case of any failure to furnish annual report information at the time and in the manner prescribed by subdivision 4, clause (b), unless it is shown that such failure is due to reasonable cause, there shall be paid to the commissioner by the exempt organization a penalty of \$100 for each such failure. The penalty shall be immediately due and payable upon notice and

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demand by the commissioner and may be collected in the same manner as any delinquent income tax.

Subd. 6. The Internal Revenue Code referred to in any of the subdivisions of this section means the Internal Revenue Code of 1954, as amended through December 31, 1980.

Subd. 7. Notwithstanding section 290.61, any information required to be furnished to the commissioner of revenue pursuant to subdivisions 1 and 4 shall be open to public inspection at such times and in such places as the commissioner may prescribe. The commissioner is also authorized to publish a list of organizations exempt from taxation pursuant to this section. Nothing in this subdivision shall authorize the commissioner to disclose the name or address of any contributor to any organization which is or was so exempt, or which has applied for tax exempt status, or any other information which could not be disclosed under section 6104 of the Internal Revenue Code.

Sec. 3. Minnesota Statutes 1980, Section 290.06, Subdivision 3d, is amended to read:

Subd. 3d. **LOW INCOME ALTERNATIVE TAX.** A claimant as defined in 290.012 may pay a tax computed under this subdivision in lieu of the tax computed under sections 290.06, subdivisions 2c, 3e, 3f, 9, 9a, 11, 14 and 290.081 without the provisions of section 290.012 and this subdivision:

(1) For taxable years beginning after December 31, 1979, the alternative tax shall be zero for the following claimants:

- (a) An unmarried claimant with an income of \$5,800 or less;
- (b) A claimant with one dependent, with an income of \$7,400 or less;
- (c) A claimant with two dependents, with an income of \$8,800 or less;
- (d) A claimant with three dependents, with an income of \$10,000 or less;
- (e) A claimant with four dependents, with an income of \$10,500 or less;

and

(f) A claimant with five or more dependents, with an income of \$11,000 or less.

(2) In the case of a claimant with an income in excess of that set forth in the appropriate category of clause (1), he may pay a tax equal to 15 percent of that portion of his income that is in excess of the amount set forth in the appropriate category of clause (1), or his tax obligation as it would have been in the absence of section 290.012 and this subdivision, whichever is less.

(3) The total income for the entire calendar year of the claimant and his spouse, if any, including income not assignable to this state, shall be the figure employed for the purposes of this subdivision. No individual dependent upon

and receiving his chief support from any other individual may be a claimant under section 290.012 and this subdivision. The commissioner of revenue shall prescribe the additional forms or alterations in existing forms as necessary to comply with the provisions of section 290.012 and this subdivision. All claimants shall submit their returns on these forms.

The commissioner of revenue shall provide alternative tax tables ~~which will include these credits.~~

Sec. 4. Minnesota Statutes 1980, Section 290.067, Subdivision 2, is amended to read:

Subd. 2. **LIMITATIONS.** The credit for expenses incurred for the care of each dependent shall not exceed \$400 in any taxable year, and the total credit for all dependents of a claimant shall not exceed \$800 in a taxable year. The total credit shall be reduced by five percent of the amount by which the combined federal adjusted gross income, plus the ordinary income portion of any lump sum distribution under section 402(e) of the Internal Revenue Code of 1954, as amended through December 31, 1980, of the claimant and his spouse, if any, exceeds \$15,000. A married claimant shall file his income tax return for the year for which he claims the credit either jointly or separately on one form with his spouse. In the case of a married claimant only one spouse may claim the credit. No expense for which a medical expense deduction is claimed pursuant to section 290.09, subdivision 10, shall be claimed as a dependent care expense.

Sec. 5. Minnesota Statutes 1980, Section 290.09, Subdivision 3, is amended to read:

Subd. 3. **INTEREST.** (a) All interest paid or accrued within the taxable year on indebtedness, except as hereinafter provided.

(b) Interest paid or accrued within the taxable year on indebtedness incurred or continued to purchase or carry obligations or securities the income from which is excludable from gross income under section sections 290.01, subdivision 20 or 290.08, or shares of a regulated investment company which during the taxable year of the holder thereof distributes Minnesota exempt-interest dividends as defined in section 290.01, subdivision 27, or on indebtedness ~~incurred or continued in connection with the purchasing or carrying of a single premium life insurance, annuity, or endowment contract, shall not be allowed as a deduction.~~ (For purposes of this paragraph, a contract shall be treated as a single premium contract if substantially all the premiums on the contract are paid within a period of four years from the date on which the contract is purchased, or if an amount is deposited after January 1, 1955 with the insurer for payment of a substantial number of future premiums on the contract.) described in section 264(a)(2) and (3), (b) and (c) (relating to life insurance) of the Internal Revenue Code of 1954, as amended through December 31, 1980 shall not be allowed as a deduction.

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(c) If personal property or educational services are purchased under a contract which provides that payment of part or all of the purchase price is to be made in installments, and in which carrying charges are separately stated but the interest charge cannot be ascertained, then the payments made during the taxable year under the contract shall be treated for purposes of this paragraph as if they included interest equal to six percent of the average unpaid balance under the contract during the taxable year, and such interest shall be allowed as a deduction. For purposes of the preceding sentence, the average unpaid balance is the sum of the unpaid balance outstanding on the first day of each month beginning during the taxable year, divided by 12. In the case of any contract to which this paragraph applies, the amount treated as interest for any taxable year shall not exceed the aggregate carrying charges which are properly attributable to such taxable year.

For purposes of this subdivision the term "educational services" means any service including lodging which is purchased from an educational institution (as defined in section 151(e) (4) of the Internal Revenue Code of 1954, as amended through December 31, 1979) and which is provided for a student of such institution the provisions of section 163(b) of the Internal Revenue Code of 1954, as amended through December 31, 1980 shall apply.

(d) A cash basis taxpayer may elect to deduct interest as it accrues on a reverse mortgage loan as defined in section 47.58, subdivision 1, rather than when it is actually paid. This election must be made, if at all, in the first taxable year in which it is available to the cash basis taxpayer and, if made, shall be binding on the taxpayer for each subsequent taxable year until maturity of the loan.

(e) In the case of a taxpayer other than a corporation, the amount of interest on investment indebtedness allowable as a deduction shall be allowed and limited as set forth in section 163(d) of the Internal Revenue Code of 1954, as amended through December 31, 1980. The limitation prescribed in section 163(d)(1)(A) for married individuals who file separate returns shall also apply to married individuals who file separately on one return.

Sec. 6. Minnesota Statutes 1980, Section 290.095, Subdivision 1, is amended to read:

Subdivision 1. **ALLOWANCE OF DEDUCTION.** (a) There shall be allowed as a deduction for the taxable year the amount of any net operating loss deduction as defined in subdivision 2, clause (b): provided, however, that the modifications specified in subdivision 4 shall be made in computing the taxable net income for the taxable year before the net operating loss deduction shall be allowed.

(b) A net operating loss deduction shall be available under this section only to corporate taxpayers except as provided in subdivisions 6, 7 and 9 and

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11 hereof, and, with respect to individuals, no deduction shall be allowed for or with respect to losses which constitute tax preference items as set forth in section 290.17, subdivision 1.

Sec. 7. Minnesota Statutes 1980, Section 290.095, is amended by adding a subdivision to read:

Subd. 11. CARRYBACK OR CARRYOVER ADJUSTMENTS. (a) For individuals the amount of a net operating loss that may be carried back or carried over shall be the same dollar amount allowable in the determination of federal adjusted gross income. For estates and trusts the amount of a net operating loss that may be carried back or carried over shall be the same dollar amount allowable in the determination of federal taxable income.

(b) The following adjustments to the amount of the net operating loss that may be carried back or carried over must be made for:

(1) Nonassignable income or losses as required by section 290.17, subdivision 2.

(2) Losses which constitute tax preference items as required in section 290.17, subdivision 1.

(3) Modifications required because of the restrictions on farm losses as provided in section 290.09, subdivision 29.

(4) Adjustments to the determination of federal adjusted gross income that must be made because of changes in the Internal Revenue Code that have not yet been adopted by the legislature by updating the reference to the Internal Revenue Code contained in section 290.01, subdivision 20.

(5) Modifications to income and loss contained in federal adjusted gross income according to the provisions of section 290.01, subdivision 20, clause (c).

(6) Gains or losses which result from the sale or other disposition of property having a higher adjusted basis for Minnesota income tax purposes than for federal income tax purposes subject to the limitations contained in section 290.01, subdivision 20, clause (b) (2) and (4).

(7) Interest, taxes, and other expenses not allowed under section 290.10, clauses (9) and (10) or section 290.101.

(c) (1) The net operating loss carryback or carryover applied as a deduction in the taxable year to which the net operating loss is carried back or carried over shall be equal to the net operating loss carryback or carryover applied in the taxable year in arriving at federal adjusted gross income (or federal taxable income for trusts and estates) subject to the modifications contained in clause (b) and to the following modifications:

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(A) Increase the amount of carryback or carryover applied in the taxable year by the amount of losses and interest, taxes and other expenses not assignable or allowable to Minnesota incurred in the taxable year.

(B) Decrease the amount of carryback or carryover applied in the taxable year by the amount of income not assignable to Minnesota earned in the taxable year and the amount of federal jobs credit or WIN credit earned in the taxable year.

(C) A taxpayer who is not a resident of Minnesota during any part of the taxable year and who has no income assignable to Minnesota during the taxable year shall apply no net operating loss carryback or carryover in the taxable year.

(2) The provisions of section 172(b) of the Internal Revenue Code of 1954 as amended through December 31, 1980 (relating to carrybacks and carryovers) shall apply. The net operating loss carryback or carryover to the next consecutive taxable year shall be the net operating loss carryback or carryover as calculated in clause (c) (1) less the amount applied in the earlier taxable year(s). No additional net operating loss carryback or carryover shall be allowed if the entire amount has been used to offset Minnesota income in a year earlier than was possible on the federal return. A net operating loss carryback or carryover that was allowed to offset federal income in a year earlier than was possible on the Minnesota return shall still be allowed to offset Minnesota income but only if the loss was assignable to Minnesota in the year the loss occurred.

(d) A net operating loss shall be allowed to be carried back or carried forward only to the extent that loss was assignable to Minnesota in the year the loss occurred or in the year to which the loss was carried over, whichever would allow more of the loss to be allowed for Minnesota purposes.

(e) If a taxpayer has a net operating loss for federal purposes and the provisions of the farm loss limitation as provided in section 290.09, subdivision 29 apply, the limitations applying to the farm losses that are carried back or carried over are applied first and the net operating loss that is carried back or carried over is limited to the excess, if any, that the net operating loss exceeds the farm loss limitation.

Sec. 8. Minnesota Statutes 1980, Section 290.095, Subdivision 9, is amended to read:

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 of 1954, as

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amended through December 31, 1979 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". During this extended period, married individuals who elected to file separate returns or a combined return may change their election and file a joint return.

Sec. 9. Minnesota Statutes 1980, Section 290.14, is amended to read:

290.14 GAIN OR LOSS ON DISPOSITION OF PROPERTY, BASIS.

The basis for determining the gain or loss from the sale or other disposition of property acquired on or after January 1, 1933, shall be the cost to the taxpayer of such property, with the following exceptions:

(1) If the property should have been included in the last inventory, it shall be the last inventory value thereof;

(2) If the property was acquired by gift, it shall be the same as it would be if it were being sold or otherwise disposed of by the last preceding owner not acquiring it by gift; if the facts required for this determination cannot be ascertained, it shall be the fair market value as of the date, or approximate date, of acquisition by the last preceding owner, as nearly as the requisite facts can be ascertained by the commissioner;

(3) If the property was acquired by gift through an inter vivos transfer in trust, it shall be the same as it would be if it were being sold or otherwise disposed of by the grantor;

(4) Except as otherwise provided in this clause, the basis of property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent shall, if not sold, exchanged or otherwise disposed of before the decedent's death by the person, be the fair market value of the property at the date of decedent's death or, in the case of an election under section 2032 (relating to alternate valuation) of the Internal Revenue Code of 1954, as amended through December 31, 1980, its valuation at the applicable valuation date prescribed by that section, or in the case of an election under section 2032A (relating to valuation of farm real property) of the Internal Revenue Code of 1954, as amended through December 31, 1980, its value determined by that section.

For the purposes of the preceding paragraph, the following property shall be considered to have been acquired from or to have passed from the decedent:

(a) Property acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent;

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(b) Property transferred by the decedent during his lifetime in trust to pay the income for life to or on the order or direction of the decedent, with the right reserved to the decedent at all times before his death to revoke the trust;

(c) Property transferred by the decedent during his lifetime in trust to pay the income for life to or on the order or direction of the decedent with the right reserved to the decedent at all times before his death to make any change in the enjoyment thereof through the exercise of a power to alter, amend, or terminate the trust;

(d) Property passing without full and adequate consideration under a general power of appointment exercised by the decedent by will;

(e) In the case of a decedent's dying after December 31, 1956, property acquired from the decedent by reason of death, form of ownership, or other conditions (including property acquired through the exercise or non-exercise of a power of appointment), if by reason thereof the property is required to be included in determining the value of the decedent's gross estate for Minnesota inheritance or estate tax purposes. In this case, if the property is acquired before the death of the decedent, the basis shall be the amount determined under the first paragraph of this clause reduced by the amount allowed to the taxpayer as deductions in computing taxable net income under this chapter or prior Minnesota income tax laws for exhaustion, wear and tear, obsolescence, amortization, and depletion on the property before the death of the decedent. The basis shall be applicable to the property commencing on the death of the decedent. This paragraph shall not apply to annuities described in section 290.08; and property described in paragraphs (a), (b), (c) and (d) of this clause.

This clause shall not apply to property which constitutes a right to receive an item of income in respect of a decedent under section 290.077. Nor shall it apply to restricted stock options described in section 290.078 which the employee has not exercised at death.

(5) If the property was acquired after December 31, 1932, upon an exchange described in section 290.13, subdivision 1, the basis shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized upon the exchange under the law applicable to the year in which the exchange was made. If the property so acquired consisted in part of the type of property permitted by section 290.13, subdivision 1, to be received without the recognition of gain or loss, and in part of other property, the basis provided in this clause shall be allocated between the properties, other than money, received, and for the purpose of the allocation there shall be assigned to the other property an amount equivalent to its fair market value at the date of the exchange. This clause shall not apply to property acquired by a corporation by the issuance of its stock or securities as the consideration, in whole or in part, for the transfer of the property to it;

(6) If substantially identical property was acquired in the place of stocks or securities which were sold or disposed of and in respect of which loss was not allowed as a deduction under section 290.09, subdivision 5, the basis in the case of property so acquired shall be the same as in the case of the stock or securities so sold or disposed of, increased by the excess of the repurchase price of the property over the sale price of the stock or securities, or decreased by the excess of the sale price of the stock or securities over the repurchase price of the property;

(7) If the property was acquired after December 31, 1932, as the result of a compulsory or involuntary conversion described in section 290.13, subdivision 5, the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law applicable to the year in which conversion was made, determining the taxable status of the gain or loss upon conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon conversion under the law applicable to the year in which conversion was made.

(8) Neither the basis nor the adjusted basis of any portion of real property shall, in the case of a lessor of the property, be increased or diminished on account of income derived by the lessor in respect of the property and excludable from gross income under section 290.08, subdivision 14.

If an amount representing any part of the value of real property attributable to buildings erected or other improvements made by a lessee in respect of the property was included in gross income of the lessor for any taxable year beginning before January 1, 1943, the basis of each portion of the property shall be properly adjusted for the amount included in gross income.

(9) If the property was acquired by the taxpayer as a transfer of property in exchange for the release of the taxpayer's marital rights, the basis of the property shall be the same as it would be if it were being sold or otherwise disposed of by the person who transferred the property to the taxpayer.

(10) The basis of property subject to the provisions of section 1034 of the Internal Revenue Code of 1954, as amended through December 31, 1979 (relating to the rollover of gain on sale of principal residence) shall be the same as the basis for federal income tax purposes. The basis shall be increased by the amount of gain realized on the sale of a principal residence outside of Minnesota, while a nonresident of this state, which gain was not recognized because of the provisions of section 1034.

Sec. 10. Minnesota Statutes 1980, Section 290.37, Subdivision 1, is amended to read:

Subdivision 1. **PERSONS MAKING RETURNS.** The commissioner of revenue shall annually determine the gross income levels at which individuals and estates shall be required to file a return for each taxable year.

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In the case of a decedent who has gross income in excess of the minimum amount at which an individual is required to file a return, the decedent's final income tax return shall be filed by his or her personal representative, if any. If there is no personal representative, the return shall be filed by the successors (as defined in section 524.1-201) who receive any property of the decedent.

The trustee or other fiduciary of property held in trust shall file a return with respect to the taxable net income of such trust if that exceeds an amount on which a tax at the rates herein provided would exceed the specific credits allowed, or if the gross income of such trust exceeds \$750, if in either case such trust belongs to the class of taxable persons.

Every corporation shall file a return ~~with respect to its taxable net income if in excess of \$500, or if its gross income exceeds \$5,000.~~ The return in this case shall be signed by an officer of the corporation.

The receivers, trustees in bankruptcy, or assignees operating the business or property of a taxpayer shall file a return with respect to the taxable net income of such taxpayer if that exceeds an amount on which a tax at the rates herein provided would exceed the specific credits allowed ~~(or, if the taxpayer is a corporation, if the taxable net income exceeds \$500), or if such taxpayer's gross income exceeds \$5,000.~~

Such return shall (a) be verified or contain a written declaration that it is made under the penalties of criminal liability for wilfully making a false return, and (b) shall contain a confession of judgment for the amount of the tax shown due thereon to the extent not timely paid.

For purposes of this subdivision the term "gross income" shall mean gross income as defined in section 61 of the Internal Revenue Code of 1954, as amended through December 31, 1979, modified and adjusted in accordance with the provisions of sections 290.01, subdivision 20, clauses (b)(1), (b)(6) and (b)(11), 290.08, and 290.17.

Sec. 11. Minnesota Statutes 1980, Section 290.39, Subdivision 1, is amended to read:

Subdivision 1. **IN GENERAL.** Every return shall specifically set forth the items of gross income, deductions, credits against net income, credits against the tax, and any other data necessary for computing the amount of any item required for determining the amount of the net income tax liability. The return shall be in such form as the commissioner of revenue may prescribe. The filing of a return required under this section shall be deemed an assessment subject to revision of the tax shown due on the basis of such return.

In the event a taxpayer files a return which does not contain all the information required by this subdivision, the commissioner may, in addition to

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any other remedies which may be available, bring an action in equity by the state against the taxpayer for an injunction ordering the taxpayer to file a complete and proper return in accordance with this subdivision. The district courts of this state shall have jurisdiction over the action and disobedience of an injunction issued under this subdivision shall be punished as a contempt of district court.

Sec. 12. Minnesota Statutes 1980, Section 290.39, Subdivision 2, is amended to read:

Subd. 2. **SINGLE FORM FOR SEPARATE RETURNS SEPARATE COMPUTATIONS ON A SINGLE RETURN.** Notwithstanding the provisions of section 290.61, a husband and wife may elect to file separate compute their Minnesota income tax returns separately on a single form return, in which event:

(a) if the sum of the payments by either spouse, including withheld and estimated taxes, exceeds the amount of tax for which of such spouse is separately liable as computed separately, the excess may be applied by the commissioner to the credit of the other spouse if the sum of the payments by such other spouse, including withheld and estimated taxes, is less than the amount of the tax for which of such other spouse is separately liable as computed separately;

(b) if the sum of the payments made by both spouses with respect to the taxes for which they are separately liable of both as computed separately, including withheld and estimated taxes, exceeds the total of the taxes due, refund of the excess may be made payable to both spouses or may be credited against any liability in respect of Minnesota income tax on the part of either spouse;

(c) if the sum of the payments made by both spouses with respect to the taxes of both as computed separately, including withheld and estimated taxes, is less than the total of the taxes due, the liability for the unpaid tax shall be joint and several; provided that a spouse may be relieved of liability in those cases contained in section 6013(e) of the Internal Revenue Code of 1954 as amended through December 31, 1980 (for purposes of computing the 25 percent test contained in that section, the amount of gross income stated in the return shall include the total gross income of both spouses);

(d) if the standard deduction provided for by section 290.09, subdivision 15, is not utilized, then the total of the Minnesota itemized deductions of a husband and wife may be taken by either or divided between them as they elect.

Sec. 13. Minnesota Statutes 1980, Section 290.39, is amended by adding a subdivision to read:

Subd. 3. The commissioner may, in his discretion, provide for use a short form individual income tax return which shall be in the form and provide

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for items as the commissioner may prescribe which are consistent with the provisions of this chapter, notwithstanding any other law to the contrary. The political checkoff provided in section 10A.31 shall be included on the short form.

Sec. 14. Minnesota Statutes 1980, Section 290.41, Subdivision 2, is amended to read:

Subd. 2. BY PERSONS OR, CORPORATIONS, COOPERATIVES, GOVERNMENTAL ENTITIES OR SCHOOL DISTRICTS. Every person or, corporation, or cooperative, the state of Minnesota and its political subdivisions, and every city, county and school district in Minnesota, making payments in the regular course of a trade or business during the taxable year to any person or corporation in excess of \$600 on account of rents or royalties, or of \$10 or more on account of interest, or in excess of \$10 or more on account of dividends or patronage dividends, or in excess of \$600 or more on account of either wages, salaries, or commissions, fees, prizes, awards, pensions, annuities, or any other fixed or determinable gains, profits or income, not otherwise reportable under section 290.92, subdivision 7, or on account of earnings in excess of \$10 distributed to its members by savings, building and loan associations or credit unions chartered under the laws of this state or the United States, (a) shall make a return (except in cases where a valid agreement to participate in the combined federal and state information reporting system has been entered into, and such return is therefore filed only with the commissioner of internal revenue pursuant to the applicable filing and informational reporting requirements of the Internal Revenue Code of 1954 as amended through December 31, 1980) in respect to such payments in excess of the amounts specified, giving the names and addresses of the persons to whom such payments were made, the amounts paid to each, and (b) shall make a return in respect to the total number of such payments and total amount of such payments, for each category of income specified, which were in excess of the amounts specified. This subdivision shall not apply to the payment of interest or dividends to a person who was a nonresident of Minnesota for the entire year. The state treasurer or other corresponding officer, by whatever name known, of every political subdivision of the state, of every city and of every school district, shall, on or before the first day of March each year, beginning with March, 1938, make and file with the commissioner of revenue a report giving the name of each employee or official to whom the state or such political subdivision, city, or school district, during the preceding calendar year, paid any salary or wages in excess of \$600, together with the last known address of such employee or official.

Sec. 15. Minnesota Statutes 1980, Section 290.41, is amended by adding a subdivision to read:

Subd. 7. UNEMPLOYMENT COMPENSATION. Every person who makes payments of unemployment compensation aggregating \$10 or more to any individual during any calendar year and who is required to make and file a

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return pursuant to section 6050B of the Internal Revenue Code of 1954 as amended through December 31, 1980, shall file with the commissioner of revenue a copy of such return.

Sec. 16. Minnesota Statutes 1980, Section 290.41, is amended by adding a subdivision to read:

Subd. 8. FAILURE TO FILE RETURN. In the case of each failure to file a return required by this section on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to wilful neglect, the payer failing to file such return shall pay to the commissioner a penalty of \$10 for each such failure, but the total amount imposed on the delinquent payer for all such failures during any calendar year shall not exceed \$1,000. The penalty shall be collected in the same manner as any delinquent income tax.

Sec. 17. Minnesota Statutes 1980, Section 290.42, is amended to read:

290.42 FILING RETURNS, DATE.

The returns required to be made under sections 290.37 to 290.39 and 290.41, other than those under section 290.41, subdivisions 3 and 4, which shall be made within 30 days after demand therefor by the commissioner, shall be filed at the following times:

(1) Returns made on the basis of the calendar year shall be filed on the fifteenth day of April, following the close of the calendar year, except that returns of corporations shall be filed on the fifteenth day of March following the close of the calendar year;

(2) Returns made on the basis of the fiscal year shall be filed on the fifteenth day of the fourth month following the close of such fiscal year, except that returns of corporations shall be filed on the fifteenth day of the third month following the close of the fiscal year;

(3) Returns made for a fractional part of a year as an incident to a change from one taxable year to another shall be filed on the fifteenth day of the fourth month following the close of the period for which made, except that such returns of corporations shall be filed on the fifteenth day of the third month following the close of the period for which made;

(4) Other returns for a fractional part of a year shall be filed on the fifteenth day of the fourth month following the end of the month in which falls the last day of the period for which the return is made, except that such returns of corporations shall be filed on the fifteenth day of the third month following the end of the month in which falls the last day of the period for which the return is made:

In the case of a final return of a decedent for a fractional part of a year, such return shall be filed on the fifteenth day of the fourth month following the close of the twelve-month period which began with the first day of such fractional part of a year.

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(4a) In the case of the return of a cooperative association such returns shall be filed on or before the fifteenth day of the ninth month following the close of the taxable year.

(5) If the due date for any return required under chapter 290 falls upon:

(A) A Saturday, such return filed by the following Monday shall be considered to be timely filed;

(B) A legal holiday, such return filed on the next succeeding business day shall be considered to be timely filed, except, that for the purpose of this paragraph, Saturday shall not be considered to be a business day.

(6) In case of sickness, absence, or other disability, or when, in his judgment, good cause exists, the commissioner may extend the time for filing these returns for not more than six months, except that where the failure is due to absence outside the United States he may extend the period until 30 days after the taxpayer's return to this state. He may require each taxpayer in any of such cases to file a tentative return at the time fixed for filing the regularly required return from him, and to pay a tax on the basis of such tentative return at the times required for the payment of taxes on the basis of the regularly required return from such taxpayer. The commissioner may exercise his power under this clause by general regulation only.

(7) Every person making a return under section 290.41 (except subdivisions 3 and 4) shall furnish to each person whose name is set forth in the return a written statement showing

(A) the name and address of the person making the return, and

(B) the aggregate amount of payments to the person shown on the return.

This written statement shall be furnished to the person on or before January 31 of the year following the calendar year for which the return was made. A duplicate of this written statement shall be furnished to the commissioner on or before February 28 of the year following the calendar year for which the return was made.

Sec. 18. Minnesota Statutes 1980, Section 290.43, is amended to read:
290.43 RETURNS, WHERE FILED.

The returns required to be made under sections 290.37 to 290.39 and 290.41 shall be filed with the commissioner at his office in St. Paul, or such other place as the commissioner may designate.

Sec. 19. Minnesota Statutes 1980, Section 290.44, is amended to read:
290.44 PAYMENT OF TAX, WHO MUST PAY.

The taxes imposed by this chapter, and interest and penalties imposed with respect thereto, shall be paid by the taxpayer upon whom imposed, except in the following cases:

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(1) The tax due from a decedent for that part of the taxable year in which he died during which he was alive shall be paid by his personal representative, if any. If there is no personal representative, the tax shall be paid by the successors (as defined in section 524.1-201) to the extent they receive property from the decedent.

(2) The tax due from an infant or other incompetent person shall be paid by his guardian or other person authorized or permitted by law to act for him;

(3) The tax due from the estate of a decedent shall be paid by the personal representative thereof;

(4) The tax due from a trust, including those within the definition of corporation, shall be paid by the trustee or trustees;

(5) The tax due from a taxpayer whose business or property is in charge of a receiver, trustee in bankruptcy, assignee, or other conservator, shall be paid by the person in charge of such business or property so far as the tax is due to the income from such business or property.

Sec. 20. Minnesota Statutes 1980, Section 290.46, is amended to read:

290.46 EXAMINATION OF RETURNS; ASSESSMENTS, REFUNDS.

The commissioner shall, as soon as practicable after the return is filed, examine the same and make any investigation or examination of the taxpayer's records and accounts that he may deem necessary for determining the correctness of the return. The tax computed by him on the basis of such examination and investigation shall be the tax to be paid by such taxpayer. If the tax found due shall be greater than the amount reported as due on the taxpayer's return, the commissioner shall assess a tax in the amount of such excess and the whole amount of such excess shall be paid to the commissioner within 60 days after notice of the amount and demand for its payment shall have been mailed to the taxpayer by the commissioner. If the understatement of the tax on the return was false and fraudulent with intent to evade the tax, the installments of the tax shown by the taxpayer on his return which have not yet been paid shall be paid to the commissioner within 60 days after notice of the amount thereof and demand for payment shall have been mailed to the taxpayer by the commissioner. If the amount of the tax found due by the commissioner shall be less than that reported as due on the taxpayer's return, the excess shall be refunded to the taxpayer in the manner provided by section 290.50 (except that no demand therefor shall be necessary), if he has already paid the whole of such tax, or credited against any unpaid installment thereof; provided, that no refundment shall be made except as provided in section 290.50, after the expiration of three and one-half years after the filing of the return.

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If the commissioner examines returns of a taxpayer for more than one year, he may issue one order covering the several years under consideration reflecting the aggregate refund or additional tax due.

The notices and demands provided for by sections 290.46 to 290.48 shall be in such form as the commissioner may determine (including a statement) and shall contain a brief explanation of the computation of the tax and shall be sent by mail to the taxpayer at the address given in his return, or to his last known address.

In cases where there has been an overpayment of a self-assessed liability as shown on the return filed by the taxpayer, the commissioner may refund such overpayment to the taxpayer and no demand therefor shall be necessary; further, written findings by the commissioner, notice by mail to the taxpayer and certificate for refundment by the commissioner shall not be necessary and the provisions of section 270.10, in such case, shall not be applicable.

In the case of an individual, estate or trust, the commissioner may audit and adjust the taxpayer's computation of federal adjusted gross income (or federal taxable income for estates or trusts) to make it properly conform with the provisions of section 290.01, subdivision 20.

Sec. 21. Minnesota Statutes 1980, Section 290.53, Subdivision 3, is amended to read:

Subd. 3. FAILURE TO FILE, FILING FALSE OR FRAUDULENT RETURN; INTENT TO EVADE TAX; 50 PERCENT PENALTY. If any person, with intent to evade the tax imposed by this ~~aet~~ chapter, shall fail to file any return required by this ~~aet~~ chapter, or shall with such intent file a false or fraudulent return, there shall also be imposed on him as a penalty an amount equal to 50 percent of any tax (less any amounts paid by him on the basis of such false or fraudulent return) found due from him for the period to which such return related. The penalty imposed by this subdivision shall be collected as part of the tax, and shall be in addition to any other penalties, civil and criminal, provided by this section. The amount of the tax and any other penalties together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid. This amount shall be in lieu of any amount determined under subdivision 3a.

Sec. 22. Minnesota Statutes 1980, Section 290.53, Subdivision 3a, is amended to read:

Subd. 3a. INTENTIONAL DISREGARD OF RULES AND REGULATIONS. If any part of any additional assessment, as ~~determined under section 290.46,~~ is due to negligence or intentional disregard of rules and regulations (but without intent to defraud), there shall be added to the tax an amount equal to five percent of such additional assessment. The amount of

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the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid.

Sec. 23. Minnesota Statutes 1980, Section 290.61, is amended to read:

290.61 PUBLICITY OF RETURNS, INFORMATION.

It shall be unlawful for the commissioner or any other public official or employee to divulge or otherwise make known in any manner any particulars set forth or disclosed in any report or return required by this chapter, or any information concerning, the taxpayer's affairs acquired from his or its records, officers, or employees while examining or auditing any taxpayer's liability for taxes imposed hereunder, except in connection with a proceeding involving taxes due under this chapter from the taxpayer making such return or to comply with the provisions of section 290.612. The commissioner may furnish a copy of any taxpayer's return to any official of the United States or of any state having duties to perform in respect to the assessment or collection of any tax imposed upon or measured by income, if such taxpayer is required by the laws of the United States or of such state to make a return therein. Prior to the release of any information to any official of the United States or any other state under the provisions of this section, the person to whom the information is to be released shall sign an agreement which provides that he will protect the confidentiality of the returns and information revealed thereby to the extent that it is protected under the laws of the state of Minnesota. The commissioner and all other public officials and employees shall keep and maintain the same secrecy in respect to any information furnished by any department, commission, or official of the United States or of any other state in respect to the income of any person as is required by this section in respect to information concerning the affairs of taxpayers under this chapter. Nothing herein contained shall be construed to prohibit the commissioner from publishing statistics so classified as not to disclose the identity of particular returns or reports and the items thereof. Upon request of a majority of the members of the senate tax committee or of the house tax committee or the tax study commission, the commissioner shall furnish abstracted financial information to those committees for research purposes from returns or reports filed pursuant to this chapter, provided that he shall not disclose the name, address, social security number, business identification number or any other item of information associated with any return or report which the commissioner believes is likely to identify the taxpayer. The commissioner shall not furnish the actual return, or a portion thereof, or a reproduction or copy of any return or portion thereof. "Abstracted financial information" means only the dollar amounts set forth on each line on the form including the filing status.

Any person violating the provisions of this section shall be guilty of a gross misdemeanor.

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In order to locate the named payee on state warrants issued pursuant to this chapter or chapter 290A and undeliverable by the United States postal service, the commissioner may publish in any English language newspaper of general circulation in this state a list of the name and last known address of the payee as shown on the reports or returns filed with the commissioner. The commissioner may exclude the names of payees whose refunds are in an amount which is less than a minimal amount to be determined by the commissioner. The published list shall not contain any particulars set forth on any report or return. The publication shall include instructions on claiming the warrants.

An employee of the department of revenue may, in connection with his official duties relating to any audit, collection activity, or civil or criminal tax investigation or any other offense under this chapter, disclose return information to the extent that such disclosure is necessary in obtaining information, which is not otherwise reasonably available, with respect to the correct determination of tax, liability for tax, or the amount to be collected or with respect to the enforcement of any other provision of this chapter.

Sec. 24. Minnesota Statutes 1980, Section 290.92, Subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** (1) **WAGES.** For purposes of this section, the term "wages" means all remuneration, other than fees paid to a public official for services performed by an employee for his employer, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include remuneration paid

(a) For agricultural labor, as defined in section 3121(g) of the Internal Revenue Code of 1954, as amended through December 31, 1979, or

(b) For domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, or

(c) For service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is \$50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For purposes of this paragraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if

(i) On each of some 24 days during such quarter such individual performs for such employer for some portion of the day, service not in the course of the employer's trade or business, or,

(ii) Such individual was regularly employed (as determined under (i)) by such employer in the performance of such service during the preceding calendar quarter, or,

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(d) For services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order, or,

(e) (i) For services performed by an individual under the age 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution, or

(ii) For services performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such services, or is entitled to be credited with the unsold newspapers or magazines turned back, or

(f) For services not in the course of the employer's trade or business, to the extent paid in any medium other than cash, or

(g) To, or on behalf of, an employee or his beneficiary, from or to a trust described in section 290.26, which is exempt from tax under section 290.05, at the time of such payment, unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or under or to an annuity plan which, at the time of such payment, meets the requirements of section 290.26; the same as that term is defined in section 3401(a) and (f) of the Internal Revenue Code of 1954, as amended through December 31, 1980.

(2) **PAYROLL PERIOD.** For purposes of this section the term "payroll period" means a period for which a payment of wages is ordinarily made to the employee by his employer, and the term "miscellaneous payroll period" means a payroll period other than a daily, weekly, bi-weekly, semi-monthly, monthly, quarterly, semi-annual, or annual payroll period.

(3) **EMPLOYEE.** For purposes of this section the term "employee" means any resident individual performing services for an employer, either within or without, or both within and without the state of Minnesota, and every nonresident individual performing services within the state of Minnesota, the performance of which services constitute, establish, and determine the relationship between the parties as that of employer and employee. As used in the preceding sentence, the term "employee" includes an officer of a corporation, and an officer, employee, or elected official of the United States, a state, ~~territory~~, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing.

(4) **EMPLOYER.** For purposes of this section the term "employer" means any person, including individuals, fiduciaries, estates, trusts, partner-

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ships, and corporations transacting business in or deriving any income from sources within the state of Minnesota for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that if the person for whom the individual performs or performed the services does not have legal control of the payment of the wages for such services, the term "employer," except for purposes of paragraph (1), means the person having legal control of the payment of such wages. As used in the preceding sentence, the term "employer" includes any corporation, individual, estate, trust, or organization which is exempt from taxation under section 290.05 and further includes, but is not limited to, officers of corporations who have legal control, either individually or jointly with another or others, of the payment of the wages.

(5) **NUMBER OF WITHHOLDING EXEMPTIONS CLAIMED.** For purposes of this section, the term "number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under subdivision 5, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero.

Sec. 25. Minnesota Statutes 1980, Section 290.92, Subdivision 2a, is amended to read:

Subd. 2a. **COLLECTION AT SOURCE. (1) DEDUCTIONS.** Every employer making payment of wages shall deduct and withhold upon such wages a tax as provided in this section.

(2) **WITHHOLDING ON PAYROLL PERIOD.** The employer shall withhold the tax on the basis of each payroll period or as otherwise provided in this section.

(3) **WITHHOLDING TABLES.** Unless the amount of tax to be withheld is determined as provided in subdivision 3, the amount of tax to be withheld for each individual shall be based upon tables to be prepared and distributed by the commissioner. The tables shall be computed for the several permissible withholding periods and shall take account of exemptions allowed under this section; and the amounts computed for withholding shall be such that the amount withheld for any individual during his taxable year shall approximate in the aggregate as closely as possible the tax which is levied and imposed under this chapter for that taxable year, upon his salary, wages, or compensation for personal services of any kind for the employer, and shall take into consideration the allowable deduction for federal income tax and the deduction allowable under section 290.09, subdivision 15, and the credits against the tax allowable under the Minnesota income tax act.

(4) **MISCELLANEOUS PAYROLL PERIOD.** If wages are paid with respect to a period which is not a payroll period, the amount to be deducted

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and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which such wages are paid.

(5) **MISCELLANEOUS PAYROLL PERIOD.** (a) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of such wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January 1 of such year, whichever is the later.

(b) In any case in which the period, or the time described in clause (a), in respect of any wages is less than one week, the commissioner, under regulations prescribed by him, may authorize an employer to determine the amount to be deducted and withheld under the tables applicable in the case of a weekly payroll period, in which case the aggregate of the wages paid to the employee during the calendar week shall be considered the weekly wages.

(6) **WAGES COMPUTED TO NEAREST DOLLAR.** If the wages exceed the highest bracket, in determining the amount to be deducted and withheld under this subdivision, the wages may, at the election of the employer, be computed to the nearest dollar.

(7) **REGULATIONS ON WITHHOLDING.** The commissioner may, by regulations, authorize employers:

(a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;

(b) To determine the amount to be deducted and withheld upon each payment of wages to such employee during such quarter as if the appropriate average of the wages so estimated constituted the actual wages paid; and

(c) To deduct and withhold upon any payment of wages to such employee during such quarter such amount as may be necessary to adjust the amount actually deducted and withheld upon wages of such employee during such quarter to the amount required to be deducted and withheld during such quarter without regard to this paragraph (7).

(8) **ADDITIONAL WITHHOLDING.** The commissioner is authorized to provide by regulation, under such conditions and to such extent as he deems proper, for withholding in addition to that otherwise required under this subdivision and subdivision 3 in cases in which the employer and the employee agree to such additional withholding. Such additional withholding shall for all purposes be considered tax required to be deducted and withheld under this section.

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(9) TIPS. In the case of tips which constitute wages, this subdivision shall be applicable only to such tips as are included in a written statement furnished to the employer pursuant to section 6053 of the Internal Revenue Code of 1954, as amended through December 31, 1980, and only to the extent that the tax can be deducted and withheld by the employer, at or after the time such statement is so furnished and before the close of the calendar year in which such statement is furnished, from such wages of the employee (excluding tips, but including funds turned over by the employee to the employer for the purpose of such deduction and withholding) as are under the control of the employer; and an employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053 of the Internal Revenue Code of 1954 as amended through December 31, 1980 to which subdivision 1 is applicable may deduct and withhold the tax with respect to such tips from any wages of the employee (excluding tips) under his control, even though at the time such statement is furnished the total amount of the tips included in statements furnished to the employer as having been received by the employee in such calendar month in the course of his employment by such employer is less than \$20. Such tax shall not at any time be deducted and withheld in an amount which exceeds the aggregate of such wages and funds as are under the control of the employer minus any tax required by other provisions of state or federal law to be collected from such wages and funds.

Sec. 26. Minnesota Statutes 1980, Section 290.92, is amended by adding a subdivision to read:

Subd. 5a. VERIFICATION OF WITHHOLDING EXEMPTIONS; APPEAL. (1) An employer shall submit to the commissioner a copy of any withholding exemption certificate received from an employee on which the employee claims any of the following:

- (a) a total number of withholding exemptions in excess of nine, or
- (b) a status that would exempt the employee from Minnesota withholding, unless the employee is a nonresident exempt from withholding under subdivision 4a, clause (3), or the employer reasonably expects, at the time that the certificate is received, that the employee's wages under subdivision 1 from the employer will not then usually exceed \$200 per week, or
- (c) any number of withholding exemptions which the employer has reason to believe is in excess of the number to which the employee is entitled.

(2) Copies of exemption certificates required to be submitted by clause (1) shall be submitted to the commissioner within 30 days after receipt by the employer unless the employer is also required by federal law to submit copies to the Internal Revenue Service, in which case the employer may elect to submit the copies to the commissioner at the same time that he is required to submit them to the Internal Revenue Service.

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

(3) An employer who submits a copy of a withholding exemption certificate in accordance with clause (1) shall honor the certificate until notified by the commissioner that the certificate is invalid. The commissioner shall mail a copy of any such notice to the employee. Upon notification that a particular certificate is invalid, the employer shall not honor that certificate or any subsequent certificate unless instructed to do so by the commissioner. The employer shall allow the employee the number of exemptions and compute the withholding tax as instructed by the commissioner in accordance with clause (4).

(4) The commissioner may require an employee to verify that he or she is entitled to the number of exemptions or to the exempt status claimed on the withholding exemption certificate or, that he or she is a nonresident. The employee shall be allowed at least 30 days to submit the verification, after which time the commissioner shall, on the basis of the best information available to him, determine the employee's status and allow the employee the maximum number of withholding exemptions allowable under this chapter. The commissioner shall mail a notice of this determination to the employee at the address listed on the exemption certificate in question. Notwithstanding the provisions of section 290.61, the commissioner may notify the employer of this determination and instruct the employer to withhold tax in accordance with the determination.

(5) The commissioner's determination under clause (4) shall be appealable to tax court in accordance with section 271.06, and shall remain in effect for withholding tax purposes pending disposition of any appeal.

Sec. 27. Minnesota Statutes 1980, Section 290.92, Subdivision 7, is amended to read:

Subd. 7. WITHHOLDING STATEMENT TO EMPLOYEE OR PAYEE AND TO COMMISSIONER. (1) Every person required to deduct and withhold from an employee a tax under subdivision 2a or subdivision 3, or who would have been required to deduct and withhold a tax under subdivision 2a or subdivision 3, determined without regard to subdivision 19, if the employee had claimed no more than one withholding exemption, or who paid wages not subject to withholding under subdivision 2a or 3 to an employee in excess of \$600, or who has entered into a voluntary withholding agreement with a payee pursuant to subdivision 20, shall furnish to each such employee in respect to the remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which at the employee's request within 30 days after the last payment of remuneration is made, a written statement showing the following:

(a) Name of such person,

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(b) The name of the employee or payee and his social security account number.

(c) The total amount of wages as that term is defined in subdivision 1(1), and/or the total amount of remuneration subject to withholding pursuant to subdivision 20, and the amount of sick pay as required under section 6051(f) of the Internal Revenue Code of 1954, as amended through December 31, 1980,

(d) The total amount deducted and withheld as tax under subdivision 2a or subdivision 3.

(2) The statement required to be furnished by this subdivision in respect of any remuneration shall be furnished at such other times, shall contain such other information, and shall be in such form as the commissioner may prescribe.

(3) The commissioner may prescribe regulations providing for reasonable extensions of time, not in excess of 30 days, to employers or payers required to furnish such statements to their employees or payees under this subdivision.

(4) A duplicate of any statement made pursuant to this subdivision and in accordance with regulations rules prescribed by the commissioner, along with a reconciliation in such form as the commissioner may prescribe of all such statements for the calendar year (including a reconciliation of the quarterly returns required to be filed pursuant to subdivision 6), shall be filed with the commissioner at such time as he may by regulations prescribe on or before February 28 of the year after the payments were made. Such duplicate when so filed shall constitute the information return required to be made in respect of wages, salaries and commissions under section 290.41, subdivision 2.

Sec. 28. Minnesota Statutes 1980, Section 290.92, Subdivision 15, is amended to read:

Subd. 15. **PENALTIES.** (1) If any tax required to be deducted and withheld under subdivision 2a or subdivision 3, or any portion thereof, is not paid to or deposited with the commissioner within the time specified in subdivision 6 for the payment thereof, there shall be added thereto a penalty equal to ten percent of the amount so remaining unpaid. Such penalty shall be collected as part of said tax, and the amount of said tax not timely paid, together with said penalty, shall bear interest at the rate specified in section 270.75 from the time such tax should have been paid or deposited until paid. Where an extension of time for payment has been granted under the provisions of subdivision 6, interest shall be paid at the rate specified in section 270.75 from the date when such payment or deposit should have been made if no extension had been granted, until such tax is paid. If payment is not made at the expiration of the extended period the penalties provided in this subdivision shall apply.

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(2) In the case of any failure to withhold a tax on wages, make and file quarterly returns or make payments to or deposits with the commissioner of amounts withheld, as required by this section, within the time prescribed by law, unless it is shown that such failure is not due to wilful neglect, there shall be added to the tax in lieu of the penalty provided in paragraph (1) a penalty equal to ten percent of the amount of tax that should have been properly withheld and paid over to or deposited with the commissioner if the failure is for not more than 30 days with an additional five percent for each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate. The amount of the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid. The amount so added to the tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

(3) If any employer required to withhold a tax on wages, make deposits, make and file quarterly returns and make payments to the commissioner of amounts withheld, as required by sections 290.92 to 290.97, wilfully fails to withhold such a tax or make such deposits, files a false or fraudulent return, wilfully fails to make such a payment or deposit, or wilfully attempts in any manner to evade or defeat any such tax or the payment or deposit thereof, there shall also be imposed on such employer as a penalty an amount equal to 50 percent of the amount of tax (less any amount paid or deposited by such employer on the basis of such false or fraudulent return or deposit) that should have been properly withheld and paid over or deposited with the commissioner. The amount of the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid. The penalty imposed by this paragraph shall be collected as a part of the tax, and shall be in addition to any other penalties civil and criminal, prescribed by this subdivision.

(4) If any person required under the provisions of subdivision 7 to furnish a statement to an employee or payee and a duplicate statement to the commissioner, or to furnish a reconciliation of such statements (and quarterly returns) to the commissioner, wilfully furnishes a false or fraudulent statement to an employee or payee or a false or fraudulent duplicate statement or reconciliation of statements (and quarterly returns) to the commissioner, or wilfully fails to furnish a statement or such reconciliation in the manner, at the time, and showing the information required by the provisions of subdivision 7, or regulations prescribed by the commissioner thereunder, there shall be imposed on such a person a penalty of \$10 for each such act or failure to act. The penalty imposed by this paragraph shall become due and payable within ten days after the mailing of a written demand therefor, and may be collected in the manner prescribed in subdivision 6(8).

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(5) In addition to the penalties hereinbefore prescribed, any person required to withhold a tax on wages, make and file quarterly returns and make payments or deposits to the commissioner of amounts withheld, as required by this section, who wilfully fails to withhold such a tax or truthfully make and file such a quarterly return or make such a payment or deposit, shall be guilty of a gross misdemeanor.

(6) In lieu of any other penalty provided by law, except the penalty provided by paragraph (4), any person required under the provisions of subdivision 7 to furnish a statement of wages to an employee and a duplicate statement to the commissioner, who wilfully furnishes a false or fraudulent statement of wages to an employee or a false or fraudulent duplicate statement of wages to the commissioner, or who wilfully fails to furnish such a statement in the manner, at the time, and showing the information required by the provisions of subdivision 7, or regulations prescribed by the commissioner thereunder, shall be guilty of a gross misdemeanor.

(7) Any employee required to supply information to his employer under the provisions of subdivision 5, who wilfully fails to supply information thereunder which would require an increase in the tax to be deducted and withheld under subdivision 2a or subdivision 3, shall be guilty of a misdemeanor.

(8) The term "person," as used in this section, includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(9) All payments received shall be credited first to penalties, next to interest, and then to the tax due.

(10) In addition to any other penalty provided by law, any employee who furnishes a withholding exemption certificate to his employer which the employee has reason to know contains a materially incorrect statement shall be liable to the commissioner of revenue for a penalty of \$100 for each instance. The penalty shall be immediately due and payable and may be collected in the same manner as any delinquent income tax.

(11) In addition to any other penalty provided by law, any employer who fails to submit a copy of a withholding exemption certificate required by section 26, clause (1)(a), (1)(b), or (2) shall be liable to the commissioner of revenue for a penalty of \$50 for each instance. The penalty shall be immediately due and payable and may be collected in the manner provided in subdivision 6(8).

Sec. 29. Minnesota Statutes 1980, Section 290.92, is amended by adding a subdivision to read:

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Subd. 25. DELEGATION OF DUTY OF EMPLOYER. The delegation to an agent, fiduciary or employee of an employer of any duty prescribed for the employer by this section shall not relieve the employer of full compliance with such duty.

Sec. 30. Minnesota Statutes 1980, Section 290.93, Subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENT OF DECLARATION.** (1) Every individual shall, at the time prescribed in subdivision 5 of this section, make and file with the commissioner a declaration of his estimated tax for the taxable year if

(a) The gross income (as defined in section 290.01, subdivision 20) for the taxable year can reasonably be expected to exceed the gross income amounts set forth in section 290.37, subdivision 1 pertaining to the requirements for making a return; and

(b) Such gross income can reasonably be expected to include more than \$500 from sources other than wages upon which a tax has been deducted and withheld under section 290.92, subdivision 2a or subdivision 3.

(2) If the individual is an infant or incompetent person, the declaration shall be made by his guardian.

(3) Notwithstanding the provisions of this section, no declaration is required if the estimated tax (as defined in subdivision 3) can reasonably be expected to be less than ~~\$50~~ \$100.

Sec. 31. Minnesota Statutes 1980, Section 290.93, Subdivision 3, is amended to read:

Subd. 3. **ESTIMATED TAX DEFINED.** For purposes of this section, in the case of an individual, the term "estimated tax" means the amount which the individual estimates as the sum of the taxes imposed by this chapter (other than the tax imposed by section 290.091), for the taxable year, minus the amount which the individual estimates as his allowable credits against income tax under this chapter.

Sec. 32. Minnesota Statutes 1980, Section 290.93, Subdivision 10, is amended to read:

Subd. 10. **UNDERPAYMENT OF ESTIMATED TAX.** (1) In the case of any underpayment of estimated tax by an individual, except as provided in paragraph (4), there may be added to and become a part of the taxes imposed by this chapter, for the taxable year an amount determined at the rate specified in section 270.75 upon the amount of the underpayment for the period of the underpayment.

(2) For purposes of the preceding paragraph, the amount of underpayment shall be the excess of

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(a) The amount of the installment which would be required to be paid if the estimated tax were equal to ~~70~~ 80 percent (66 2/3 percent in the case of farmers referred to in subdivision 5(2) of this section) of the taxes shown on the return for the taxable year or the taxes for such year if no return was filed, over

(b) The amount, if any, of the installment paid on or before the last day prescribed for such payment.

(3) The period of the underpayment shall run from the date the installment was required to be paid to whichever of the following dates is the earlier

(a) The 15th day of the fourth month following the close of the taxable year.

(b) With respect to any portion of the underpayment, the date on which such portion is paid. For purposes of this sub-paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under paragraph (2) (a) for such installment date.

(4) The addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the lesser

(a) The total tax liability shown on the return of the individual for the preceding taxable year (if a return showing a liability for such taxes was filed by the individual for the preceding taxable year of 12 months), or

(b) An amount equal to the tax computed, at the rates applicable to the taxable year, on the basis of the taxpayer's status with respect to ~~credits allowed by section 290.06, subdivision 3e,~~ the personal credits for the taxable year, but otherwise on the basis of the facts shown on his return for, and the law applicable to the preceding taxable year, or

(c) An amount equal to ~~70~~ 80 percent (66 2/3 percent in the case of farmers referred to in subdivision 5(2) of this section) of the tax for the taxable year (after deducting personal credits) computed by placing on an annualized basis the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid. For purposes of this sub-paragraph, the taxable income shall be placed on an annualized basis by

(i) Multiplying by 12 (or in the case of a taxable year of less than 12 months, the number of months in the taxable year) the taxable income computed for the months in the taxable year ending before the month in which the installment is required to be paid.

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

(ii) Dividing the resulting amount by the number of months in the taxable year ending before the month in which such installment date falls, or

(d) An amount equal to 90 percent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual taxable income for the months in the taxable year ending before the month in which the installment is required to be paid.

(5) For the purposes of applying this subdivision, the estimated tax shall be computed without any reduction for the amount which the individual estimates as his credit under section 290.92, subdivision 12 (relating to tax withheld at source on wages), and the amount of such credit for the taxable year shall be deemed a payment of estimated tax, and an equal part of such amount shall be deemed paid on each installment date (determined under subdivisions 6 and 7 of this section) for such taxable year, unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts so withheld shall be deemed payments of estimated tax on the dates on which such amounts were actually withheld.

~~(6) The application of this subdivision to taxable years of less than 12 months shall be in accordance with regulations prescribed by the commissioner.~~

Sec. 33. Minnesota Statutes 1980, Section 290.931, Subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENTS OF DECLARATION.** Every corporation subject to taxation under this chapter (excluding ~~section~~ sections 290.091 and 290.92) shall make a declaration of estimated tax for the taxable year if its tax liability so computed can reasonably be expected to exceed \$1,000.

Sec. 34. Minnesota Statutes 1980, Section 290.934, Subdivision 4, is amended to read:

Subd. 4. **EXCEPTION.** Notwithstanding the provisions of the preceding subdivisions, the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the lesser

(1) The tax shown on the return of the corporation for the preceding taxable year ~~reduced by \$1,000~~, if a return showing a liability for tax was filed by the corporation for the preceding taxable year and such preceding year was a taxable year of 12 months.

(2) An amount equal to the tax computed at the rates applicable to the taxable year but otherwise on the basis of the facts shown on the return of the corporation for, and the law applicable to, the preceding taxable year.

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

Sec. 35. Minnesota Statutes 1980, Section 290.934, Subdivision 5, is amended to read:

Subd. 5. **DEFINITION OF TAX.** The term "tax" means the ~~excess of the tax imposed by chapter 290 over \$1,000.~~

Sec. 36. Minnesota Statutes 1980, Section 290A.03, Subdivision 8, is amended to read:

Subd. 8. **CLAIMANT.** "Claimant" means a person, other than a dependent, who filed a claim authorized by sections 290A.01 to 290A.21 and who was domiciled in this state during the calendar year for which the claim for relief was filed. In the case of a claim relating to rent constituting property taxes, the claimant shall have resided in a rented or leased unit on which ad valorem taxes or payments made in lieu of ad valorem taxes are payable at some time during the calendar year covered by the claim, except that a claimant who is disabled or who has attained the age of 65 on the date specified in section 290A.04, subdivision 1, may file a claim based on residence in a unit on which ad valorem taxes were not payable. In the case of a claim for rent constituting property taxes of a part year resident, the income and rental reflected in this computation shall be for the period of Minnesota residency only. Any rental expenses paid which may be reflected in arriving at federal adjusted gross income cannot be utilized for this computation. When two individuals of a household are able to meet the qualifications for a claimant, they may determine among them as to who the claimant shall be. If they are unable to agree, the matter shall be referred to the commissioner of revenue and his decision shall be final. If a homestead property owner was a part year resident, the income reflected in the computation made pursuant to section 290A.04 shall be for the entire calendar year, including income not assignable to Minnesota.

If a homestead is occupied by two or more renters, who are not husband and wife, the rent shall be deemed to be paid equally by each, and separate claims shall be filed by each. The income of each shall be his household income for purposes of computing the amount of credit to be allowed.

Sec. 37. Minnesota Statutes 1980, Section 290A.07, Subdivision 2, is amended to read:

Subd. 2. A claimant who is a renter or who had attained the age of 65 or had been disabled prior to June 1 of the year following the year for which the taxes were levied or in which the rent was paid shall receive full payment no later than 60 days after receipt of the application or may elect to take as a credit against his income tax the full amount. Interest shall be added at six percent per annum beginning 30 days after the 60 days have elapsed and until the date the claim is paid. If the claimant elected to take the credit against the income tax, interest shall be paid as required under section 290.92, subdivision 13.

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

Sec. 38. Minnesota Statutes 1980, Section 290A.07, Subdivision 3, is amended to read:

Subd. 3. Any claimant not included in subdivision 2 shall receive full payment after September 30 and prior to October 15. Interest shall be added at six percent per annum from October 15 or 60 days after receipt of the application if the application is filed after August 31. Interest will be computed until the date the claim is paid.

Sec. 39. Minnesota Statutes 1980, Section 290A.08, is amended to read:

290A.08 ONE CLAIMANT PER HOUSEHOLD.

Only one claimant per household per year is entitled to relief under sections 290A.01 to 290A.21. Payment of the claim for relief may be made payable to the husband and wife as one claimant. The commissioner, upon written request, may issue separate checks, to the husband and wife for one-half of the relief provided the original check has not been issued or has been returned. Individuals related as husband and wife who were married during the year may elect to file a joint claim which shall include each spouse's income, rent constituting property taxes, and property taxes payable. The maximum dollar amount allowable for a joint claim shall not exceed the amount that one person could receive.

Sec. 40. Minnesota Statutes 1980, Section 290A.11, Subdivision 2, is amended to read:

Subd. 2. **FRAUDULENT CLAIM; PENALTY.** In any case in which it is determined that the claim is or was excessive and was filed with fraudulent intent, the claim shall be disallowed in full. If the claim has been paid, the amount disallowed shall be recovered by assessment and collection in the manner provided in chapter 290 for collection of income tax. The assessment shall bear interest from the date the claim is paid by the state until the date of repayment by the claimant, at the rate of six percent per annum specified in section 270.75. The claimant, and any person who assisted in the preparation of filing of the excessive claim or supplied information upon which the excessive claim was prepared, with fraudulent intent, is guilty of a misdemeanor.

Any person who knowingly prepares, assists in preparing, or files false or excessive claims with the intent of defrauding the state of Minnesota of \$2,500 or more, aggregated within any 12 month period, is guilty of a felony and upon conviction may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$10,000, or both.

Sec. 41. Minnesota Statutes 1980, Section 290A.11, Subdivision 4, is amended to read:

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

Subd. 4. **INTEREST.** Amounts to be repaid to the state shall bear interest at six percent per annum the rate specified in section 270.75 from the date the state paid the claim until the date of repayment by the claimant.

Sec. 42. REPEALER.

Minnesota Statutes 1980, Section 290.032, Subdivision 4, is repealed.

Sec. 43. REPEALER.

Minnesota Statutes 1980, Section 290A.07, Subdivision 4, is repealed.

Sec. 44. EFFECTIVE DATE.

Sections 1, 8, 11, 18, 20, 21, 22, 23, 29, 31, and 33 are effective the day after final enactment. Sections 3, 4, 6, 7, 10, 12, 13, 14, 15, 16, 17, 19, 27 and 42 are effective for taxable years beginning after December 31, 1980. Section 2, Subdivisions 1 to 6, are effective for taxable years beginning after December 31, 1980. Section 2, Subdivision 7, is effective the day after enactment. Section 5 is effective for taxable years beginning after December 31, 1980 provided that interest on investment indebtedness paid or accrued in a taxable year beginning before January 1, 1981 may not be carried over to taxable years beginning after December 31, 1980. Section 9 is effective for estates of decedents dying after December 31, 1979. Sections 24, 25, 26 and 28 are effective July 1, 1981. Sections 30 and 32 are effective for taxable years beginning after December 31, 1981. Sections 34 and 35 are effective for taxable years beginning after June 30, 1981. Sections 39 and 41 are effective for claims based on rent paid in 1980 and subsequent years and property taxes payable in 1981 and subsequent years. Sections 36, 37, 38, and 43 are effective for claims based on rent paid in 1981 and subsequent years and property taxes payable in 1982 and subsequent years. That part of section 40 that relates to interest rates is effective for claims based on rent paid in 1980 and subsequent years and property taxes payable in 1981 and subsequent years. That part of section 40 that relates to the crime of defrauding the state is effective the day after enactment.

Approved June 1, 1981

CHAPTER 344 — H.F.No. 1210

An act relating to taxation; providing that an electing small business corporation for federal income tax purposes shall be an electing small business corporation for Minnesota income tax purposes; amending Minnesota Statutes 1980, Sections 290.01, Subdivision 20; 290.974; proposing new law coded in Minnesota Statutes, Chapter 290; repealing Minnesota Statutes 1980, Sections 290.971; 290.972; and 290.975.

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