

MINNESOTA STATUTES 1977 SUPPLEMENT

INCOME AND EXCISE TAXES 290.01

Subd. 2. No deed or instrument providing for the transfer of title to real estate as subject to the tax as provided in section 287.21 and no executory contract for the sale of land shall be recorded in the office of the county recorder or the registrar of titles unless such deed or instrument shall be accompanied by a notice from the county auditor that a certificate of value was filed in his office as provided in section 272.115.

Subd. 3. [Repealed, 1977 c 423 art 4 s 11]

Subd. 4. [Repealed, 1977 c 423 art 4 s 11]

[1977 c 423 art 4 s 10]

NOTE: Subdivision 2 as amended by Laws 1977, Chapter 423, Article 4, Section 10, shall be effective January 1, 1978.

Subdivisions 3 and 4 are repealed effective January 1, 1978 and thereafter.

CHAPTER 290. INCOME AND EXCISE TAXES

Sec.		Sec.	
290.01	Definitions.	290.17	Gross income, allocation to state.
290.012	Definitions.	290.21	Credits against taxable net income.
290.013	Items not to be taken into account repeatedly. [New]	290.23	Estates and trusts; computation of net income, credits; deductions.
290.031	Employers excise tax.	290.26	Employees' trust, annuity plans.
290.032	Lump sum distribution tax.	290.36	Investment companies; report of net income; computation of amount of income allocable to state.
290.06	Rates of tax; credits against tax.		
290.0601	Repealed.	290.37	Filing requirements for individuals.
290.0602	Repealed.	290.54	Tax a personal debt.
290.0603	Repealed.	290.61	Publicity of returns, information.
290.0604	Repealed.	290.65	Time limits; penalties.
290.0605	Repealed.	290.92	Tax withheld at source upon wages.
290.0606	Repealed.	290.934	Failure by corporation to pay estimated income tax.
290.0608	Repealed.		
290.0609	Repealed.	290.971	Election of certain small business corporations as to taxable status; definitions.
290.061	Repealed.		
290.0611	Repealed.	290.972	Election by small business corporation.
290.0612	Repealed.	290.981	Repealed.
290.0614	Repealed.	290.982	Repealed.
290.0615	Repealed.	290.983	Repealed.
290.0616	Repealed.	290.984	Repealed.
290.0618	Repealed.	290.985	Repealed.
290.066	Repealed.	290.986	Repealed.
290.067	Dependent care credit. [New]	290.987	Repealed.
290.08	Exemptions from gross income.	290.988	Repealed.
290.081	Income of nonresidents, reciprocity.	290.989	Repealed.
290.09	Deductions from gross income.	290.99	Repealed.
290.091	Minimum tax on preference items. [New]	290.991	Repealed.
290.13	Gain or loss on disposition of property, recognition.	290.992	Repealed.

290.01 Definitions.

[For text of subs 1 to 19, see M.S.1976]

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

MINNESOTA STATUTES 1977 SUPPLEMENT

290.01 INCOME AND EXCISE TAXES

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.

For each of the taxable years beginning after December 31, 1960 and prior to January 1, 1971, the term "gross income" in its application to individuals, estates, and trusts, shall mean the adjusted gross income as computed for federal income tax purposes as defined in the Internal Revenue Code of 1954, as amended through December 31, 1970 for the applicable taxable year, with the modifications specified in this section.

For each of the taxable years beginning after December 31, 1970, the term "gross income" in its application to individuals, estates, and trusts shall mean the adjusted gross income as computed for federal income tax purposes as defined in the Internal Revenue Code of 1954, as amended through the date specified herein for the applicable taxable year, with the modifications specified in this section.

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

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

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

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

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

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

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

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

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

MINNESOTA STATUTES 1977 SUPPLEMENT

INCOME AND EXCISE TAXES 290.01

mentality of the United States, which the laws of the United States exempt from federal income tax, but not from state income taxes;

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

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

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

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

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

(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, as amended through December 31, 1976, to the extent of the credit under section 38 of the Internal Revenue Code of 1954, as amended through December 31, 1976, that was previously allowed as a deduction either under section 290.01, subdivision 20 (b) (9) or under section 290.09, subdivision 24; and

(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; and

(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;

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

(14) Exempt-interest dividends, as defined in section 852(b)(5)(A) of the Internal Revenue Code of 1954, as amended through December 31, 1976, not included in federal adjusted gross income pursuant to section 852(b)(5)(B) of the Internal Revenue Code of 1954, as amended through December 31, 1976, except for that portion

MINNESOTA STATUTES 1977 SUPPLEMENT

290.01 INCOME AND EXCISE TAXES

of such exempt-interest dividends derived from interest income on obligations of the state of Minnesota, any of its political or governmental subdivisions, any of its municipalities, or any of its governmental agencies or instrumentalities;

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

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

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

(2) The portion of any gain, from the sale or other disposition of property having a higher adjusted basis for Minnesota income tax purposes than for federal income tax purposes, that does not exceed such difference in basis; but if such gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to fifty per centum of such portion of the gain. This modification shall not be applicable if the difference in basis is due to disallowance of depreciation pursuant to section 290.101.

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

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

(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 such amount is received as a refund or credited to another taxable year's income tax liability;

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

(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, as amended through December 31, 1976, but only to the extent that the credit is connected with or allocable against the production or receipt of income included in the measure of the tax imposed by this chapter;

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

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

MINNESOTA STATUTES 1977 SUPPLEMENT

INCOME AND EXCISE TAXES 290.01

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

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

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

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

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

[For text of subs 21 to 26, see M.S.1976]

[1977 c 298 s 1; 1977 c 376 s 1; 1977 c 423 art 1 s 1]

NOTE: Subdivision 20 as amended by Laws 1977, Chapter 298, Section 1; Laws 1977, Chapter 376, Section 1; and Laws 1977, Chapter 423, Article 1, Section 1, is effective for taxable years beginning after December 31, 1976.

MINNESOTA STATUTES 1977 SUPPLEMENT

290.012 INCOME AND EXCISE TAXES

290.012 Definitions.

[For text of subd 1, see M.S.1976]

Subd. 2. "Claimant" means the individual taxpayer whose income, together with that of his spouse, if any, brings him within the provisions of this section and section 290.06, subdivision 3d. No claimant and spouse whose federal adjusted gross income, including the modifications increasing federal adjusted gross income as computed under section 290.01, subdivision 20, clause (a), exceed \$20,000 may qualify under this section.

[For text of subds 3 and 4, see M.S.1976]

[1977 c 423 art 1 s 2]

NOTE: Subdivision 2, as amended by Laws 1977, Chapter 423, Article 1, Section 2 is effective for taxable years beginning after December 31, 1977.

290.013 Items not to be taken into account repeatedly.

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

[1977 c 376 s 3]

290.031 Employers excise tax.

[For text of subds 1 to 3, see M.S.1976]

Subd. 4. **Taxable compensation.** "Taxable compensation" means the total wages, as defined in section 268.04, subdivision 25, but not limited as provided in clause (1) of said subdivision, paid by an employer, as defined in subdivision 3, to employees after December 31, 1977, excluding therefrom the first \$250,000 of compensation paid during an employer's fiscal or calendar taxable year. There shall be deducted in determining taxable compensation for any taxable year the sum of \$250,000 except that where the taxable year is a period of less than 12 months and in the case of taxable years ending on or before November 30, 1978 the deduction shall be proportionately reduced.

[For text of subds 5 and 6, see M.S.1976]

[1977 c 423 art 1 s 3]

NOTE: The amendments to subdivision 4 by Laws 1977, Chapter 423, Article 1, Section 3, are for wages paid after December 31, 1977.

290.032 Lump sum distribution tax.

[For text of subds 1 to 3, see M.S.1976]

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

[1977 c 376 s 2]

NOTE: Subdivision 4 is effective for taxable years beginning after December 31, 1975.

MINNESOTA STATUTES 1977 SUPPLEMENT

INCOME AND EXCISE TAXES 290.06

290.06 Rates of tax; credits against tax.

[For text of subds 1 and 2b, see M.S.1976]

Subd. 2c. **Schedule of rates for individuals, estates and trusts.** (a) For taxable years beginning after December 31, 1977, 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 \$25,000, fifteen percent;
- (12) On all over \$25,000 and not over \$35,000, sixteen percent;
- (13) On all over \$35,000 and not over \$50,000, seventeen percent;
- (14) On the remainder, eighteen 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.

[For text of subds 3a and 3b, see M.S.1976]

Subd. 3c. **Credits against tax.** Notwithstanding the provisions of subdivision 3a for taxable years which begin after December 31, 1977, the taxes due under the computation in accordance with section 290.06 shall be credited with the following amounts:

- (1) In the case of an unmarried individual, and, except as provided in paragraph 6, in the case of the estate of a decedent, \$30, and in the case of a trust, \$5;

MINNESOTA STATUTES 1977 SUPPLEMENT

290.06 INCOME AND EXCISE TAXES

(2) In the case of a married individual, living with husband or wife, and in the case of a head of a household, \$60. If such husband and wife make separate returns the personal exemption may be taken by either or divided between them;

(3) In the case of an individual, \$30 for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer. One taxpayer only shall be allowed this credit with respect to any given dependent. In the case of the head of a household, a credit for one dependent shall be disallowed. A payment to a divorced or separated wife, other than a payment of the kind referred to in section 290.072, subdivision 3, shall not be considered a payment by the husband 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 \$30;

(b) In the case of an unmarried individual who is blind at the close of the taxable year, an additional \$30;

(c) In the case of a married individual, living with husband or wife, an additional \$30 for each spouse who has attained the age of 65 before the close of the individual's taxable year, and an additional \$30 for each spouse who is blind at the close of the individual's taxable year. If such husband and wife make separate returns, these credits may be taken by either or divided between them;

(d) For the purposes of sub-paragraphs (b) and (c) 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.

(e) In the case of an unmarried individual who is deaf at the close of the taxable year, an additional \$30.

(f) In the case of a married individual, an additional \$30 for each spouse who is deaf at the close of the taxable year. If the husband and wife make separate returns, these credits may be taken by either or divided between them.

(g) In the case of an individual, an additional \$30 for each person (other than a spouse) who is deaf and dependent upon and receiving his chief support from the taxpayer.

(h) For the purposes of subparagraphs (e), (f) and (g) 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) 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, 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;

(6) In the case of a non-resident individual, credits under paragraphs 1, 2, 3 and 4 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.

[For text of subds 3d and 9, see M.S.1976]

MINNESOTA STATUTES 1977 SUPPLEMENT

INCOME AND EXCISE TAXES 290.067

Subd. 9a. **Feedlot pollution control equipment.** A credit of 10 percent of the net cost of pollution control and abatement equipment, including but not limited to, lagoons, concrete storage pits, slurry handling equipment, and other equipment and devices approved by the pollution control agency, purchased, installed and operated within the state by a feedlot operator to prevent pollution of air, land, or water in connection with the operation of a livestock feedlot, poultry lot or other animal lot, may be deducted from the tax due under this chapter in the taxable year in which such equipment is purchased; provided that no deduction shall be taken for any portion of the cost of the same equipment pursuant to subdivision 9. The credit provided for in subdivision 9 shall terminate on December 31, 1976. The credit provided for in this subdivision shall terminate on December 31, 1980, except any amounts that are carried forward to a subsequent year may be taken as a credit in such subsequent years.

If the amount of the credit provided by this subdivision exceeds the taxpayer's liability for taxes pursuant to chapter 290 in the taxable year in which the equipment is purchased, the excess amount may be carried forward to the four taxable years following the year of purchase. The entire amount of the credit not used in the year purchased shall be carried to the earliest of the four taxable years to which the credit may be carried and then to each of the three successive taxable years.

[For text of subds 10 and 11, see M.S.1976]

[1977 c 250 s 1; 1977 c 386 s 2; 1977 c 423 art 1 s 4,5]

NOTE: Subdivision 2c, as amended by Laws 1977, Chapter 386, Section 2 is effective for taxable years beginning after December 31, 1976.

Subdivision 2c, as amended by Laws 1977, Chapter 423, Article 1, Section 4 is effective for taxable years beginning after December 31, 1977.

Subdivision 3c, as amended by Laws 1977, Chapter 423, Article 1, Section 5 is effective for taxable years beginning after December 31, 1977.

Subdivision 9a, as amended by Laws 1977, Chapter 250, Section 1 is effective for equipment purchased after December 31, 1976.

290.0601 [Repealed, 1977 c 423 art 2 s 20]
290.0602 [Repealed, 1977 c 423 art 2 s 20]
290.0603 [Repealed, 1977 c 423 art 2 s 20]
290.0604 [Repealed, 1977 c 423 art 2 s 20]
290.0605 [Repealed, 1977 c 423 art 2 s 20]
290.0606 [Repealed, 1977 c 423 art 2 s 20]
290.0608 [Repealed, 1977 c 423 art 2 s 20]
290.0609 [Repealed, 1977 c 423 art 2 s 20]
290.061 MS 1976 [Repealed, 1977 c 423 art 2 s 20]
290.0611 [Repealed, 1977 c 423 art 2 s 20]
290.0612 [Repealed, 1977 c 423 art 2 s 20]
290.0614 [Repealed, 1977 c 423 art 2 s 20]
290.0615 [Repealed, 1977 c 423 art 2 s 20]
290.0616 [Repealed, 1977 c 423 art 2 s 20]
290.0618 [Repealed, 1977 c 423 art 2 s 20]
290.066 [Repealed, 1977 c 423 art 2 s 20]
290.067 **Dependent care credit.**

Subdivision 1. **Amount of credit.** A taxpayer may take as a credit against the tax due from him and his spouse, if any, under chapter 290 an amount equal to 50 percent of the dependent care credit for which he is eligible pursuant to the provisions of section 44A of the Internal Revenue Code of 1954, as amended through December 31, 1976, subject to the limitations provided in subdivision 2.

Subd. 2. **Limitations.** The credit for expenses incurred for the care of each

MINNESOTA STATUTES 1977 SUPPLEMENT

290.067 INCOME AND EXCISE TAXES

dependent shall not exceed \$150 in any taxable year, and the total credit for all dependents of a claimant shall not exceed \$300 in a taxable year. The total credit shall be reduced by five percent of the amount by which the combined federal adjusted gross income of the claimant and his spouse, if any, exceeds \$12,000. A married claimant shall file his income tax return for the year for which he claims the credit either jointly or separately on one form with his spouse. In the case of a married claimant only one spouse may claim the credit. No expense for which a medical expense deduction is claimed pursuant to section 290.09, subdivision 10, shall be claimed as a dependent care expense.

Subd. 3. Credit to be refundable. If the amount of credit which a claimant would be eligible to receive pursuant to this subdivision exceeds his tax liability under chapter 290, the excess amount of the credit shall be refunded to the claimant by the commissioner of revenue.

Subd. 4. Right to file claim. The right to file a claim under this section shall be personal to the claimant and shall not survive his death, but such right may be exercised on behalf of a claimant by his legal guardian or attorney-in-fact. When a claimant dies after having filed a timely claim the amount thereof shall be disbursed to another member of the household as determined by the commissioner of revenue. If the claimant was the only member of his household, the claim may be paid to his personal representative, but if neither is appointed and qualified within two years of the filing of the claim, the amount of the claim shall escheat to the state.

Subd. 5. Appropriation. A sum sufficient to pay the claims for credit to be given pursuant to subdivisions 1 to 4 shall be appropriated annually to the commissioner of revenue from the general fund in the state treasury.

[1977 c 423 art 7 s 1,2]

NOTE: This section is effective for taxable years beginning after December 31, 1976.

290.08 Exemptions from gross income.

[For text of subds 1 to 5, see M.S.1976]

Subd. 6. Pensions, benefits, and allowances from state and United States. Notwithstanding the provisions of any other law to the contrary amounts, including interest, not in excess of \$7,200 received by any person from the United States 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 fireman's relief association, either as a refund of contributions to, or by way of payment as a pension, public employee retirement benefit, or any combination thereof; provided that the amount of exclusion provided for in this subdivision shall be reduced by social security and railroad retirement benefits plus any earned income as defined in section 37(e)(8)(B) of the Internal Revenue Code of 1954, as amended through December 31, 1976, which is received during the taxable year.

[For text of subds 7 to 23, see M.S.1976]

[1977 c 423 art 1 s 6]

NOTE: Subdivision 6, as amended by Laws 1977, Chapter 423, Article 1, Section 6, is effective for taxable years beginning after December 31, 1977.

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 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

INCOME AND EXCISE TAXES 290.081

(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 upon, if the taxpayer is an individual or a resident estate or resident trust, any income, or if it is a corporation, upon income derived from the performance of personal or professional services within such other state 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 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 on the gross income earned within such other state and subject to taxation under this chapter, and (2) that such credit shall not be allowed if such other state allows residents of this state a credit against the taxes imposed by such state 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 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.

(e) "Tax So Paid" as used in this section means taxes on or measured by net income payable to another state 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.

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

MINNESOTA STATUTES 1977 SUPPLEMENT

290.081 INCOME AND EXCISE TAXES

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.

[1977 c 387 s 1; 1977 c 423 art 1 s 7]

NOTE: This section, as amended by Laws 1977, Chapter 387, Section 1, is effective June 3, 1977.

This section, as amended by Laws 1977, Chapter 423, Article 1, Section 7, is effective for taxable years beginning after December 31, 1977.

290.09 Deductions from gross income.

[For text of subd 1, see M.S.1976]

Subd. 2. **Trade or business expenses; expenses for production of income.** (a) In General. There shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including

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

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

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

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

(1) For the production or collection of income;

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

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

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

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

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

(e) The provisions of section 280A (disallowing certain expenses in connection with the business use of the home and rental of vacation homes) of the Internal

MINNESOTA STATUTES 1977 SUPPLEMENT

INCOME AND EXCISE TAXES 290.09

Revenue Code of 1954, as amended through December 31, 1976, shall be applicable in determining the availability of any deduction under this subdivision.

[For text of subd 3, see M.S.1976]

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 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 section 290.0603 or 290.066; (f) federal income taxes, by corporations, national and state banks except as provided in section 290.18; (g) mortgage registry tax; (h) real estate transfer tax; (i) federal telephone tax; and (j) federal transportation tax (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, 1976. 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.

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 290.14 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, 1976. 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 tax purposes.

(d) Wagering losses. Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions.

(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.

MINNESOTA STATUTES 1977 SUPPLEMENT

290.09 INCOME AND EXCISE TAXES

(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 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

(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., 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, 1976 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.

INCOME AND EXCISE TAXES 290.09

(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; provided, however, that such an election relating to a disaster loss occurring during the first three and one-half months of the year 1965 may be made no later than December 31, 1965.

(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.

[For text of subds 6 to 9, see M.S.1976]

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 3c, clauses (4) (d) and (h), ~~and for medical physically handicapped~~, 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.

[For text of subds 11 to 13, see M.S.1976]

Subd. 14. **Alimony.** The amount of alimony payments which are allowed as a deduction under section 215 of the Internal Revenue Code of 1954, as amended through December 31, 1976.

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, an individual may claim or be allowed a standard deduction as follows:

(a) If his adjusted gross income is \$10,000 or more, the standard deduction shall be \$1,000.

(b) If his adjusted gross income is less than \$10,000, the standard deduction

290.09 INCOME AND EXCISE TAXES

shall be an amount equal to ten percent thereof; 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.

(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.

[For text of subs 16 to 25, see M.S.1976]

Subd. 26. [Repealed, 1977 c 423 art 7 s 3]

[For text of subs 27 and 28, see M.S.1976]

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

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

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

Current expenses and losses shall be utilized as deductions in any taxable year, to the extent herein allowable, prior to the application of any carryback or carryover deductions. In any event, the combined amounts of such current expenses and losses and carryback or carryover deductions shall be allowed as deductions up to the amount of the income and gains arising from a farm or farms in any taxable year, plus the first \$15,000 of non-farm gross income, or non-farm tax-

MINNESOTA STATUTES 1977 SUPPLEMENT

INCOME AND EXCISE TAXES 290.13

able net income in the case of a corporation, provided however that in any case where non-farm income exceeds \$15,000, the maximum allowable amount of \$15,000 shall be reduced by twice the amount by which the non-farm income exceeds the amount of \$15,000.

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

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

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

[1977 c 247 s 4; 1977 c 376 s 4,5; 1977 c 386 s 3,4; 1977 c 423 art 1 s 8-10]

NOTE: Subdivisions 2 and 29, as amended by Laws 1977, Chapter 376, Sections 4 and 5 are effective for taxable years beginning after December 31, 1976.

Subdivision 10, as amended by Laws 1977, Chapter 247, Section 4, and subdivisions 4 and 14 as amended by Laws 1977, Chapter 386, Sections 3 and 4 are effective for taxable years beginning after December 31, 1976.

Subdivisions 4, 5, and 15 as amended by Laws 1977, Chapter 423, Article 1, Sections 8 to 10, are effective for taxable years beginning after December 31, 1977.

Subdivision 26 is repealed effective for taxable years beginning after December 31, 1976.

290.091 Minimum tax on preference items.

In addition to all other taxes imposed by chapter 290 there is hereby imposed for each taxable year beginning after December 31, 1976, a tax which, in the case of a resident individual, estate or trust, shall be equal to 40 percent of the amount of the taxpayer's minimum tax liability for tax preference items pursuant to the provisions of sections 56 to 58 and 443(d) of the Internal Revenue Code of 1954 as amended through December 31, 1976 except that for purposes of the tax imposed by this section, excess itemized deductions as defined in section 57(b) shall not include any deduction taken for Minnesota income tax paid. In the case of any other taxpayer the tax shall equal 40 percent of that federal liability, multiplied by a fraction the numerator of which is the amount of the taxpayer's preference item income allocated to this state pursuant to the provisions of sections 290.17, subdivision 2, to 290.20, and the denominator of which is the taxpayer's total preference item income for federal purposes.

[1977 c 423 art 1 s 14]

NOTE: This section is effective for taxable years beginning after December 31, 1976.

290.13 Gain or loss on disposition of property, recognition.

[For text of subds 1 to 5, see M.S.1976]

Subd. 9. [Repealed, 1977 c 376 s 14]

[For text of subd 10, see M.S.1976]

290.17 INCOME AND EXCISE TAXES

290.17 Gross income, allocation to state.

Subdivision 1. **Income of resident individuals, estates and trusts.** The gross income of individuals during the period of time when they are residents of Minnesota and the gross income of resident estates and trusts shall be their gross income as defined in section 290.01, subdivision 20.

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 sections 290.28 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 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 busi-

INCOME AND EXCISE TAXES 290.21

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

(c) Deductions for losses incurred in connection with income derived from sources outside the state which is included in an individual's gross income pursuant to section 290.17, subdivision 1, may be taken only to the extent of the amount of income derived from sources outside the state in the taxable year during which the loss was incurred.

[1977 c 423 art 1 s 11]

NOTE: The amendments to this section by Laws 1977, Chapter 423, Article 1, Section 11, are effective for taxable years beginning after December 31, 1977.

290.21 Credits against taxable net income.

[For text of subs 1 and 2, see M.S.1976]

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,

(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 shall be allowed in an amount equal to the ratio of the taxpayer's gross income from sources within the state 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:

MINNESOTA STATUTES 1977 SUPPLEMENT

290.21 INCOME AND EXCISE TAXES

(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 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 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 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 under subparagraph (i);

(g) in the case of a corporation, the total credit against net income hereunder shall not exceed 15 percent of the taxpayer's taxable net income less the credits 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.

[For text of subds 4 to 7, see M.S.1976]

[1977 c 386 s 5]

290.23 Estates and trusts; computation of net income, credits; deductions.

[For text of subds 1 to 14, see M.S.1976]

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, 1976, shall be applicable to all accumulation distributions made by a trust after December 31, 1976.

[1977 c 376 s 6]

MINNESOTA STATUTES 1977 SUPPLEMENT

INCOME AND EXCISE TAXES 290.37

290.26 Employees' trust, annuity plans.

[For text of subds 1 to 6, see M.S.1976]

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

[1977 c 376 s 7]

290.36 Investment companies; report of net income; computation of amount of income allocable to state.

The taxable net income of investment companies shall be computed and be exclusively as follows:

Each investment company transacting business as such in this state shall report to the commissioner the net income returned by the company for the taxable year to the United States under the provisions of the Internal Revenue Code of 1954, as amended through December 31, 1976, less the credits provided therein, or the net income that such company would be required to return under such act less such credits, if such act were in effect. The commissioner shall compute therefrom the taxable net income of the investment company by assigning to this state that proportion of such net income, less such credits which the aggregate of the gross payments collected by the company during the taxable year from old and new business upon investment contracts issued by the company and held by residents of this state, bears to the total amount of the gross payments collected during such year by the company from such business upon investment contracts issued by the company and held by persons residing within the state and elsewhere.

As used in this section, the term "investment company" means any person, co-partnership, association, or corporation, whether local or foreign, coming within the purview of section 54.26, and who or which is registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 and following), and who or which solicits or receives payments to be made to himself or itself and which issues therefor, or has issued therefor and has or shall have outstanding so-called bonds, shares, coupons, certificates of membership, or other evidences of obligation or agreement or pretended agreement to return to the holders or owners thereof money or anything of value at some future date; and as to whom the gross payments received during the taxable year in question upon outstanding investment contracts, plus interest and dividends earned on investment contracts determined by prorating the total dividends and interest for the taxable year in question in the same proportion that certificate reserves as defined by the Investment Company Act of 1940 is to total assets, shall be at least 50 percent of the company's gross payments upon investment contracts plus gross income from all other sources except dividends from subsidiaries for the taxable year in question. The term "investment contract" shall mean any such so-called bonds, shares, coupons, certificates of membership, or other evidences of obligation or agreement or pretended agreement issued by an investment company.

[1977 c 386 s 6]

290.37 Filing requirements for individuals.

Subdivision 1. **Persons making returns.** The following persons shall make a return for each taxable year, or fractional part thereof where permitted or required by law:

(a) A single individual with respect to his own taxable net income if that exceeds an amount on which a tax at the rates herein provided would exceed the specified credits allowed, or if his gross income exceeds \$1,500.

(b) A married individual if his own taxable net income or the combined taxable net income of himself and his spouse exceeds an amount on which a tax at

290.37 INCOME AND EXCISE TAXES

the rates herein provided would exceed the specified credits allowed, or if his gross income or the combined gross income of himself and his spouse exceeds \$2,300.

(c) An unmarried individual who has attained the age of 65 before the close of the taxable year with respect to his own taxable net income if that exceeds an amount on which a tax at the rates herein provided would exceed the specified credits allowed or if his gross income exceeds \$2,300.

(d) A married individual living with husband or wife where one has attained the age of 65 before the close of the individual's taxable year if his own taxable net income or the combined taxable net income of himself and his spouse exceeds an amount on which a tax at the rates herein provided would exceed the specified credits allowed or if his gross income or the combined gross income of himself and his spouse exceeds \$2,900.

(e) A married individual living with husband or wife and both spouse have attained the age of 65 if his own taxable net income or the combined taxable net income of himself and his spouse exceeds an amount on which a tax at the rates herein provided would exceed the specified credits allowed or if his gross income or the combined gross income of himself and his spouse exceeds \$3,400.

(f) An unmarried individual who is blind at the close of the taxable year with respect to his own taxable net income if that exceeds an amount on which a tax at the rates herein provided would exceed the specified credits allowed or if his gross income exceeds \$2,300; or \$2,900 if the individual has also attained the age of 65 before the close of the taxable year.

(g) A married individual living with husband or wife and one is blind at the close of the taxable year with respect to his own taxable net income or the combined taxable net income of himself and his spouse exceeds an amount on which a tax at the rates herein provided would exceed the specified credits allowed or if his gross income or the combined gross income of himself and his spouse exceeds \$2,900; or \$3,400 if one has attained the age of 65 before the close of the taxable year and \$3,800 if both have attained the age of 65 before the close of the taxable year.

(h) A married individual living with husband or wife where both are blind at the close of the taxable year with respect to his own taxable net income or the combined taxable net income of himself and his spouse exceeds an amount on which a tax at the rates herein provided would exceed the specified credits allowed or if his gross income or the combined gross income of himself and his spouse exceeds \$3,400; or \$3,900 if one has attained the age of 65 before the close of the taxable year and \$4,400 if both have also attained the age of 65 before the close of the taxable year.

(i) The personal representative of the estate of a decedent with respect to the taxable net income of such decedent for that part of the taxable year during which he was alive if such taxable net income exceeds an amount on which a tax at the rates herein provided would exceed the specific credits allowed, or if such decedent's gross income for the aforesaid period exceeds \$1,500.

(j) The personal representative of the estate of a decedent with respect to the taxable net income of such estate if that exceeds an amount on which a tax at the rates herein provided would exceed the specific credits allowed, or if such estate's gross income exceeds \$1,500.

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

(l) The guardian of an infant or other incompetent person with respect to such infant's or other person's taxable net income if that exceeds an amount on which a tax at the rates herein provided would exceed the specific credits allowed, or if the gross income of such infant or other incompetent person exceeds \$1,500.

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

MINNESOTA STATUTES 1977 SUPPLEMENT

INCOME AND EXCISE TAXES 290.61

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

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

For purposes of (a) through (n) the term "gross income" shall mean gross income as defined in section 61 of the Internal Revenue Code of 1954, as amended through December 31, 1974, modified and adjusted in accordance with the provisions of sections 290.08, 290.17 and 290.65.

[For text of subs 2 and 3, see M.S.1976]

[1977 c 423 art 1 s 13]

NOTE: The amendments to subdivision 1 by Laws 1977, Chapter 423, Article 1, Section 13, are effective for taxable years beginning after December 31, 1977.

290.54 Tax a personal debt.

The tax imposed by this chapter, and interest and penalties imposed with respect thereto, shall become a personal debt of the taxpayer from the time the liability therefor arises, irrespective of when the time for discharging such liability by payment occurs. The debt shall, in the case of the personal representative of the estate of a decedent and in the case of any fiduciary, be that of such person in his official or fiduciary capacity only unless he shall have voluntarily distributed the assets held in such capacity without reserving sufficient assets to pay such tax, interest, and penalties, in which event he shall be personally liable for any deficiency. This provision shall apply only to cases in which this state is legally competent to impose such personal liability.

The tax imposed by this chapter, and interest and penalties imposed with respect thereto, shall become a lien upon all of the property, both real and personal, of the taxpayer within this state, except his homestead, from and after the filing by the commissioner of a notice of such lien in the office of the county recorder of the county in which such property is situated, or in the case of personal property belonging to an individual who is not a resident of this state, or which is a corporation, partnership, or other organization, in the office of the secretary of state.

The lien created under this section shall become effective with respect to personal property from and after the date of filing by the commissioner of a notice of such lien describing the property to which the lien attaches in the office of the county recorder of the county in which the commissioner believes the property is located at the time such lien is filed, and with the secretary of state.

The lien imposed on personal property by this section, even though properly filed, shall not be valid as against a purchaser with respect to tangible personal property purchased at retail or as against the personal property listed as exempt in sections 550.37, 550.38, and 550.39.

[1977 c 386 s 7]

290.61 Publicity of returns, information.

It shall be unlawful for the commissioner or any other public official or employee to divulge or otherwise make known in any manner any particulars set forth or disclosed in any report or return required by this chapter, or any information concerning, the taxpayer's affairs acquired from his or its records, officers, or employees while examining or auditing any taxpayer's liability for taxes imposed hereunder, except in connection with a proceeding involving taxes due under this chapter from the taxpayer making such return. The commissioner may furnish a copy of

290.61 INCOME AND EXCISE TAXES

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

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

[1977 c 387 s 2]

290.65 Time limits; penalties.

Subdivision 1. [Repealed, 1977 c 423 art 1 s 15]

[For text of subds 2 to 17, see M.S.1976]

NOTE: Subdivision 1 is repealed effective for taxable years beginning after December 31, 1977.

290.92 Tax withheld at source upon wages.

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

(a) For agricultural labor, as defined in section 3121(g) of the Internal Revenue Code of 1954, as amended through December 31, 1976, or

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

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

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

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

INCOME AND EXCISE TAXES 290.92

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

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

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

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

(g) To, or on behalf of, an employee or his beneficiary, from or to a trust described in section 290.26, which is exempt from tax under section 290.05, at the time of such payment, unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or under or to an annuity plan which, at the time of such payment, meets the requirements of section 290.26;

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

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

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

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

[For text of subds 2a to 4a, see M.S.1976]

Subd. 5. **Exemptions.** (1) Entitlement. An employee receiving wages shall on any day be entitled to the following withholding exemptions:

MINNESOTA STATUTES 1977 SUPPLEMENT

290.92 INCOME AND EXCISE TAXES

(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 exist 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;

(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, on or before October 1, 1961, or before the date of commencement of employment, whichever is the later, 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. Certificates furnished before October 1, 1961 shall be considered as furnished on that date.

(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 July 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 exemptions which the employee then claims,

INCOME AND EXCISE TAXES 290.92

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) Notwithstanding the provisions of this subdivision, an employee may elect to claim the same number of withholding exemptions that the employee claims for federal withholding purposes.

[For text of subds 6 to 15, see M.S.1976]

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.

[For text of subds 17 to 22, see M.S.1976]

Subd. 23. Withholding by employer of delinquent taxes. (1) The commissioner may give notice to any employer deriving income which has a taxable situs in this state regardless of whether the income is exempt from taxation, that an employee of that employer is delinquent in a certain amount with respect to any state taxes, including penalties, interest and costs. The commissioner can proceed under this subdivision only if the tax is uncontested or if the time for appeal of the tax has expired. The commissioner shall not proceed under this subdivision until the expiration of 30 days after mailing to the taxpayer, at his last known address, a written notice of (a) the amount of taxes, interest, and penalties due from the taxpayer and demand for their payment, and (b) the commissioner's intention to require additional withholding by the taxpayer's employer pursuant to this subdivision. The effect of the notice shall expire 90 days after it has been mailed to the taxpayer provided that the notice may be renewed by mailing a new notice which is in accordance with this subdivision. The renewed notice shall have the effect of reinstating the priority of the original claim. The notice to the taxpayer shall be in substantially the same form as that provided in section 571.41. The notice shall further inform the taxpayer of the wage exemptions contained in section 550.37, subdivision 14. If no statement of exemption is received by the commissioner within 30 days from the mailing of the notice, he may proceed under this subdivision. The notice to the taxpayer's employer may be served by mail or by delivery by an employee of the department of revenue and shall be in substantially the same form as provided in section 571.495. Upon receipt of notice, the employer shall withhold from compensation due or to become due to the employee, the total amount shown by the notice, subject to the provisions of section 571.55. The employer shall continue to withhold each pay period until the total amount shown by the notice is paid in full. Upon receipt of notice by the employer, the claim of the state of Minnesota shall have priority over any subsequent garnishments or wage assignments. The commissioner may arrange between the employer and the employee for withholding a portion of the total amount due the employee each pay period, until the total amount shown by the notice plus accrued interest has been withheld.

The "compensation due" any employee is defined in accordance with the pro-

290.92 INCOME AND EXCISE TAXES

visions of section 571.55. The maximum withholding allowed under this subdivision for any one pay period shall be decreased by any amounts payable pursuant to a garnishment action with respect to which the employer was served prior to being served with the notice of delinquency and any amounts covered by any irrevocable and previously effective assignment of wages; the employer shall give notice to the department of the amounts and the facts relating to such assignments within ten days after the service of the notice of delinquency on the form provided by the department of revenue as noted in this subdivision. In crediting amounts withheld against delinquent taxes of an employee, the department shall apply amounts withheld in the following order: penalties, interest, tax and costs.

(2) If the employee ceases to be employed by the employer before the full amount set forth in a notice of delinquency plus accrued interest has been withheld, the employer shall immediately notify the commissioner in writing of the termination date of the employee and the total amount withheld. No employer may discharge any employee by reason of the fact that the commissioner has proceeded under this subdivision. If an employer discharges an employee in violation of this provision, the employee shall have the same remedy as provided in section 571.61, subdivision 2.

(3) The employer shall, by the date prescribed in subdivision 6, remit to the commissioner, on a form and in the manner prescribed by the commissioner, the amount withheld during the calendar quarter under this subdivision. Should any employer, after notice, willfully fail to withhold in accordance with the notice and this subdivision, or willfully fail to remit any amount withheld as required by this subdivision, the employer shall be liable for the total amount set forth in the notice together with accrued interest which may be collected by any means provided by law relating to taxation. No amount required to be paid by an employer by reason of his failure to remit under this subdivision, may be deducted from the gross income of the employer, under sections 290.09, subdivision 4 or 290.01, subdivision 20. Any amount collected from the employer for failure to withhold or for failure to remit under this subdivision shall be credited to the employee's account in the following manner: penalties, interest, tax and costs.

(4) Clauses (1), (2) and (3), except provisions imposing a liability on the employer for failure to withhold or remit, shall apply to cases in which the employer is the United States or any instrumentality thereof or this state or any municipality or other subordinate unit thereof.

(5) The commissioner shall refund to the employee excess amounts withheld from him under this subdivision. If any excess results from payments by the employer because of willful failure to withhold or remit as prescribed in clause (3) above, the excess attributable to the employer's payment shall be refunded to the employer.

(6) Employers required to withhold delinquent taxes, penalties, interest and costs under this subdivision shall not be required to compute any additional interest, costs or other charges to be withheld.

[1977 c 111 s 1,2; 1977 c 258 s 1; 1977 c 386 s 8]

NOTE: Subdivision 1 as amended by Laws 1977, Chapter 111, Section 1 is effective for taxes to be withheld from wages paid later than 120 days after the agreement provided in subdivision 16 has been reached. Subdivision 16 is effective May 20, 1977 pursuant to Laws 1977, Chapter 111, Section 3.

290.934 Failure by corporation to pay estimated income tax.

[For text of subds 1 to 4, see M.S.1976]

MINNESOTA STATUTES 1977 SUPPLEMENT

INCOME AND EXCISE TAXES 290.971

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

[For text of subds 6 and 7, see M.S.1976]

[1977 c 386 s 9]

290.971 Election of certain small business corporations as to taxable status; definitions.

Subdivision 1. **Small business corporation.** For purposes of this chapter, the term "small business corporation" means a domestic corporation of the United States which is not a member of an affiliated group (as defined in section 1504 of the Internal Revenue Code of 1954, as amended through December 31, 1976) and which does not

- (1) have (except as provided in subdivision 5) more than ten shareholders;
- (2) have as a shareholder a person (other than an estate and other than a trust described in subdivision 6) who is not an individual;
- (3) have a nonresident alien as a shareholder; and
- (4) have more than one class of stock, and has elected under the provisions of section 1372(a) of the Internal Revenue Code of 1954, as amended through December 31, 1976 to be taxed as a small business corporation under the provisions of said Internal Revenue Code of 1954, as amended through December 31, 1976.

[For text of subd 2, see M.S.1976]

Subd. 3. **Stock owned by husband and wife.** For purposes of subdivision 1(1) stock which

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

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

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

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

[For text of subd 4, see M.S.1976]

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

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

Subd. 6. **Certain trusts permitted as shareholders.** For purposes of subdivision 1, the following trusts may be shareholders:

290.971 INCOME AND EXCISE TAXES

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

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

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

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

[1977 c 376 s 8-10]

290.972 Election by small business corporation.

[For text of subs 1 to 4, see M.S.1976]

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

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

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

becomes a shareholder in such corporation and affirmatively refuses to consent to such election on or before the 60th day after the day on which he acquires the stock.

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

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

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

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

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

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

MINNESOTA STATUTES 1977 SUPPLEMENT

INCOME AND EXCISE TAXES 290.972

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

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

(3) Ceases to be small business corporation. An election under subdivision 1 made by a small business corporation shall terminate if at any time

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

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

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

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

(5) Passive investment income. (A) Except as provided in subparagraph (B), an election under subdivision 1 made by a small business corporation shall terminate if, for any taxable year of the corporation for which the election is in effect, such corporation has gross receipts more than 20 percent of which is passive investment income. Such termination shall be effective for the taxable year of the corporation in which it has gross receipts of such amount, and for all succeeding taxable years of the corporation.

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

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

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

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

MINNESOTA STATUTES 1977 SUPPLEMENT

290.972 INCOME AND EXCISE TAXES

business corporation owned more than 50 percent of each class of the stock of the liquidating corporation.

[For text of subds 6 and 7, see M.S.1976]

[1977 c 376 s 11]

290.981 [Repealed, 1977 c 423 art 2 s 20]
290.982 [Repealed, 1977 c 423 art 2 s 20]
290.983 [Repealed, 1977 c 423 art 2 s 20]
290.984 [Repealed, 1977 c 423 art 2 s 20]
290.985 [Repealed, 1977 c 423 art 2 s 20]
290.986 [Repealed, 1977 c 423 art 2 s 20]
290.987 [Repealed, 1977 c 423 art 2 s 20]
290.988 [Repealed, 1977 c 423 art 2 s 20]
290.989 [Repealed, 1977 c 423 art 2 s 20]
290.99 [Repealed, 1977 c 423 art 2 s 20]
290.991 [Repealed, 1977 c 423 art 2 s 20]
290.992 [Repealed, 1977 c 423 art 2 s 20]

CHAPTER 290A. PROPERTY TAX REFUND ACT

Sec.		Sec.	
290A.01	Citation.	290A.17	Publishing or releasing information on claims.
290A.03	Definitions.	290A.18	Right to file claim.
290A.04	Credit allowable.	290A.19	Owner or managing agent to furnish rent certificate; penalty.
290A.05	Combined household income.	290A.21	Repealed.
290A.06	Filing time limit, late filing.	290A.23	Appropriation. [New]
290A.08	One claimant per household.		
290A.10	Proof of taxes paid.		
290A.14	Property tax statement.		

290A.01 Citation.

Sections 290A.01 to 290A.21 may be cited as the "State of Minnesota Property Tax Refund Act."

[1977 c 423 art 2 s 1]

290A.03 Definitions.

[For text of subds 1 and 2, see M.S.1976]

Subd. 3. **Income.** "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, 1976; 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)(10), (a)(13), and (a)(14);

(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;