

CHAPTER 8021
DEPARTMENT OF REVENUE
INCOME AND FRANCHISE TAXES
CHARITABLE AND DIVIDEND DEDUCTIONS

8021.0100 CONTRIBUTIONS AND GIFTS.

8021.0200 DIVIDEND CREDIT FOR
CORPORATIONS.**8021.0100 CONTRIBUTIONS AND GIFTS.**

Subpart 1. **Credits allowed; requirements.** Subject to the percentage limitations in subpart 5, a credit against taxable net income is allowed for contributions or gifts made during the taxable year:

A. to or for the use of the state of Minnesota or any of its political subdivisions, if the contribution or gift was made exclusively for public purposes;

B. to or for the use of any community chest, corporation, organization, trust, fund, association, or foundation, if:

(1) it is located in and carrying on substantially all of its activities within this state; and

(2) it is 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; and

(3) no part of the net earnings inures to the benefit of any private stockholder or individual;

C. to a fraternal society, order, or association, operating under the lodge system, if:

(1) it is located in and carrying on substantially all of its activities within this state; and

(2) such contributions or gifts are to be used exclusively for the purposes specified in item B, subitem (2);

D. to or for posts or organizations of war veterans or auxiliary units or societies of such posts or organizations, if:

(1) they are within the state; and

(2) no part of their net income inures to the benefit of any private shareholder or individual;

E. to a political party as defined in Minnesota Statutes, section 200.02, or a political candidate as defined in Minnesota Statutes, section 210A.01, or a political cause when sponsored by any party or association or committee as defined in Minnesota Statutes, 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 committee member or state chair of a political party as defined in Minnesota Statutes, section 200.02, \$1,000;

(3) contributions made by a congressional district committee member of a political party as defined in Minnesota Statutes, section 200.02, \$350;

(4) contributions made by a county chair of a political party as defined in Minnesota Statutes, section 200.02, \$150.

Subp. 2. **Proportionate credit.** Subject to the percentage limitations in subpart 5, a credit against taxable net income is allowed in the ratio of the taxpayer's Minnesota taxable net income to total net income for contributions or gifts made during the taxable year:

A. to or for the use of the United States of America for exclusively public purposes;

B. 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 subpart 1, item B, subitem (2), but which do not carry on substantially all of their activities within Minnesota;

C. to or for the use of any fraternal society, order, or association, operating under the lodge system organized and operated exclusively for any of the purposes specified in subpart 1, item B, subitem (2), but which do not carry on substantially all of their activities within Minnesota;

D. to or for the use of posts or organizations of war veterans or auxiliary units or societies of such posts or organizations if such posts, organizations, etc., do not carry on substantially all of their activities within Minnesota.

Subp. 3. Determination of credit. For purposes of this part, the determination of whether or not any organization described in Minnesota Statutes, section 290.21, clause (2)(b), (2)(c), or (2)(d) is carrying on substantially all of its activities within the state of Minnesota will be made by examining the activities carried on by the organization in the light of the purpose or purposes of such organization.

Subp. 4. Actual payment of contribution required; exception. A credit against taxable net income under Minnesota Statutes, section 290.21, clause (2) is allowable to individuals and corporations only with respect to contributions or gifts which were actually paid during the taxable year. A credit is not allowable for contributions or gifts which were pledged or accrued during the taxable year but not actually paid during the taxable year. However, an exception is made for corporations reporting on the accrual basis (see following paragraph).

For taxable years beginning after December 31, 1954, a corporation reporting its taxable income on the accrual basis may elect to have considered as paid during the taxable year any contribution or gift to organizations described in Minnesota Statutes, section 290.21, clause (2) payment of which contribution or gift is made after the close of the taxable year and on or before the 15th day of the third month following the close of such year if, during such year, the board of directors authorized such contribution or gift. The election may be made only at the time of filing the return for such taxable year and shall be signified by reporting such contribution or gift on the return. There shall be attached to such return a written declaration that the resolution authorizing the contribution or gift was adopted by the board of directors during the taxable year, and such declaration shall be verified by a statement signed by the president or other principal officer of the corporation that it is made under the penalties of perjury. In addition to the written declaration referred to in the preceding sentence, a copy of the resolution of the board of directors authorizing such contribution or gift shall be attached to the return.

Subp. 5. Corporation; percentage limitation. In the case of a corporation, the total credit against the taxable net income for contributions and gifts shall not exceed 15 percent of a net amount which amount is computed by subtracting from the taxpayer's taxable net income the credits allowable under Minnesota Statutes, section 290.21 other than those for contributions or gifts.

Subp. 6. Contribution other than money. If the contribution or gift is other than money, the basis for calculation of the amount thereof shall be the fair market value of the property at the time of the contribution or gift.

Subp. 7. Claims for credit. Claims for credit under Minnesota Statutes, section 290.21, clause (2) must be sustained, when required by the commissioner, by a statement from the organization to which the contribution or gift was made showing the name and address of the contributor or donor, the amount of the contribution or gift, and the date it was made, and by such other information as the commissioner may deem necessary.

Statutory Authority: *MS s 290.52*

History: *17 SR 1279*

8021.0200 DIVIDEND CREDIT FOR CORPORATIONS.

For all taxable years beginning after December 31, 1946, the following corporate taxpayers are entitled to a credit of 85 percent of dividends received 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 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.

In those cases where a taxpayer is entitled to a credit of 85 percent of dividends received from another corporation, the following rules with respect to the remaining 15 percent of the dividends shall apply:

The term "dividend credit" as used hereafter in this part shall mean the credit applicable to the remaining 15 percent of the dividends only.

A dividend credit is allowable to a corporation only in the event that the recipient corporation owns 80 percent or more of all the voting stock of the corporation paying the dividend. In such an event, the amount of the dividend that can be credited against taxable net income is the whole thereof, if the dividend was paid out of corporate income earned wholly from income-producing business or activities carried on within this state.

The term "income" includes any income whether or not includible in computing "net income" and "taxable net income" under the act. The term "business" means in the above paragraph business in an economic sense.

If the income out of which the dividends are declared was derived from business done within and without this state, the amount of dividend credit allowable is determined by applying the ratio which the Minnesota taxable net income for the taxable year preceding that of the dividend distribution bears to the entire corporate net income for such year.

The terms "taxable net income" and "net income" as used in the above paragraph, refer to those terms as defined by other provisions of the act. It will be necessary, before applying this allocation formula, to establish that the dividends are from income derived from business activities carried on partly within and without this state, this burden being on the taxpayer.

Example 1. The A corporation owns 60 percent of the voting stock of the B corporation. No dividend credit is allowable to the A corporation with respect to any dividends received from the B corporation.

Example 2. The T corporation owns 81 percent of this voting stock of the L corporation which operates wholly within Minnesota. The T corporation is allowed 100 percent dividend credit with respect to dividends received from the L corporation.

Example 3. The Y corporation owns 80 percent of the voting stock of the Z corporation which operates within and without the state. Assume that the percentage of the Z corporation's Minnesota taxable net income to its total net income for the preceding taxable year was 40 percent. The Y corporation is, in that event, allowed a dividend credit equal to 40 percent of the dividends received from the Z corporation.

In all other cases no credit is permitted by law except as otherwise provided in this part.

Any taxpayer claiming the credit of 85 percent of the dividends received from another corporation and any portion of the remaining 15 percent of the dividends received must submit with its annual income tax return a detailed statement with full information in support of its position that it is entitled to the credit.

For the taxable years beginning after December 31, 1946, a corporation whose trade or business consists principally of the holding of stock and the collection of the income and gains therefrom is allowed a credit against net income for the amount of the dividends it receives from corporations if (1) it owns 80 percent or more of the voting stock of the corporation paying the dividend, and (2) the dividends were paid from income arising out of business done in this state. If the dividends are paid out of income arising from business done within and without the state the amount of the credit is determined in the ratio of taxable net income of the corporation paying the dividend assignable to Minnesota to the entire net income of the corporation. This ratio is determined by returns filed with the Income Tax Division for the taxable year preceding the distribution.

The term "income" includes income whether or not, includible in computing "net income" and "taxable net income" under the act. The term "business" means, in the above paragraph, business in our economic sense.

The terms "taxable net income" and "net income," as used in the above paragraph, refer to those terms as defined by other provisions of the act. It will be necessary, before applying this allocation formula, to establish that the dividends are from income derived from business activities carried on partly within and partly without this state, this burden being on the taxpayer.

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Any taxpayer claiming a credit for dividends received from another corporation must submit with its annual income tax return a detailed statement with full information in support of its position that it is entitled to the credit.

If the corporation whose business consists principally of the holding of the stock and the collection of the income and gains therefrom does not own 80 percent or more of the voting stock of the corporation paying the dividend, no credit is allowed for the dividends received.

Statutory Authority: *MS s 290.52*

History: *17 SR 1279*