

shall this subdivision require any dealer to disclose any consideration received in return for the dealer having agreed to any contingent liability in connection with the financing of the sale.

Sec. 4. EFFECTIVE DATE.

This act is effective August 1, 1981, and shall apply to all leases commenced, renewed, or extended on or after that date. It shall also apply to all leases of a term of one year or more commenced, renewed, or entered into prior to August 1, 1981, which are still in effect on that date.

Approved May 11, 1981

CHAPTER 178 — H.F.No. 932

An act relating to taxation; income; property tax refund; making technical corrections; deleting obsolete provisions; amending Minnesota Statutes 1980, Sections 290.01, Subdivisions 3, 19, 20, 21, 22, 23, 25, 26, and 27; 290.011; 290.032, Subdivision 2; 290.06, Subdivisions 1, 2c, 3e, 3f, and 11; 290.07, Subdivision 3; 290.071, Subdivisions 2 and 3; 290.075; 290.077, Subdivisions 1 and 2; 290.079, Subdivision 6; 290.08, Subdivision 8; 290.081; 290.085; 290.09, Subdivisions 1, 2, 4, 5, 6, 7, 10, 15, 18, 21, and 29; 290.095, Subdivision 2; 290.10; 290.101, Subdivision 9; 290.12, Subdivisions 1, 2, and 4; 290.13, Subdivision 5; 290.131, Subdivisions 1 and 3; 290.132, Subdivision 1; 290.133, Subdivision 2; 290.134, Subdivision 1; 290.135, Subdivision 1; 290.14; 290.16, Subdivisions 1, 3, 7, 8, 9, 12, and 13; 290.17, Subdivision 2; 290.18, Subdivisions 1 and 2; 290.21, Subdivisions 1, 3, 3a, 4, and 7; 290.22; 290.23, Subdivisions 3, 5, 9, and 15; 290.25, Subdivision 1; 290.26, Subdivisions 1, 2a, and 3; 290.281, Subdivision 2; 290.31, Subdivisions 2, 3, 4, 6, 9, 10, 11, 21, and by adding a subdivision; 290.32; 290.34, Subdivision 3; 290.35; 290.39, Subdivision 1; 290.42; 290.45, Subdivision 3; 290.46; 290.48, Subdivision 2; 290.49, Subdivisions 1 and 4; 290.50, Subdivisions 1, 3, and 5; 290.53, Subdivisions 1 and 4; 290.56, Subdivisions 2, 3, and 4; 290.92, Subdivisions 5, 6, 16, and 19; 290.93, Subdivisions 5 and 6; 290.932, Subdivisions 1 and 4; 290A.03, Subdivisions 3 and 13; 290A.04, Subdivisions 2 and 2c; 290A.06; and 290A.07, Subdivision 2; repealing Minnesota Statutes 1980, Sections 290.076; 290.08, Subdivisions 7 and 13; 290.131, Subdivisions 4, 5, 6, and 7; 290.133, Subdivision 3; 290.134, Subdivisions 2, 3, and 4; 290.135, Subdivisions 2, 3, and 4; 290.23, Subdivisions 1, 2, 6, 7, 8, 10, 11, 12, 13, and 14; 290.24; 290.25, Subdivisions 2, 3, 4, and 5; 290.26, Subdivisions 4 and 7; 290.27; 290.28; 290.60; 290.65, Subdivision 17; 290.931, Subdivision 4; 290.932, Subdivision 3; 290.933, Subdivision 3; and 290.934, Subdivision 6.

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

Section 1. Minnesota Statutes 1980, Section 290.01, Subdivision 3, is amended to read:

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

Subd. 3. **PARTNERSHIP.** The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this ~~aet~~ chapter, a trust or estate or a corporation; and the term "partner" includes a member in ~~such~~ a syndicate, group, pool, joint venture or organization.

Sec. 2. Minnesota Statutes 1980, Section 290.01, Subdivision 19, is amended to read:

Subd. 19. **NET INCOME.** The term "net income" means the gross income, as defined in subdivision 20, less the deductions allowed by section 290.09 (and for individuals, section 290.21) to the extent allowed by section 290.18, subdivision 1.

Sec. 3. Minnesota Statutes 1980, Section 290.01, Subdivision 20, is amended to read:

Subd. 20. **GROSS INCOME.** Except as otherwise provided in this chapter, the term "gross income," as applied to corporations includes every kind of compensation for labor or personal services of every kind from any private or public employment, office, position or services; income derived from the ownership or use of property; gains or profits derived from every kind of disposition of, or every kind of dealing in, property; income derived from the transaction of any trade or business; and income derived from any source; except that gross income shall not include "exempt function income" of a "homeowners association" as those terms are defined in Section 528 of the Internal Revenue Code of 1954, as amended through December 31, 1979.

The term "gross income" in its application to individuals, estates, and trusts shall mean the adjusted gross income as ~~computed for federal income tax purposes~~ as defined in the Internal Revenue Code of 1954, as amended through the date specified herein for the applicable taxable year, with the modifications specified in this ~~section~~ subdivision. For estates and trusts the adjusted gross income shall be their federal taxable income as defined in the Internal Revenue Code of 1954, as amended through the date specified herein for the applicable taxable year, with the modifications specified in this subdivision and with the modification that the federal deduction for personal exemptions for trusts and estates shall not be allowed.

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

(ii) The Internal Revenue Code of 1954, as amended through December 31, 1976, including the amendments made to section 280A (relating to licensed day care centers) in H.R. 3477 as it passed the Congress on May 16, 1977, shall be in effect for the taxable years beginning after December 31, 1976. The

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provisions of the Tax Reform Act of 1976, P.L. 94-455, which affect adjusted gross income shall become effective for purposes of this chapter at the same time they become effective for federal income tax purposes. Section 207 (relating to extension of period for nonrecognition of gain on sale or exchange of residence) and section 402 (relating to time for making contributions to pension plans of self employed people) of P.L. 94-12 shall be effective for taxable years beginning after December 31, 1974.

The provisions of section 4 of P.L. 95-458, and sections 131, 133, 134, 141, 152, 156, 157, and 405 of P.L. 95-600 (relating to pensions, individual retirement accounts, deferred compensation plans, and to the sale of a residence) shall be effective at the same time that these provisions became effective for federal income tax purposes.

(iii) The Internal Revenue Code of 1954, as amended through December 31, 1979, shall be in effect for taxable years beginning after December 31, 1979.

For taxable years beginning after December 31, 1980 and before January 1, 1983, the provisions of section 404 (relating to partial exclusions of dividends and interest received by individuals) of the Crude Oil Windfall Profit Tax Act of 1980, P.L. 96-223, shall apply.

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

(a) Modifications increasing federal adjusted gross income. There shall be added to federal adjusted gross income:

(1) Interest income on obligations of any state other than Minnesota or a political subdivision of any other state exempt from federal income taxes under the Internal Revenue Code of 1954;

(2) ~~Interest income on obligations of any authority, commission, or instrumentality of the United States, which the laws of the United States exempt from federal income tax, but not from state income taxes~~ A business casualty loss if the taxpayer elected to deduct the loss on the current year's federal income tax return but had deducted the loss on the previous year's Minnesota income tax return;

(3) Income taxes imposed by this state or any other taxing jurisdiction, to the extent deductible in determining federal adjusted gross income and not credited against federal income tax;

(4) Interest on indebtedness incurred or continued to purchase or carry securities the income from which is exempt from tax under this chapter, to the extent deductible in determining federal adjusted gross income;

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

(6) The amount of any federal income tax overpayment for any previous taxable year, received as refund or credited to another taxable year's income tax liability, proportionate to the percentage of federal income tax that was claimed as a deduction in determining Minnesota income tax for the previous taxable year. The amount of the federal income tax overpayment shall be reported only to the extent that the amount resulted in a reduction of the tax imposed by this chapter.

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

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

(8) ~~In the case of property disposed of on or after January 1, 1973,~~ The amount of any increase in the taxpayer's federal tax liability under section 47 of the Internal Revenue Code of 1954 to the extent of the credit under section 38 of the Internal Revenue Code of 1954 that was previously allowed as a deduction either under section 290.01, subdivision 20 (b) (7) ~~or under section 290.09, subdivision 24;~~

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

(10) Expenses and depreciation attributable to substandard buildings disallowed by section 290.101;

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

(12) To the extent deducted in computing the taxpayer's federal adjusted gross income for the taxable year, losses recognized upon a transfer of property to the spouse or former spouse of the taxpayer in exchange for the release of the spouse's marital rights;

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

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

(15) The amount of any excluded gain recognized by a trust on the sale or exchange of property as defined in section 641(c)(1) of the Internal Revenue Code of 1954;

(16) An amount equal to one-sixth of any gain from the sale or other disposition of property deducted under sections 1202(a) and 1202(c)(1) of the Internal Revenue Code of 1954;

(17) To the extent not included in the taxpayer's federal adjusted gross income, the amount of any gain, from the sale or other disposition of property having a lower adjusted basis for Minnesota income tax purposes than for federal income tax purposes. This modification shall not exceed the difference in basis. If the gain is considered a long term capital gain for federal income tax purposes, the modification shall be limited to 50 percent of the portion of the gain. This modification is limited to property that qualified for the energy credit contained in section 290.06, subdivision 14, and to property acquired in exchange for the release of the taxpayer's marital rights contained in section 290.14, clause (9);

(18) The amount of any loss from a source outside of Minnesota which is not allowed under section 290.17 including any capital loss or net operating loss carryforwards or carrybacks resulting from the loss; ~~and~~

(19) The amount of a distribution from an individual housing account which is to be included in gross income as required under clause (c) of section 290.09, subdivision 30; and

(20) To the extent deducted in computing the taxpayer's federal adjusted gross income, interest, taxes and other expenses which are not allowed under section 290.10, clause (9) or (10).

(b) Modifications reducing federal adjusted gross income. There shall be subtracted from federal adjusted gross income:

(1) Interest income on obligations of any authority, commission or instrumentality of the United States to the extent includible in gross income for federal income tax purposes but exempt from state income tax under the laws of the United States;

(2) The portion of any gain, from the sale or other disposition of property having a higher adjusted basis for Minnesota income tax purposes

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than for federal income tax purposes, that does not exceed such difference in basis; but if such gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to 50 per centum of the portion of the gain. This modification shall not be applicable if the difference in basis is due to disallowance of depreciation pursuant to section 290.101.

(3) Interest or dividend income on securities to the extent exempt from income tax under the laws of this state authorizing the issuance of the securities but includible in gross income for federal income tax purposes;

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

(5) If included in federal adjusted gross income, the amount of any credit received, whether received as a refund or credit to another taxable year's income tax liability, pursuant to chapter 290A, and the amount of any overpayment of income tax to Minnesota, or any other state, for any previous taxable year, whether the amount is received as a refund or credited to another taxable year's income tax liability;

(6) To the extent included in federal adjusted gross income, or the amount reflected as the ordinary income portion of a lump sum distribution under section 402(e) of the Internal Revenue Code of 1954, notwithstanding any other law to the contrary, the amount received by any person (i) from the United States, its agencies or instrumentalities, the Federal Reserve Bank or from the state of Minnesota or any of its political or governmental subdivisions or from any other state or its political or governmental subdivisions, or a Minnesota volunteer firefighter's relief association, by way of payment as a pension, public employee retirement benefit, or any combination thereof, or (ii) as a retirement or survivor's benefit made from a plan qualifying under section 401, 403, 404, 405, 408, 409 or 409A of the Internal Revenue Code of 1954. The maximum amount of this subtraction shall be \$11,000 less the amount by which the individual's federal adjusted gross income, plus the ordinary income portion of a lump sum distribution as defined in section 402(e) of the Internal Revenue Code of 1954, exceeds \$17,000. In the case of a volunteer firefighter who receives an involuntary lump sum distribution of his pension or retirement benefits, the maximum amount of this subtraction shall be \$11,000; this subtraction shall not be reduced by the amount of the individual's federal adjusted gross income in excess of \$17,000;

(7) ~~In the case of property acquired on or after January 1, 1973,~~ The amount of any credit to the taxpayer's federal tax liability under section 38 of the Internal Revenue Code of 1954 but only to the extent that the credit is

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connected with or allocable against the production or receipt of income included in the measure of the tax imposed by this chapter;

(8) To the extent included in the taxpayer's federal adjusted gross income for the taxable year, gain recognized upon a transfer of property to the spouse or former spouse of the taxpayer in exchange for the release of the spouse's marital rights;

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

(10) Interest, including payment adjustment to the extent that it is applied to interest, earned by the seller of the property on a family farm security loan executed before January 1, 1982 that is guaranteed by the commissioner of agriculture as provided in sections 41.51 to 41.60;

(11) The first \$3,000 of compensation for personal services in the armed forces of the United States or the United Nations, and the next \$2,000 of compensation for personal services in the armed forces of the United States or the United Nations wholly performed outside the state of Minnesota. This modification does not apply to compensation defined in clause (b)(6);

(12) The amount of any income earned for personal services rendered outside of Minnesota prior to the date when the taxpayer became a resident of Minnesota. This modification does not apply to compensation defined in clause (b)(6);

(13) In the case of wages or salaries paid or incurred on or after January 1, 1977, the amount of any credit for employment of certain new employees under sections 44B and 51 to 53 of the Internal Revenue Code of 1954 which is claimed as a credit against the taxpayer's federal tax liability, but only to the extent that the credit is connected with or allocable against the production or receipt of income included in the measure of the tax imposed by this chapter;

(14) In the case of work incentive program expenses paid or incurred on or after January 1, 1979, the amount of any credit for expenses of work incentive programs under sections 40, 50A and 50B of the Internal Revenue Code of 1954 which is claimed as a credit against the taxpayer's federal tax liability, but only to the extent that the credit is connected with or allocable against the production or receipt of income included in the measure of the tax imposed by this chapter;

(15) Unemployment compensation to the extent includible in gross income for federal income tax purposes under section 85 of the Internal Revenue Code of 1954;

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(16) To the extent included in federal adjusted gross income, severance pay that may be treated as a lump sum distribution under the provisions of section 290.032, subdivision 5;

(17) The amount of any income or gain which is not assignable to Minnesota under the provisions of section 290.17; ~~and~~

(18) Minnesota exempt-interest dividends as provided by subdivision 27;

(19) A business casualty loss which the taxpayer elected to deduct on the current year's Minnesota income tax return but did not deduct on the current year's federal income tax return; and

(20) Income from the performance of personal or professional services which is subject to the reciprocity exclusion contained in section 290.081, clause (a).

(c) Modifications affecting shareholders of electing small business corporations under section 1372 of the Internal Revenue Code of 1954, or section 290.972 of this chapter.

(1) Shareholders in a small business corporation, which has elected to be so taxed under the Internal Revenue Code of 1954, but has not made an election under section 290.972 of this chapter, shall deduct from federal adjusted gross income the amount of any imputed income from the corporation and shall add to federal adjusted gross income the amount of any loss claimed as a result of stock ownership. Also there shall be added to federal adjusted gross income the amount of any distributions in cash or property made by said corporation to its shareholders during the taxable year.

(2) In cases where the small business corporation has made an election under section 1372 of the Internal Revenue Code of 1954, but has not elected under section 290.972 of this chapter and the corporation is liquidated or the individual shareholder disposes of the stock and there is no capital loss reflected in federal adjusted gross income because of the fact that corporate losses have exhausted the shareholders basis for federal purposes, the shareholders shall be entitled, nevertheless, to a capital loss commensurate to their Minnesota basis for the stock.

(3) In cases where the election under section 1372 of the Internal Revenue Code of 1954 antedates the election under section 290.972 of this chapter and at the close of the taxable year immediately preceding the effective election under section 290.972 the corporation has a reserve of undistributed taxable income previously taxed to shareholders under the provisions of the Internal Revenue Code of 1954, in the event and to the extent that the reserve is distributed to shareholders the distribution shall be taxed as a dividend for purposes of this ~~act~~ chapter.

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Items of gross income includible within these definitions shall be deemed such regardless of the form in which received. Items of gross income shall be included in gross income of the taxable year in which received by a taxpayer unless properly to be accounted for as of a different taxable year under methods of accounting permitted by section 290.07, except that (1) (d) Amounts transferred from a reserve or other account, if in effect transfers to surplus, shall, to the extent that the amounts were accumulated through deductions from gross income or entered into the computation of taxable net income during any taxable year, be treated as gross income for the year in which the transfer occurs, but only to the extent that the amounts resulted in a reduction of the tax imposed by this chapter act, and (2) amounts received as refunds on account of taxes deducted from gross income during any taxable year shall be treated as gross income for the year in which actually received, but only to the extent that such amounts resulted in a reduction of the tax imposed by this chapter act.

(d) (e) Modification in computing taxable income of the estate of a decedent. Amounts allowable under section 291.07, subdivision 1, clause (2) in computing Minnesota inheritance or estate tax liability shall not be allowed as a deduction in computing the taxable income of the estate unless there is filed within the time and in the manner and form prescribed by the commissioner a statement that the amounts have not been allowed as a deduction under section 291.07 and a waiver of the right to have the amounts allowed at any time as deductions under section 291.07. The provisions of this paragraph shall not apply with respect to deductions allowed under section 290.077 (relating to income in respect of decedents). In the event that the election made for federal tax purposes under section 642(g) of the Internal Revenue Code of 1954 differs from the election made under this paragraph appropriate modification of the estate's federal taxable income shall be made to implement the election made under this paragraph in accordance with regulations prescribed by the commissioner.

Sec. 4. Minnesota Statutes 1980, Section 290.01, Subdivision 21, is amended to read:

Subd. 21. **DIVIDENDS.** ~~(1) The term "dividends" means any distribution made by a corporation to its shareholders, whether in money or in other property, (a) out of its earnings or profits accumulated after December 31, 1932, or (b) out of the earnings or profits of the taxable year (computed as of the close of the taxable year without diminution by reason of any distributions made during the taxable year), without regard to the amount of the earnings and profits at the time the distribution was made. Dividends paid in property other than cash shall be included in the recipient's income at the fair market value of such property on the date the action ordering their distribution was taken, or if no such action was taken, on the date of the actual payment of credit thereof to the shareholder.~~

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(2) For the purposes of this section every distribution is presumed to be made out of earnings or profits to the extent thereof, and from the most recently accumulated earnings or profits. Any earnings or profits accumulated, or increase in value of tangible property with situs in Minnesota, accrued, before January 1, 1933, may be distributed exempt from tax, after the earnings and profits accumulated after December 31, 1932, have been distributed, but any such tax-free distribution shall be applied against and reduce the cost or other income tax basis of the stock with respect to which such distribution is made. If such or any similar tax-free distributions exceed such cost or other income tax basis, any excess shall be treated in the same manner as a gain from the sale or exchange of property for the taxable year in which received by the distributee.

(3) A distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock shall not be treated as a dividend to the extent that it does not constitute income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution of the United States. Whenever a distribution by a corporation is, at the election of any of the shareholders (whether exercised before or after the declaration thereof), payable either (a) in its stock or in rights to acquire its stock or (b) in money or any other property (including its stock or rights to acquire its stock) then the distribution shall constitute a taxable dividend in the hands of all shareholders, regardless of the medium in which paid. If a corporation cancels or redeems its stock, whether or not such stock was issued as a stock dividend, at such time and in such manner as to make the distribution and cancellation or redemption, in whole or in part, essentially equivalent to the distribution of a taxable dividend, the amount so distributed in cancellation or redemption of the stock shall be treated as a taxable dividend to the extent that it represents a distribution of earnings or profits.

(4) Amounts distributed in liquidation of a corporation shall be treated as payment in exchange for the stock, and the gain or loss to the distributee resulting from such exchange shall be determined under section 290.12, but shall be recognized only to the extent provided in section 290.13, and shall be taken into account in computing gross income and net income only to the extent provided in section 290.16. No amounts received in liquidation shall be taxed as a gain until the distributee shall have received in liquidation an amount in excess of the applicable loss or gain basis of the stock in respect of which the distribution is received, and any such excess shall be taxed as gain in the year in which received. No amount received in liquidation shall be treated as the distribution of an ordinary dividend.

(5) Amounts distributed by a regulated investment company, as that term is defined and limited by section 851 of the Internal Revenue Code of 1954, as amended through December 31, 1979, which are designated as capital gain dividends, as that term is defined in section 852(b) (3) (C) of the Internal

Revenue Code of 1954, as amended through December 31, 1979, shall be treated by the shareholders of such a company as gains from the sale or exchange of capital assets held for more than six months and shall be taken into account in computing net income only to the extent provided in section 290.16 one year.

Sec. 5. Minnesota Statutes 1980, Section 290.01, Subdivision 22, is amended to read:

Subd. 22. **TAXABLE NET INCOME.** The term "taxable net income" means the net income assignable to this state pursuant to sections 290.17 to 290.20. For corporations, taxable net income is then reduced by the deductions contained in section 290.21.

Sec. 6. Minnesota Statutes 1980, Section 290.01, Subdivision 23, is amended to read:

Subd. 23. **ADJUSTED GROSS INCOME.** The term "adjusted gross income" means the gross income, as defined in subdivision 20, less the allowable deductions provided in sections 290.09, 290.075, 290.077, and 290.16, subdivision 6, to the extent federal income tax deduction allowed by section 290.18, subdivision 2.

Sec. 7. Minnesota Statutes 1980, Section 290.01, Subdivision 25, is amended to read:

Subd. 25. **EMPLOYEE STOCK OWNERSHIP TRUST.** The term "employee stock ownership trust" means a trust which ~~(a)~~ is a qualified stock bonus trust under ~~section 404~~ sections 401(a) and 409A or 4975 of the Internal Revenue Code of 1954, as amended through December 31, 1979, ~~except as any of the following requirements may be held to be prohibited transactions under section 503 of the Internal Revenue Code of 1954 amended through December 31, 1979;~~ ~~(b)~~ provides that all employees of an employer with two or more years of fulltime employment shall be eligible as beneficiaries of the trust; ~~(c)~~ provides that shares in the unencumbered trust assets shall be allocated among the beneficiaries' accounts without reduction by social security benefits, in part in proportion to each beneficiary's aggregate compensation during his active employment as of each December 31 and in part upon other factors which will tend to avoid discrimination in favor of highly paid employees; ~~(d)~~ prohibits the receipt or ownership by the trust of securities issued by the employer which are not common stock with voting and dividend rights equal to other outstanding common stock of the employer or which are not convertible into such common stock; and ~~(e)~~ provides that the employees eligible as beneficiaries of the trust shall have the right to elect by majority vote thereof an advisory committee to the trustee or trustees.

Sec. 8. Minnesota Statutes 1980, Section 290.01, Subdivision 26, is amended to read:

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

Subd. 26. **INTERNAL REVENUE CODE OF 1954.** For purposes of this chapter, for taxable years commencing after December 31, 1973, the provisions of Sections 401(d)(5), ~~401(d)(8)~~, and 401(e) of the Internal Revenue Code of 1954 as amended through December 31, ~~1973~~ 1980 shall not be applicable.

Sec. 9. Minnesota Statutes 1980, Section 290.01, Subdivision 27, is amended to read:

Subd. 27. **MINNESOTA EXEMPT-INTEREST DIVIDENDS.** If, at the close of each quarter of its taxable year, at least 50 percent of the value (as defined in section 851(c)(4) of the Internal Revenue Code of 1954 as amended through December 31, 1979) of the total assets of a regulated investment company (as defined and limited by section 851 of the Internal Revenue Code of 1954 as amended through December 31, 1979 and to which sections 851 to 855 of the Code apply for the taxable year) consists of obligations described in subdivision 20, clause (b)(1), or section 290.08, subdivision 8, determined without regard to ~~section 290.08, subdivision 13~~ the last sentence, the company shall be qualified to pay Minnesota exempt-interest dividends, as defined herein, to its shareholders.

(A) A Minnesota exempt-interest dividend means any dividend or part thereof (other than a capital gain dividend as defined in subdivision 21, ~~clause (5)~~ or an exempt-interest dividend as defined in section 852(b)(5)(A) of the Internal Revenue Code of 1954, as amended through December 31, 1979) paid by a regulated investment company and designated by it as a Minnesota exempt-interest dividend in a written notice mailed to its shareholders not later than 45 days after the close of its taxable year. If the aggregate amount so designated with respect to a taxable year of the company, including Minnesota exempt-interest dividends paid after the close of the taxable year as described in section 290.21, subdivision 6, is greater than the excess of —

(i) The amount of interest that would be excludable from gross income under section 290.08, subdivision 8 determined without regard to ~~section 290.08, subdivision 13~~ the last sentence, if the company were subject to chapter 290, whether or not the company is subject to chapter 290, over

(ii) The amounts that would be disallowed as deductions under section 290.09, subdivisions 3(b) and 13, if the company were subject to chapter 290, whether or not the company is subject to chapter 290, as a result of the company's ownership of obligations described in section 290.08, subdivision 8, determined without regard to ~~section 290.08, subdivision 13~~ the last sentence,

the portion of such distribution which shall constitute a Minnesota exempt-interest dividend shall be only that proportion of the amount so designated as the amount of the excess for the taxable year bears to the amount so designated.

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(B) A Minnesota exempt-interest dividend shall be treated by the shareholders for all purposes of chapter 290 as an item of interest excludable from gross income under subdivision 20, clause (b)(1), and section 290.08, subdivision 8, ~~subject to section 290.08, subdivision 13.~~ Such purposes include but are not limited to —

- (i) The determination of gross income and taxable income,
- (ii) The determination of distributable net income under section 290.23,
- (iii) The allowance of, or calculation of the amount of, any credit or deduction, and
- (iv) The determination of the basis in the hands of any shareholder of any share of stock of the company.

Sec. 10. Minnesota Statutes 1980, Section 290.011, is amended to read:

290.011 PUBLIC POLICY.

It is declared to be the public policy of the state of Minnesota that taxation of the income of individuals who do not earn enough to support themselves or their dependents adequately is unfair. To remedy this, a ~~tax credit~~ an alternative tax shall be granted to these individuals ~~sufficient to offset their income tax liability.~~

Sec. 11. Minnesota Statutes 1980, Section 290.032, Subdivision 2, is amended to read:

Subd. 2. The amount of tax imposed by subdivision 1 shall be computed in the same way as the tax imposed under section 402(e) of the Internal Revenue Code of 1954, as amended through December 31, 1979, except that the initial separate tax shall be an amount equal to ten times the tax which would be imposed by section 290.03 if the recipient was an individual referred to in such section and the taxable net income, excluding the credits allowed in section 290.06, subdivision ~~3e,~~ and section 290.21 3f, was an amount equal to one-tenth of the excess of

- (i) the total taxable amount of the lump sum distribution for the year, over
- (ii) the minimum distribution allowance, and except that references in section 402(e) of the Internal Revenue Code of 1954, as amended through December 31, 1979, to paragraph (1)(A) thereof shall instead be references to subdivision 1 of this section.

Sec. 12. Minnesota Statutes 1980, Section 290.06, Subdivision 1, is amended to read:

Subdivision 1. **COMPUTATION, CORPORATIONS.** The privilege and income taxes imposed by this chapter upon corporations shall be computed

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by applying to their taxable net income in excess of the applicable ~~credits~~ deductions allowed under section 290.21 the rate of 12 percent.

Sec. 13. Minnesota Statutes 1980, Section 290.06, Subdivision 2c, is amended to read:

Subd. 2c. **SCHEDULE OF RATES FOR INDIVIDUALS, ESTATES AND TRUSTS.** (a) ~~For taxable years beginning after December 31, 1979, The~~ income taxes imposed by this chapter upon individuals, estates and trusts, other than those taxable as corporations, shall be computed by applying to their ~~taxable net income in excess of the applicable credits allowed by section 290.21,~~ the following schedule of rates:

- (1) On the first \$500, one and six-tenths percent;
- (2) On the second \$500, two and two-tenths percent;
- (3) On the next \$1,000, three and five-tenths percent;
- (4) On the next \$1,000, five and eight-tenths percent;
- (5) On the next \$1,000, seven and three-tenths percent;
- (6) On the next \$1,000, eight and eight-tenths percent;
- (7) On the next \$2,000, ten and two-tenths percent;
- (8) On the next \$2,000, eleven and five-tenths percent;
- (9) On the next \$3,500, twelve and eight-tenths percent;
- (10) On all over \$12,500, and not over \$20,000, fourteen percent;
- (11) On all over \$20,000 and not over \$27,500, fifteen percent;
- (12) On all over \$27,500, sixteen percent.

(b) In lieu of a tax computed according to the rates set forth in clause (a) of this subdivision, the tax of any individual taxpayer whose taxable net income for the taxable year, ~~reduced by the applicable credits allowed by section 290.21,~~ is less than \$20,000 shall be computed in accordance with tables prepared and issued by the commissioner of revenue based on income brackets of not more than \$100. The amount of tax for each bracket shall be computed at the rates set forth in this subdivision, provided that the commissioner may disregard a fractional part of a dollar unless it amounts to 50 cents or more, in which case it may be increased to \$1.

Sec. 14. Minnesota Statutes 1980, Section 290.06, Subdivision 3e, is amended to read:

Subd. 3e. **HOMEMAKER CREDIT.** A credit of \$50 may be deducted from the tax due from the taxpayer and his spouse, if any, under this chapter

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if either the taxpayer or his spouse devotes his time to caring for his children and their home and is not employed outside of the home. A taxpayer would qualify for the credit if

(a) he has a child who is twelve years of age or younger residing in his home at any time during the taxable year;

(b) either the taxpayer or his spouse remains unemployed throughout the taxable year for the purpose of caring for the child in the home; and

(c) the combined federal adjusted gross income, plus the ordinary income portion of a lump sum distribution as defined in section 402(e) of the Internal Revenue Code of 1954, as amended through December 31, 1980, of the taxpayer and his spouse is not in excess of \$25,000.

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 the married claimant, only one spouse may claim the credit.

Sec. 15. Minnesota Statutes 1980, Section 290.06, Subdivision 3f, is amended to read:

Subd. 3f. **CREDITS AGAINST TAX.** ~~Notwithstanding the provisions of subdivision 3a, and Subject to the provisions of subdivision 3g for taxable years which begin after December 31, 1979,~~ the taxes due under the computation in accordance with this section shall be credited with the following amounts:

(1) In the case of an unmarried individual and in the case of the estate of a decedent, \$60, and in the case of a trust, \$5;

(2) In the case of a married individual, ~~living with a spouse,~~ \$120. If the spouses file separate, combined or joint returns the personal credits may be taken by either or divided between them;

(3) In the case of an individual, \$60 for each person (other than a spouse) dependent upon and receiving his chief support from the taxpayer. One taxpayer only shall be allowed this credit with respect to any given dependent. A payment to a divorced or separated spouse, other than a payment for support of minor children under a temporary order or final decree of dissolution or legal separation, shall not be considered a payment by the other spouse for the support of any dependent.

(4) (a) In the case of an unmarried individual who has attained the age of 65 before the close of his taxable year, an additional \$60;

(b) In the case of an unmarried individual who is blind at the close of the taxable year, an additional \$60;

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(c) In the case of a married individual, ~~living with a spouse~~, an additional \$60 for each spouse who has attained the age of 65 before the close of the individual's taxable year, and an additional \$60 for each spouse who is blind at the close of the individual's taxable year. If the spouses file separate, combined or joint returns, these credits may be taken by either or divided between them;

(d) In the case of an individual, another \$60 for each person, other than a spouse, who is blind and dependent upon and receiving his chief support from the taxpayer;

(e) For the purposes of subparagraphs (b), (c) and (d) of paragraph (4), an individual is blind if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(f) In the case of an unmarried individual who is deaf at the close of the taxable year, an additional \$60.

(g) In the case of a married individual, an additional \$60 for each spouse who is deaf at the close of the taxable year. If the spouses file separate, combined or joint returns, these credits may be taken by either or divided between them.

(h) In the case of an individual, an additional \$60 for each person (other than a spouse) who is deaf and dependent upon and receiving his chief support from the taxpayer.

(i) For the purposes of subparagraphs (f), (g) and (h) of paragraph (4), an individual is deaf if the average loss in the speech frequencies (500-2000 Hertz) in the better ear, unaided, is 92 decibels, American National Standards Institute, or worse.

(5) (a) In the case of an unmarried individual who is a quadriplegic at the close of the taxable year, an additional \$60;

(b) In the case of a married individual, ~~living with a spouse~~, an additional \$60 for each spouse who is a quadriplegic at the close of the taxable year. If the spouses file separate, combined or joint returns, these credits may be taken by either or divided between them;

(c) In the case of an individual, another \$60 for each person, other than a spouse, who is quadriplegic and dependent upon and receiving his chief support from the taxpayer; and

(d) For the purposes of subparagraphs (a), (b) and (c) of paragraph 5, "quadriplegic" means an individual who has a congenital or traumatic partial or total loss of all four limbs or who has a disability that substantially impairs the functioning of all four limbs.

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(6) In the case of an insurance company, it shall receive a credit on the tax computed as above equal in amount to any taxes based on premiums paid by it during the period for which the tax under ~~Extra Session Laws 1967, Chapter 32~~, this chapter is imposed by virtue of any law of this state, other than the surcharge on premiums imposed by ~~Extra Session Laws 1933, Chapter 53~~, as ~~amended sections 69.54 to 69.56~~.

(7) In the case of a nonresident individual, credits under paragraphs 1, 2, 3, 4 and 5 shall be apportioned in the proportion of the gross income from sources in Minnesota to the gross income from all sources, and in any event a minimum credit of \$5 shall be allowed.

Sec. 16. Minnesota Statutes 1980, Section 290.06, Subdivision 11, is amended to read:

Subd. 11. **CONTRIBUTIONS TO POLITICAL PARTIES AND CANDIDATES.** In lieu of the ~~credit against taxable net income deduction~~ provided by section 290.21, subdivision 3, clause (e), a taxpayer may take a credit against the tax due under this chapter of 50 percent of his contributions to candidates for elective state or federal public office and to any political party. The maximum credit for an individual shall not exceed \$50 and, for a married couple filing jointly or filing a combined return, shall not exceed \$100. No credit shall be allowed under this subdivision for a contribution to any candidate, other than a candidate for elective judicial office or federal office, who has not signed an agreement to limit his campaign expenditures as provided in section 10A.32, subdivision 3b. For purposes of this subdivision, a political party means a major political party as defined by section 10A.01, subdivision 12.

This credit shall be allowed only if the contribution is verified in the manner the commissioner of revenue shall prescribe.

Sec. 17. Minnesota Statutes 1980, Section 290.07, Subdivision 3, is amended to read:

Subd. 3. **CHANGE IN ACCOUNTING METHODS; ADJUSTMENTS.** (1) In computing the taxpayer's net income and taxable net income for any taxable year (referred to in this subdivision as the "year of the change"): (a) if such computation is under a method of accounting different from the method under which the taxpayer's net income and taxable net income for the preceding taxable year was computed, then (b) there shall be taken into account those adjustments which are determined to be necessary solely by reason of the change in order to prevent amounts from being duplicated or omitted, except there shall not be taken into account any adjustment in respect of any taxable year to which this subdivision does not apply.

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(2) If (a) the method of accounting from which the change is made was used by the taxpayer in computing his net income and taxable net income for the two taxable years preceding the year of the change, and (b) the increase in net income and taxable net income for the year of the change which results solely by reason of the adjustments required by paragraph (1) (b) exceeds \$3,000, then the tax under this chapter attributable to such increase in net income and taxable net income shall not be greater than the aggregate of the taxes under this chapter (or under the corresponding provisions of this chapter) which would result if one-third of such increase were included in net income and taxable net income for the year of the change and one-third of such increase were included for each of the two preceding taxable years.

(3) If (a) the increase in net income and taxable net income for the year of the change which results solely by reason of the adjustments required by paragraph (1) (b) exceeds \$3,000, and (b) the taxpayer establishes his net income and taxable net income (under the new method of accounting) for one or more taxable years consecutively preceding the taxable year of the change for which the taxpayer in computing net income and taxable net income used the method of accounting from which the change is made, then the tax under this chapter attributable to such increase in net income and taxable net income shall not be greater than the net increase in the taxes under this chapter which would result if the adjustments required by paragraph (1) (b) were allocated to the taxable year or years specified in part (b) of this sentence to which they are properly allocable under the new method of accounting and the balance of the adjustments required by paragraph (1) (b) was allocated to the taxable year of the change.

(4) For purposes of paragraphs (2) and (3) there shall be taken into account the increase or decrease in tax for any taxable year preceding the year of the change to which no adjustment is allocated under paragraph (3) but which is affected by a net operating loss (as defined in section 290.095) or by a capital loss carryover (as defined in section 290.16, subdivision 6), determined with reference to taxable years with respect to which adjustments under paragraph (3) are allocated. The increase or decrease in the tax for any taxable year for which an assessment of any deficiency, or a credit or refund of any overpayment, is prevented by any law or rule of law, shall be determined by reference to the tax previously determined for such year.

(5) In the case of any change described in paragraph (1), the taxpayer may, in such manner and subject to such conditions as the commissioner may by regulations prescribe, take the adjustments required by paragraph (1) (b) into account in computing the tax imposed by this chapter for the taxable year or years permitted under such regulations.

~~(6) This subdivision shall not apply to a change to which subdivision 5 (relating to change to installment method) applies.~~

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

Sec. 18. Minnesota Statutes 1980, Section 290.071, Subdivision 2, is amended to read:

Subd. 2. **LONG TERM PROJECTS.** (1) If an individual or partnership engages in an employment as defined in paragraph (2), and the employment covers a period of 36 months or more (from the beginning to the completion of such employment), and the gross compensation from the employment received or accrued in the taxable year of the individual or partnership is not less than 80 percent of the total compensation from such employment, then the tax attributable to any part of the compensation which is included in the gross income of any individual shall not be greater than the aggregate of the taxes attributable to such part had it been included in the gross income of such individual ratably over that part of the period preceding the date of receipt or accrual.

(2) For purposes of this subdivision, the term "an employment" means an arrangement or series of arrangements for the performance of personal services by an individual or partnership to effect a particular result, regardless of the number of sources from which compensation therefor is obtained.

(3) An individual who is a member of a partnership receiving or accruing compensation from an employment of the type described in paragraph (1) shall be entitled to the benefits of that paragraph only if the individual has been a member of the partnership continuously for a period of 36 months or the period of the employment immediately preceding the receipt or accrual. In such a case the tax attributable to the part of the compensation which is includible in the gross income of the individual shall not be greater than the aggregate of the taxes which would have been attributable to that part had it been included in the gross income of the individual ratably over the period in which it was earned or the period during which the individual continuously was a member of the partnership, whichever period is the shorter. For purposes of this paragraph, a member of a partnership shall be deemed to have been a member of the partnership for any period, ending immediately prior to becoming such a member, in which he was an employee of such partnership, if during the taxable year he received or accrued compensation attributable to employment by the partnership during such period. ~~This paragraph shall apply only to amounts received or accrued after December 31, 1954. Notwithstanding any other provisions of this act, section 290.071, subdivision 2 shall apply to amounts received or accrued as a partner on or before December 31, 1954 and to the computation of tax on amounts received or accrued on or before December 31, 1954.~~

Sec. 19. Minnesota Statutes 1980, Section 290.071, Subdivision 3, is amended to read:

Subd. 3. **INVENTION, ARTISTIC WORK.** If (a) an individual includes in gross income amounts in respect of a particular invention or artistic

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work created by the individual; and (b) the work on the invention or the artistic work covered a period of 24 months or more (from the beginning to the completion thereof); and (c) the amounts in respect of the invention or the artistic work includible in gross income for the taxable year are not less than 80 percent of the gross income in respect of such invention or artistic work in the taxable year plus the gross income therefrom in previous taxable years and the 12 months immediately succeeding the close of the taxable year, then the tax attributable to the part of such gross income of the taxable year which is not taxable as a gain from the sale or exchange of a capital asset held for more than ~~six months~~ one year shall not be greater than the aggregate of the taxes attributable to such part had it been received ratably over, in the case of an invention, that part of the period preceding the close of the taxable year or 60 months, whichever is shorter, or, in the case of an artistic work, that part of the period preceding the close of the taxable year but not more than 36 months.

For purposes of this subdivision, (a) the term "invention" means a patent covering an invention of the individual, and (b) the term "artistic work" means a literary, musical, or artistic composition or a copyright covering a literary, musical, or artistic composition.

Sec. 20. Minnesota Statutes 1980, Section 290.075, is amended to read:

290.075 RENEGOTIATED WAR CONTRACTS.

Any taxpayer who supplies any goods, wares and merchandise or performs services, or both, under any contract, with the United States of America, or under any subcontract thereunder, or under a cost-plus-a-fixed-fee contract with the United States of America, or any agency thereof and who is subject to renegotiations under the renegotiation laws of the United States of America, or is required to renegotiate with his subcontractor, shall be required to adjust his or its Minnesota income and franchise tax liability in accordance with the following rules:

A return shall be filed and the income and franchise tax computed, on the basis of the Minnesota taxable net income without giving effect to any renegotiations occurring after the close of the taxable year. If after the close of the taxable year there is a final determination under renegotiation, the difference between (1) the amount determined by the renegotiation to be (a) excess profits, (b) excess fees under a fixed fee contract with the United States, or any agency thereof, or (c) the amount of any item for which the taxpayer has been reimbursed but which is disallowed as an item of cost chargeable to a fixed fee contract, and (2) the amount of federal income and excess profits taxes applicable thereto, shall be allowed as a deduction from gross income in the taxable year in which said final determination is made, but only to the extent that such renegotiated profits, fees or amounts were included in the taxable net income in a prior year. If the taxable net income for the taxable year in which said final determination is made is less than said deduction, the taxpayer shall

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be entitled to a refund of the state income tax which it has paid on the difference between said deduction and said taxable income. This section shall apply to all taxable years ending after December 31, 1941, notwithstanding the expiration of the period of limitation provided by law; provided, that no refund shall be allowed unless a claim therefor is filed as provided by law within three and one-half years after the return was filed or two years after the tax was paid or collected, whichever period is the longer. The certificate of the agency or instrumentality of the United States conducting such renegotiation proceedings shall be evidence of the amount of the renegotiated profit and of the date thereof.

Sec. 21. Minnesota Statutes 1980, Section 290.077, Subdivision 1, is amended to read:

Subdivision 1. **INCLUSION IN GROSS INCOME.** (1) The amount of all items of gross income in respect of a decedent which are not properly includible in respect of the taxable period in which falls the date of his death or a prior period (including the amount of all items of gross income in respect of a prior decedent, if the right to receive such amount was acquired by reason of the death of the prior decedent or by bequest, devise, or inheritance from the prior decedent) shall be included in the gross income, for the taxable year when received; of:

(A) The estate of the decedent, if the right to receive the amount is acquired by the decedent's estate from the decedent;

(B) The person who, by reason of the death of the decedent, acquires the right to receive the amount, if the right to receive the amount is not required by the decedent's estate from the decedent; or

(C) The person who acquires from the decedent the right to receive the amount by bequest, devise or inheritance, if the amount is received after a distribution by the decedent's estate of such right.

(2) If a right, described in paragraph (1), to receive an amount is transferred by the estate of the decedent or a person who receives such right by reason of the death of the decedent or by bequest, devise, or inheritance from the decedent, there shall be included in the gross income of the estate or such person, as the case may be, for the taxable period in which the transfer occurs, the fair market value of such right at the time of such transfer plus the amount by which any consideration for the transfer exceeds such fair market value. For the purposes of this paragraph, the term "transfer" includes sale, exchange, or other disposition, or the satisfaction of an installment obligation at other than face value, but does not include transmission at death to the estate of the decedent or a transfer to a person pursuant to the right of such person to receive such amount by reason of the death of the decedent or by bequest, devise, or inheritance from the decedent except as provided in subdivision 3.

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(3) The right, described in paragraph (1), to receive an amount shall be treated, in the hands of the estate of the decedent or any person who acquired such right by reason of the death of the decedent, or by bequest, devise, or inheritance from the decedent, as if it had been acquired by the estate or such person in the transaction in which the right to receive the income was originally derived; and the amount includible in gross income under paragraph (1) or (2) shall be considered in the hands of the estate or such person to have the character which it would have had in the hands of the decedent if the decedent had lived and received such amount.

(4) In the case of an installment obligation received by a decedent on the sale or other disposition of property, the income from which was properly reportable by the decedent on the installment basis under section 290.07, subdivision 3, if such obligation is acquired by the decedent's estate from the decedent or by any person by reason of the death of the decedent or by bequest, devise, or inheritance from the decedent.

(a) An amount equal to the excess of the face amount of such obligation over the basis of the obligation in the hands of the decedent (determined under section 290.07, subdivision 3) shall, for the purpose of paragraph (1), be considered as an item of gross income in respect of the decedent; and

(b) Such obligation shall, for purposes of paragraphs (2) and (3), be considered a right to receive an item of gross income in respect of the decedent; but the amount includible in gross income under paragraph (2) shall be reduced by an amount equal to the basis of the obligation in the hands of the decedent (determined under section 290.07, subdivision 3). Income shall be included in gross income as provided in section 691(a) of the Internal Revenue Code of 1954, as amended through December 31, 1980.

Sec. 22. Minnesota Statutes 1980, Section 290.077, Subdivision 2, is amended to read:

Subd. 2. **ALLOWANCE OF DEDUCTIONS AND CREDIT.** The amount of any deductions specified in sections 290.09, subdivisions 2, 3, 4, or 8 (relating to deductions for expenses, interest, taxes and depletion) in respect of a decedent which is not properly allowable to the decedent in respect of the taxable period in which falls the date of his death, or a prior period, shall be allowed:

(1) In the case of a deduction specified in sections 290.09, subdivisions 2, 3, or 4, in the taxable year when paid

(A) to the estate of the decedent; except that

(B) if the estate of the decedent is not liable to discharge the obligation to which the deduction relates, to the person who, by reason of the death of the decedent or by bequest, devise or inheritance acquires, subject to such obligation, from the decedent an interest in property of the decedent.

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(2) In the case of the deduction specified in section 290.09, subdivision 8 to the person described in ~~subdivision 4 691(a) (1), (A) (B) or (C) of the Internal Revenue Code of 1954, as amended through December 31, 1980~~ who, in the manner described therein, receives the income to which the deduction relates, in the taxable year when such income is received.

Sec. 23. Minnesota Statutes 1980, Section 290.079, Subdivision 6, is amended to read:

Subd. 6. **EXCEPTIONS AND LIMITATIONS.** (1) **SALES PRICE OF \$3,000 OR LESS.** This section shall not apply to any payment on account of the sale or exchange of property if it can be determined at the time of such sale or exchange that the sales price cannot exceed \$3,000.

(2) **CARRYING CHARGES.** In the case of the purchaser, the tax treatment of amounts paid on account of the sale or exchange of property shall be made without regard to this section if any such amounts are treated under section 290.09, subdivision 3(c) as if they included interest.

(3) **TREATMENT OF SELLER.** In the case of the seller, the tax treatment of any amounts received on account of the sale or exchange of property shall be made without regard to this section if no part of any gain on such sale or exchange would be considered as gain from the sale or exchange of a capital asset or property described in section 290.16, subdivision 9.

(4) **ANNUITIES.** ~~This section shall not apply to any amount the liability for which depends in whole or in part on the life expectancy of one or more individuals and which constitutes an amount received as an annuity to which section 290.08, subdivision 4 applies.~~

Sec. 24. Minnesota Statutes 1980, Section 290.08, Subdivision 8, is amended to read:

Subd. 8. **INTEREST FROM UNITED STATES OR STATE OF MINNESOTA.** Interest upon obligations of the United States, its possessions, its agencies, or its instrumentalities, so far as immune from state taxation under federal law; and interest upon obligations of the state of Minnesota, any of its political or governmental subdivisions, any of its municipalities, or any of its governmental agencies or instrumentalities. ~~This subdivision shall not apply to corporations taxable under sections 290.02 or 290.361 or to individuals, estates, or trusts.~~

Sec. 25. Minnesota Statutes 1980, Section 290.081, is amended to read:
290.081 INCOME OF NONRESIDENTS, RECIPROCITY.

(a) The compensation received for the performance of personal or professional services within this state by an individual who resides and has his place of abode and place to which he customarily returns at least once a month

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in another state, shall be excluded from gross income to the extent such compensation is subject to an income tax imposed by the state of his residence; provided that such state allows a similar exclusion of compensation received by residents of Minnesota for services performed therein, or

(b) Whenever a nonresident taxpayer has become liable for income taxes to the state where he resides upon his net income for the taxable year derived from the performance of personal or professional services within this state and subject to taxation under this chapter, there shall be allowed as a credit against the amount of income tax payable by him under this chapter, such proportion of the tax so paid by him to the state where he resides as his gross income subject to taxation under this chapter bears to his entire gross income upon which the tax so paid to such other state was imposed; provided, that such credit shall be allowed only if the laws of such state grant a substantially similar credit to residents of this state subject to income tax under such laws, or

(c) If any taxpayer who is a resident of this state, or a domestic corporation or corporation commercially domiciled therein, has become liable for taxes on or measured by net income to another state or a province or territory of Canada upon, if the taxpayer is an individual ~~or a resident estate or resident trust~~, any income, or if it is a corporation, estate, or trust, upon income derived from the performance of personal or professional services within such other state or province or territory of Canada and subject to taxation under this chapter he or it shall be entitled to a credit against the amount of taxes payable under this chapter, of such proportion thereof, as such gross income subject to taxation in such state or province or territory of Canada bears to his entire gross income subject to taxation under this chapter; provided (1) that such credit shall in no event exceed the amount of tax so paid to such other state or province or territory of Canada on the gross income earned within such other state or province or territory of Canada and subject to taxation under this chapter, and (2) that such credit shall not be allowed if such other state or province or territory of Canada allows residents of this state a credit against the taxes imposed by such state or province or territory of Canada for taxes payable under this chapter substantially similar to the credit provided for by paragraph (b) of this section, and (3) the allowance of such credit shall not operate to reduce the taxes payable under this chapter to an amount less than would have been payable if the gross income earned in such other state or province or territory of Canada had been excluded in computing net income under this chapter.

(d) The commissioner shall by regulation determine with respect to gross income earned in any other state the applicable clause of this section. When it is deemed to be in the best interests of the people of this state, the commissioner may determine that the provisions of clause (a) shall not apply.

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(e) "Tax So Paid" as used in this section means taxes on or measured by net income payable to another state or province or territory of Canada on income earned within the taxable year for which the credit is claimed, provided that such tax is actually paid in that taxable year, or subsequent taxable years.

(f) For the purposes of clause (a), whenever the Wisconsin tax on Minnesota residents which would have been paid Wisconsin without clause (a) exceeds the Minnesota tax on Wisconsin residents which would have been paid Minnesota without clause (a), or vice versa, then the state with the net revenue loss resulting from clause (a) shall receive from the other state the amount of such loss. This provision shall be effective for all years beginning after December 31, 1972. The data used for computing the loss to either state shall be determined on or before September 30 of the year following the close of the previous calendar year.

Interest shall be payable on all delinquent balances relating to taxable years beginning after December 31, 1977. The commissioner of revenue is authorized to enter into agreements with the state of Wisconsin specifying the reciprocity payment due date, conditions constituting delinquency, interest rates, and a method for computing interest due on any delinquent amounts.

If an agreement cannot be reached as to the amount of the loss, the commissioner of revenue and the taxing official of the state of Wisconsin shall each appoint a member of a board of arbitration and these members shall appoint the third member of the board. The board shall select one of its members as chairman. Such board may administer oaths, take testimony, subpoena witnesses, and require their attendance, require the production of books, papers and documents, and hold hearings at such places as are deemed necessary. The board shall then make a determination as to the amount to be paid the other state which determination shall be final and conclusive.

Notwithstanding the provisions of section 290.61, the commissioner may furnish copies of returns, reports, or other information to the taxing official of the state of Wisconsin, a member of the board of arbitration, or a consultant under joint contract with the states of Minnesota and Wisconsin for the purpose of making a determination as to the amount to be paid the other state under the provisions of this section. Prior to the release of any information 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.

Sec. 26. Minnesota Statutes 1980, Section 290.085, is amended to read:

290.085 GROSS INCOME, DIVIDENDS FROM STATE AND NATIONAL BANKS.

By reason of the adoption of method numbered (4) authorized by the act of March 25, 1926, amending section 5249 of Revised Statutes of the United

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~~States whereby a state may impose an excise tax upon national banks, and the state having elected, in section 290.361, to impose such tax, Every taxpayer taxable under this chapter must include in gross income dividends received from national banks (to the extent permitted by said section 5219) and dividends from state banks in the same manner and to the same extent as other dividend income is includible in gross income for the purpose of computing his taxable net income.~~

Sec. 27. Minnesota Statutes 1980, Section 290.09, Subdivision 1, is amended to read:

Subdivision 1. **LIMITATIONS.** The following deductions from gross income shall be allowed in computing net income, provided that any item which was deducted in arriving at gross income under the provisions of section 290.01, subdivision 20, shall not be again deducted under this section.

Property taxes may not be deducted under this section if

(1) The taxes are attributable to a trade or business carried on by an individual, or

(2) The taxes are expenses for the production of income which are paid or incurred by an individual; and which are not allowed as a deduction under section 164 of the Internal Revenue Code of 1954, as amended through December 31, 1980.

Sec. 28. Minnesota Statutes 1980, Section 290.09, Subdivision 2, is amended to read:

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

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

(2) Traveling expenses (including the ~~entire amount~~ amounts expended for meals and lodging other than amounts which are lavish or extravagant under the circumstances) while away from home in the pursuit of a trade or business; and

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

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

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

(1) For the production or collection of income;

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

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

(c) Campaign expenditures in an amount not to exceed the limits set out in section 210A.22, not subsequently reimbursed, which have been personally paid by a candidate for public office if the candidate has complied with the expenditure limitations set out in section 210A.22, even though the candidate's expenditures are limited under other state or federal laws;

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

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

~~(f)~~ (f) The provisions of section 280A (disallowing certain expenses in connection with the business use of the home and rental of vacation homes) of the Internal Revenue Code of 1954, as amended through December 31, 1979, shall be applicable in determining the availability of any deduction under this subdivision.

~~(g)~~ (g) Entertainment, amusement, or recreation expenses shall be allowed under this subdivision only to the extent that they qualify as a deduction under section 274 of the Internal Revenue Code of 1954, as amended through December 31, 1979.

Sec. 29. Minnesota Statutes 1980, Section 290.09, Subdivision 4, is amended to read:

Subd. 4. TAXES. Taxes paid or accrued within the taxable year, except (a) income or franchise taxes imposed by this chapter and income or franchise taxes paid to any other state or to any province or territory of Canada for which a credit is allowed under section 290.081; (b) taxes assessed against local benefits of a kind deemed in law to increase the value of the property assessed; (c) inheritance, gift and estate taxes except as provided in section 290.077, subdivision 4; (d) cigarette and tobacco products excise tax imposed on the consumer; (e) that part of Minnesota property taxes for which a credit or refund is claimed and allowed under chapter 290A; (f) federal income taxes, by corporations, national and state banks ~~except as provided in section 290.18;~~

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(g) mortgage registry tax; (h) real estate transfer tax; (i) federal telephone tax; (j) federal transportation tax; and (k) tax paid by any corporation or national or state bank to any foreign country or possession of the United States to the extent that a credit against federal income taxes is allowed under the provisions of the Internal Revenue Code of 1954, as amended through December 31, 1979. If the taxpayer's foreign tax credit consists of both foreign taxes deemed paid and foreign taxes actually paid or withheld, it will be conclusively presumed that foreign taxes deemed paid were first used by the taxpayer in its foreign tax credit. Minnesota gross income shall include the amount of foreign tax paid which had been allowed as a deduction in a previous year, provided such foreign tax is later allowed as a credit against federal income tax.

Income taxes permitted to be deducted hereunder shall, regardless of the methods of accounting employed, be deductible only in the taxable year in which paid. Taxes imposed upon a shareholder's interest in a corporation which are paid by the corporation without reimbursement from the shareholder shall be deductible only by such corporation.

Sec. 30. Minnesota Statutes 1980, Section 290.09, Subdivision 5, is amended to read:

Subd. 5. **LOSSES.** (a) **GENERAL RULE.** There shall be allowed as a deduction any loss sustained during the taxable year and not compensated for by insurance or otherwise.

(b) **AMOUNT OF DEDUCTION.** For purposes of paragraph (a), the basis for determining the amount of the deduction for any loss shall be the adjusted basis provided in sections 290.12, 290.131 to 290.139, 290.14 and 290.15 for determining the loss from the sale or other disposition of property.

(c) **LIMITATION OF LOSSES OF INDIVIDUALS.** In the case of an individual, the deduction under paragraph (a) shall be limited to

- (1) Losses incurred in a trade or business;
- (2) Losses incurred in any transaction entered into for profit, though not connected with a trade or business; and
- (3) Losses of property not connected with a trade or business, if such losses arise from fire, storm, shipwreck, or other casualty, or from theft to the extent they are deductible pursuant to the provisions of section 165 (c) (3) of the Internal Revenue Code of 1954, as amended through December 31, 1979. No loss described in this paragraph shall be allowed if, at the time of the filing of the return, such loss has been claimed for inheritance or estate tax purposes.

(d) **WAGERING LOSSES.** Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions.

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

(e) **THEFT LOSSES.** For purposes of paragraph (a), any loss arising from theft shall be treated as sustained during the taxable year in which the taxpayer discovers such loss.

(f) **CAPITAL LOSSES.** Losses from sales or exchanges of capital assets shall be allowed only to the extent allowed in section 290.16.

(g) **WORTHLESS SECURITIES.** (1) **GENERAL RULE.** If any security which is a capital asset becomes worthless during the taxable year, the loss resulting therefrom shall, for purposes of this chapter, be treated as a loss from the sale or exchange, on the last day of the taxable year, of a capital asset.

(2) **SECURITY DEFINED.** For purposes of this paragraph, the term "security" means:

(A) A share of stock in a corporation;

(B) A right to subscribe for, or to receive, a share of stock in a corporation; or

(C) A bond, debenture, note, or certificate, or other evidence of indebtedness, issued by a corporation or by a government or political subdivision thereof, with interest coupons or in registered form.

(3) **SECURITIES IN AFFILIATED CORPORATION.** For purposes of paragraph (1), any security in a corporation affiliated with a taxpayer which is a domestic corporation shall not be treated as a capital asset. For purposes of the preceding sentence, a corporation shall be treated as affiliated with the taxpayer only if:

(A) At least 95 80 percent of each class of its stock is owned directly by the taxpayer, and

(B) More than 90 percent of the aggregate of its gross receipts for all taxable years has been from sources other than royalties, rents (except rents derived from rental from properties to employees of the corporation in the ordinary course of its operating business), dividends, interest (except interest received on deferred purchase price of operating assets sold), annuities, and gains from sales or exchanges of stocks and securities. In computing gross receipts for purposes of the preceding sentence, gross receipts from sales or exchanges of stock and securities shall be taken into account only to the extent of gains therefrom.

(h) **DISASTER LOSSES.** (1) Notwithstanding the provisions of (a), any loss

(A) attributable to a disaster which occurs during the period following the close of the taxable year and on or before the time prescribed by law for filing the income tax return for the taxable year (determined without regard to any extension of time), and

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(B) occurring in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under ~~section 1855-1855g~~ of Title 42, U.S.C.A. the provisions of the Federal Disaster Relief Act of 1974, at the election of the taxpayer, may be deducted for the taxable year immediately preceding the taxable year in which the disaster occurred. Such election may be made only if a similar election has been made under the provisions of Section 165(h) of the Internal Revenue Code of 1954, as amended through December 31, 1979 for federal income tax purposes. Such deduction shall not be in excess of so much of the loss as would have been deductible in the taxable year in which the casualty occurred. If an election is made under this paragraph, the casualty resulting in the loss will be deemed to have occurred in the taxable year for which the deduction is claimed.

(2) The commissioner is authorized to prescribe regulations providing the time and manner of making an election to claim a disaster loss under this clause.

(i) **ELECTION.** In lieu of the deduction allowed by (a) or (h) any loss not compensated for by insurance or otherwise:

(1) Attributable to storm or other natural causes or fire, may, at the election of the taxpayer, be claimed as a deduction in the taxable year in which said loss is sustained or in the preceding taxable year.

(2) In the event that under the provisions of this paragraph, a taxpayer claims the same disaster loss deduction or a net operating loss deduction resulting from the inclusion of a casualty loss in the calculation of such deduction in different taxable years for state and federal purposes, appropriate modifications shall be allowed or required for taxable years affected in order to prevent duplication or omission of such deduction.

(3) The commissioner is authorized to prescribe regulations providing the time and manner to make an election to claim a loss under the provisions of this paragraph and for the filing of an amended return or claim for refund.

Sec. 31. Minnesota Statutes 1980, Section 290.09, Subdivision 6, is amended to read:

Subd. 6. **BAD DEBTS.** (a) General Rule.

(1) Wholly worthless debts. There shall be allowed as a deduction any debt which becomes worthless within the taxable year.

(2) Partially worthless debts. When satisfied that a debt is recoverable only in part, the commissioner may allow such a debt, in an amount not in excess of the part charged off within the taxable year, as a deduction.

(b) Amount of Deduction. For purposes of paragraph (a), the basis for determining the amount of the deduction for any bad debt shall be the adjusted

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basis provided in sections 290.12, 290.131 to 290.139, 290.14 and 290.15 for determining the loss from the sale or other disposition of property.

(c) Reserve for Bad Debts. In lieu of any deduction under paragraph (a), there shall be allowed (in the discretion of the commissioner) a deduction for a reasonable addition to a reserve for bad debts. Provided that banks taxable under the provisions of ~~Minnesota Statutes 1957~~, section 290.361, which have heretofore in any taxable year taken such deductions by the reserve method for federal income tax purposes pursuant to the Internal Revenue Code of 1954, as amended through December 31, 1979 and regulations adopted pursuant thereto may take such deductions by the same method; and provided further that each savings, building and loan association and mutual savings or cooperative bank may take as a reasonable addition to reserve for bad debts such sums as are permitted to such organizations for federal income tax purposes, for the taxable year, under section 593 of the Internal Revenue Code of 1954, as amended through December 31, 1979, but the deductions for any such organization for any one year shall not exceed the greater of the following:

(1) In the case of savings, building and loan associations not to exceed 3/10 of one percent of the outstanding share capital as of the beginning of the taxable year or ten percent of the net earnings of such year before the deduction of interest or dividends payable to its members, and

(2) In the case of mutual savings or cooperative banks 3/10 of one percent of the deposits as of the beginning of the taxable year or ten percent of the net earnings of such year before the deduction of interest or payments to its members and/or depositors.

(d) Nonbusiness Debts.

(1) General Rule. In the case of a taxpayer other than a corporation:

(A) Paragraphs (a) and (c) shall not apply to any nonbusiness debt; and

(B) Where any nonbusiness debt becomes worthless within the taxable year, the loss resulting therefrom shall be considered a loss from the sale or exchange, during the taxable year, of a capital asset held for not more than ~~six~~ months one year.

(2) For purposes of subparagraph (1), the term "nonbusiness debt" means a debt other than:

(A) A debt created or acquired (as the case may be) in connection with a trade or business of the taxpayer; or

(B) A debt the loss from the worthlessness of which is incurred in the taxpayer's trade or business.

(e) Worthless Securities. This section shall not apply to a debt which is evidenced by a security as defined in subdivision 5(g) (2) (C).

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(f) Guarantor of Certain Noncorporate Obligations. A payment by the taxpayer (other than a corporation) in discharge of part or all of his obligation as a guarantor, endorser, or indemnitor of a noncorporate obligation the proceeds of which were used in the trade or business of the borrower shall be treated as a debt becoming worthless within such taxable year for purposes of this subdivision (except that paragraph (d) shall not apply), but only if the obligation of the borrower to the person to whom such payment was made was worthless (without regard to such guaranty, endorsement, or indemnity) at the time of such payment.

Sec: 32. Minnesota Statutes 1980, Section 290.09, Subdivision 7, is amended to read:

Subd. 7. **DEPRECIATION. (A) CUMULATIVE DEPRECIATION.** (a) There shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear and tear (including a reasonable allowance for obsolescence):

- (1) of property used in the trade or business, or
- (2) of property held for the production of income.

(b) The term "reasonable allowance" as used in clause (a) shall include (but shall not be limited to) an allowance computed in accordance with regulations prescribed by the commissioner, under any of the following methods:

- (1) the straight line method.
- (2) the declining balance method, using a rate not exceeding twice the rate which would have been used had the annual allowance been computed under the method described in paragraph (1).
- (3) the sum of the years-digits method, and
- (4) any other consistent method productive of an annual allowance, which, when added to all allowances for the period commencing with the taxpayer's use of the property and including the taxable year, does not, during the first two-thirds of the useful life of the property, exceed the total of such allowances which would have been used had such allowances been computed under the method described in (2). Nothing in this clause (b) shall be construed to limit or reduce an allowance otherwise allowable under clause (a).

(c) Paragraphs (2), (3), and (4) of clause (b) shall apply only in the case of property (other than intangible property) described in clause (a) with a useful life of three years or more.

(1) the construction, reconstruction, or erection of which is completed after December 31, 1958, and then only to that portion of the basis which is properly attributable to such construction, reconstruction, or erection after December 31, 1958, or

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(2) acquired after December 31, 1958, if the original use of such property commenced with the taxpayer and commences after such date.

(d) Where, under regulations prescribed by the commissioner, the taxpayer and the commissioner have, after the date of enactment of Extra Session Laws 1959, Chapter 70 June 30, 1959, entered into an agreement in writing specifically dealing with the useful life and rate of depreciation of any property, the rate so agreed upon shall be binding on both the taxpayer and the commissioner in the absence of facts or circumstances not taken into consideration in the adoption of such agreement. The responsibility of establishing the existence of such facts and circumstances shall rest with the party initiating the modification. Any change in the agreed rate and useful life specified in the agreement shall not be effective for taxable years before the taxable year in which notice in writing by certified mail is served by the party to the agreement initiating such change.

(e) In the absence of an agreement under clause (d) containing a provision to the contrary, a taxpayer may at any time elect in accordance with regulations prescribed by the commissioner to change from the method of depreciation prescribed in clause (b) (2) to the method described in clause ~~(e)~~ (b) (1).

(f) The basis on which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in sections 290.131 to 290.139, 290.14 and 290.15 for the purpose of determining the gain on the sale or other disposition of such property.

(g) In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiary and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each. In the case of an estate, the allowable deduction shall be apportioned between the estate and the heirs, legatees, and devisees on the basis of the income of the estate allocable to each.

(h) In the case of buildings or other structures or improvements constructed or made on leased premises by a lessee, and the fixtures and machinery therein installed, the lessee alone shall be entitled to the allowance of this deduction.

(B) FIRST YEAR DEPRECIATION. (a) In the case of section 1 property, the term "reasonable allowance" as used in subdivision 7, may, at the election of the taxpayer, include an allowance, for the first taxable year for which a deduction is allowable under subdivision 7, to the taxpayer with respect to such property, of 20 percent of the cost of such property.

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(b) If in any one taxable year the cost of section 1 property with respect to which the taxpayer may elect an allowance under (a) for such taxable year exceeds \$10,000, then (a) shall apply with respect to those items selected by the taxpayer, but only to the extent of an aggregate cost of \$10,000. In the case of a husband and wife who file a joint return under section 290.38 for the taxable year, the limitation under the preceding sentence shall be \$20,000 in lieu of \$10,000.

(c) (1) The election under this subdivision for any taxable year shall be made within the time prescribed by law (including extensions thereof) for filing the return for such taxable year. The election shall be made in such manner as the commissioner may by regulations prescribe.

(2) Any election made under this subdivision may not be revoked except with the consent of the commissioner.

(d) (1) For purposes of this subdivision, the term "Section 1 property" means tangible personal property (excluding buildings and structures)

(A) of a character subject to the allowance for depreciation under subdivision 7.

(B) acquired by purchase after December 31, 1958, for use in a trade or business or for holding for production of income, and

(C) with a useful life (determined at the time of such acquisition) of six years or more.

(2) For purposes of paragraph (1), the term "purchase" means any acquisition of property, but only if

(A) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 290.10(6),

(B) the property is not acquired by one ~~member of an affiliated group from another member of the same affiliated group~~ component member of a controlled group from another component member of the same controlled group, and

(C) the basis of the property in the hands of the person acquiring it is not determined

(i) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

(ii) under section 290.14(4) (relating to property acquired from a decedent).

(3) For purposes of this subdivision, the cost of property does not include so much of the basis of such property as is determined by reference to

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the basis of other property held at any time by the person acquiring such property.

(4) This subdivision shall not apply to trusts.

(5) In the case of an estate, any amount apportioned to an heir, legatee, or devisee shall not be taken into account in applying (B) of this subdivision to section 1 property of such heir, legatee, or devisee not held by such estate.

(6) For purposes of (B) of this subdivision

(A) all ~~members of an affiliated component~~ members of a controlled group shall be treated as one taxpayer, and

(B) the commissioner shall apportion the dollar limitation contained in such (B) among the ~~members of such affiliated component~~ members of such controlled group in such manner as he shall by regulations prescribe.

(7) For purposes of paragraphs (2) and (6), the term "affiliated controlled group" has the meaning assigned to it by section ~~1504~~ 1563(a) of the Internal Revenue Code of 1954, as amended through December 31, 1979, except that, for such purposes, the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in section ~~1504(A)~~ 1563(a)(1) of the Internal Revenue Code of 1954, as amended through December 31, 1979.

Sec. 33. Minnesota Statutes 1980, Section 290.09, Subdivision 10, is amended to read:

Subd. 10. **MEDICAL EXPENSES.** Payments (not compensated for by insurance or otherwise) for expenses for hospital, nursing, medical, surgical, dental, and other healing services, including institutional care and treatment for the mentally ill and physically handicapped and the cost, feeding and maintenance expenses of a guide dog for a blind or deaf person, as defined in section 290.06, subdivision ~~3e~~, ~~clauses (4) (d) and (h)~~ 3f, and for medical supplies and ambulance hire, incurred by the taxpayer on account of sickness, mental illness, physical handicap or personal injury to himself or his dependents and premiums paid for hospitalization and medical insurance including nonprofit hospital service and nonprofit medical service plans. Payments for traveling expenses shall not be deductible under the provisions of this subdivision. Payments for hotel or similar lodging expenses shall be deductible in the same manner as payments for hospital services, if the taxpayer or his dependent is not hospitalized but is nevertheless required to remain in a medical center away from his usual place of abode, for the purpose of receiving prescribed medical treatment.

Sec. 34. Minnesota Statutes 1980, Section 290.09, Subdivision 15, is amended to read:

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Subd. 15. **STANDARD DEDUCTION.** In lieu of all deductions provided for in this chapter ~~other than those enumerated in section 290.18, subdivision 2, and in lieu of the credits enumerated in section 290.21, subdivision 3,~~ except for the federal income tax deduction an individual may claim or be allowed a standard deduction as follows:

(a) Subject to modification pursuant to clause (b), the standard deduction shall be an amount equal to ten percent of the adjusted gross income of the taxpayer, up to a maximum deduction of \$2,000; ~~in the case in which a standard deduction tax table is provided by the commissioner of revenue pursuant to the provisions of section 290.06, subdivision 2, the standard deduction shall be available to individuals with adjusted gross income of less than \$20,000 only through the use of such table.~~

In the case of a husband and wife ~~living together~~, the standard deduction shall not be allowed to either if the net income of one of the spouses is determined without regard to the standard deduction. ~~For the purposes of this paragraph the determination of whether an individual is living with his spouse shall be made as of the last day of the taxable year unless the spouse dies during the taxable year in which case such determination shall be made as of the date of such spouse's death.~~

(b) For each taxable year beginning after December 31, 1980, the maximum amount of the standard deduction shall be adjusted for inflation. That amount shall be multiplied each year by a figure equal to the percentage increase in the revised consumer price index for all urban consumers for the Minneapolis-St. Paul metropolitan area used for purposes of section 290.06, subdivision 3g. The product of the calculation shall be added to the dollar amount of the maximum standard deduction established in clause (a) to produce the inflation-adjusted maximum standard deduction for each succeeding year. If the product exceeds a whole dollar amount, it shall be rounded to the nearest dollar.

(c) The commissioner of revenue may establish a standard deduction tax table incorporating the rates set forth in section 290.06, subdivision 2c, and the standard deduction. The tax of any individual taxpayer whose adjusted gross income is less than \$20,000 shall, if an election is made not to itemize nonbusiness deductions, be computed in accordance with tables prepared and issued by the commissioner of revenue. The tables shall be prepared to reflect the allowance of the standard deduction and the personal and dependent credits.

Sec. 35. Minnesota Statutes 1980, Section 290.09, Subdivision 18, is amended to read:

Subd. 18. **RESEARCH AND EXPERIMENTAL EXPENDITURES.**
(a) A taxpayer may treat research or experimental expenditures ~~which are paid~~

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or incurred by him during the taxable year in connection with his trade or business as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction. A taxpayer may, without the consent of the commissioner, adopt the method provided herein for his first taxable year which begins after December 31, 1954, and for which expenditures described herein are paid or incurred. A taxpayer may, with the consent of the commissioner, adopt at any time the method provided in this paragraph. The method adopted under this paragraph shall apply to all expenditures described herein. The method adopted shall be adhered to in computing net income for the taxable year and for all subsequent taxable years unless, with the approval of the commissioner, a change to a different method is authorized with respect to part or all of such expenditures.

(b) At the election of the taxpayer, made in accordance with regulations prescribed by the commissioner, research or experimental expenditures which are paid or incurred by the taxpayer in connection with his trade or business, not treated as expenses under paragraph (a), and chargeable to capital account but not chargeable to property of a character which is subject to the allowance under subdivision 7 (relating to allowance for depreciation, etc.) or subdivision 8 (relating to allowance for depletion), may be treated as deferred expenses. In computing net income, such deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months as may be selected by the taxpayer (beginning with the month in which the taxpayer first realizes benefits from such expenditures). Such deferred expenses are expenditures properly chargeable to capital account for purposes of section 290.12, subdivision 2 (relating to adjustments to basis of property). The election provided in this paragraph may be made for any taxable year beginning after December 31, 1954, but only if made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). The method so elected, and the period selected by the taxpayer, shall be adhered to in computing net income for the taxable year for which the election is made and for all subsequent taxable years unless, with the approval of the commissioner, a change to a different method (or to a different period) is authorized with respect to part or all of such expenditures. The election shall not apply to any expenditure paid or incurred during any taxable year before the taxable year for which the taxpayer makes the election.

(c) This subdivision shall not apply to any expenditure for the acquisition or improvement of land, or for the acquisition or improvement of property to be used in connection with the research or experimentation and of a character which is subject to the allowance under subdivision 7 (relating to allowance for depreciation, etc.) or subdivision 8 (relating to allowance for depletion); but for purposes of this subdivision allowances under subdivision 7, and allowances under subdivision 8, shall be considered as expenditures.

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(d) This subdivision shall not apply to any expenditure paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (including oil and gas) in the same manner as provided in section 174 of the Internal Revenue Code of 1954, as amended through December 31, 1980.

Sec. 36. Minnesota Statutes 1980, Section 290.09, Subdivision 21, is amended to read:

Subd. 21. **SOIL AND WATER CONSERVATION EXPENDITURES.** Expenditures which are paid or incurred during the taxable year by a taxpayer engaged in the business of farming for the purpose of soil or water conservation in respect of land used in farming, or for the prevention of erosion of land used in farming, may be treated by him as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction, but the amount deductible for any taxable year shall not exceed 25 percent of the gross income derived from farming during the taxable year. If for any taxable year the total of the expenditures treated as expenses which are not chargeable to capital account exceeds 25 percent of the gross income derived from farming during the taxable year, such excess shall be deductible for succeeding taxable years in order of time; but the amount deductible under this subdivision for any one such succeeding taxable year (including the expenditures actually paid or incurred during the taxable year) shall not exceed 25 percent of the gross income derived from farming during the taxable year.

For purposes of this subdivision the term "expenditures which are paid or incurred by him during the taxable year for the purpose of soil or water conservation in respect of land used in farming, or for the prevention of erosion of land used in farming" means expenditures paid or incurred for the treatment or moving of earth, including (but not limited to) leveling, grading and terracing, contour furrowing, the construction, control, and protection of diversion channels, drainage ditches, earthen dams, watercourses, outlets, and ponds, the eradication of brush, and the planting of windbreaks. Such term does not include the purchase, construction, installation, or improvement of structures, appliances, or facilities which are of a character which is subject to the allowance for depreciation provided in subdivision 7, or any amount paid or incurred which is allowable as a deduction without regard to this subdivision.

The term "land used in farming" means land used (before or simultaneously with the expenditures described in the foregoing paragraphs of this subdivision) by the taxpayer or his tenant for the production of crops, fruits, or other agricultural products or for the sustenance of livestock.

A taxpayer may, without the consent of the commissioner, adopt the method provided in this subdivision for his first taxable year which begins after December 31, 1954, and for which expenditures described in this subdivision

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are paid or incurred. A taxpayer may, with the consent of the commissioner, adopt at any time the method provided in this subdivision. The method adopted shall apply to all expenditures described in this subdivision. The method adopted shall be adhered to in computing net income for the taxable year and for all subsequent taxable years unless, with the approval of the commissioner, a change to a different method is authorized with respect to part or all of such expenditures shall be treated in the same manner as provided in section 175 of the Internal Revenue Code of 1954, as amended through December 31, 1980.

Sec. 37. Minnesota Statutes 1980, Section 290.09, Subdivision 29, is amended to read:

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

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

(c) **DEDUCTIONS ALLOWED; CARRYOVER DEDUCTIONS.** For taxable years beginning on or after January 1, 1974, expenses and losses arising from a farm or farms shall be allowed as deductions up to the amount of the income and gains arising from a farm or farms in any taxable year, plus the first \$15,000 of non-farm gross income, or non-farm taxable net income in the case of a corporation, provided however that in any case where non-farm income exceeds \$15,000, the maximum allowable amount of \$15,000 shall be reduced by twice the amount by which the non-farm income exceeds the amount of \$15,000. For this purpose and for the purpose of applying the limitation in the following paragraph regarding the application of any carry-back or carryforward, the term gross income shall include the ordinary income portion of a lump sum distribution as defined in section 402(e) of the Internal Revenue Code of 1954, as amended through December 31, 1980. Any remaining balance of the deductions shall be carried back three years and carried forward five years, in chronological order, provided, however, that in any case in which ~~the taxpayer~~ any individual, estate or trust which elects a net operating loss carryforward under section 172(b)(3) ~~(E)~~ (C) of the Internal Revenue Code of 1954, as amended through December 31, ~~1979~~ 1980, such losses shall not be carried back but shall only be carried forward.

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

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

(e) **SPECIAL PERIOD OF LIMITATION WITH RESPECT TO FARM LOSS LIMITATION CARRYBACKS.** For the purposes of sections 290.46 and 290.50, if the claim for refund relates to an overpayment attributable to a farm loss limitation carryback under this subdivision, in lieu of the period of limitation prescribed in sections 290.46 and 290.50, the period of limitation shall be that period which ends with the expiration of the 15th day of the 46th month (or the 45th month, in the case of a corporation) following the end of the taxable year of the farm loss which results in the carryback. No deduction or refund shall be allowed on 1974 returns for farm losses which have been previously carried back to earlier years and for which a tax refund or reduction has been allowed.

(f) **INTEREST ON CLAIMS.** In any case in which a taxpayer is entitled to a refund in a carryback year due to the carryback of a farm loss, interest shall be computed only from the end of the taxable year in which the loss occurs.

(g) **ORDER OF APPLICATION.** The application of this subdivision shall be made after applying any limitation to out of state losses contained in section 290.17.

Sec. 38. Minnesota Statutes 1980, Section 290.095, Subdivision 2, is amended to read:

Subd. 2. **DEFINED AND LIMITED.** (a) The term "net operating loss" as used in this section shall mean the excess of the deductions of the kind provided for in section 290.09, permitted to be taken in computing a taxpayer's taxable net income, as that term is defined in section 290.01, subdivision 22, over the gross income used in computing such taxable net income, with the modifications specified in subdivision 4. The deductions provided in section 290.21 cannot be used in the determination of a net operating loss.

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(b) The term "net operating loss deduction" as used in this section means the aggregate of the net operating loss carrybacks and carryovers to the taxable year, computed in accordance with subdivision 3.

Sec. 39. Minnesota Statutes 1980, Section 290.10, is amended to read:
290.10 NONDEDUCTIBLE ITEMS.

In computing the net income no deduction shall in any case be allowed for:

- (1) Personal, living or family expenses;
- (2) Amounts paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate, except as otherwise provided in this chapter;
- (3) Amounts expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made;
- (4) Premiums paid on any life insurance policy covering the life of the taxpayer or of any other person;
- (5) The shrinkage in value, due to the lapse of time, of a life or terminable interest of any kind in property acquired by gift, devise, bequest or inheritance;
- (6) Losses from sales or exchanges of property, directly or indirectly, between members of a family, or, except in the case of distributions in liquidation, between an individual and a corporation in which such individual owns, directly or indirectly, more than 50 percent in value of the outstanding stock; or between any person or corporation and a trust created by him or it or of which he or it is a beneficiary, directly or indirectly; for the purpose of this clause, an individual shall be considered as owning the stock owned, directly or indirectly, by his family; and the family of an individual shall include only his brothers and sisters (whether by the whole or half blood), spouse, ancestor, and lineal descendants, but such losses shall be allowed as deductions if the taxpayer shows to the satisfaction of the commissioner that the sale or exchange was bona fide and for a fair and adequate consideration;
- (7) In computing net income, no deduction shall be allowed under section 290.09, subdivision 2, relating to expenses incurred or under section 290.09, subdivision 3, relating to interest accrued;
 - (a) If such expenses or interest not paid within the taxable year or within two and one-half months after the close thereof; and
 - (b) If, by reason of the method of accounting of the person to whom the payment is to be made, the amount thereof is not, unless paid, includible in the gross income of such person for the taxable year in which or with which the taxable year of the taxpayer ends; and

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(c) If, at the close of the taxable year of the taxpayer or at any time within two and one-half months thereafter, both the taxpayer and the person to whom the payment is to be made are persons between whom losses would be disallowed under clause (6);

(8) Contributions by employees under the federal railroad retirement act, the federal social security act, or to Minnesota or federal public employee retirement funds, and that the amount of taxes imposed on self-employment income under section 1401 of the Internal Revenue Code of 1954, as amended through December 31, 1979, which would have been imposed on the same amount of income if such income had been treated as wages from employment and subject to tax under the provisions of section 3101 of the Internal Revenue Code of 1954, as amended through December 31, 1979.

(9) Expenses, interest and taxes connected with or allocable against the production or receipt of all income not included in the measure of the tax imposed by this ~~act~~ chapter. When the federal income tax liability is joint and several under a joint federal return of husband and wife, the allowable federal income tax paid on the income included in the joint federal return may be taken as a deduction from gross income by the spouse who paid the federal income tax.

(10) In situations where this chapter provides for ~~an exclusion~~ a subtraction from gross income of a specific dollar amount of an item of income assignable to this state, and within the measure of the tax imposed by this chapter, that portion of the federal income tax paid upon such income ~~excluded~~ subtracted, and any expenses attributable to earning such income, shall not be deductible in computing net income.

(11) Amounts paid or accrued for such taxes and carrying charges as, under regulations prescribed by the commissioner, are chargeable to capital account with respect to property, if the taxpayer elects, in accordance with such regulations, to treat such taxes or charges as so chargeable.

Sec. 40. Minnesota Statutes 1980, Section 290.101, Subdivision 9, is amended to read:

Subd. 9. On or before March 15 of each year, the commissioner of revenue shall report to the tax committees of both houses of the legislature information indicating: (a) the number of written notices of violations issued by the agency pursuant to subdivision 2; (b) the number and types of substandard buildings found to be in noncompliance under ~~Laws 1975, Chapter 226~~ this section and the average time of such noncompliance; (c) the number and types of buildings brought into a condition of compliance under ~~Laws 1975, Chapter 226~~ this section; (d) a description of the types of violations found to endanger the health and safety of occupants under ~~Laws 1975, Chapter 226~~ this section; and (e) the number and types of buildings aban-

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done, destroyed or no longer used for rental purposes after the service of a notice of noncompliance pursuant to subdivision 4.

Sec. 41. Minnesota Statutes 1980, Section 290.12, Subdivision 1, is amended to read:

Subdivision 1. **MEASUREMENT.** The gain from the sale or other disposition of property shall be the excess of the amount realized therefrom over the basis provided in sections 290.131 to 290.139, 290.14 and 290.15 and the loss shall be the excess of such basis over the amount realized, except that such basis shall, in the case of both gain and loss, be adjusted as provided in subdivision 2.

Sec. 42. Minnesota Statutes 1980, Section 290.12, Subdivision 2, is amended to read:

Subd. 2. **ADJUSTMENTS.** In computing the amount of gain or loss under subdivision 1 proper adjustment shall be made for any expenditure, receipt, loss, or other item properly chargeable to capital account by the taxpayer during his ownership thereof; ~~and for the gain or any part thereof realized from the sale, exchange or involuntary conversion of a residence where, by reason of the provisions of section 290.13, such gain or any part thereof is not recognized.~~ The basis shall be diminished by the amount of the deductions for exhaustion, wear and tear, obsolescence, amortization, depletion, and the allowance for amortization of bond premium if an election to amortize was made in accordance with section 290.09, subdivision 13, which could, during the period of his ownership thereof, have been deducted by the taxpayer under this chapter in respect of such property. The basis shall also be diminished by the amount of depreciation relating to a substandard building disallowed by section 290.101. In addition, if the property was acquired before January 1, 1933, the basis, if other than the fair market value as of such date, shall be diminished by the amount of exhaustion, wear and tear, obsolescence, amortization, or depletion actually sustained before such date. In respect of any period since December 31, 1932, during which property was held by a person or an organization not subject to income taxation under this ~~act~~ chapter, proper adjustment shall be made for exhaustion, wear and tear, obsolescence, amortization, and depletion of such property to the extent sustained. For the purpose of determining the amount of these adjustments the taxpayer who sells or otherwise disposes of property acquired by gift shall be treated as the owner thereof from the time it was acquired by the last preceding owner who did not acquire it by gift, and the taxpayer who sells or otherwise disposes of property acquired by gift through an inter vivos transfer in trust shall be treated as the owner from the time it was acquired by the grantor. The adjustments in case of a sale or other disposition of property received in a transaction of the kind specified in section 290.13, subdivision 1, and in the case of a transaction referred to in section 290.14, clause (6), shall include those which the taxpayer

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should have been required to make were he selling or otherwise disposing of the property exchanged, or sold, in any such transaction.

No adjustment shall be made:

(1) for taxes or other carrying charges described in section ~~290.10(10)~~ 290.10, clause (11), or

(2) for expenditures described in section 290.09, subdivision 16 (relating to circulation expenditures), for which deductions have been taken by the taxpayer in determining taxable income for the taxable year or prior years.

Sec. 43. Minnesota Statutes 1980, Section 290.12, Subdivision 4, is amended to read:

Subd. 4. **GIFT, DEVISE, BEQUEST, ETC GIFTS.** The disposition of property by gift, ~~devise, bequest, or inheritance, and the passing of property from a decedent to his estate,~~ shall be treated as dispositions from which neither gain nor loss arises for the purposes of this chapter.

Sec. 44. Minnesota Statutes 1980, Section 290.13, Subdivision 5, is amended to read:

Subd. 5. **CONVERSION OF PROPERTY.** If property (as a result of its destruction in whole or in part, theft, seizure, or requisition or condemnation or threat or imminence thereof) is compulsorily or involuntarily converted

(1) Into property similar or related in service or use to the property so converted, no gain shall be recognized.

(2) Into money, and the disposition of the converted property occurred before January 1, 1955, no gain shall be recognized if such money is forthwith in good faith, under regulations prescribed by the commissioner, expended in the acquisition of other property similar or related in service or use to the property so converted, or in the acquisition of control of a corporation owning such other property, or in the establishment of a replacement fund. If any part of the money is not so expended, the gain shall be recognized to the extent of the money which is not so expended (regardless of whether such money is received in one or more taxable years and regardless of whether or not the money which is not so expended constitutes gain). For purposes of this paragraph and paragraph (3), the term "disposition of the converted property" means the destruction, theft, seizure, requisition, or condemnation of the converted property, or the sale or exchange of such property under threat or imminence of requisition or condemnation. For purposes of this paragraph and paragraph (3), the term "control" means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation.

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(3) Into money or into property not similar or related in service or use to the converted property, and the disposition of the converted property (as defined in paragraph (2)) occurred after December 31, 1954, the gain (if any) shall be recognized except to the extent hereinafter provided in this paragraph:

(A) If the taxpayer during the period specified in subparagraph (B), for the purpose of replacing the property so converted, purchases other property similar or related in service or use to the property so converted, or purchases stock in the acquisition of control of a corporation owning such other property, at the election of the taxpayer the gain shall be recognized only to the extent that the amount realized upon such conversion (regardless of whether such amount is received in one or more taxable years) exceeds the cost of such other property or such stock. Such election shall be made at such time and in such manner as the commissioner may by regulations prescribe. For purposes of this paragraph

(i) no property or stock acquired before the disposition of the converted property shall be considered to have been acquired for the purpose of replacing such converted property unless held by the taxpayer on the date of such disposition; and

(ii) the taxpayer shall be considered to have purchased property or stock only if, but for the provisions of the last paragraph of ~~this section~~ paragraph (2), the unadjusted basis of such property or stock would be its cost within the meaning of section 290.14.

(B) The period referred to in subparagraph (A) shall be the period beginning with the date of the disposition of the converted property, or the earliest date of the threat or imminence of requisition or condemnation of the converted property, whichever is the earlier, and ending

(i) ~~one year~~ two years after the close of the first taxable year in which any part of the gain upon the conversion is realized, or

(ii) subject to such terms and conditions as may be specified by the commissioner, at the close of such later date as the commissioner may designate on application by the taxpayer. Such application shall be made at such time and in such manner as the commissioner may by regulations prescribe.

(C) If a taxpayer has made the election provided in subparagraph (A), then the statutory period for the assessment of any deficiency, for any taxable year in which any part of the gain on such conversion is realized, attributable to such gain shall not expire prior to the expiration of three and one-half years from the date the commissioner is notified by the taxpayer (in such manner as the commissioner may by regulations prescribe) of the replacement of the converted property or of an intention not to replace, notwithstanding the provisions of section 290.49 or the provisions of any other law or rule which would otherwise prevent such assessment.

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(D) If the election provided in subparagraph (A) is made by the taxpayer and such other property or such stock was purchased before the beginning of the last taxable year in which any part of the gain upon such conversion is realized, any deficiency, to the extent resulting from such election, for any taxable year ending before such last taxable year may be assessed (notwithstanding the provisions of section 290.49 or the provisions of any other law or rule of law which would otherwise prevent such assessment) at any time before the expiration of the period within which a deficiency for such last taxable year may be assessed.

~~The preceding paragraphs shall not apply, in the case of property used by the taxpayer as his principal residence, if the destruction, theft, seizure, requisition, or condemnation of the residence, or the sale or exchange of such residence under threat or imminence, thereof, occurred after December 31, 1950, and before January 1, 1955.~~

If the property was acquired, after January 1, 1933, as the result of a compulsory or involuntary conversion described in paragraphs (1) or (2) of Minnesota Statutes 1980, 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 such conversion was made) determining the taxable status of the gain or loss upon such conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made. This paragraph shall not apply in respect of property acquired as a result of a compulsory or involuntary conversion of property used by the taxpayer as his principal residence if the destruction, theft, seizure, requisition, or condemnation of such residence, or the sale or exchange of such residence under threat or imminence thereof, occurred after December 31, 1950, and before January 1, 1955. In the case of property purchased by the taxpayer in a transaction described in paragraph ~~(3)~~ (2) which resulted in the nonrecognition of any part of the gain realized as the result of a compulsory or involuntary conversion, the basis shall be the cost of such property decreased in the amount of the gain not so recognized; and if the property purchased consists of more than one piece of property, the basis determined under this sentence shall be allocated to the purchased properties in proportion to their respective costs.

(3) For purposes of this subdivision the terms control and disposition of the converted property shall have the same meaning as is contained in section 1033(a)(2)(E) of the Internal Revenue Code of 1954, as amended through December 31, 1980.

(4) Property which qualifies to be treated as an involuntary conversion under section 1033(c) to (g) of the Internal Revenue Code of 1954, as amended

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through December 31, 1980 shall also be treated as qualifying for the purposes of this section.

Sec. 45. Minnesota Statutes 1980, Section 290.131, Subdivision 1, is amended to read:

Subdivision 1. **DISTRIBUTIONS OF PROPERTY.** (a) Except as otherwise provided in this chapter, a distribution of property (as defined in section 290.133, subdivision 2, clause (a)) made by a corporation to a shareholder with respect to its stock shall be treated in the manner provided in clause (c).

(b) Amount distributed:

(1) For purposes of this subdivision, the amount of any distribution shall be:

(A) If the shareholder is not a corporation, the amount of money received, plus the fair market value of the other property received.

(B) If the shareholder is a corporation, the amount of money received, plus whichever of the following is the lesser:

(i) the fair market value of the other property received; or

(ii) the adjusted basis (in the hands of the distributing corporation immediately before the distribution) of the other property received, increased in the amount of gain to the distributing corporation which is recognized under clause (b) or (c) of section ~~290.132, subdivision 4~~ 311 of the Internal Revenue Code of 1954, as amended through December 31, 1980.

(2) The amount of any distribution determined under paragraph (1) shall be reduced (but not below zero) by:

(A) the amount of any liability of the corporation assumed by the shareholder in connection with the distribution, and

(B) the amount of any liability to which the property received by the shareholder is subject immediately before, and immediately after, the distribution.

(3) For purposes of this subdivision, fair market value shall be determined as of the date of the distribution.

(c) In the case of a distribution to which clause (a) applies:

(1) That portion of the distribution which is a dividend (as defined in section 290.133, subdivision 1) shall be included in gross income.

(2) That portion of the distribution which is not a dividend shall be applied against and reduce the adjusted basis of the stock.

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(3) Amount in excess of basis.

(A) Except as provided in subparagraph (B), that portion of the distribution which is not a dividend, to the extent that it exceeds the adjusted basis of the stock, shall be treated as gain from the sale or exchange of property.

(B) That portion of the distribution which is not a dividend, to the extent that it exceeds the adjusted basis of the stock and to the extent that is out of increase in value accrued before January 1, 1933, shall be exempt from tax.

(d) The basis of property received in a distribution to which clause (a) applies shall be:

(1) If the shareholder is not a corporation, the fair market value of such property.

(2) If the shareholder is a corporation, whichever of the following is the lesser:

(A) the fair market value of such property; or

(B) the adjusted basis (in the hands of the distributing corporation immediately before the distribution) of such property, increased in the amount of gain to the distributing corporation which is recognized under clause (b) or (c) of section 290.132, ~~subdivision 1~~ subdivision 1 of the Internal Revenue Code of 1954, as amended through December 31, 1980.

Sec. 46. Minnesota Statutes 1980, Section 290.131, Subdivision 3, is amended to read:

Subd. 3. DISTRIBUTIONS IN REDEMPTION OF STOCK TO PAY DEATH TAXES. (a) A distribution of property to a shareholder by a corporation in redemption of part or all of the stock of such corporation which (for federal estate tax purposes) is included in determining the gross estate of a decedent, to the extent that the amount of such distribution does not exceed the sum of:

(1) the estate, inheritance, legacy, and succession taxes (including any interest collected as a part of such taxes) imposed because of such decedent's death; and

(2) the amount of funeral and administration expenses allowable as deductions to the estate under section 2053 of the Internal Revenue Code of 1954, as amended through December 31, 1979 (or under section 2106 of the Internal Revenue Code of 1954, as amended through December 31, 1979 in the case of the estate of a decedent nonresident, not a citizen of the United States), shall be treated as a distribution in full payment in exchange for the stock so redeemed.

(b) (1) Clause (a) shall apply only to amounts distributed after the death of the decedent and:

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(A) within the period of limitations provided in section 6501(a) of the Internal Revenue Code of 1954, as amended through December 31, 1979 for the assessment of the federal estate tax (determined without the application of any provision other than section 6501(a) of the Internal Revenue Code of 1954, as amended through December 31, 1979), or within 90 days after the expiration of such period, or

(B) if a petition for redetermination of a deficiency in such estate tax has been filed with the tax court within the time prescribed in section 6213 of the Internal Revenue Code of 1954, as amended through December 31, 1979, at any time before the expiration of 60 days after the decision of the tax court becomes final.

(2) (A) Clause (a) shall apply to a distribution by a corporation only if the value (for federal estate tax purposes) of all of the stock of such corporation which is included in determining the value of the decedent's gross estate is either:

(i) more than 35 percent of the value of the gross estate of such decedent, or

(ii) more than 50 percent of the taxable estate of such decedent.

(B) For purposes of the 35 percent and 50 percent requirements of subparagraph (A), stock of two or more corporations, with respect to each of which there is included in determining the value of the decedent's gross estate more than 75 percent in value of the outstanding stock, shall be treated as the stock of a single corporation. For the purpose of the 75 percent requirement of the preceding sentence, stock which, at the decedent's death, represents the surviving spouse's interest in property held by the decedent and the surviving spouse as community property shall be treated as having been included in determining the value of the decedent's gross estate.

(c) (1) a shareholder owns stock of a corporation (referred to in this clause as "new stock") the basis of which is determined by reference to the basis of stock of a corporation (referred to in this clause as "old stock").

(2) the old stock was included (for federal estate tax purposes) in determining the gross estate of a decedent, and

(3) clause (a) would apply to a distribution of property to such shareholder in redemption of the old stock, then, subject to the limitation specified in clause (b) (1), clause (a) shall apply in respect of a distribution in redemption of the new stock. The effects on recipients of a distribution by a corporation shall be governed by the provisions of sections 303 to 307 of the Internal Revenue Code of 1954, as amended through December 31, 1980.

Sec. 47. Minnesota Statutes 1980, Section 290.132, Subdivision 1, is amended to read:

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Subdivision 1. **TAXABILITY OF CORPORATION ON DISTRIBUTION.** (a) ~~Except as provided in clauses (b) and (c) of this subdivision and section 290.07, subdivision 5(3),~~ No gain or loss shall be recognized to a corporation on the distribution, with respect to its stock, of:

(1) its stock (or rights to acquire its stock), or

(2) property.

(b) (1) If a corporation inventorying goods under the LIFO method (relating to last-in, first-out inventories) distributes inventory assets (as defined in paragraph (2) (A)), then the amount (if any) by which:

(A) the inventory amount (as defined in paragraph (2) (B)) of such assets under a method authorized by section 290.11 (relating to general rule for inventories), exceeds

(B) the inventory amount of such assets under the LIFO method, shall be treated as gain to the corporation recognized from the sale of such inventory assets.

(2) For purposes of paragraph (1):

(A) The term "inventory assets" means stock in trade of the corporation, or other property of a kind which would properly be included in the inventory of the corporation if on hand at the close of the taxable year.

(B) The term "inventory amount" means, in the case of inventory assets distributed during a taxable year, the amount of such inventory assets determined as if the taxable year closed at the time of such distribution.

(3) For purposes of this clause, the inventory amount of assets under a method authorized by section 290.11 shall be determined:

(A) if the corporation uses the LIFO method of valuing inventories, by using such method; or

(B) if subparagraph (A) does not apply, by using cost or market, whichever is lower.

(c) If:

(1) a corporation distributes property to a shareholder with respect to its stock,

(2) such property is subject to a liability, or the shareholder assumes a liability of the corporation in connection with the distribution, and

(3) the amount of such liability exceeds the adjusted basis (in the hands of the distributing corporation) of such property, then gain shall be recognized to the distributing corporation in an amount equal to such excess as if the

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property distributed had been sold at the time of the distribution. In the case of a distribution of property subject to a liability which is not assumed by the shareholder, the amount of gain to be recognized under the preceding sentence shall not exceed the excess, if any, of the fair market value of such property over its adjusted basis as provided in section 311 of the Internal Revenue Code of 1954, as amended through December 31, 1980.

Sec. 48. Minnesota Statutes 1980, Section 290.133, Subdivision 2, is amended to read:

Subd. 2. **OTHER DEFINITIONS.** (a) For purposes of sections 290.-131 to 290.133, the term "property" means money, securities, and any other property; except that such term does not include stock in the corporation making the distribution (or rights to acquire such stock).

(b) For purposes of sections 290.131 to 290.133, stock shall be treated as redeemed by a corporation if the corporation acquires its stock from a shareholder in exchange for property, whether or not the stock so acquired is cancelled, retired, or held as treasury stock.

(c) The provisions concerning constructive ownership of stock as defined in section 318 of the Internal Revenue Code of 1954, as amended through December 31, 1980 shall apply.

Sec. 49. Minnesota Statutes 1980, Section 290.134, Subdivision 1, is amended to read:

Subdivision 1. **GAIN OR LOSS TO SHAREHOLDERS IN CORPORATE LIQUIDATIONS.** (a) ~~(1) Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock;~~

~~(2) Amounts distributed in partial liquidation of a corporation (as defined in section 290.135, subdivision 4) shall be treated as in part or full payment in exchange for the stock.~~

~~(b) Section 290.131, subdivision 1, (relating to effects on shareholder of distributions of property) shall not apply to any distribution of property in partial or complete liquidation. The effects on recipients of corporate liquidations shall be governed by the provisions of sections 331 to 334 of the Internal Revenue Code of 1954, as amended through December 31, 1980. However, in section 333(f)(2), the date December 31, 1932 shall be substituted for February 28, 1913 when determining accumulated earnings and profits.~~

Sec. 50. Minnesota Statutes 1980, Section 290.135, Subdivision 1, is amended to read:

Subdivision 1. **GENERAL RULE.** Except as provided in section 290.-07, subdivision 5(4) (relating to disposition of installment obligations), no Gain or loss shall be recognized to a corporation on the distribution of property in

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partial or complete liquidation as provided in sections 336 to 346 of the Internal Revenue Code of 1954, as amended through December 31, 1980.

Sec. 51. Minnesota Statutes 1980, Section 290.14, is amended to read:

290.14 GAIN OR LOSS ON DISPOSITION OF PROPERTY, BASIS.

Except as otherwise provided in this chapter, 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.

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;

(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;

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(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. ~~Not 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;

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(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) (8) 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) (9) 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. 52. Minnesota Statutes 1980, Section 290.16, Subdivision 1, is amended to read:

Subdivision 1. **BASIS FOR DEPRECIATION.** The basis upon which exhaustion, wear, tear, obsolescence, or depletion is to be allowed in respect to any property shall be the same as provided in sections 290.131 to 290.139, 290.14 and 290.15 for the purpose of determining the loss or gain on the sale or other disposition thereof.

Sec. 53. Minnesota Statutes 1980, Section 290.16, Subdivision 3, is amended to read:

Subd. 3. **DEFINITIONS.** As used in this section:

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

(1) The term "capital assets" shall mean property held by the taxpayer (whether or not connected with his trade or business), but does not include

(a) stock in trade of the taxpayer or other property of a kind which *would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year*, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, or

(b) property, used in the trade or business, of a character which is subject to the allowance for depreciation provided in section 290.09, subdivision 7, ~~or amortization allowance provided in section 290.09, subdivision 11~~, or real property used in the trade or business of the taxpayer, or

(c) accounts or notes receivable acquired in the ordinary course of trade or business for services rendered or from the sale of property described in subparagraph (a);

(2) The term "short-term capital gain" means gain from the sale or exchange of a capital asset held for not more than ~~six months~~ one year, if and to the extent such gain is taken into account in computing gross income;

(3) The term "short-term capital loss" means loss from the sale or exchange of a capital asset held for not more than ~~six months~~ one year, if and to the extent such loss is taken into account in computing net income;

(4) The term "long-term capital gain" means gain from the sale or exchange of a capital asset held for more than ~~six months~~ one year, if and to the extent such gain is taken into account in computing gross income;

(5) The term "long-term capital loss" means loss from the sale or exchange of a capital asset held for more than ~~six months~~ one year, if and to the extent such loss is taken into account in computing net income;

(6) The term "net short-term capital gain" means the excess of short-term capital gains for the taxable year over the short-term capital losses for such year;

(7) The term "net short-term capital loss" means the excess of short-term capital losses for the taxable year over the short-term capital gains for such year;

(8) The term "net long-term capital gain" means the excess of long-term capital gains for the taxable year over the long-term capital losses for such year;

(9) The term "net long-term capital loss" means the excess of long-term capital losses for the taxable year over the long-term capital gains for such year.

(10) The term "net capital gain" means the excess of the gains from the sales or exchanges of capital assets over the losses from such sales or exchanges.

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(11) The term "net capital loss" means the excess of the losses from sales or exchanges of capital assets over the sum allowed under subdivision 5. For the purpose of determining losses under this paragraph, amounts which are short-term capital losses under subdivision 6 shall be excluded.

Sec. 54. Minnesota Statutes 1980, Section 290.16, Subdivision 7, is amended to read:

Subd. 7. **BONDS, OTHER EVIDENCES OF INDEBTEDNESS.** (1) For the purpose of this section, the treatment of amounts received by the holder upon the retirement of bonds, debentures, notes or certificates or other evidences of indebtedness, which are capital assets in the hands of the taxpayer, and which are issued by any corporation (including those issued by a government or political subdivision thereof), shall be considered as amounts received in exchange therefor (except that in the case of bonds or other evidences of indebtedness issued before January 1, 1955, this paragraph shall apply only to those issued with interest coupons or in registered form, or to those in such form on March 1, 1954).

(2) (a) Except as provided in subparagraph (b), upon sale or exchange of bonds or other evidences of indebtedness as described in paragraph (1), issued after December 31, 1954, held by the taxpayer more than six months, any gain realized which does not exceed

(i) an amount equal to the original issue discount (as defined in paragraph (3)), or

(ii) if at the time of original issue there was no intention to call the bond or other evidence of indebtedness before maturity, an amount which bears the same ratio to the original issue discount (as defined in paragraph (3)) as the number of complete months that the bond or other evidence of indebtedness was held by the taxpayer bears to the number of complete months from the date of original issue to the date of maturity,

shall be considered as gain from the sale or exchange of property which is not a capital asset. Gain in excess of such amount shall be considered gain from the sale or exchange of a capital asset held more than 6 months.

(b) Subparagraph (a) shall not apply to obligations the interest on which is not includible in gross income under section 290.08, subdivisions 7 and 8 (relating to certain governmental obligations), or any holder who has purchased the bond or other evidence of indebtedness at a premium.

(c) Double inclusion in income not required. This section shall not require the inclusion of any amount previously includible in gross income.

(3) (a) For purposes of paragraphs (1) and (2), the term "original issue discount" means the difference between the issue price and the stated redemption price at maturity. If the original issue discount is less than one-fourth of

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one percent of the redemption price at maturity multiplied by the number of complete years to maturity; then the issue discount shall be considered to be zero. For purposes of this paragraph, the term "stated redemption price at maturity" means the amount fixed by the last modification of the purchase agreement and includes dividends payable at that time.

(b) In the case of issues of bonds or other evidences of indebtedness registered with the United States Securities and Exchange Commission, the term "issue price" means the initial offering price to the public (excluding bond houses and brokers) at which price a substantial amount of such bonds or other evidences of indebtedness were sold. In the case of privately placed issues of bonds or other evidence of indebtedness, the issue price of each such bond or other evidence of indebtedness is the price paid by the first buyer of such bond. For purposes of this paragraph, the term "initial offering price" and "price paid by the first buyer" include the aggregate payments made by the purchaser under the purchase agreement, including modifications thereof.

(c) In the case of issues of bonds or other evidences of indebtedness registered with the United States Securities and Exchange Commission, the term "date of original issue" means the date on which the issue was first sold to the public at the issue price. In the case of privately placed issues of bonds or other evidences of indebtedness, the term "date of original issue" means the date on which each such bond or other evidence of indebtedness was sold by the issuer.

(4) If

(a) a bond or other evidence of indebtedness issued at any time with interest coupons is purchased after the date of enactment of this act, and

(b) the purchaser does not receive all the coupons which first become payable after the date of the purchase,

then the gain on the sale or other disposition of such evidence of indebtedness by such purchaser shall be considered as gain from the sale or exchange of property which is not a capital asset to the extent that the market value (determined as of the time of the purchase) of the evidence of indebtedness with coupons attached exceeds the purchase price. If this paragraph and paragraph (2) (a) apply with respect to gain realized on the retirement of any bond, then paragraph (2) (a) shall apply with respect to that part of the gain to which this paragraph does not apply shall be governed by the provisions of section 1232 of the Internal Revenue Code of 1954, as amended through December 31, 1980.

Sec. 55. Minnesota Statutes 1980, Section 290.16, Subdivision 8, is amended to read:

Subd. 8. **HOLDING PERIOD.** For the purposes of this section

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(1) In determining the period for which the taxpayer has held property received on an exchange there shall be included the period for which he held the property exchanged, if, under the provisions of this chapter, the property received has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as the property exchanged, and, in the case of such exchanges after March 1, 1954, if the property exchanged at the time of such exchange was a capital asset as defined in subdivision 3(1) or property described in subdivision 9(1) and (2). For the purposes of this paragraph, an involuntary conversion described in section 290.13, subdivision 5, shall be considered an exchange of the property converted for the property acquired.

(2) In determining the period for which the taxpayer has held property however acquired there shall be included the period for which such property was held by any other person, if under the provisions of this chapter, such property has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as it would have in the hands of such other person.

(3) In determining the period for which the taxpayer has held stock or securities received upon a distribution where no gain was recognized to the distributee, there shall be included the period for which he held the stock or securities in the distributing corporation prior to the receipt of the stock or securities upon such distribution.

(4) In determining the period for which the taxpayer has held stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under section 290.09, subdivision 5, ~~third sentence~~ relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, there shall be included the period for which he held the stock or securities the loss from the sale or other disposition of which was not deductible.

(5) In determining the period for which the taxpayer has held stock or securities acquired from a corporation by the exercise of rights to acquire such stock or securities, there shall be included only the period beginning with the date upon which the right to acquire was exercised.

(6) In determining the period for which the taxpayer has held a residence, the acquisition of which resulted, under section 290.13, in the nonrecognition of the gain or any part thereof realized from the sale or exchange of another residence, there shall be included the period for which such other residence was held as of the date of such sale or exchange. For purposes of this paragraph, the term "sale or exchange" includes an involuntary conversion occurring after December 31, 1950 and before January 1, 1955.

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(7) In determining the period for which the taxpayer has held a commodity acquired in satisfaction of a commodity futures contract there shall be included the period for which he held the commodity futures contract if such commodity futures contract was a capital asset in his hands.

Sec. 56. Minnesota Statutes 1980, Section 290.16, Subdivision 9, is amended to read:

Subd. 9. **PROPERTY USED IN TRADE OR BUSINESS.** (1) For the purposes of this subdivision, the term "property used in the trade or business" means property used in the trade or business of a character which is subject to the allowance for depreciation provided in section 290.09, subdivision 7, held for more than ~~six months~~ one year, and real property used in the trade or business, held for more than ~~six months~~ one year, which is not (A) property of a kind which would properly be includible in the inventory of the taxpayer if on hand at the close of the taxable year, or (B) property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business. Such term also includes livestock, regardless of age, held by the taxpayer for draft, breeding or dairy purposes, and held by him for 12 months or more from the date of acquisition. Such term does not include poultry.

(2) If, during the taxable year, the recognized gains upon sale or exchanges of property used in the trade or business, plus the recognized gains from the compulsory or involuntary conversion (as a result of destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation or the threat or imminence thereof) of property used in the trade or business and capital assets held for more than ~~six months~~ one year into other property or money, exceed the recognized losses from such sales, exchanges, and conversions, such gains and losses shall be considered as gains and losses from sales or exchanges of capital assets held for more than ~~six months~~ one year. If such gains do not exceed such losses, such gains and losses shall not be considered as gains and losses from sales or exchanges of capital assets. For the purposes of this paragraph:

(A) In determining under this paragraph whether gains exceed losses, the gains and losses described therein shall be included only if and to the extent taken into account in computing net income, except that subdivisions 4 and 5 shall not apply.

(B) Losses (including losses not compensated for by insurance or otherwise) upon the destruction, in whole or in part, theft or seizure, or requisition or condemnation of property used in the trade or business or capital assets held for more than ~~six months~~ one year shall be considered losses from a compulsory or involuntary conversion.

In the case of any property used in the trade or business and of any capital asset held for more than 6 months and held for the production of

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income, this subdivision shall not apply to any loss, in respect of which the taxpayer is not compensated for by insurance in any amount, arising from fire, storm, shipwreck, or other casualty, or from theft.

In the case of any involuntary conversion (subject to the provisions of this clause but for this sentence) arising from fire, storm, shipwreck, or other casualty, or from theft, of any property used in the trade or business or as any capital asset held for more than one year, this clause shall not apply to such conversion (whether resulting in gain or loss) if during the taxable year the recognized losses from such conversions exceed the recognized gains from such conversions.

Gain from the sale or exchange of property, to the extent that the adjusted basis of such property is less than the adjusted basis without regard to the provisions of section ~~290.09, subdivision 11, (relating to amortization deduction)~~ 168 of the Internal Revenue Code of 1954, as in effect before its repeal by the Tax Reform Act of 1976, shall be considered as gain from the sale or exchange of property which is neither a capital asset nor property described in this subdivision.

Sec. 57. Minnesota Statutes 1980, Section 290.16, Subdivision 12, is amended to read:

Subd. 12. GAINS AND LOSSES FROM SHORT SALES. (a) **CAPITAL ASSETS.** For purposes of this chapter, gain or loss from the short sale of property shall be considered as gain or loss from the sale or exchange of a capital asset to the extent that the property, including a commodity future, used to close the short sale constitutes a capital asset in the hands of the taxpayer.

(b) **SHORT TERM GAINS AND HOLDING PERIODS.** If gain or loss from a short sale is considered as gain or loss from the sale or exchange of a capital asset under clause (a) and if on the date of such short sale substantially identical property has been held by the taxpayer for not more than 6 months (determined without regard to the effect, under paragraph (2), of such short sale on the holding period); or if substantially identical property is acquired by the taxpayer after such short sale and on or before the date of the closing thereof

(1) any gain on the closing of such short sale shall be considered as a gain on the sale or exchange of a capital asset held for not more than 6 months (notwithstanding the period of time any property used to close such short sale has been held); and

(2) the holding period of such substantially identical property shall be considered to begin (notwithstanding subdivision 8, relating to the holding period of property) on the date of the closing of the short sale, or on the date of a sale, gift, or other disposition of such property, whichever date occurs first. This paragraph shall apply to such substantially identical property in the order

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of the dates of the acquisition of such property, but only to so much of such property as does not exceed the quantity sold short.

For purposes of this clause, the acquisition of an option to sell property at a fixed price shall be considered as a short sale, and the exercise or failure to exercise such option shall be considered as a closing of such short sale.

(e) **CERTAIN OPTIONS TO SELL.** Clause (b) shall not include an option to sell property at a fixed price acquired on the same day on which the property identified as intended to be used in exercising such option is acquired and which, if exercised, is exercised through the sale of the property so identified. If the option is not exercised, the cost of the option shall be added to the basis of the property with which the option is identified. This clause shall apply only to options acquired after the date of enactment of Laws 1961, Chapter 501.

(d) **LONG TERM LOSSES.** If on the date of such short sale substantially identical property has been held by the taxpayer for more than 6 months, any loss on the closing of such short sale shall be considered as a loss on the sale or exchange of a capital asset held for more than 6 months (notwithstanding the period of time any property used to close such short sale has been held, and notwithstanding subdivision 13).

(e) **RULES FOR APPLICATION OF SECTION.** (1) Clauses (b) (1) or (d) shall not apply to the gain or loss, respectively, on any quantity of property used to close such short sale which is in excess of the quantity of the substantially identical property referred to in the applicable clause.

(2) For purposes of clauses (b) and (d)

(A) the term "property" includes only stocks and securities (including stocks and securities dealt with on a "when issued" basis), and commodity futures, which are capital assets in the hands of the taxpayer;

(B) in the case of futures transactions in any commodity on or subject to the rules of a board of trade or commodity exchange, a commodity future requiring delivery in 1 calendar month shall not be considered as property substantially identical to another commodity future requiring delivery in a different calendar month; and

(C) in the case of a short sale of property by an individual, the term "taxpayer," in the application of this clause and clauses (b) and (d), shall be read as "taxpayer or his spouse"; but an individual who is legally separated from the taxpayer under a decree of divorce or of legal separation shall not be considered as the spouse of the taxpayer.

(3) Where the taxpayer enters into two commodity futures transactions on the same day, one requiring delivery by him in one market and the other requiring delivery to him of the same (or substantially identical) commodity in

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the same calendar month in a different market, and the taxpayer subsequently closes both such transactions on the same day, clauses (b) and (d) shall have no application to so much of the commodity involved in either such transaction as does not exceed in quantity the commodity involved in the other.

(4) (A) In the case of a taxpayer who is a dealer in securities (within the meaning of section 1236 of the Internal Revenue Code of 1954, as amended through December 31, 1979),

(i) if, on the date of a short sale of stock, substantially identical property which is a capital asset in the hands of the taxpayer has been held for not more than 6 months, and

(ii) if such short sale is closed more than 20 days after the date on which it was made,

clause (b) (2) shall apply in respect of the holding period of such substantially identical property.

(B) For purposes of subparagraph (A)

(i) the last sentence of clause (b) applies; and

(ii) the term "stock" means any share or certificate of stock in corporation, any bond or other evidence of indebtedness which is convertible into any such share or certificate, or any evidence of an interest in, or right to subscribe to or purchase, any of the foregoing.

(f) **ARBITRAGE OPERATIONS IN SECURITIES.** In the case of a short sale which had been entered into as an arbitrage operation, to which sale the rule of clause (b) (2) would apply except as otherwise provided in this clause

(1) clause (b) (2) shall apply first to substantially identical assets acquired for arbitrage operations held at the close of business on the day such sale is made, and only to the extent that the quantity sold short exceeds the substantially identical assets acquired for arbitrage operations held at the close of business on the day such sale is made, shall the holding period of any other such identical assets held by the taxpayer be affected;

(2) in the event that assets acquired for arbitrage operations are disposed of in such manner as to create a net short position in assets acquired for arbitrage operations, such net short position shall be deemed to constitute a short sale made on that day;

(3) for the purposes of paragraphs (1) and (2) of this clause the taxpayer will be deemed as of the close of any business day to hold property which he is or will be entitled to receive or acquire by virtue of any other asset acquired for arbitrage operations or by virtue of any contract he has entered into in an arbitrage operation; and

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(4) for the purpose of this clause arbitrage operations are transactions involving the purchase and sale of assets for the purpose of profiting from a current difference between the price of the asset purchased and the price of the asset sold; and in which the asset purchased, if not identical to the assets sold, is such that by virtue thereof the taxpayer is, or will be, entitled to acquire assets identical to the assets sold. Such operations must be clearly identified by the taxpayer in his records as arbitrage operations on the day of the transaction or as soon thereafter as may be practicable. Assets acquired for arbitrage operations will include stocks and securities and the right to acquire stocks and securities.

(g) **HEDGING TRANSACTIONS.** This subdivision shall not apply in the case of a hedging transaction in commodity futures governed by the provisions of section 1233 of the Internal Revenue Code of 1954, as amended through December 31, 1980.

Sec. 58. Minnesota Statutes 1980, Section 290.16, Subdivision 13, is amended to read:

Subd. 13. **OPTIONS TO BUY OR SELL.** (a) **TREATMENT OF GAIN OR LOSS.** Gain or loss attributable to the sale or exchange of, or loss attributable to failure to exercise, a privilege or an option to buy or sell property shall be considered gain or loss from the sale or exchange of property which has the same character as the property to which the option or privilege relates has in the hands of the taxpayer (or would have in the hands of taxpayer if acquired by him):

(b) **SPECIAL RULE FOR LOSS ATTRIBUTABLE TO FAILURE TO EXERCISE OPTION.** For purposes of clause (a), if loss is attributable to failure to exercise a privilege or option, the privilege or option shall be deemed to have been sold or exchanged on the day it expired.

(c) **NONAPPLICATION OF SUBDIVISION.** This subdivision shall not apply to

(1) a privilege or option which constitutes property described in subdivision 3(1) (a);

(2) in the case of gain attributable to the sale or exchange of a privilege or option, any income derived in connection with such privilege or option which, without regard to this subdivision, is treated as other than gain from the sale or exchange of a capital asset;

(3) a loss attributable to failure to exercise an option described in subdivision 12(e); or

(4) gain attributable to the sale or exchange of a privilege or option acquired by the taxpayer before December 31, 1960, if in the hands of the taxpayer such privilege or option is a capital asset as provided in section 1234 of the Internal Revenue Code of 1954, as amended through December 31, 1980.

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

Sec. 59. Minnesota Statutes 1980, Section 290.17, Subdivision 2, is amended to read:

Subd. 2. **OTHER TAXPAYERS.** In the case of taxpayers not subject to the provisions of subdivision 1, items of gross income shall be assigned to this state or other states or countries in accordance with the following principles:

(1) The entire income of all resident or domestic taxpayers from compensation for labor or personal services, or from a business consisting principally of the performance of personal or professional services, shall be assigned to this state, and the income of nonresident taxpayers from such sources shall be assigned to this state if, and to the extent that, the labor or services are performed within it; all other income from such sources shall be treated as income from sources without this state;

(2) Income from the operation of a farm shall be assigned to this state if the farm is located within this state and to other states only if the farm is not located in this state. Income and gains received from tangible property not employed in the business of the recipient of such income or gains, and from tangible property employed in the business of such recipient if such business consists principally of the holding of such property and the collection of the income and gains therefrom, shall be assigned to this state if such property has a situs within it, and to other states only if it has no situs in this state. Income or gains from intangible personal property not employed in the business of the recipient of such income or gains, and from intangible personal property employed in the business of such recipient if such business consists principally of the holding of such property and the collection of the income and gains therefrom, wherever held, whether in trust, or otherwise, shall be assigned to this state if the recipient thereof is domiciled within this state; income or gains from intangible personal property wherever held, whether in trust or otherwise shall be assigned to this state if the recipient of such income or gains is domiciled within this state, or if the grantor of any trust is domiciled within this state and such income or gains would be taxable to such grantor under section ~~290.28~~ 290.25 or 290.29;

(3) Income derived from carrying on a trade or business, including in the case of a business owned by natural persons the income imputable to the owner for his services and the use of his property therein, shall be assigned to this state if the trade or business is conducted wholly within this state, and to other states if conducted wholly without this state. This provision shall not apply to business income subject to the provisions of clause (1);

(4) When a trade or business is carried on partly within and partly without this state, the entire income derived from such trade or business, including income from intangible property employed in such business and including, in the case of a business owned by natural persons, the income

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imputable to the owner for his services and the use of his property therein, shall be governed, except as otherwise provided in sections 290.35 and 290.36, by the provisions of section 290.19, notwithstanding any provisions of this section to the contrary. This shall not apply to business income subject to the provisions of clause (1). For the purposes of this clause, a trade or business located in Minnesota is carried on partly within and partly without this state if tangible personal property is sold by such trade or business and delivered or shipped to a purchaser located outside the state of Minnesota.

In determining whether or not intangible property is employed in a unitary business carried on partly within and partly without this state so that income derived therefrom is subject to apportionment under section 290.19 the following rules and guidelines shall apply.

(a) Intangible property is employed in a business if the business entity owning intangible property holds it as a means of furthering the business operation of which a part is located within the territorial confines of this state.

(b) Where a business operation conducted in Minnesota, is owned by a business entity which carries on business activity outside of the state different in kind from that conducted within this state, and such other business is conducted entirely outside the state, it will be presumed that the two business operations are unitary in nature, interrelated, connected and interdependent unless it can be shown to the contrary.

(5) In the case of a nonresident who is liable for payment of a penalty for having withdrawn funds from an individual housing account established pursuant to section 290.09, subdivision 30, the amount so withdrawn and for which a deduction was allowed shall be an item of income assignable to this state, and the penalty tax of ten percent shall remain an additional liability of that taxpayer.

(6) For purposes of this section, amounts received by a non-resident from the United States, its agencies or instrumentalities, the Federal Reserve Bank, the state of Minnesota or any of its political or governmental subdivisions, or a Minnesota volunteer fireman's relief association, by way of payment as a pension, public employee retirement benefit, or any combination thereof, or as a retirement or survivor's benefit made from a plan qualifying under section 401, 403, 404, 405, 408 ~~or~~ 409 or 409A of the Internal Revenue Code of 1954, as amended through December 31, 1979, are not considered income derived from carrying on a trade or business or from performing personal or professional services in Minnesota, and are not taxable under this chapter.

(7) All other items of gross income shall be assigned to the taxpayer's domicile.

Sec. 60. Minnesota Statutes 1980, Section 290.18, Subdivision 1, is amended to read:

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Subdivision 1. **TAXABLE NET INCOME.** The taxable net income shall, except insofar as section 290.19 is applicable, be computed by deducting from the gross income assignable to this state under section 290.17 deductions of the kind permitted by section 290.09 in accordance with the following provisions:

(1) Such deductions shall be allowed to the extent that they are connected with and allocable against the production or receipt of such gross income assignable to this state;

(2) That proportion of such deductions, so far as not connected with and allocable against the production or receipt of such gross income assignable to this state and so far as not connected with and allocable against the production or receipt of gross income assignable to other states or countries and so far as not entering into the computation of the net income assignable to this state under section 290.19, shall be allowed which the taxpayer's gross income from sources within this state, as determined under section 290.17, subdivision 2, clauses (1), (2), (3), and ~~(5)~~ (7), bears to his gross income from all sources, including that entering into the computations provided for by section 290.19; provided that taxes of the kind deductible under section 290.09, subdivision 4, shall, so far as within the description of deductions deductible under this clause, be deductible in their entirety if paid to the state of Minnesota, or any of its subdivisions authorized to impose such taxes, and thereupon be excluded in making the computation of deductions, as in this clause provided.

Sec. 61. Minnesota Statutes 1980, Section 290.18, Subdivision 2, is amended to read:

Subd. 2. **FEDERAL INCOME TAX PAYMENTS AND REFUNDS.**

(a) The adjusted gross income shall, except insofar as section 290.19 is applicable, be computed by deducting from the gross income assignable to this state under section 290.17, the following deductions:

allowable federal income taxes determined under the provisions of sections 290.09, subdivision 4, 290.10 (8), (9) or (10), and 290.18.

The deduction enumerated in this subdivision shall be allowed to the extent provided in subdivision 1 and as provided in clauses (b) and (c).

(b) In the case of corporations, national and state banks for taxable years beginning prior to July 1, 1971 and ending subsequent thereto, federal income taxes allowable as a deduction shall be that part of the federal income tax determined by multiplying the federal income tax liability for such taxable year as reflected on the return filed with the Internal Revenue Service by a fraction, the numerator of which is the number of months in the taxable year prior to July 1, 1971 and the denominator which is the number of months in the entire taxable year; provided that if the taxable period is other than a full year the denominator of the fraction shall be the total number of months for which the federal return is filed.

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(c) The amount of any additional federal income taxes for 1971 and prior years, where such additional federal income taxes would have been allowed as a deduction from gross income under clause (b) or under prior law, shall be allowed as a deduction in the year in which such additional federal income taxes are paid.

(d) The amount of any overpayment of federal income taxes, whether allowed as a refund or allowed as a credit to any liability, where such overpayment has previously been allowed as a deduction from gross income under Extra Session Laws 1971, Chapter 31, Article 6 or under prior law, shall be added to gross income in the year in which received or credited.

Sec. 62. Minnesota Statutes 1980, Section 290.21, Subdivision 1, is amended to read:

Subdivision 1. ~~The taxes imposed by this chapter shall be on or measured by, as the case may be, the taxable net income less the following credits~~ The following deductions shall be allowed from gross income in computing net income for individuals, and from taxable net income for corporations.

Sec. 63. Minnesota Statutes 1980, Section 290.21, Subdivision 3, is amended to read:

Subd. 3. An amount for contribution or gifts made within the taxable year:

(a) to or for the use of the state of Minnesota, or any of its political subdivisions for exclusively public purposes,

(b) to or for the use of any community chest, corporation, organization, trust, fund, association, or foundation located in and carrying on substantially all of its activities within this state, organized and operating exclusively for religious, charitable, public cemetery, scientific, literary, artistic, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual,

(c) to a fraternal society, order, or association, operating under the lodge system located in and carrying on substantially all of their activities within this state if such contributions or gifts are to be used exclusively for the purposes specified in subdivision 3(b), or for or to posts or organizations of war veterans or auxiliary units or societies of such posts or organizations, if they are within the state and no part of their net income inures to the benefit of any private shareholder or individual, ~~or to an employee stock ownership trust as defined in section 290.01, subdivision 25. Where the beneficiaries of a stock ownership trust include the transferor, his spouse, children, grandchildren, parents, siblings or their children, the amount of the deduction shall be reduced by the product of multiplying said amount by their percentage interest in the trust,~~

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(d) to or for the use of the United States of America for exclusively public purposes, and to or for the use of any community chest, corporation, trust, fund, association, or foundation, organized and operated exclusively for any of the purposes specified in subdivision 3(b) and (c) no part of the net earnings of which inures to the benefit of any private shareholder or individual, but not carrying on substantially all of their activities within this state, in an amount equal to the ratio of Minnesota taxable net income to total net income, provided, however, that for an individual taxpayer, the credit deduction shall be allowed in an amount equal to the ratio of the taxpayer's gross income assignable to Minnesota to the taxpayer's gross income from all sources,

(e) to a political party, as defined in section 200.02, subdivision 7, or a political candidate, as defined in section 210A.01, or a political cause when sponsored by any party or association or committee, as defined in section 210A.01, in a maximum amount not to exceed the following:

(1) contributions made by individual natural persons, \$100,

(2) contributions made by a national committeeman, national committeewoman, state chairman, or state chairwoman of a political party, as defined in section 200.02, subdivision 7, \$1,000,

(3) contributions made by a congressional district committeeman or committeewoman of a political party, as defined in section 200.02, subdivision 7, \$350,

(4) contributions made by a county chairman or a county chairwoman of a political party, as defined in section 200.02, subdivision 7, \$150;

(f) in the case of an individual, the total credit against taxable net income deduction allowable hereunder shall not exceed 30 percent of the taxpayer's Minnesota gross income as follows:

(i) the aggregate of contributions made to organizations specified in (a), (b) and (d) shall not exceed ten percent of the taxpayer's Minnesota gross income,

(ii) the total credits deduction under this subparagraph for any taxable year shall not exceed 20 percent of the taxpayer's Minnesota gross income. For purposes of this subparagraph, the credits deduction under this section shall be computed without regard to any deduction allowed under subparagraph (i) but shall take into account any contributions described in subparagraph (i) which are in excess of the amount allowable as a credit deduction under subparagraph (i). For purposes of paragraph (f) the term Minnesota gross income shall also include the ordinary income portion of a lump sum distribution as defined in section 402(e) of the Internal Revenue Code of 1954, as amended through December 31, 1980;

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(g) in the case of a corporation, the total ~~credit against net income deduction~~ hereunder shall not exceed 15 percent of the taxpayer's taxable net income less the ~~credits~~ deductions allowable under this section other than those for contributions or gifts,

(h) in the case of a corporation reporting its taxable income on the accrual basis, if: (A) the board of directors authorizes a charitable contribution during any taxable year, and (B) payment of such contribution is made after the close of such taxable year and on or before the fifteenth day of the third month following the close of such taxable year; then the taxpayer may elect to treat such contribution as paid during such taxable year. The election may be made only at the time of the filing of the return for such taxable year, and shall be signified in such manner as the commissioner shall by regulations prescribe:

(i) in the case of a contribution or property placed in trust as described in section 170(f)(2) of the Internal Revenue Code of 1954, as amended through December 31, 1979, a ~~credit~~ deduction shall be allowed under this subdivision to the extent that a deduction is allowable for federal income tax purposes.

Sec. 64. Minnesota Statutes 1980, Section 290.21, Subdivision 3a, is amended to read:

Subd. 3a. No ~~credit~~ deduction shall be allowed under subdivision 3, clause (e), for any contribution to a candidate as defined in section 10A.01, except a candidate for elective judicial office.

Sec. 65. Minnesota Statutes 1980, Section 290.21, Subdivision 4, is amended to read:

Subd. 4. (a) 85 percent of dividends received by a corporation during the taxable year from another corporation, when the corporate stock with respect to which dividends are paid does not constitute the stock in trade of the taxpayer or would not be included in the inventory of the taxpayer, or does not constitute property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, or when the trade or business of the taxpayer does not consist principally of the holding of the stocks and the collection of the income and gains therefrom. The remaining 15 percent shall be allowed if the recipient owns 80 percent or more of all the voting stock of such other corporation, and the dividends were paid from income arising out of business done in this state by the corporation paying such dividends; but if the income out of which the dividends are declared was derived from business done within and without this state, then so much of the remainder shall be allowed as a ~~credit~~ deduction as the amount of the taxable net income of the corporation paying the dividends assignable or allocable to this state bears to the entire net income of the corporation, such rate being determined by the returns under this chapter of the corporation paying such dividends for the taxable year preceding the distribution thereof; the burden shall be on the taxpayer of showing that

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the amount of remainder claimed as a credit deduction has been received from income arising out of business done in this state,

(b) if the trade or business of the taxpayer consists principally of the holding of the stocks and the collection of the income and gains therefrom, dividends received by a corporation during the taxable year from another corporation, if the recipient owns 80 percent or more of all the voting stock of such other corporation, from income arising out of business done in this state by the corporation paying such dividends; but, if the income out of which the dividends are declared was derived from business done within and without this state, then so much of the dividends shall be allowed as credit deduction as the amount of the taxable net income of the corporation paying the dividends assignable or allocable to this state bears to the entire net income of the corporation, such rate being determined by the returns under this chapter of the corporation paying such dividends for the taxable year preceding the distribution thereof. The burden shall be on the taxpayer of showing that the amount of dividends claimed as a credit deduction has been received from income arising out of business done in this state.

(c) The dividend credit deduction provided in this subdivision shall be allowed only with respect to dividends that are included in a corporation's Minnesota taxable net income for the taxable year.

Sec. 66. Minnesota Statutes 1980, Section 290.21, Subdivision 7, is amended to read:

Subd. 7. (1) Subject to the limitations provided by clause (2), amounts paid by the taxpayer to maintain an individual (other than a dependent as defined in section 290.06, subdivision ~~3(3)~~ 3f, clause (3)) as a member of his household during the period that such individual is

(a) a member of the taxpayer's household under a written agreement between the taxpayer and an organization described in paragraphs (2), (3), or (4) of subsection (c) of section 170 of the Internal Revenue Code of 1954, as amended through December 31, 1979 to implement a program of the organization to provide educational opportunities for pupils or students in private homes, and

(b) a fulltime pupil or student in the twelfth or any lower grade at an educational institution (as defined in section ~~151(e)~~ (4) 170(b)(1)(A)(ii)) of the Internal Revenue Code of 1954, as amended through December 31, 1979) located in the United States shall be treated as amounts paid for the use of the organization and shall entitle the taxpayer to a credit deduction under this section in accordance with the provisions and limitations therein defined.

(2) Clause (1) shall apply to amounts paid within the taxable year only to the extent that such amounts do not exceed \$50 multiplied by the number of full calendar months during the taxable year which fall within the period

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described in clause (1). For purposes of this subdivision, if 15 or more days of a calendar month fall within such period such month shall be considered as a full calendar month.

Clause (1) shall not apply to any amount paid by the taxpayer within the taxable year if the taxpayer receives any money or other property as compensation or reimbursement for maintaining the individual in his household during the period described in clause (1).

(3) No ~~credit~~ deduction shall be allowed under this subdivision for any amount paid by a taxpayer to maintain an individual as a member of his household under a program described in this subdivision except as provided in this subdivision.

Sec. 67. Minnesota Statutes 1980, Section 290.22, is amended to read:

290.22 ESTATES AND TRUSTS, IMPOSITION OF TAX.

The taxes imposed by this chapter upon individuals shall apply to the income of estates or of any kind of property held in trust, including:

(1) Income accumulated in trust for the benefit of unborn or unascertained person or persons with contingent interests, and income accumulated or held for future distribution under the terms of the will or trust;

(2) Income which is to be distributed currently by the fiduciary to the beneficiaries, and income collected by a guardian of an infant which is to be held or distributed as the court may direct;

(3) Income received by estates of deceased persons during the period of administration or settlement of the estate; and,

(4) Income which, in the discretion of the fiduciary, may be either distributed to the beneficiaries or accumulated.

~~The tax shall be computed upon the net income of the estate or trust and paid by the fiduciary, except as provided in section 290.27, relating to revocable trusts, and section 290.28, relating to income for benefit of the grantor.~~

Sec. 68. Minnesota Statutes 1980, Section 290.23, Subdivision 3, is amended to read:

Subd. 3. UNUSED LOSS CARRYOVERS AND EXCESS DEDUCTIONS ON TERMINATION AVAILABLE TO BENEFICIARIES. If on the termination of an estate or trust, the estate or trust has

(1) a net operating loss carryover under section 290.095 or a capital loss carryover under section ~~290.16, subdivision 6~~ 290.01, subdivision 20; or

(2) for the last taxable year of the estate or trust deductions (other than the deductions allowed under subdivision 2) in excess of gross income for such year,

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then such carryover or such excess shall be allowed as a deduction, in accordance with regulations prescribed by the commissioner, to the beneficiaries succeeding to the property of the estate or trust.

Sec. 69. Minnesota Statutes 1980, Section 290.23, Subdivision 5, is amended to read:

Subd. 5. **DISTRIBUTABLE NET INCOME, INCOME, BENEFICIARY; DEFINED.** (1) For purposes of sections 290.22 through ~~290.28~~ 290.25, the term "distributable net income" means the same as that term is defined in section 643(a) of the Internal Revenue Code of 1954, as amended through December 31, 1980, with respect to any taxable year, the taxable net income of the estate or trust computed with the following modifications modification:

(a) ~~No deduction shall be taken under subdivisions 6 and 8 (relating to additional deductions).~~

(b) ~~Gains from the sale or exchange of capital assets shall be excluded to the extent that such gains, less applicable expenses, are allocated to corpus and are not (1) paid, credited, or required to be distributed to any beneficiary during the taxable year, or (2) paid, permanently set aside, or to be used for the purposes specified in subdivision 2. Losses from the sale or exchange of capital assets shall be excluded, except to the extent such losses are taken into account in determining the amount of gains from the sale or exchange of capital assets which are paid, credited, or required to be distributed to any beneficiary during the taxable year.~~

(c) ~~For purposes only of subdivisions 6 and 7 (relating to trusts which distribute current income only), there shall be excluded those items of gross income constituting extraordinary dividends or taxable stock dividends which the fiduciary, acting in good faith, does not pay or credit to any beneficiary by reason of his determination that such dividends are allocable to corpus under the terms of the governing instrument and applicable law.~~

(d) ~~There shall be included any tax-exempt interest to which section 290.08, subdivisions 7 and 8 290.01, subdivision 20, clause (b), subparagraph (1) applies, reduced by any amounts which would be deductible in respect of disbursements allocable to such interest but for the provisions of sections 290.09, subdivision 3, and 290.10(9) (relating to disallowance of certain deductions).~~

If the estate or trust is allowed a ~~credit~~ deduction under subdivision 2, section 642(c) of the Internal Revenue Code of 1954, as amended through December 31, 1980, the amount of the modification specified in subparagraph (d) shall be reduced to the extent that the amount of income which is paid, permanently set aside, or to be used for the purposes specified in subdivision 2 that section of the Internal Revenue Code is deemed to consist of items specified in that subparagraph the modification. For this purpose, such

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amount shall (in the absence of specific provisions in the governing instrument) be deemed to consist of the same proportion of each class of items of income of the estate or trust as the total of each class bears to the total of all classes.

(2) For purposes of this section and section 290.22 The term "income," and the term "beneficiary" have the same meaning as those terms are defined in section 643(b) and (c) of the Internal Revenue Code of 1954, as amended through December 31, 1980. when not preceded by the words "taxable net," "distributable net," "undistributed net," or "gross," means the amount of income of the estate or trust for the taxable year determined under the terms of the governing instrument and applicable law. Items of gross income constituting extraordinary dividends or taxable stock dividends which the fiduciary, acting in good faith, determines to be allocable to corpus under the terms of the governing instrument and applicable law shall not be considered income.

(3) For purposes of sections 290.22 through 290.28, the term "beneficiary" includes heir, legatee, devisee.

Sec. 70. Minnesota Statutes 1980, Section 290.23, Subdivision 9, is amended to read:

Subd. 9. INCLUSION OF AMOUNTS IN GROSS INCOME OF BENEFICIARIES OF ESTATES AND TRUSTS ACCUMULATING INCOME OR DISTRIBUTING CORPUS. (1) Subject to paragraph 2, there shall be included in the gross income of a beneficiary to whom an amount specified in subdivision 8(1) is paid, credited, or required to be distributed (by an estate or trust described in subdivision 8), the sum of the following amounts:

(a) The amount of income for the taxable year required to be distributed currently to such beneficiary, whether distributed or not. If the amount of income required to be distributed currently to all beneficiaries exceeds the distributable net income (computed without the credit allowed by subdivision 2, relating to credit for charitable, etc. purposes) of the estate or trust, then, in lieu of the amount provided in the preceding sentence, there shall be included in the gross income of the beneficiary an amount which bears the same ratio to distributable net income (as so computed) as the amount of income required to be distributed currently to such beneficiary bears to the amount required to be distributed currently to all beneficiaries. For purposes of this subdivision, the phrase "the amount of income for the taxable year required to be distributed currently" includes any amount required to be paid out of income or corpus to the extent such amount is paid out of income for such taxable year.

(b) All other amounts properly paid, credited, or required to be distributed to such beneficiary for the taxable year. If the sum of

(i) the amount of income for the taxable year required to be distributed currently to all beneficiaries, and

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(ii) all other amounts properly paid, credited, or required to be distributed to all beneficiaries

exceeds the distributable net income of the estate or trust, then, in lieu of the amount provided in the preceding sentence, there shall be included in the gross income of the beneficiary an amount which bears the same ratio to distributable net income (reduced by the amounts specified in (1)) as the other amounts properly paid, credited or required to be distributed to the beneficiary bear to the other amounts properly paid, credited, or required to be distributed to all beneficiaries.

(2) The amounts determined under paragraph (1) shall have the same character in the hands of the beneficiary as in the hands of the estate or trust. For this purpose, the amounts shall be treated as consisting of the same proportion of each class of items entering into the computation of distributable net income as the total of each class bears to the total distributable net income of the estate or trust unless the terms of the governing instrument specifically allocate different classes of income to different beneficiaries. In the application of the preceding sentence, the items of deduction entering into the computation of distributable net income (including the credit allowed under subdivision 2) shall be allocated among the items of distributable net income in accordance with regulations prescribed by the commissioner. In the application of this paragraph to the amount determined under subparagraph (a) of paragraph (1), distributable net income shall be computed without regard to any portion of the credit under subdivision 2 which is not attributable to income of the taxable year. The provisions of sections 652, 662, 663 and 664(b) of the Internal Revenue Code of 1954, as amended through December 31, 1980, shall apply to inclusion of amounts in gross income of beneficiaries.

Sec. 71. Minnesota Statutes 1980, Section 290.23, Subdivision 15, is amended to read:

Subd. 15. **ACCUMULATIONS AFTER DECEMBER 31, 1976.** Notwithstanding the provisions of subdivisions 11, 12, 13, and 14, The provisions of sections 665 to 668 of the Internal Revenue Code of 1954, as amended through December 31, 1979, shall be applicable to all accumulation distributions made by a trust after December 31, 1976.

Sec. 72. Minnesota Statutes 1980, Section 290.25, Subdivision 1, is amended to read:

Subdivision 1. **TRUST INCOME, DEDUCTIONS, AND CREDITS ATTRIBUTABLE TO GRANTORS AND OTHERS AS SUBSTANTIAL OWNERS.** ~~Where~~ it is specified in this section and sections 290.27 and 290.28 that the grantor or another person shall be treated as the owner of any portion of a trust, there shall then be included in computing the taxable net income and credits of the grantor or the other person those items of income, deductions,

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and credits against tax of the trust which are attributable to that portion of the trust to the extent that such items would be taken into account under this chapter in computing taxable net income or credits against the tax of an individual. Any remaining portion of the trust shall be subject to section 290.23. No items of a trust shall be included in computing the taxable net income and credits of the grantor or of any other person solely on the grounds of his dominion and control over the trust under section 290.01, subdivision 20 (relating to definition of gross income) or any other provision of this chapter, except as specified in this section and sections 290.27 and 290.28. The provisions of sections 671 to 679, 681 and 682 of the Internal Revenue Code of 1954, as amended through December 31, 1980, shall apply to grantors and others treated as substantial owners and other provisions concerning estates and trusts.

Sec. 73. Minnesota Statutes 1980, Section 290.26, Subdivision 1, is amended to read:

Subdivision 1. **INCOME OF CERTAIN TRUSTS NOT TAXED.** A trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries shall not be taxable under section 290.22 and no other provisions of this ~~act~~ chapter shall apply with respect to such trust or its beneficiary if such trust or beneficiary comes within the provisions of sections 401 and 402 of the Internal Revenue Code of 1954, as amended through December 31, 1979 as adapted to the provisions of this chapter under regulations issued by the commissioner of revenue.

Sec. 74. Minnesota Statutes 1980, Section 290.26, Subdivision 2a, is amended to read:

Subd. 2a. **EMPLOYER STOCK OWNERSHIP TRUST CONTRIBUTIONS.** All contributions of an employer to an employee stock ownership trust as defined by section 290.01, subdivision 25, shall be allowed as a deduction in accordance with the provisions of section 404 of the Internal Revenue Code of 1954, as amended through December 31, 1979, ~~except that the limitation contained therein on the amount of contributions allowed as a deduction shall not be applicable and in lieu thereof a limitation of 30 percent shall apply. An employer who in any year claims a deduction under this subdivision shall not in that year claim a deduction under section 290.21.~~

Sec. 75. Minnesota Statutes 1980, Section 290.26, Subdivision 3, is amended to read:

Subd. 3. **DISTRIBUTIONS.** Distributions received by a beneficiary from a trust or annuity plan of the kind described in subdivision 1 or 2 shall be treated in accordance with the provisions of ~~section 290.08, subdivision 4, and~~ sections 402 and 403 of the Internal Revenue Code of 1954, as amended through December 31, 1979 as adapted to the provisions of this chapter by regulations issued by the commissioner of revenue.

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

Sec. 76. Minnesota Statutes 1980, Section 290.281, Subdivision 2, is amended to read:

Subd. 2. **NET INCOME, COMPUTATION.** The net income of the common trust fund shall be computed in the same manner and on the same basis as in the case of an individual except that (1) the gains and losses from sales or exchanges of capital assets shall be segregated and shall not enter into the computation of ordinary net income or net loss; and (2) no ~~credit~~ deduction provided in section 290.21, subdivision 3, for contributions shall be allowed.

Sec. 77. Minnesota Statutes 1980, Section 290.31, Subdivision 2, is amended to read:

Subd. 2. **INCOME AND CREDITS OF PARTNER.** (1) In determining his income tax, each partner shall take into account separately his distributive share of the partnership's

(a) gains and losses from sales or exchanges of capital assets held for not more than ~~six months~~ one year,

(b) gains and losses from sales or exchanges of capital assets held for more than ~~six months~~ one year.

(c) gains and losses from sales or exchanges of property described in section 290.16, subdivision 9(1) and (2) (relating to certain property used in a trade or business and involuntary conversions),

(d) charitable contributions (as defined in section 290.21, subdivision 3),

(e) dividends with respect to which there is provided a ~~credit~~ deduction under section 290.21,

(f) other items of income, gain, loss, deduction, or credit, to the extent provided by regulations prescribed by the commissioner, and

(g) taxable net income or loss, exclusive of items requiring separate computation under other subparagraphs of this paragraph (1).

(2) The character of any item of income, gain, loss, deduction, or credit included in a partner's distributive share under paragraphs (a) through (f) of paragraph (1) shall be determined as if such item were realized directly from the source from which realized by the partnership, or incurred in the same manner as incurred by the partnership.

(3) In any case where it is necessary to determine the gross income of a partner for purposes of this chapter, such amount shall include his distributive share of the gross income of the partnership.

Sec. 78. Minnesota Statutes 1980, Section 290.31, Subdivision 3, is amended to read:

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

Subd. 3. **PARTNERSHIP COMPUTATIONS.** The taxable net income of a partnership shall be computed in the same manner as in the case of an individual except that

- (1) the items described in subdivision 2(1) shall be separately stated, and
- (2) the following deductions and credits shall not be allowed to the partnership:
 - (a) the standard deduction provided in section 290.09, subdivision 15,
 - (b) the ~~credit~~ deduction for charitable contributions provided in section 290.21, subdivision 3,
 - (c) the net operating loss deduction provided in section 290.095, and
 - (d) the additional itemized deductions for individuals provided in section 290.09, as adapted to the provisions of this subdivision under regulations issued by the commissioner.

Any election affecting the computation of taxable net income derived from a partnership shall be made by the partnership.

Sec. 79. Minnesota Statutes 1980, Section 290.31, Subdivision 4, is amended to read:

Subd. 4. **PARTNER'S DISTRIBUTIVE SHARE.** (1) A partner's distributive share of income, gain, loss, deduction, or credit shall, except as otherwise provided in this subdivision, be determined by the partnership agreement.

(2) A partner's distributive share of any item of income, gain, loss, deduction, or credit shall be determined in accordance with his distributive share of taxable net income or loss of the partnership, as described in subdivision 2(1) (g), for the taxable year the partner's interest in the partnership, determined by taking into account all facts and circumstances, if

(a) the partnership agreement does not provide as to the partner's distributive share of such item income, gain, loss, deduction or credit, or item thereof, or

(b) the principal purpose of any provision in the partnership agreement with respect to the partner's distributive share of such item is the avoidance or evasion of any tax imposed by this chapter allocation to a partner under the agreement of income, gain, loss, deduction, or credit (or item thereof) does not have substantial economic effect.

(3) (a) In determining a partner's distributive share of items described in subdivision 2(1), depreciation, depletion, or gain or loss with respect to property contributed to the partnership by a partner shall, except to the extent otherwise provided in subparagraph (b) or (c), be allocated among the partners in the same manner as if such property had been purchased by the partnership.

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(b) If the partnership agreement so provides, depreciation, depletion, or gain or loss with respect to property contributed to the partnership by a partner shall, under regulations prescribed by the commissioner, be shared among the partners so as to take account of the variation between the basis of the property to the partnership and its fair market value at the time of contribution.

(c) If the partnership agreement does not provide otherwise, depreciation, depletion, or gain or loss with respect to undivided interests in property contributed to a partnership shall be determined as though such undivided interests had not been contributed to the partnership. This subparagraph shall apply only if all the partners had undivided interests in such property prior to contribution and their interests in the capital and profits of the partnership correspond with such undivided interests.

(4) A partner's distributive share of partnership loss (including capital loss) shall be allowed only to the extent of the adjusted basis of such partner's interest in the partnership at the end of the partnership year in which such loss occurred. Any excess of such loss over such basis shall be allowed as a deduction at the end of the partnership year in which such excess is repaid to the partnership.

(5) (a) A person shall be recognized as a partner for purposes of this chapter if he owns a capital interest in a partnership in which capital is a material income-producing factor, whether or not such interest was derived by purchase or gift from any other person.

(b) In the case of any partnership interest created by gift, the distributive share of the donee under the partnership agreement shall be includible in his gross income, except to the extent that such share is determined without allowance of reasonable compensation for services rendered to the partnership by the donor, and except to the extent that the portion of such share attributable to donated capital is proportionately greater than the share of the donor attributable to the donor's capital. The distributive share of a partner in the earnings of the partnership shall not be diminished because of absence due to military service.

(c) For purposes of this subdivision, an interest purchased by one member of a family from another shall be considered to be created by gift from the seller, and the fair market value of the purchased interest shall be considered to be donated capital.

(d) For the purposes of this section, the "family" of any individual shall include only his spouse, ancestors, and lineal descendants, and any trusts for the primary benefit of such persons.

Sec. 80. Minnesota Statutes 1980, Section 290.31, Subdivision 6, is amended to read:

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Subd. 6. TAXABLE YEARS OF PARTNER AND PARTNERSHIP.

(1) In computing the taxable net income of a partner for a taxable year, the inclusions required by subdivision 2 and subdivision 7(4) with respect to a partnership shall be based on the income, gain, loss, deduction, or credit of the partnership for any taxable year of the partnership ending within or with the taxable year of the partner.

(2) The taxable year of a partnership shall be determined as though the partnership were a taxpayer. A partnership may not change to, or adopt, a taxable year other than that of all its principal partners unless it establishes, to the satisfaction of the commissioner, a business purpose therefor.

(3) A partner may not change to a taxable year other than that of a partnership in which he is a principal partner unless he establishes, to the satisfaction of the commissioner, a business purpose therefor.

(4) For the purpose of paragraphs (2) and (3), a principal partner is a partner having an interest of five percent or more in partnership profits or capital.

(5) Except in the case of a termination of a partnership and except as provided in paragraphs (6) and (7), the taxable year of a partnership shall not close as the result of the death of a partner, the entry of a new partner, the liquidation of a partner's interest in the partnership, or the sale or exchange of a partner's interest in the partnership.

(6) The taxable year of a partnership shall close

(a) with respect to a partner who sells or exchanges his entire interest in a partnership, and

(b) with respect to a partner whose interest is liquidated, except that the taxable year of a partnership with respect to a partner who dies shall not close prior to the end of the partnership's taxable year.

Such partner's distributive share of items described in subdivision 2(1) for such year shall be determined, under regulations prescribed by the commissioner, for the period ending with such sale, exchange, or liquidation.

(7) The taxable year of a partnership shall not close (other than at the end of a partnership's taxable year as determined under paragraph (2)) with respect to a partner who sells or exchanges less than his entire interest in the partnership or with respect to a partner whose interest is reduced (whether by entry of a new partner, partial liquidation of a partner's interest, gift, or otherwise), but such partner's distributive share of items described in subdivision 2(1) shall be determined by taking into account his varying interests in the partnership during the taxable year.

Sec. 81. Minnesota Statutes 1980, Section 290.31, Subdivision 9, is amended to read:

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

Subd. 9. **NONRECOGNITION OF GAIN OR LOSS ON CONTRIBUTION.** No gain or loss shall be recognized to a partnership or to any of its partners in the case of a contribution of property to the partnership in exchange for an interest in the partnership. The foregoing rule shall not apply to gain realized on a transfer of property to a partnership which would be treated as an investment company within the meaning of section 351 of the Internal Revenue Code of 1954, as amended through December 31, 1980, if the partnership were incorporated.

Sec. 82. Minnesota Statutes 1980, Section 290.31, Subdivision 10, is amended to read:

Subd. 10. **BASIS OF CONTRIBUTING PARTNER'S INTEREST.** The basis of an interest in a partnership acquired by a contribution of property, including money, to the partnership shall be the amount of such money and the adjusted basis of such property to the contributing partner at the time of the contribution, increased by any amount of gain recognized to the contributing partner at such time.

Sec. 83. Minnesota Statutes 1980, Section 290.31, Subdivision 11, is amended to read:

Subd. 11. **BASIS OF PROPERTY CONTRIBUTED TO PARTNERSHIP.** The basis of property contributed to a partnership by a partner shall be the adjusted basis of such property to the contributing partner at the time of the contribution, increased by any amount of gain recognized to the contributing partner at such time.

Sec. 84. Minnesota Statutes 1980, Section 290.31, Subdivision 21, is amended to read:

Subd. 21. **UNREALIZED RECEIVABLES AND INVENTORY ITEMS.** (1) The amount of any money, or the fair market value of any property, received by a transferor partner in exchange for all or a part of his interest in the partnership attributable to

(a) unrealized receivables of the partnership, or

(b) inventory items of the partnership which have appreciated substantially in value,

shall be considered as an amount realized from the sale or exchange of property other than a capital asset.

(2) (a) To the extent a partner receives in a distribution partnership property described in paragraph (1) (a) or (b) in exchange for all or a part of his interest in other partnership property (including money), or partnership property (including money) other than property described in paragraph (1) (a) or (b) in exchange for all or a part of his interest in partnership property described in paragraph (1) (a) or (b),

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such transactions shall, under regulations prescribed by the commissioner, be considered as a sale or exchange of such property between the distributee and the partnership (as constituted after the distribution).

(b) Subparagraph (a) shall not apply to a distribution of property which the distributee contributed to the partnership, or payments, described in subdivision 17(1), to a retiring partner or successor in interest of a deceased partner.

(3) For purposes of this ~~chapter~~ section, the term "unrealized receivables" ~~includes, to the extent not previously includible in income under the method of accounting used by the partnership, any rights (contractual or otherwise) to payment for~~

~~(a) goods delivered, or to be delivered, to the extent the proceeds therefrom would be treated as amounts received from the sale or exchange of property other than a capital asset, or~~

~~(b) services rendered, or to be rendered means "unrealized receivables" as defined in section 751(c) of the Internal Revenue Code of 1954, as amended through December 31, 1980.~~

(4) (a) Inventory items of the partnership shall be considered to have appreciated substantially in value if their fair market value exceeds 120 percent of the adjusted basis to the partnership of such property, and ten percent of the fair market value of all partnership property, other than money.

(b) For purposes of this section the term "inventory items" means property of the partnership of the kind described in section 290.16, subdivision 3(1) (a), any other property of the partnership which, on sale or exchange by the partnership, would be considered property other than a capital asset and other than property described in section 290.16, subdivision 9(1) and (2), and any other property held by the partnership which, if held by the selling or distributee partner, would be considered property of the type described in this sentence.

Sec. 85. Minnesota Statutes 1980, Section 290.31, is amended by adding a subdivision to read:

Subd. 8a. The treatment of organization and syndication fees shall be governed by the provisions of section 709 of the Internal Revenue Code of 1954, as amended through December 31, 1980.

Sec. 86. Minnesota Statutes 1980, Section 290.32, is amended to read:

290.32 TAXES FOR PART OF YEAR, COMPUTATION.

When under this chapter a taxpayer is permitted or required to make a return for a fractional part of a year, the tax shall be computed in the same manner as if such fractional part of a year were an entire year, except:

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

(1) When a taxpayer is permitted to change the basis for reporting his income from a fiscal to a calendar year, he shall make a separate return for the period between the close of his last fiscal year and the following December thirty-first; if the change is from a calendar to a fiscal year, a separate return shall be made for the period between the close of his last calendar year and the date designated as the close of the fiscal year; and if the change is from one fiscal year to another fiscal year, a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year. The taxable net income for any such period shall be put on an annual basis by multiplying the amount thereof by 12 and dividing by the number of months included in the period for which such separate return is made; and the tax shall be that part of a tax, computed on the taxable net income put on such annual basis, less the ~~credit~~ deduction against that taxable net income under the provisions of section 290.21, which the number of months in such period bears to 12 months.

(2) Where any of the enumerated changes in accounting period referred to in clause (1) involve a 52-53 week fiscal year and any such change results in a short period of less than seven days, such short period shall be added to and deemed a part of the following taxable year. If the change results in a short period of seven or more days, but less than 359 days, the taxable net income for any such period shall be placed on an annual basis by multiplying such income by 365 and dividing the result by the same number of days in the short period; and the tax shall be that part of a tax, computed on the taxable net income placed on such annual basis, less the ~~credit~~ deduction against that taxable net income under the provisions of section 290.21, which the number of days in such short period bears to 365 days. Where the short period is 359 days or more, the tax shall be computed in the same manner as if such short period were an entire year.

Sec. 87. Minnesota Statutes 1980, Section 290.34, Subdivision 3, is amended to read:

Subd. 3. **AFFILIATED OR RELATED CORPORATIONS, CONSOLIDATED RETURNS.** An affiliated group of corporations, all the members of which are required to file income tax returns under the provisions of this chapter, shall have the privilege of filing a consolidated return in lieu of separate returns, if the entire income of each of the members of the affiliated group including the common parent, if any, is assignable to this state under the provisions of this chapter. In the case of a corporation which is a member of the affiliated group for a fractional part of the taxable year, the consolidated return shall include the income of such corporation for such part of the year as it is a member of the affiliated group. ~~Only one credit provided by section 290.21, subdivision 2, shall be allowed in computing the tax on such consolidated return.~~ The consolidated net income of the affiliated group shall be determined in accordance with such regulations as the commissioner may

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prescribe. As used in this subdivision, an "affiliated group" means one or more chains of corporations connected through stock ownership with a common parent corporation if (1) at least 90 percent of the stock of each of the corporations (except the common parent corporation) is owned directly by one or more of the other corporations; and (2) the common parent corporation owns directly 90 percent of the stock of at least one of the other corporations; and (3) each of the corporations is either (a) a corporation whose principal business is that of a common carrier by railroad or (b) a corporation, the assets of which consist principally of stock in such corporation, and which does not itself operate a business other than that of a common carrier by railroad. For the purpose of determining whether the principal business of a corporation is that of a common carrier by railroad, if a common carrier by railroad has leased its railroad properties and such properties are operated as such by another common carrier by railroad, the business of receiving rents for such railroad properties shall be considered as the business of a common carrier by railroad. As used in this subdivision, the term "railroad" includes a street, suburban, or interurban electric railway, or a street or suburban trackless trolley system of transportation, or a street or suburban bus system of transportation operated as part of a street or suburban electric railway or trackless trolley system. As used in this section, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends.

Sec. 88. Minnesota Statutes 1980, Section 290.35, is amended to read:

**290.35 INSURANCE COMPANIES; REPORT OF NET INCOME;
COMPUTATION OF AMOUNT OF INCOME ALLOCABLE TO STATE.**

The taxable net income of insurance companies taxable under this chapter shall be computed as follows:

Each such company shall report to the commissioner the net income returned by it for the taxable year to the United States under the provisions of the act of congress, known as the revenue act of 1936, or that it would be required to return as net income thereunder if it were in effect. The commissioner shall compute therefrom the taxable net income of such companies by assigning to this state that proportion thereof which the gross premiums collected by them during the taxable year from old and new business within this state bears to the total gross premiums collected by them during that year from their entire old and new business; provided, the commissioner shall add to the taxable net income so apportioned to this state the amount of any taxes on premiums paid by the company by virtue of any law of this state (other than the surcharge ~~of~~ on premiums imposed by sections 69.54 to ~~69.57~~ 69.56) which shall have been deducted from gross income by the company in arriving at its total net income under the provisions of such act of congress.

Sec. 89. Minnesota Statutes 1980, Section 290.39, Subdivision 1, is amended to read:

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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.

Sec. 90. 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.

(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.

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(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 as provided in section 290.65. 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.

Sec. 91. Minnesota Statutes 1980, Section 290.45, Subdivision 3, is amended to read:

Subd. 3. **PAYMENT BEFORE DATE DUE.** A tax imposed by ~~Laws 1949, Chapter 734~~ this chapter, or any installment thereof, may be paid, at the election of the taxpayer, prior to the date prescribed for its payment.

Sec. 92. 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

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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.~~

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.

Sec. 93. Minnesota Statutes 1980, Section 290.48, Subdivision 2, is amended to read:

Subd. 2. **LEVY AND SALE.** If a tax imposed by this chapter, or any portion of such tax, is not paid within 60 days after it is required to be paid thereunder, the commissioner shall issue his warrant to the sheriff of any county of the state commanding him to levy upon and sell the real and personal property of the taxpayer and to levy upon the rights to property of the taxpayer within the county, and to return such warrant to the commissioner and pay to him the money collected by virtue thereof by a time to be therein specified, not less than 60 days from the date of the warrant. The sheriff shall proceed thereunder to levy upon and seize any property of the taxpayer and to levy upon the rights to property of the taxpayer within his county, except the homestead and household goods of the taxpayer and property of the taxpayer not liable to attachment, garnishment, or sale on any final process issued from any court under the provisions of section 550.37, and shall sell so much thereof as is required to satisfy such taxes, interest, and penalties, together with his costs; but such sales shall, as to their manner, be governed by the laws applicable to sales of like property on execution issued against property upon a judgment of a court of record. The proceeds of such sales, less the sheriff's costs, shall be turned over to the commissioner, who shall retain such part thereof as is required to satisfy the tax, interest, penalties, and costs, and pay over any balance to the taxpayer. The commissioner shall not proceed under this subdivision until the expiration of 60 days after mailing to the taxpayer, at

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his last known address, a written notice of the amount of taxes, interest, and penalties due from the taxpayer and demand for their payment. Any action taken by the commissioner pursuant to this subdivision shall not constitute an election by the state to pursue a remedy to the exclusion of any other remedy provided for in this ~~act~~ chapter.

Sec. 94. Minnesota Statutes 1980, Section 290.49, Subdivision 1, is amended to read:

Subdivision 1. **ASSESSMENT, GENERALLY.** Except as otherwise provided in this chapter the amount of taxes assessable shall be assessed within three and one-half years after the return is filed. Such taxes shall be deemed to have been assessed within the meaning of this section whenever the commissioner shall have determined the taxable net income of the taxpayer and computed and recorded the amount of tax with respect thereto, and if the amount is found to be in excess of that originally declared on the return, whenever the commissioner shall have prepared a notice of tax assessment and mailed the same to the taxpayer. The notice of tax assessment shall be sent by mail to the post office address given in the return, or to the taxpayer's last known address, and the record of such mailing shall be presumptive evidence of the giving of such notice, and such records shall be preserved by the commissioner.

Sec. 95. Minnesota Statutes 1980, Section 290.49, Subdivision 4, is amended to read:

Subd. 4. **OMISSION OF CORPORATE LIQUIDATION PROCEEDS.** If the taxpayer omits from gross income an amount properly includible therein under section ~~290.01, subdivision 24~~ 290.134, as an amount distributed in liquidation of a corporation, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun at any time within six and one-half years after the return was filed.

Sec. 96. Minnesota Statutes 1980, Section 290.50, Subdivision 1, is amended to read:

Subdivision 1. **PROCEDURE, TIME LIMIT.** (a) A taxpayer who has paid or from whom there has been collected an amount of tax for any year in excess of the amount legally due for that year, may file with the commissioner a claim for a refund of such excess. Except as otherwise provided in this section, no claim or refund shall be allowed or made after three and one-half years from the date prescribed for filing the return (plus any extension of time granted for filing the return, but only if filed within the extended time) or after two years from the date of overpayment, whichever period is longer, unless before the expiration of the period a claim is filed by the taxpayer. For this purpose an income tax return or amended return claiming an overpayment shall constitute a claim for refund.

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(b) If no claim was filed, the credit or refund shall not exceed the amount which would be allowable if a claim was filed on the date the credit or refund is allowed.

(c) If a claim relates to an overpayment on account of a failure to deduct a loss due to a bad debt or to a security becoming worthless, the claim shall be allowed if filed within seven years from the date prescribed in section 290.42 for the filing of the return, and the refund or credit shall be limited to the amount of overpayment attributable to the loss.

(d) For purposes of this section, the prepayment of tax made through the withholding of tax at the source, or payment of estimated tax, prior to the due date of the tax are considered as having been paid on the last day prescribed by law for the payment of the tax by the taxpayer. A return filed before the due date shall be considered as filed on the due date.

(e) Except as provided in sections 290.92, subdivision 13, and 290.936, interest on the overpayment refunded or credited to the taxpayer shall be allowed at the rate of six percent per annum computed from the date of payment of the tax until the date the refund is paid or credit is made to the taxpayer. However, to the extent that the basis for the refund is a net operating loss carryback, or a capital loss carryback ~~or the carryback of a pollution control credit~~, interest shall be computed only from the end of the taxable year in which the loss occurs ~~or in which the pollution control credit arises~~.

(f) If a taxpayer reports a change in his federal gross income ~~or, items of tax preference, deductions, credits,~~ or a renegotiation, or files a copy of his amended federal return, within 90 days as provided by section 290.56, subdivision 2, a refund may be made of any overpayment within one year after such report or amended return is filed except as provided in subdivision 2.

(g) There is hereby appropriated from the general fund to the commissioner of revenue the amounts necessary to make payments of refunds allowed pursuant to this section.

Sec. 97. Minnesota Statutes 1980, Section 290.50, Subdivision 3, is amended to read:

Subd. 3. **EXCEPTIONS.** This section shall not be construed so as to disallow:

(a) a net operating loss carryback to any taxable year authorized by section 290.095 or section 172 of the Internal Revenue Code of 1954, as amended through December 31, 1979, but the refund or credit shall be limited to the amount of overpayment arising from the carryback;

(b) a capital loss carryback by a corporation under section 290.16, provided that the claim for refund or credit is made prior to the expiration of

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the 15th day of the 45th month following the end of the taxable year of the net capital loss which results in the carryback, and the refund or credit is limited to the amount of overpayment arising from the carryback;

(c) the carryback of a pollution control credit under section 290.06, subdivision 9, provided that the claim for refund or credit is made prior to 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 in which the pollution control credit arises, and the refund or credit is limited to the amount of overpayment arising from the carryback.

Sec. 98. Minnesota Statutes 1980, Section 290.50, Subdivision 5, is amended to read:

Subd. 5. **OVERPAYMENTS; CREDITS AND REFUNDS.** (a) If the amount allowable as a credit under section 290.92, subdivision 12 (relating to credit for tax withheld at source) or an amount determined to be an overpayment under section 290.93, subdivision 9, exceeds the taxes imposed by this chapter against which such credit is allowable the amount of such excess shall be considered an overpayment. An amount paid as tax shall constitute an overpayment even if in fact there was no tax liability with respect to which such amount was paid.

(b) Notwithstanding any other provision of law to the contrary, in the case of any overpayment the commissioner, within the applicable period of limitations, may credit the amount of such overpayment against any liability in respect of Minnesota income tax on the part of the person who made the overpayment or against any liability in respect to Minnesota income tax on the part of either spouse who shall have filed a joint or combined return for the taxable year in which the overpayment was made and shall refund any balance of more than one dollar to such person if the taxpayer shall so request.

The commissioner is authorized to prescribe regulations providing for the crediting against the estimated income tax for any taxable year of the amount determined by the commissioner to be an overpayment of the income tax for a preceding taxable year.

Sec. 99. Minnesota Statutes 1980, Section 290.53, Subdivision 1, is amended to read:

Subdivision 1. **FAILURE TO PAY TAX.** If any tax imposed by this act, ~~or any portion thereof,~~ chapter is not paid within the time herein specified for the payment thereof, or within 30 days after final determination of an appeal to the tax court relating thereto, there shall be added thereto a specific 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 until paid.

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Interest accruing upon the tax due as disclosed by the return or upon the amount determined as a deficiency from the date prescribed for the payment of the tax (if the tax is payable in installments, from the date the installment or installments become due and payable under the provisions of section 290.45, subdivision 1) shall be added to the tax and be collected as a part thereof. Where an extension of time for payment has been granted under section 290.45, subdivision 2, interest shall be paid at the rate specified in section 270.75 from the date when such payment 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 section shall apply.

Sec. 100. Minnesota Statutes 1980, Section 290.53, Subdivision 4, is amended to read:

Subd. 4. FAILURE TO FILE, FILING FALSE OR FRAUDULENT RETURN; INTENT TO EVADE TAX; CRIMINAL PROVISIONS. In addition to the penalties hereinbefore prescribed, (a) Any person required by this ~~act~~ chapter to make a return, who knowingly fails to make such a return at the time required by law, shall be guilty of a misdemeanor; (b) Any person who wilfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he knows to be false and untrue as to any material matter, shall be guilty of a felony. Notwithstanding the provisions of sections 628.26 and 628.30, or any other provision of the criminal laws of this state, an indictment may be found and filed, or an information filed, upon any criminal offense specified in this subdivision, in the proper court within six years and six months after the commission of the offense. The term "person" as used in this subdivision includes any officer or employee of a corporation or a member or employee of a partnership who as such officer, member or employee is under a duty to perform the act in respect to which the violation occurs.

Sec. 101. Minnesota Statutes 1980, Section 290.56, Subdivision 2, is amended to read:

Subd. 2. CHANGE IN FEDERAL RETURN. If the amount of gross income ~~or, items of tax preference,~~ or, items of tax preference, deductions, or credits for any year of any taxpayer as ~~returned~~ reported to the ~~United States Treasury Department~~ Internal Revenue Service is changed or corrected by the Commissioner of Internal Revenue or other officer of the United States or other competent authority, or where a renegotiation of a contract or subcontract with the United States results in a change in gross income ~~or, items of tax preference,~~ or, items of tax preference, deductions, or credits, such taxpayer shall report in writing to the commissioner, in such form as he may require, such change or correction, or the results of such renegotiation, within 90 days thereafter, and shall concede the accuracy of such determination or state wherein it is erroneous. Any taxpayer filing an amended

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federal income tax return shall also file within 90 days thereafter a copy of such amended return with the commissioner of revenue.

Sec. 102. Minnesota Statutes 1980, Section 290.56, Subdivision 3, is amended to read:

Subd. 3. FAILURE TO REPORT CHANGE OR CORRECTION OF FEDERAL RETURN. If a taxpayer shall fail to report a change or correction or renegotiation by the Commissioner of Internal Revenue or other officer of the United States or other competent authority or shall fail to file a copy of an amended return within 90 days as required by subdivision 2, the commissioner may, within six years thereafter, recompute the tax, including a refundment thereof, based upon such information as may be available to him, notwithstanding any period of limitations to the contrary.

Sec. 103. Minnesota Statutes 1980, Section 290.56, Subdivision 4, is amended to read:

Subd. 4. REPORT MADE OF CHANGE OR CORRECTION OF FEDERAL RETURN. If a taxpayer is required to report a change or correction or renegotiation by the Commissioner of Internal Revenue or other officer of the United States or other competent authority or to file an amended return as required by subdivision 2 and does report such change or files a copy of such amended return within 90 days, the commissioner may recompute and reassess the tax due under this chapter, including a refundment thereof (a) within one year after such report or amended return is filed with the commissioner, notwithstanding any period of limitations to the contrary or (b) within the period set forth in section 290.49, whichever period is greater.

Sec. 104. Minnesota Statutes 1980, Section 290.92, Subdivision 5, is amended to read:

Subd. 5. EXEMPTIONS. (1) ENTITLEMENT. An employee receiving wages shall on any day be entitled to ~~the following claim~~ withholding exemptions: equal to the same number as the personal credits that he is entitled to claim under the provisions of section 290.06, subdivision 3f, (not including those credits that the taxpayer's spouse may claim).

(a) One exemption for himself;

(b) One additional exemption for himself, if, on the basis of facts existing at the beginning of such day, there may reasonably be expected to be allowable a credit for the taxable year under section 290.06, subdivision 3(4) (a) or (c) for having attained the age of 65 before the close of such year;

(c) One additional exemption for himself if, on the basis of facts existing at the beginning of such day, there may reasonably be expected to exist a credit for the taxable year under section 290.06, subdivision 3(4) (b) or (c) for being blind at the close of such year;

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(d) If the individual is married, any exemption to which his spouse is entitled, or would be entitled, under subparagraph (a), (b) or (c), if such spouse were an employee receiving wages, but only if such spouse does not have in effect a withholding exemption certificate claiming such exemption;

(e) One dependent exemption for each dependent as that term is defined in section 290.06, subdivision 3(3).

(2) **WITHHOLDING EXEMPTION CERTIFICATE.** Every employee shall before the date of commencement of employment furnish his employer with a signed withholding exemption certificate relating to the number of withholding exemptions which he claims, which shall in no event exceed the number to which he is entitled.

(3) **EFFECTIVE DATE OF EXEMPTION CERTIFICATE.** Withholding exemption certificates shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished.

(4) **NEW EXEMPTION CERTIFICATE.** A withholding exemption certificate which takes effect under this subdivision shall continue in effect with respect to the employer until another such certificate takes effect under this subdivision. If a withholding exemption certificate is furnished to take the place of an existing certificate, the employer, at his option, may continue the old certificate in force with respect to all wages paid on or before the first status determination date, January 1 or, May 1, July 1, or October 1, which occurs at least 30 days after the date on which such new certificate is furnished.

(5) **CHANGE OF NUMBER TO REFLECT NEXT TAX YEAR.** If, on any day during the calendar year, the number of withholding exemptions to which the employee may reasonably be expected to be entitled at the beginning of his next taxable year is different from the number to which the employee is entitled on such day, the employee shall in such cases and at such times as the commissioner may prescribe, furnish the employer with a withholding exemption certificate relating to the number of exemptions which he claims with respect to such next taxable year, which shall in no event exceed the number to which he may reasonably be expected to be so entitled. Exemption certificates issued pursuant to this paragraph shall not take effect with respect to any payment of wages made in the calendar year in which the certificate is furnished.

(6) **CHANGE OF NUMBER.** If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is less than the number of withholding exemptions claimed by the employee on the withholding exemption certificate then in effect with respect to him, the employee shall, within ten days thereafter, furnish the employer with a new withholding exemption certificate relating to the number of withholding exemp-

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tions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day. If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is greater than the number of withholding exemptions claimed, the employee may furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day.

(7) **FORM OF CERTIFICATE.** Withholding exemption certificates shall be in such form and contain such information as the commissioner may by regulation prescribe.

(8) **NUMBER MAY BE SAME AS THAT FOR FEDERAL PURPOSES.** Notwithstanding the provisions of this subdivision, an employee may elect to claim the same number of withholding exemptions that the employee claims and which are allowable for federal withholding purposes.

Sec. 105. Minnesota Statutes 1980, Section 290.92, Subdivision 6, is amended to read:

Subd. 6. **EMPLOYER TO FURNISH INFORMATION.** (1) Every employer required to deduct and withhold tax under subdivision 2a or subdivision 3 shall file with the commissioner of revenue, and pay over the tax required to be withheld under subdivision 2a and subdivision 3 for each quarterly period, on or before the last day of the month following the close of each quarterly period or another reporting period as the commissioner may prescribe and make and file with the commissioner a return and pay over to him the tax required to be withheld under subdivision 2a or subdivision 3, except that, if during any calendar month, other than the last month of the calendar quarter, the aggregate amount of the tax withheld under subdivision 2a or subdivision 3 exceeds \$100, such employer shall deposit such aggregate amount within 15 days after the close of such calendar month with the commissioner of revenue. However, any such return may be filed on or before the tenth day of the second calendar month following such period if such return shows timely deposits in full payment of such taxes due for such period. For the purpose of the preceding sentence, a deposit which is not required to be made within such return period, may be made on or before the last day of the first calendar month following the close of such period. Every employer, in preparing said quarterly return, shall take credit for monthly deposits previously made in accordance with this subdivision.

In prescribing the reporting period, the commissioner may classify employers according to the amount of their tax liability and may adopt an appropriate reporting period for each class which he deems to be consistent with efficient tax collection. In no event shall the duration of the reporting period be more than one year or less than one month, provided that for employers with annual payrolls of less than \$100,000 the reporting period shall be no more frequent than quarterly.

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Such return shall be in such form and contain such information as the commissioner may prescribe. The commissioner may grant a reasonable extension of time for making such return or deposit and paying such tax, but no such extension shall be granted for more than six months.

(2) If less than the correct amount of such tax is paid to the commissioner, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as the commissioner may prescribe. If such underpayment cannot be so adjusted the amount of the underpayment shall be assessed and collected in such manner and at such times as the commissioner may prescribe.

(3) If any employer fails to make and file any return required by paragraph (1) at the time prescribed therefor, or makes and files a false or fraudulent return, the commissioner shall make for him a return from his own knowledge and from such information as he can obtain through testimony, or otherwise, and assess a tax on the basis thereof. The amount of tax shown thereon shall be paid to the commissioner at such times as the commissioner may prescribe. Any such return or assessment so made by the commissioner shall be prima facie correct and valid, and the employer shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

(4) If the commissioner, in any case, has reason to believe that the collection of the tax provided for in paragraph (1) of this subdivision, and any added penalties and interest, if any, will be jeopardized by delay, he may immediately assess such tax, whether or not the time otherwise prescribed by law for making and filing the return and paying such tax has expired.

(5) Any assessment under this subdivision shall be made by recording the liability of the employer in the office of the commissioner in accordance with regulations prescribed by the commissioner. Upon request of the employer, the commissioner shall furnish the employer a copy of the record of assessment.

(6) Any assessment of tax under this subdivision shall be made within three and one-half years after the due date of the return required by paragraph (1), or the date the return was filed, whichever is later; except that in the case of a false or fraudulent return or failure to file a return, the tax may be assessed at any time.

(7) (a) Except as provided in (b) of this paragraph, every employer who fails to pay to or deposit with the commissioner any sum or sums required by this section to be deducted, withheld and paid, shall be personally and individually liable to the state of Minnesota for such sum or sums (and any added penalties and interest); and any sum or sums deducted and withheld in accordance with the provisions of subdivision 2a or subdivision 3 shall be held to be a special fund in trust for the state of Minnesota.

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(b) If the employer, in violation of the provision of this section, fails to deduct and withhold the tax under this section, and thereafter the taxes against which such tax may be credited are paid, the tax so required to be deducted and withheld shall not be collected from the employer; but this shall in no case relieve the employer from liability for any penalties and interest otherwise applicable in respect of such failure to deduct and withhold.

(8) Upon the failure of any employer to pay to or deposit with the commissioner within the time provided by paragraphs (1), (2) or (3) of this subdivision any tax required to be withheld in accordance with the provisions of subdivision 2a or subdivision 3, or if the commissioner has assessed a tax pursuant to paragraph (4), such tax shall become immediately due and payable, and the commissioner may deliver to the attorney general a certified statement of the tax, penalties and interest due from such employer. The statement shall also give the address of the employer owing such tax, the period for which the tax is due, the date of the delinquency, and such other information as may be required by the attorney general. It shall be the duty of the attorney general to institute legal action in the name of the state to recover the amount of such tax, penalties, interest and costs. The commissioner's certified statement to the attorney general shall for all purposes and in all courts be prima facie evidence of the facts therein stated and that the amount shown therein is due from the employer named in the statement. In event action is instituted as herein provided, the court shall, upon application of the attorney general, appoint a receiver of the property and business of the delinquent employer for the purpose of impounding the same as security for any judgment which has been or may be recovered. Any such action shall be brought within four years and three months after the due date of the return or deposit required by paragraph (1), or the date the return was filed, or deposit made whichever is later; except that in the case of failure to make and file such return or if such return is false or fraudulent, or such deposit is not made such action may be brought at any time.

(9) The tax required to be withheld under subdivision 2a or subdivision 3 or paid to, or deposited with the commissioner under this subdivision, together with penalties, interest and costs, shall become a lien upon all of the real property of the employer within this state, except his homestead, from and after the filing by the commissioner of a notice of such lien in the offices of the county recorder of the county in which such real property is situated.

(10) Either party to an action for the recovery of any tax, interest or penalties under this subdivision may remove the judgment to the supreme court by appeal, as provided for appeals in civil cases.

(11) No suit shall lie to enjoin the assessment or collection of any tax imposed by this section, or the interest and penalties added thereto.

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(12) When any tax is due and payable as provided in paragraph (8) the commissioner may issue his warrant to the sheriff of any county of the state commanding him to levy upon and sell the real and personal property of the employer and to levy upon the rights to property of the employer within the county and to return such warrant to the commissioner and pay to him the money collected by virtue thereof by a time to be therein specified, not less than 60 days from the date of the warrant. The sheriff shall proceed thereunder to levy upon and seize any property of the employer and to levy upon the rights to property of the employer within his county, except the homestead and household goods of the employer and property of the employer not liable to attachment, garnishment, or sale on any final process issued from any court under the provisions of ~~Minnesota Statutes 1961~~, section 550.37, ~~and acts amendatory thereof~~, and shall sell so much thereof as is required to satisfy such taxes, interest, and penalties, together with his costs; but such sales shall, as to their manner, be governed by the laws applicable to sales of like property on execution issued against property upon a judgment of a court of record. The proceeds of such sales, less the sheriff's costs, shall be turned over to the commissioner, who shall retain such part thereof as is required to satisfy the tax, interest, penalties and costs, and pay over any balance to the taxpayer. Any action taken by the commissioner pursuant to this subdivision shall not constitute an election by the state to pursue a remedy to the exclusion of any other remedy providing for the collection of taxes required to be withheld by employers.

Sec. 106. Minnesota Statutes 1980, Section 290.92, Subdivision 16, is amended to read:

Subd. 16. **AGREEMENT WITH SECRETARY OF TREASURY.** The commissioner is authorized to enter into an agreement with the secretary of treasury of the United States pursuant to the provisions of public law 587 (66 United States Statutes at Large 765), enacted July 17, 1952 and an agreement with the secretary of the treasury of the United States to provide for withholding of state income taxes from pay for service as a member of the armed forces of the United States, pursuant to section 1207 (a) (1) of public law 94-455 § U.S.C. Section 5517.

Sec. 107. Minnesota Statutes 1980, Section 290.92, Subdivision 19, is amended to read:

Subd. 19. **EMPLOYEES INCURRING NO INCOME TAX LIABILITY.** Notwithstanding any other provision of this section, an employer shall not be required to deduct and withhold any tax under this chapter upon a payment of wages to an employee if there is in effect with respect to such payment a withholding exemption certificate, in such form and containing such other information as the commissioner may prescribe, furnished to the employer by the employee certifying that the employee

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(a) incurred no liability for income tax imposed under this chapter for his preceding taxable year, and

(b) anticipates that he will incur no liability for income tax imposed under this chapter for his current taxable year. When an employee anticipates no liability for the current taxable year because of the credit provided by provision contained in section 290.06, subdivision 3d, no withholding shall be required, clause (a) notwithstanding. The commissioner shall by regulations provide for the coordination of the provisions of this subdivision with the provisions of subdivision 7.

Sec. 108. Minnesota Statutes 1980, Section 290.93, Subdivision 5, is amended to read:

Subd. 5. **DATE REQUIRED.** (1) Declarations of estimated tax required by subdivision 1 from individuals other than farmers shall be filed on or before April 15 of each taxable year, except that if the requirements of subdivision 1 are first met

(a) After April 1 and before June 2 of the taxable year, the declaration shall be filed on or before June 15 of the taxable year, or

(b) After June 1 and before September 2 of the taxable year, the declaration shall be filed on or before September 15 of the taxable year, or

(c) After September 1 of the taxable year, the declaration shall be filed on or before January 15 of the succeeding taxable year.

(2) Declarations of estimated tax required by subdivision 1 from individuals whose estimated gross income from farming for the taxable year is at least two-thirds of the total estimated gross income from all sources for the taxable year may, in lieu of the time prescribed in paragraph (1) be filed at any time on or before January 15 of the succeeding taxable year.

(3) An individual shall make amendments of a declaration filed during the taxable year, under regulations prescribed by the commissioner.

(4) If on or before January 31 (or March 1, in the case of an individual referred to in paragraph (2)) of the succeeding taxable year the taxpayer files a return for the taxable year for which the declaration is required, and pays in full the amount computed on the return as payable, then, under regulations prescribed by the commissioner

(a) If the declaration is not required to be filed during the taxable year, but is required to be filed on or before January 15, such return shall be considered as such declaration; and

(b) If the tax shown on the return is greater than the estimated tax shown in the declaration previously made or in the last amendment thereof, such return shall be considered as the amendment of the declaration permitted by paragraph (3) to be filed on or before January 15.

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(5) The commissioner may grant a reasonable extension of time for filing the declaration and paying the estimated tax. Except in the case of a taxpayer who is outside ~~the continental limits of~~ the United States, no such extension shall be granted for more than six months.

Sec. 109. Minnesota Statutes 1980, Section 290.93, Subdivision 6, is amended to read:

Subd. 6. **TIME PAYMENT REQUIRED.** (1) The amount of estimated tax with respect to which a declaration is required by subdivision 1 shall be paid ~~at the time of the filing of the declaration if it does not exceed \$10. If the amount of the estimated tax exceeds \$10, it shall be paid as follows:~~

(a) If the declaration is filed on or before April 15 of the taxable year, it shall be paid in four equal installments. The first installment shall be paid at the time of the filing of the declaration, the second and third on June 15 and September 15, respectively, of the taxable year, and the fourth on January 15 of the succeeding taxable year.

(b) If the declaration is filed after April 15 and not after June 15 of the taxable year, and is not required by subdivision 5(1) of this section to be filed on or before April 15 of the taxable year, the estimated tax shall be paid in three equal installments. The first installment shall be paid at the time of the filing of the declaration, the second on September 15 of the taxable year, and the third on January 15 of the succeeding taxable year.

(c) If the declaration is filed after June 15 and not after September 15 of the taxable year, and is not required by subdivision 5(1) to be filed on or before June 15 of the taxable year, the estimated tax shall be paid in two equal installments. The first installment shall be paid at the time of the filing of the declaration, and the second on January 15 of the succeeding taxable year.

(d) If the declaration is filed after September 15 of the taxable year, and is not required by subdivision 5(1) or (2) to be filed on or before September 15 of the taxable year, the estimated tax shall be paid in full at the time of the filing of the declaration.

(e) If the declaration is filed after the time prescribed in subdivision 5(1) or (2) including cases in which an extension of time for filing the declaration has been granted under subdivision 5(5), subparagraphs (b), (c), and (d) of this paragraph shall not apply, and there shall be paid at the time of such filing all installments of estimated tax which would have been payable on or before such time if the declaration had been filed within the time prescribed in subdivision 5(1) or (2), and the remaining installments shall be paid at the times at which, and in the amounts in which, they would have been payable if the declaration had been so filed.

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(2) If an individual referred to in subdivision 5(2) (relating to income from farming) makes a declaration of estimated tax after September 15 of the taxable year and on or before January 15 of the succeeding taxable year, the estimated tax shall be paid in full at the time of the filing of the declaration.

(3) If any amendment of a declaration is filed, the remaining installments, if any, shall be ratably increased or decreased, as the case may be, to reflect such increase or decrease in the estimated tax by reason of such amendment, and if such amendment is made after September 15 of the taxable year, any increase in the estimated tax by reason thereof shall be paid at the time of making such amendment.

(4) At the election of the individual, any installment of the estimated tax may be paid prior to the date prescribed for its payment.

(5) Payment of the estimated tax, or any installment thereof, shall be considered payment on account of the taxes imposed upon the individual by this chapter, for the taxable year.

Sec. 110. Minnesota Statutes 1980, Section 290.932, Subdivision 1, is amended to read:

Subdivision 1. **GENERAL RULE.** The declaration of estimated tax required of corporations by section 290.931 shall be filed as follows:

If the requirements of section 290.931 are first met -	The declaration shall be filed on or before -
before the 1st day of the 3rd month of the taxable year	the 15th day of the 3rd month of the taxable year
after the last day of the 3rd 2nd month and before the 1st day of the 6th month of the taxable year	the 15th day of the 6th month of the taxable year
after the last day of the 5th month and before the 1st day of the 9th month of the taxable year	the 15th day of the 9th month of the taxable year
after the last day of the 8th month and before the 1st day of the 12th month of the taxable year	the 15th day of the 12th month of the taxable year

Sec. 111. Minnesota Statutes 1980, Section 290.932, Subdivision 4, is amended to read:

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Subd. 4. **EXTENSION OF TIME FOR FILING RETURNS.** The commissioner may grant a reasonable extension of time for filing any return, declaration, statement or other document required by this act section. No such extension shall be for more than six months.

Sec. 112. Minnesota Statutes 1980, Section 290A.03, Subdivision 3, is amended to read:

Subd. 3. **INCOME.** (1) "Income" means the sum of the following:

(a) federal adjusted gross income as defined in the Internal Revenue Code of 1954 as amended through December 31, 1979; and

(b) the sum of the following amounts to the extent not included in clause (a):

(i) additions to federal adjusted gross income as provided in Minnesota Statutes, Section 290.01, Subdivision 20, Clause (a)(1), ~~(a)(2)~~, (a)(3), ~~(a)(9)~~, (a)(14), and (a)(15);

(ii) all nontaxable income;

(iii) recognized net long term capital gains;

(iv) dividends excluded from federal adjusted gross income under section 116 of the Internal Revenue Code of 1954;

(v) cash public assistance and relief;

(vi) any pension or annuity (including railroad retirement benefits, all payments received under the federal social security act, supplemental security income, and veterans ~~disability pensions~~ benefits), which was not exclusively funded by the claimant or spouse, or which was funded exclusively by the claimant or spouse and which funding payments were excluded from federal adjusted gross income in the years when the payments were made;

(vii) nontaxable interest received from the state or federal government or any instrumentality or political subdivision thereof;

(viii) workers' compensation;

(ix) unemployment benefits;

(x) nontaxable strike benefits; and

(xi) the gross amounts of payments received in the nature of disability income or sick pay as a result of accident, sickness, or other disability, whether funded through insurance or otherwise. In the case of an individual who files an income tax return on a fiscal year basis, the term "federal adjusted gross income" shall mean federal adjusted gross income reflected in the fiscal year ending in the calendar year.

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(2) "Income" does not include

(a) amounts excluded pursuant to the Internal Revenue Code, Sections 101(a), 102, 117, and 121;

(b) amounts of any pension or annuity which was exclusively funded by the claimant or spouse and which funding payments were not excluded from federal adjusted gross income in the years when the payments were made;

(c) gifts from nongovernmental sources;

(d) surplus food or other relief in kind supplied by a governmental agency;

(e) relief granted under sections 290A.01 to 290A.21;

(f) child support payments received under a temporary or final decree of dissolution or legal separation; or

(g) federal adjusted gross income shall be reduced by wage or salary expense, or expense of work incentive programs which are not allowed as a deduction under provisions of section 280C of the Internal Revenue Code of 1954.

Sec. 113. Minnesota Statutes 1980, Section 290A.03, Subdivision 13, is amended to read:

Subd. 13. **PROPERTY TAXES PAYABLE.** "Property taxes payable" means the property tax exclusive of special assessments, penalties, and interest payable on a claimant's homestead before reductions made pursuant to section 273.13, subdivisions 6 and 7 and 14a, but after deductions made pursuant to sections 124.213, 273.115, 273.116, 273.132 and 273.135, and 273.139 in any calendar year. No apportionment or reduction of the "property taxes payable" shall be required for the use of a portion of the claimant's homestead for a business purpose if the claimant does not deduct any business depreciation expenses for the use of a portion of the homestead in the determination of federal adjusted gross income. For homesteads which are mobile homes as defined in section 168.011, subdivision 8, "property taxes payable" shall also include 23 percent of gross rent paid in the preceding year for the site on which the homestead is located, exclusive of charges for utilities or services. When a homestead is owned by two or more persons as joint tenants or tenants in common, such tenants shall determine between them which tenant may claim the property taxes payable on the homestead. If they are unable to agree, the matter shall be referred to the commissioner of revenue and his decision shall be final. Property taxes are considered payable in the year prescribed by law for payment of the taxes.

In the case of a claim relating to "property taxes payable", the claimant must have owned and occupied the homestead on January 2 of the year in which the tax is payable.

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Sec. 114. Minnesota Statutes 1980, Section 290A.04, Subdivision 2, is amended to read:

Subd. 2. The refund shall be paid to claimants whose property taxes payable exceed the following percentages of their income, up to the designated maximum credit amounts:

For claimants earning:

- \$0 to \$2,999, 0.5 percent, up to \$650;
- 3,000 to 3,999, 0.6 percent, up to \$650;
- 4,000 to 4,999, 0.7 percent, up to \$650;
- 5,000 to 5,999, 0.8 percent, up to \$650;
- 6,000 to 6,999, 0.9 percent, up to \$650;
- 7,000 to 7,999, 1.0 percent, up to \$650;
- 8,000 to 8,999, 1.1 percent, up to \$650;
- 9,000 to 9,999, 1.2 percent, up to \$650;
- 10,000 to 10,999, 1.3 percent, up to \$650;
- 11,000 to 11,999, 1.4 percent, up to \$650;
- 12,000 to 19,999, 1.5 percent, up to \$650;
- 20,000 to 22,999, 1.6 percent, up to \$650;
- 23,000 to 25,999, 1.8 percent, up to \$600;
- 26,000 to 30,999, 2.0 percent, up to \$550;
- 31,000 to 35,999, 2.2 percent, up to \$525;
- 36,000 to 40,999, 2.4 percent, up to \$500;
- 41,000 to 44,999, 2.6 percent, up to \$500;
- 45,000 to 52,999, 2.8 percent, up to \$500;
- 53,000 to 65,999, 3.0 percent, up to \$500;
- 66,000 to 81,999, 3.2 percent, up to \$500;
- 82,000 to 99,999, 3.5 percent, up to \$500;
- 100,000 and over, 4.0 percent, up to \$500;

provided that maximum credits for incomes above \$20,000 decline according to the following schedule:

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between \$20,000 and \$26,000 decline \$16.67 per \$1,000; between \$26,000 and \$36,000 decline \$5 per \$1,000.

The payment made to a claimant shall be the amount of refund calculated pursuant to this subdivision, but not exceeding \$850, less the homestead credit given pursuant to section 273.13, subdivisions 6 and 7 and 14a.

Sec. 115. Minnesota Statutes 1980, Section 290A.04, Subdivision 2c. is amended to read:

Subd. 2c. If the net property taxes payable on a homestead in 1981 increase more than ten percent over the net property taxes payable in 1980 on the same property, a claimant who is a homeowner shall be allowed an additional refund equal to 50 percent of the amount by which the increase exceeds ten percent. This subdivision shall not apply to any increase in the net property taxes payable attributable to improvements made to the homestead. The refund shall not exceed \$300.

For purposes of this subdivision, "net property taxes payable" means property taxes payable after reductions made pursuant to sections 273.13, subdivisions 6, 7 and 14a; and 273.115, ~~subdivision 4; and Laws 1980, Chapter 432, Section 7; 273.116; and 273.139;~~ and after the deduction of tax refund amounts for which the claimant qualifies pursuant to subdivisions 2, 2a and 2b.

In addition to proofs required pursuant to this chapter, each claimant under this subdivision shall file with the property tax refund return a copy of the property tax statement for taxes payable in the preceding year or other documents required by the commissioner.

Sec. 116. Minnesota Statutes 1980, Section 290A.06, is amended to read:

290A.06 FILING TIME LIMIT, LATE FILING.

Any claim for property taxes payable shall be filed with the department of revenue on or before August 31 of the year in which the property taxes are due and payable. Any claim for rent constituting property taxes shall be filed with the department of revenue on or before August 31 of the year following the year in which the rent was paid. The commissioner may extend the time for filing these claims for a period not to exceed six months in the case of sickness, absence, or other disability, or when in his judgment other good cause exists.

A claim filed after the original or extended due date shall be allowed, but the amount of credit shall be reduced by five percent of the amount otherwise allowable, plus an additional five percent for each month of delinquency, not exceeding a total reduction of 25 percent which may be cancelled or reduced by the commissioner in the case of sickness, absence, or other

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disability, or when in his judgment other good cause exists. In any event no claim shall be allowed if the initial claim is filed two years after the original due date for filing the claim.

The time limit on redetermination of claims for refund and examination of records shall be governed by sections 290.49, 290.50, and 290.56 and for purposes of computing the time limit as provided in these sections the due date of the property tax refund return shall be the same as the due date contained in section 290.42 for an income tax return covering the year in which the rent was paid or the year preceding the year in which the property taxes are payable.

Sec. 117. 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 on or before 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.

Sec. 118. **INSTRUCTIONS TO REVISOR.**

The revisor of statutes shall delete "sections 290A.01 to 290A.21" wherever it occurs in chapter 290A and shall insert the phrase "this chapter".

Sec. 119. **REPEALER.**

Minnesota Statutes 1980, Sections 290.076; 290.08, Subdivisions 7 and 13; 290.131, Subdivisions 4, 5, 6, and 7; 290.133, Subdivision 3; 290.134, Subdivisions 2, 3, and 4; 290.135, Subdivisions 2, 3, and 4; 290.23, Subdivisions 1, 2, 6, 7, 8, 10, 11, 12, 13, and 14; 290.24; 290.25, Subdivisions 2, 3, 4, 5; 290.26, Subdivisions 4 and 7; 290.27; 290.28; 290.60; 290.65, Subdivision 17; 290.931, Subdivision 4; 290.932, Subdivision 3; 290.933, Subdivision 3; and 290.934, Subdivision 6 are repealed.

Sec. 120. **EFFECTIVE DATE.**

Sections 1 to 111 and 119 are effective for taxable years beginning after December 31, 1980. Sections 112 to 115 and 117 are effective for claims based on rent paid in 1980 and subsequent years and property taxes payable in 1981 and subsequent years. Section 116 is effective the day after enactment.

Approved May 11, 1981

CHAPTER 179 — H.F.No. 889

An act relating to water well contractors; altering the exemption from license requirements for certain registered professional engineers; providing for licensing of thermal exchange devices; amending Minnesota Statutes 1980, Sections 156A.02, by adding a subdivision; and 156A.03, Subdivision 3.

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