

CHAPTER 290

INCOME AND FRANCHISE TAXES

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290.01 DEFINITIONS.

[For text of subds 1 to 6b, see M.S.1998]

Subd. 7. **Resident.** The term “resident” means (1) any individual domiciled in Minnesota, except that an individual is not a “resident” for the period of time that the individual is a “qualified individual” as defined in section 911(d)(1) of the Internal Revenue Code, if the qualified individual notifies the county within three months of moving out of the country that homestead status be revoked for the Minnesota residence of the qualified individual, and the property is not classified as a homestead while the individual remains a qualified individual; and (2) any individual domiciled outside the state who maintains a place of abode in the state and spends in the aggregate more than one-half of the tax year in Minnesota, unless the individual or the spouse of the individual is in the armed forces of the United States, or the individual is covered under the reciprocity provisions in section 290.081.

For purposes of this subdivision, presence within the state for any part of a calendar day constitutes a day spent in the state. Individuals shall keep adequate records to substantiate the days spent outside the state.

The term “abode” means a dwelling maintained by an individual, whether or not owned by the individual and whether or not occupied by the individual, and includes a dwelling place owned or leased by the individual’s spouse.

Neither the commissioner nor any court shall consider charitable contributions made by an individual within or without the state in determining if the individual is domiciled in Minnesota.

[For text of subds 7a to 18, see M.S.1998]

Subd. 19. **Net income.** The term “net income” means the federal taxable income, as defined in section 63 of the Internal Revenue Code of 1986, as amended through the date named in this subdivision, incorporating any elections made by the taxpayer in accordance with the Internal Revenue Code in determining federal taxable income for federal income tax purposes, and with the modifications provided in subdivisions 19a to 19f.

In the case of a regulated investment company or a fund thereof, as defined in section 851(a) or 851(g) of the Internal Revenue Code, federal taxable income means investment company taxable income as defined in section 852(b)(2) of the Internal Revenue Code, except that:

(1) the exclusion of net capital gain provided in section 852(b)(2)(A) of the Internal Revenue Code does not apply;

(2) the deduction for dividends paid under section 852(b)(2)(D) of the Internal Revenue Code must be applied by allowing a deduction for capital gain dividends and exempt-interest dividends as defined in sections 852(b)(3)(C) and 852(b)(5) of the Internal Revenue Code; and

(3) the deduction for dividends paid must also be applied in the amount of any undistributed capital gains which the regulated investment company elects to have treated as provided in section 852(b)(3)(D) of the Internal Revenue Code.

The net income of a real estate investment trust as defined and limited by section 856(a), (b), and (c) of the Internal Revenue Code means the real estate investment trust taxable income as defined in section 857(b)(2) of the Internal Revenue Code.

The net income of a designated settlement fund as defined in section 468B(d) of the Internal Revenue Code means the gross income as defined in section 468B(b) of the Internal Revenue Code.

The Internal Revenue Code of 1986, as amended through December 31, 1986, shall be in effect for taxable years beginning after December 31, 1986. The provisions of sections 10104, 10202, 10203, 10204, 10206, 10212, 10221, 10222, 10223, 10226, 10227, 10228, 10611, 10631, 10632, and 10711 of the Omnibus Budget Reconciliation Act of 1987, Public Law Number 100-203, the provisions of sections 1001, 1002, 1003, 1004, 1005, 1006, 1008, 1009, 1010, 1011, 1011A, 1011B, 1012, 1013, 1014, 1015, 1018, 2004, 3041, 4009, 6007, 6026, 6032, 6137, 6277, and 6282 of the Technical and Miscellaneous Revenue Act of 1988, Public Law Number 100-647, the provisions of sections 7811, 7816, and 7831 of the Omnibus Budget Reconciliation Act of 1989, Public Law Number 101-239, the provisions of sections 1305, 1704(r), and 1704(e)(1) of the Small Business Job Protection Act, Public Law Number 104-188, and the provisions of sections 975 and 1604(d)(2) and (e) of the Taxpayer Relief Act of 1997, Public Law Number 105-34, and the provisions of section 4004 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Public Law Number 105-277 shall be effective at the time they become effective for federal income tax purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1987, shall be in effect for taxable years beginning after December 31, 1987. The provisions of sections 4001, 4002, 4011, 5021, 5041, 5053, 5075, 6003, 6008, 6011, 6030, 6031, 6033, 6057, 6064, 6066, 6079, 6130, 6176, 6180, 6182, 6280, and 6281 of the Technical and Miscellaneous Revenue Act of 1988, Public Law Number 100-647, the provisions of sections 7815 and 7821 of the Omnibus Budget Reconciliation Act of 1989, Public Law Number 101-239, and the provisions of section 11702 of the Revenue Reconciliation Act of 1990, Public Law Number 101-508, shall become effective at the time they become effective for federal tax purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1988, shall be in effect for taxable years beginning after December 31, 1988. The provisions of sections 7101, 7102, 7104, 7105, 7201, 7202, 7203, 7204, 7205, 7206, 7207, 7210, 7211, 7301, 7302, 7303, 7304, 7601, 7621, 7622, 7641, 7642, 7645, 7647, 7651, and 7652 of the Omnibus Budget Reconciliation Act of 1989, Public Law Number 101-239, the provision of section 1401 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law Number 101-73, the provisions of sections 11701 and 11703 of the Revenue Reconciliation Act of 1990, Public Law Number 101-508, and the provisions of sections 1702(g) and 1704(f)(2)(A) and (B) of the Small Business Job Protection Act, Public Law Number 104-188, shall become effective at the time they become effective for federal tax purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1989, shall be in effect for taxable years beginning after December 31, 1989. The provisions of sections 11321, 11322, 11324, 11325, 11403, 11404, 11410, and 11521 of the Revenue Reconciliation Act of 1990, Public Law Number 101-508, and the provisions of sections 13224 and 13261 of the Omnibus Budget Reconciliation Act of 1993, Public Law Number 103-66, shall become effective at the time they become effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1990, shall be in effect for taxable years beginning after December 31, 1990.

The provisions of section 13431 of the Omnibus Budget Reconciliation Act of 1993, Public Law Number 103-66, shall become effective at the time they became effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1991, shall be in effect for taxable years beginning after December 31, 1991.

The provisions of sections 1936 and 1937 of the Comprehensive National Energy Policy Act of 1992, Public Law Number 102-486, the provisions of sections 13101, 13114, 13122, 13141, 13150, 13151, 13174, 13239, 13301, and 13442 of the Omnibus Budget Rec-

conciliation Act of 1993, Public Law Number 103-66, and the provisions of section 1604(a)(1), (2), and (3) of the Taxpayer Relief Act of 1997, Public Law Number 105-34, shall become effective at the time they become effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1992, shall be in effect for taxable years beginning after December 31, 1992.

The provisions of sections 13116, 13121, 13206, 13210, 13222, 13223, 13231, 13232, 13233, 13239, 13262, and 13321 of the Omnibus Budget Reconciliation Act of 1993, Public Law Number 103-66, the provisions of sections 1703(a), 1703(d), 1703(i), 1703(l), and 1703(m) of the Small Business Job Protection Act, Public Law Number 104-188, and the provision of section 1604(c) of the Taxpayer Relief Act of 1997, Public Law Number 105-34, shall become effective at the time they become effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1993, shall be in effect for taxable years beginning after December 31, 1993.

The provision of section 741 of Legislation to Implement Uruguay Round of General Agreement on Tariffs and Trade, Public Law Number 103-465, the provisions of sections 1, 2, and 3, of the Self-Employed Health Insurance Act of 1995, Public Law Number 104-7, the provision of section 501(b)(2) of the Health Insurance Portability and Accountability Act, Public Law Number 104-191, the provisions of sections 1604 and 1704(p)(1) and (2) of the Small Business Job Protection Act, Public Law Number 104-188, and the provisions of sections 1011, 1211(b)(1), and 1602(f) of the Taxpayer Relief Act of 1997, Public Law Number 105-34, shall become effective at the time they become effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1994, shall be in effect for taxable years beginning after December 31, 1994.

The provisions of sections 1119(a), 1120, 1121, 1202(a), 1444, 1449(b), 1602(a), 1610(a), 1613, and 1805 of the Small Business Job Protection Act, Public Law Number 104-188, the provision of section 511 of the Health Insurance Portability and Accountability Act, Public Law Number 104-191, and the provisions of sections 1174 and 1601(i)(2) of the Taxpayer Relief Act of 1997, Public Law Number 105-34, shall become effective at the time they become effective for federal purposes.

The Internal Revenue Code of 1986, as amended through March 22, 1996, is in effect for taxable years beginning after December 31, 1995.

The provisions of sections 1113(a), 1117, 1206(a), 1313(a), 1402(a), 1403(a), 1443, 1450, 1501(a), 1605, 1611(a), 1612, 1616, 1617, 1704(l), and 1704(m) of the Small Business Job Protection Act, Public Law Number 104-188, the provisions of Public Law Number 104-117, the provisions of sections 313(a) and (b)(1), 602(a), 913(b), 941, 961, 971, 1001(a) and (b), 1002, 1003, 1012, 1013, 1014, 1061, 1062, 1081, 1084(b), 1086, 1087, 1111(a), 1131(b) and (c), 1211(b), 1213, 1530(c)(2), 1601(f)(5) and (h), and 1604(d)(1) of the Taxpayer Relief Act of 1997, Public Law Number 105-34, the provisions of section 6010 of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law Number 105-206, and the provisions of section 4003 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Public Law Number 105-277, shall become effective at the time they become effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1996, shall be in effect for taxable years beginning after December 31, 1996.

The provisions of sections 202(a) and (b), 221(a), 225, 312, 313, 913(a), 934, 962, 1004, 1005, 1052, 1063, 1084(a) and (c), 1089, 1112, 1171, 1204, 1271(a) and (b), 1305(a), 1306, 1307, 1308, 1309, 1501(b), 1502(b), 1504(a), 1505, 1527, 1528, 1530, 1601(d), (e), (f), and (i) and 1602(a), (b), (c), and (e) of the Taxpayer Relief Act of 1997, Public Law Number 105-34, the provisions of sections 6004, 6005, 6012, 6013, 6015, 6016, 7002, and 7003 of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law Number 105-206, and the provisions of section 3001 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Public Law Number 105-277, shall become effective at the time they become effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1997, shall be in effect for taxable years beginning after December 31, 1997.

The provisions of sections 5002, 6009, 6011, and 7001 of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law Number 105–206, the provisions of section 9010 of the Transportation Equity Act for the 21st Century, Public Law Number 105–178, the provisions of sections 1004, 4002, and 5301 of the Omnibus Consolidation and Emergency Supplemental Appropriations Act, 1999, Public Law Number 105–277, and the provision of section 303 of the Ricky Ray Hemophilia Relief Fund Act of 1998, Public Law Number 105–369, shall become effective at the time they become effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1998, shall be in effect for taxable years beginning after December 31, 1998.

Except as otherwise provided, references to the Internal Revenue Code in subdivisions 19a to 19g mean the code in effect for purposes of determining net income for the applicable year.

Subd. 19a. **Additions to federal taxable income.** For individuals, estates, and trusts, there shall be added to federal taxable income:

(1)(i) interest income on obligations of any state other than Minnesota or a political or governmental subdivision, municipality, or governmental agency or instrumentality of any state other than Minnesota exempt from federal income taxes under the Internal Revenue Code or any other federal statute, and

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, except the portion of the exempt-interest dividends derived from interest income on obligations of the state of Minnesota or its political or governmental subdivisions, municipalities, governmental agencies or instrumentalities, but only if the portion of the exempt-interest dividends from such Minnesota sources paid to all shareholders represents 95 percent or more of the exempt-interest dividends that are paid by the regulated investment company as defined in section 851(a) of the Internal Revenue Code, or the fund of the regulated investment company as defined in section 851(g) of the Internal Revenue Code, making the payment; and

(iii) for the purposes of items (i) and (ii), interest on obligations of an Indian tribal government described in section 7871(c) of the Internal Revenue Code shall be treated as interest income on obligations of the state in which the tribe is located;

(2) the amount of income taxes paid or accrued within the taxable year under this chapter and income taxes paid to any other state or to any province or territory of Canada, to the extent allowed as a deduction under section 63(d) of the Internal Revenue Code, but the addition may not be more than the amount by which the itemized deductions as allowed under section 63(d) of the Internal Revenue Code exceeds the amount of the standard deduction as defined in section 63(c) of the Internal Revenue Code. For the purpose of this paragraph, the disallowance of itemized deductions under section 68 of the Internal Revenue Code of 1986, income tax is the last itemized deduction disallowed;

(3) the capital gain amount of a lump sum distribution to which the special tax under section 1122(h)(3)(B)(ii) of the Tax Reform Act of 1986, Public Law Number 99–514, applies;

(4) the amount of income taxes paid or accrued within the taxable year under this chapter and income taxes paid to any other state or any province or territory of Canada, to the extent allowed as a deduction in determining federal adjusted gross income. For the purpose of this paragraph, income taxes do not include the taxes imposed by sections 290.0922, subdivision 1, paragraph (b), 290.9727, 290.9728, and 290.9729;

(5) the amount of expense, interest, or taxes disallowed pursuant to section 290.10; and

(6) the amount of a partner's pro rata share of net income which does not flow through to the partner because the partnership elected to pay the tax on the income under section 6242(a)(2) of the Internal Revenue Code.

Subd. 19b. **Subtractions from federal taxable income.** For individuals, estates, and trusts, there shall be subtracted from federal taxable income:

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

(2) if included in federal taxable income, the amount of any overpayment of income tax to Minnesota or to any other state, for any previous taxable year, whether the amount is received as a refund or as a credit to another taxable year's income tax liability;

(3) the amount paid to others, less the credit allowed under section 290.0674, not to exceed \$1,625 for each qualifying child in grades kindergarten to 6 and \$2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and transportation of each qualifying child in attending an elementary or secondary school situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory attendance laws, which is not operated for profit, and which adheres to the provisions of the Civil Rights Act of 1964 and chapter 363. For the purposes of this clause, "tuition" includes fees or tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause, "textbooks" includes books and other instructional materials and equipment used in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state. Equipment expenses qualifying for deduction includes expenses as defined and limited in section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship, nor does it include books or materials for, or transportation to, extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or similar programs. For purposes of the subtraction provided by this clause, "qualifying child" has the meaning given in section 32(c)(3) of the Internal Revenue Code;

(4) contributions made in taxable years beginning after December 31, 1981, and before January 1, 1985, to a qualified governmental pension plan, an individual retirement account, simplified employee pension, or qualified plan covering a self-employed person that were included in Minnesota gross income in the taxable year for which the contributions were made but were deducted or were not included in the computation of federal adjusted gross income, less any amount allowed to be subtracted as a distribution under this subdivision or a predecessor provision in taxable years that began before January 1, 2000. This subtraction applies only for taxable years beginning after December 31, 1999, and before January 1, 2001;

(5) income as provided under section 290.0802;

(6) the amount of unrecovered accelerated cost recovery system deductions allowed under subdivision 19g;

(7) to the extent included in federal adjusted gross income, income realized on disposition of property exempt from tax under section 290.491;

(8) to the extent not deducted in determining federal taxable income, the amount paid for health insurance of self-employed individuals as determined under section 162(l) of the Internal Revenue Code, except that the percent limit does not apply. If the taxpayer deducted insurance payments under section 213 of the Internal Revenue Code of 1986, the subtraction under this clause must be reduced by the lesser of:

(i) the total itemized deductions allowed under section 63(d) of the Internal Revenue Code, less state, local, and foreign income taxes deductible under section 164 of the Internal Revenue Code and the standard deduction under section 63(c) of the Internal Revenue Code; or

(ii) the lesser of (A) the amount of insurance qualifying as "medical care" under section 213(d) of the Internal Revenue Code to the extent not deducted under section 162(l) of the Internal Revenue Code or excluded from income or (B) the total amount deductible for medical care under section 213(a);

(9) the exemption amount allowed under Laws 1995, chapter 255, article 3, section 2, subdivision 3;

(10) to the extent included in federal taxable income, postservice benefits for youth community service under section 124D.42 for volunteer service under United States Code, title 42, section 5011(d), as amended;

(11) to the extent not deducted in determining federal taxable income by an individual who does not itemize deductions for federal income tax purposes for the taxable year, an

amount equal to 50 percent of the excess of charitable contributions allowable as a deduction for the taxable year under section 170(a) of the Internal Revenue Code over \$500; and

(12) to the extent included in federal taxable income, holocaust-victims' settlement payments for any injury incurred as a result of the holocaust, if received by an individual who was persecuted for racial or religious reasons by Nazi Germany or any other Axis regime or an heir of such a person.

[For text of subds 19c to 19e, see M.S.1998]

Subd. 19f. Basis modifications affecting gain or loss on disposition of property. (a) For individuals, estates, and trusts, the basis of property is its adjusted basis for federal income tax purposes except as set forth in paragraphs (f), (g), and (m). For corporations, the basis of property is its adjusted basis for federal income tax purposes, without regard to the time when the property became subject to tax under this chapter or to whether out-of-state losses or items of tax preference with respect to the property were not deductible under this chapter, except that the modifications to the basis for federal income tax purposes set forth in paragraphs (b) to (j) are allowed to corporations, and the resulting modifications to federal taxable income must be made in the year in which gain or loss on the sale or other disposition of property is recognized.

(b) The basis of property shall not be reduced to reflect federal investment tax credit.

(c) The basis of property subject to the accelerated cost recovery system under section 168 of the Internal Revenue Code shall be modified to reflect the modifications in depreciation with respect to the property provided for in subdivision 19e. For certified pollution control facilities for which amortization deductions were elected under section 169 of the Internal Revenue Code of 1954, the basis of the property must be increased by the amount of the amortization deduction not previously allowed under this chapter.

(d) For property acquired before January 1, 1933, the basis for computing a gain is the fair market value of the property as of that date. The basis for determining a loss is the cost of the property to the taxpayer less any depreciation, amortization, or depletion, actually sustained before that date. If the adjusted cost exceeds the fair market value of the property, then the basis is the adjusted cost regardless of whether there is a gain or loss.

(e) The basis is reduced by the allowance for amortization of bond premium if an election to amortize was made pursuant to Minnesota Statutes 1986, section 290.09, subdivision 13, and the allowance could have been deducted by the taxpayer under this chapter during the period of the taxpayer's ownership of the property.

(f) For assets placed in service before January 1, 1987, corporations, partnerships, or individuals engaged in the business of mining ores other than iron ore or taconite concentrates subject to the occupation tax under chapter 298 must use the occupation tax basis of property used in that business.

(g) For assets placed in service before January 1, 1990, corporations, partnerships, or individuals engaged in the business of mining iron ore or taconite concentrates subject to the occupation tax under chapter 298 must use the occupation tax basis of property used in that business.

(h) In applying the provisions of sections 301(c)(3)(B), 312(f) and (g), and 316(a)(1) of the Internal Revenue Code, the dates December 31, 1932, and January 1, 1933, shall be substituted for February 28, 1913, and March 1, 1913, respectively.

(i) In applying the provisions of section 362(a) and (c) of the Internal Revenue Code, the date December 31, 1956, shall be substituted for June 22, 1954.

(j) The basis of property shall be increased by the amount of intangible drilling costs not previously allowed due to differences between this chapter and the Internal Revenue Code.

(k) The adjusted basis of any corporate partner's interest in a partnership is the same as the adjusted basis for federal income tax purposes modified as required to reflect the basis modifications set forth in paragraphs (b) to (j). The adjusted basis of a partnership in which the partner is an individual, estate, or trust is the same as the adjusted basis for federal income tax purposes modified as required to reflect the basis modifications set forth in paragraphs (f) and (g).

(l) The modifications contained in paragraphs (b) to (j) also apply to the basis of property that is determined by reference to the basis of the same property in the hands of a different taxpayer or by reference to the basis of different property.

Subd. 19g. **ACRS modification for individuals.** (a) An individual is allowed a subtraction from federal taxable income for the amount of accelerated cost recovery system deductions that were added to federal adjusted gross income in computing Minnesota gross income for taxable year 1981, 1982, 1983, or 1984 and that were not deducted in a taxable year beginning before January 1, 2000. The deduction is allowed in the first taxable year beginning after December 31, 1999. The amount of the deduction equals the amount added to federal adjusted gross income in computing Minnesota gross income, less any:

(1) deduction allowable under Minnesota Statutes 1986, section 290.01, subdivision 20f; and

(2) amount allowable as a subtraction under this subdivision in a taxable year beginning before January 1, 2000.

This paragraph does not apply to property that was sold or exchanged in a taxable year beginning before January 1, 2001.

(b) In the event of a sale or exchange of the property occurring during a taxable year beginning after December 31, 1999, and before January 1, 2001, a deduction is allowed equal to the lesser of (1) the remaining amount that would be allowed as a deduction under paragraph (a) or (2) the amount of capital gain recognized and the amount of cost recovery deductions that were subject to recapture under sections 1245 and 1250 of the Internal Revenue Code of 1986 for the taxable year.

(c) In the case of a corporation treated as an "S" corporation under section 290.9725, the amount of the corporation's cost recovery allowances that have been deducted in computing federal tax, but have been added to federal taxable income or not deducted in computing tax under this chapter as a result of the application of subdivision 19e, paragraphs (a) and (c) or Minnesota Statutes 1986, section 290.09, subdivision 7, is allowed as a deduction to the shareholders under the provisions of paragraph (a).

[For text of subs 20 to 30, see M.S.1998]

Subd. 31. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 1998.

Subd. 32. **Holocaust victims' settlement payments.** "Holocaust victims' settlement payments" means:

(1) a payment received as a result of settlement of the action entitled *In re Holocaust Victims' Asset Litigation*, in United States district court for the eastern district of New York, C.A. No. 96-4849;

(2) any amount received under the German Act Regulating Unresolved Property Claims or any other foreign law providing for payments for holocaust claims; and

(3) a payment received as a result of the settlement of a holocaust claim not described in clause (1) or (2), including an insurance claim, a claim relating to looted art or financial assets, and a claim relating to slave labor wages.

History: 1999 c 243 art 2 s 2-7; 1999 c 243 art 3 s 2-4

NOTE: The amendment to subdivision 31 by Laws 1999, chapter 243, article 3, section 4, is effective at the same time federal changes made by the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law Number 105-206 and the Omnibus Consolidation and Emergency Supplemental Appropriations Act, 1999, Public Law Number 105-277 which are incorporated into this chapter, become effective for federal tax purposes. Laws 1999, chapter 243, article 3, section 7.

290.06 RATES OF TAX; CREDITS.

[For text of subd 1, see M.S.1998]

Subd. 2c. **Schedules of rates for individuals, estates, and trusts.** (a) The income taxes imposed by this chapter upon married individuals filing joint returns and surviving spouses as defined in section 2(a) of the Internal Revenue Code must be computed by applying to their taxable net income the following schedule of rates:

- (1) On the first \$25,220, 5.5 percent;
- (2) On all over \$25,220, but not over \$100,200, 7.25 percent;
- (3) On all over \$100,200, 8 percent.

Married individuals filing separate returns, estates, and trusts must compute their income tax by applying the above rates to their taxable income, except that the income brackets will be one-half of the above amounts.

(b) The income taxes imposed by this chapter upon unmarried individuals must be computed by applying to taxable net income the following schedule of rates:

- (1) On the first \$17,250, 5.5 percent;
- (2) On all over \$17,250, but not over \$56,680, 7.25 percent;
- (3) On all over \$56,680, 8 percent.

(c) The income taxes imposed by this chapter upon unmarried individuals qualifying as a head of household as defined in section 2(b) of the Internal Revenue Code must be computed by applying to taxable net income the following schedule of rates:

- (1) On the first \$21,240, 5.5 percent;
- (2) On all over \$21,240, but not over \$85,350, 7.25 percent;
- (3) On all over \$85,350, 8 percent.

(d) In lieu of a tax computed according to the rates set forth in this subdivision, the tax of any individual taxpayer whose taxable net income for the taxable year is less than an amount determined by the commissioner must 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.

(e) An individual who is not a Minnesota resident for the entire year must compute the individual's Minnesota income tax as provided in this subdivision. After the application of the nonrefundable credits provided in this chapter, the tax liability must then be multiplied by a fraction in which:

(1) the numerator is the individual's Minnesota source federal adjusted gross income as defined in section 62 of the Internal Revenue Code and increased by the additions required under section 290.01, subdivision 19a, clauses (1) and (6), after applying the allocation and assignability provisions of section 290.081, clause (a), or 290.17; and

(2) the denominator is the individual's federal adjusted gross income as defined in section 62 of the Internal Revenue Code of 1986, increased by the amounts specified in section 290.01, subdivision 19a, clauses (1) and (6), and reduced by the amounts specified in section 290.01, subdivision 19b, clause (1).

Subd. 2d. Inflation adjustment of brackets. (a) For taxable years beginning after December 31, 1999, the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed in subdivision 2c shall be adjusted for inflation by the percentage determined under paragraph (b). For the purpose of making the adjustment as provided in this subdivision all of the rate brackets provided in subdivision 2c shall be the rate brackets as they existed for taxable years beginning after December 31, 1998, and before January 1, 2000. The rate applicable to any rate bracket must not be changed. The dollar amounts setting forth the tax shall be adjusted to reflect the changes in the rate brackets. The rate brackets as adjusted must be rounded to the nearest \$10 amount. If the rate bracket ends in \$5, it must be rounded up to the nearest \$10 amount.

(b) The commissioner shall adjust the rate brackets and by the percentage determined pursuant to the provisions of section 1(f) of the Internal Revenue Code, except that in section 1(f)(3)(B) the word "1998" shall be substituted for the word "1992." For 2000, the commissioner shall then determine the percent change from the 12 months ending on August 31, 1998, to the 12 months ending on August 31, 1999, and in each subsequent year, from the 12 months ending on August 31, 1998, to the 12 months ending on August 31 of the year preceding the taxable year. The determination of the commissioner pursuant to this subdivision shall not be considered a "rule" and shall not be subject to the Administrative Procedure Act contained in chapter 14.

No later than December 15 of each year, the commissioner shall announce the specific percentage that will be used to adjust the tax rate brackets.

[For text of subds 10 and 22, see M.S.1998]

Subd. 23. Refund of contributions to political parties and candidates. (a) A taxpayer may claim a refund equal to the amount of the taxpayer's contributions made in the calendar year to candidates and to a political party. The maximum refund for an individual must not exceed \$50 and for a married couple, filing jointly, must not exceed \$100. A refund of a contribution is allowed only if the taxpayer files a form required by the commissioner and attaches to the form a copy of an official refund receipt form issued by the candidate or party and signed by the candidate, the treasurer of the candidate's principal campaign committee, or the party chair, after the contribution was received. The receipt forms must be numbered, and the data on the receipt that are not public must be made available to the campaign finance and public disclosure board upon its request. A claim must be filed with the commissioner no sooner than January 1 of the calendar year in which the contribution was made and no later than April 15 of the calendar year following the calendar year in which the contribution was made. A taxpayer may file only one claim per calendar year. Amounts paid by the commissioner after June 15 of the calendar year following the calendar year in which the contribution was made must include interest at the rate specified in section 270.76.

(b) No refund is allowed under this subdivision for a contribution to a candidate unless the candidate:

(1) has signed an agreement to limit campaign expenditures as provided in section 10A.322;

(2) is seeking an office for which voluntary spending limits are specified in section 10A.25; and

(3) has designated a principal campaign committee.

This subdivision does not limit the campaign expenditures of a candidate who does not sign an agreement but accepts a contribution for which the contributor improperly claims a refund.

(c) For purposes of this subdivision, "political party" means a major political party as defined in section 200.02, subdivision 7, or a minor political party qualifying for inclusion on the income tax or property tax refund form under section 10A.31, subdivision 3a.

A "major party" or "minor party" includes the aggregate of that party's organization within each house of the legislature, the state party organization, and the party organization within congressional districts, counties, legislative districts, municipalities, and precincts.

"Candidate" means a candidate as defined in section 10A.01, subdivision 10, except a candidate for judicial office.

"Contribution" means a gift of money.

(d) The commissioner shall make copies of the form available to the public and candidates upon request.

(e) The following data collected or maintained by the commissioner under this subdivision are private: the identities of individuals claiming a refund, the identities of candidates to whom those individuals have made contributions, and the amount of each contribution.

(f) The commissioner shall report to the campaign finance and public disclosure board by each August 1 a summary showing the total number and aggregate amount of political contribution refunds made on behalf of each candidate and each political party. These data are public.

(g) The amount necessary to pay claims for the refund provided in this section is appropriated from the general fund to the commissioner of revenue.

[For text of subds 24 and 25, see M.S.1998]

Subd. 26. Bank S corporations. A shareholder of an S corporation subject to tax under section 290.9725, clause (2), is allowed a credit against the tax imposed under this chapter. The credit equals 80 percent of the tax apportioned to the shareholder under section 290.9726, subdivision 7, for the taxable year.

Subd. 27. **Tax paid to another state; corporations.** (a) A credit is allowed against the tax imposed under subdivision 1 for tax paid to another state based on net income. The credit must be claimed in a manner prescribed by the commissioner.

(b) The amount of the credit equals the amount of qualifying tax paid to the other state for the taxable year, multiplied by the taxpayer's apportionment percentage under section 290.191. If the item of income or gain is assigned to Minnesota as nonbusiness income, the entire amount of the qualifying tax is allowed as a credit. The maximum amount of the credit is limited to the tax liability under subdivision 1 for the taxable year and, in no case, may the credit exceed the reduction in the amount of tax under subdivision 1 if the item of income or gain were excluded from net income.

(c) For purposes of this subdivision, "qualifying tax" means the amount of tax paid to another state on an item of income or gain for the taxable year, if:

(1) the law of another state requires and the taxpayer assigns the entire amount of the income or gain to one other state; and

(2) the income or gain is included in the measure of the exercise of the corporate franchise that is taxable under subdivision 1.

(d) The amount of tax paid to another state on an item of income or gain is the difference between the tax paid to the state and the amount of tax that would have been paid to the state if the item of income or gain had not been included in the net income of that state.

(e) The taxpayer must report to the commissioner of revenue any change in tax in the other state, the change in qualifying tax, and a copy of the final determination of the tax by the taxing authority of the other state. A taxpayer who claims the credit consents to extend the period of limitation for the commissioner to recompute the credit and reassess the tax due, including a refund, for a period of one year following a report by the taxpayer of a final determination of tax by the state in which the entire amount of income or gain is reported, notwithstanding any period of limitations to the contrary, or within any applicable period of limitations, whichever is longer. If a taxpayer fails to report as required by this paragraph, the commissioner may recompute the tax, including a refund, based on the information available to the commissioner. The tax may be recomputed within six years after the report should have been filed, notwithstanding any period of limitations to the contrary.

History: 1999 c 220 s 49,50; 1999 c 243 art 2 s 8–11

290.067 DEPENDENT CARE CREDIT.

Subdivision 1. **Amount of credit.** (a) A taxpayer may take as a credit against the tax due from the taxpayer and a spouse, if any, under this chapter an amount equal to the dependent care credit for which the taxpayer is eligible pursuant to the provisions of section 21 of the Internal Revenue Code subject to the limitations provided in subdivision 2 except that in determining whether the child qualified as a dependent, income received as a Minnesota family investment program grant or allowance to or on behalf of the child must not be taken into account in determining whether the child received more than half of the child's support from the taxpayer, and the provisions of section 32(b)(1)(D) of the Internal Revenue Code do not apply.

(b) If a child who has not attained the age of six years at the close of the taxable year is cared for at a licensed family day care home operated by the child's parent, the taxpayer is deemed to have paid employment-related expenses. If the child is 16 months old or younger at the close of the taxable year, the amount of expenses deemed to have been paid equals the maximum limit for one qualified individual under section 21(c) and (d) of the Internal Revenue Code. If the child is older than 16 months of age but has not attained the age of six years at the close of the taxable year, the amount of expenses deemed to have been paid equals the amount the licensee would charge for the care of a child of the same age for the same number of hours of care.

(c) If a married couple:

(1) has a child who has not attained the age of one year at the close of the taxable year; (2) files a joint tax return for the taxable year; and

(3) does not participate in a dependent care assistance program as defined in section 129 of the Internal Revenue Code, in lieu of the actual employment related expenses paid for that

child under paragraph (a) of the deemed amount under paragraph (b), the lesser of (i) the combined earned income of the couple or (ii) \$2,400 will be deemed to be the employment related expense paid for that child. The earned income limitation of section 21(d) of the Internal Revenue Code shall not apply to this deemed amount. These deemed amounts apply regardless of whether any employment-related expenses have been paid.

(d) If the taxpayer is not required and does not file a federal individual income tax return for the tax year, no credit is allowed for any amount paid to any person unless:

(1) the name, address, and taxpayer identification number of the person are included on the return claiming the credit; or

(2) if the person is an organization described in section 501(c)(3) of the Internal Revenue Code and exempt from tax under section 501(a) of the Internal Revenue Code, the name and address of the person are included on the return claiming the credit.

In the case of a failure to provide the information required under the preceding sentence, the preceding sentence does not apply if it is shown that the taxpayer exercised due diligence in attempting to provide the information required.

In the case of a nonresident, part-year resident, or a person who has earned income not subject to tax under this chapter, the credit determined under section 21 of the Internal Revenue Code must be allocated based on the ratio by which the earned income of the claimant and the claimant's spouse from Minnesota sources bears to the total earned income of the claimant and the claimant's spouse.

[For text of subsds 2 to 4, see M.S.1998]

History: 1999 c 159 s 127

290.0671 MINNESOTA WORKING FAMILY CREDIT.

Subdivision 1. **Credit allowed.** (a) An individual is allowed a credit against the tax imposed by this chapter equal to a percentage of earned income. To receive a credit, a taxpayer must be eligible for a credit under section 32 of the Internal Revenue Code.

(b) For individuals with no qualifying children, the credit equals 1.1475 percent of the first \$4,460 of earned income. The credit is reduced by 1.1475 percent of earned income or modified adjusted gross income, whichever is greater, in excess of \$5,570, but in no case is the credit less than zero.

(c) For individuals with one qualifying child, the credit equals 7.45 percent of the first \$6,680 of earned income and 8.5 percent of earned income over \$11,650 but less than \$12,990. The credit is reduced by 5.13 percent of earned income or modified adjusted gross income, whichever is greater, in excess of \$14,560, but in no case is the credit less than zero.

(d) For individuals with two or more qualifying children, the credit equals 8.8 percent of the first \$9,390 of earned income and 20 percent of earned income over \$14,350 but less than \$16,230. The credit is reduced by 9.38 percent of earned income or modified adjusted gross income, whichever is greater, in excess of \$17,280, but in no case is the credit less than zero.

(e) For a nonresident or part-year resident, the credit must be allocated based on the percentage calculated under section 290.06, subdivision 2c, paragraph (e).

(f) For a person who was a resident for the entire tax year and has earned income not subject to tax under this chapter, the credit must be allocated based on the ratio of federal adjusted gross income reduced by the earned income not subject to tax under this chapter over federal adjusted gross income.

(g) The commissioner shall construct tables showing the amount of the credit at various income levels and make them available to taxpayers. The tables shall follow the schedule contained in this subdivision, except that the commissioner may graduate the transition between income brackets.

[For text of subsds 1a to 7, see M.S.1998]

History: 1999 c 243 art 2 s 12

290.0674 MINNESOTA EDUCATION CREDIT.

Subdivision 1. **Credit allowed.** An individual is allowed a credit against the tax imposed by this chapter in an amount equal to the amount paid for education-related expenses

for a qualifying child in kindergarten through grade 12. For purposes of this section, "education-related expenses" means:

(1) fees or tuition for instruction by an instructor under section 120A.22, subdivision 10, clause (1), (2), (3), (4), or (5), or by a member of the Minnesota music teachers association, for instruction outside the regular school day or school year, including tutoring, driver's education offered as part of school curriculum, regardless of whether it is taken from a public or private entity or summer camps, in grade or age appropriate curricula that supplement curricula and instruction available during the regular school year, that assists a dependent to improve knowledge of core curriculum areas or to expand knowledge and skills under the graduation rule under section 120B.02 and that do not include the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship;

(2) expenses for textbooks, including books and other instructional materials and equipment used in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state. "Textbooks" does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship, nor does it include books or materials for extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or similar programs;

(3) a maximum expense of \$200 per family for personal computer hardware, excluding single purpose processors, and educational software that assists a dependent to improve knowledge of core curriculum areas or to expand knowledge and skills under the graduation rule under section 120B.02 purchased for use in the taxpayer's home and not used in a trade or business regardless of whether the computer is required by the dependent's school; and

(4) the amount paid to others for transportation of a qualifying child attending an elementary or secondary school situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory attendance laws, which is not operated for profit, and which adheres to the provisions of the Civil Rights Act of 1964 and chapter 363.

For purposes of this section, "qualifying child" has the meaning given in section 32(c)(3) of the Internal Revenue Code.

Subd. 2. Limitations. (a) For claimants with income not greater than \$33,500, the maximum credit allowed is \$1,000 per qualifying child and \$2,000 per family. No credit is allowed for education-related expenses for claimants with income greater than \$37,500. The maximum credit per child is reduced by \$1 for each \$4 of household income over \$33,500, and the maximum credit per family is reduced by \$2 for each \$4 of household income over \$33,500, but in no case is the credit less than zero.

For purposes of this section "income" has the meaning given in section 290.067, subdivision 2a. In the case of a married claimant, a credit is not allowed unless a joint income tax return is filed.

(b) For a nonresident or part-year resident, the credit determined under subdivision 1 and the maximum credit amount in paragraph (a) must be allocated using the percentage calculated in section 290.06, subdivision 2c, paragraph (e).

[For text of subs 3 to 5, see M.S.1998]

History: 1999 c 243 art 2 s 13, 14

290.0675 MARRIAGE PENALTY CREDIT.

Subdivision 1. **Definitions.** (a) For purposes of this section the following terms have the meanings given.

(b) "Earned income" means earned income as defined in section 32(c)(2) of the Internal Revenue Code.

(c) "Taxable income" means net income as defined in section 290.01, subdivision 19.

(d) "Earned income of lesser-earning spouse" means the earned income of the spouse with the lesser amount of earned income as defined in paragraph (b) for the taxable year.

Subd. 2. Credit allowed. A married couple filing a joint return is allowed a credit against the tax imposed under section 290.06.

The minimum taxable income for the married couple to be eligible for the credit is \$25,000, and the minimum earned income in order for the couple to be eligible for the credit is \$14,000 for each spouse.

Subd. 3. **Credit amount.** The credit amount is as shown in the table in this subdivision, based on the couple's taxable income for the tax year and on the earned income of the lesser-earning spouse.

Earned Income of Lesser Earning Spouse	Credit For Taxable Income \$25,000–\$99,999	Credit For Taxable Income \$100,000–over
\$14,000 – \$14,999	\$9	\$0
\$15,000 – \$15,999	\$27	\$0
\$16,000 – \$16,999	\$44	\$0
\$17,000 – \$17,999	\$62	\$0
\$18,000 – \$18,999	\$79	\$0
\$19,000 – \$19,999	\$97	\$0
\$20,000 – \$20,999	\$114	\$0
\$21,000 – \$21,999	\$132	\$0
\$22,000 – \$22,999	\$149	\$0
\$23,000 – \$23,999	\$162	\$0
\$24,000 – \$24,999	\$162	\$0
\$25,000 – \$25,999	\$162	\$0
\$26,000 – \$26,999	\$162	\$0
\$27,000 – \$27,999	\$162	\$0
\$28,000 – \$28,999	\$162	\$9
\$29,000 – \$29,999	\$162	\$16
\$30,000 – \$30,999	\$162	\$24
\$31,000 – \$31,999	\$162	\$31
\$32,000 – \$32,999	\$162	\$39
\$33,000 – \$33,999	\$162	\$46
\$34,000 – \$34,999	\$162	\$54
\$35,000 – \$35,999	\$162	\$61
\$36,000 – \$36,999	\$162	\$69
\$37,000 – \$37,999	\$162	\$76
\$38,000 – \$38,999	\$162	\$84
\$39,000 – \$39,999	\$162	\$91
\$40,000 – \$40,999	\$162	\$99
\$41,000 – \$41,999	\$162	\$106
\$42,000 – \$42,999	\$162	\$114
\$43,000 – \$43,999	\$162	\$121
\$44,000 – \$44,999	\$162	\$129
\$45,000 – \$45,999	\$162	\$136
\$46,000 – \$46,999	\$162	\$144
\$47,000 – \$47,999	\$162	\$151
\$48,000 – \$48,999	\$162	\$159
\$49,000 – \$49,999	\$162	\$166
\$50,000 – \$50,999	\$162	\$174
\$51,000 – \$51,999	\$162	\$181
\$52,000 – \$52,999	\$162	\$189
\$53,000 – \$53,999	\$162	\$196
\$54,000 – \$54,999	\$162	\$204
\$55,000 – \$55,999	\$162	\$211
\$56,000 – \$56,999	\$162	\$219
\$57,000 – \$57,999	\$162	\$226
\$58,000 – \$58,999	\$162	\$234
\$59,000 – \$59,999	\$162	\$241
\$60,000 – \$60,999	\$162	\$249
\$61,000 – \$61,999	\$162	\$256
\$62,000 and over	\$162	\$261

Subd. 4. **Nonresidents and part-year residents.** For a nonresident or part-year resident, the credit must be allocated based on the percentage calculated under section 290.06, subdivision 2c, paragraph (e).

Subd. 5. **Inflation adjustment.** The dollar amount of earned income of the lesser-earning spouse, taxable income, and marriage penalty credit in the table in subdivision 3 must be adjusted for inflation. The commissioner shall adjust the amounts by the percentage determined under section 290.06, subdivision 2d, for the taxable year.

History: 1999 c 243 art 2 s 15

290.091 ALTERNATIVE MINIMUM TAX ON PREFERENCE ITEMS.

Subdivision 1. **Imposition of tax.** In addition to all other taxes imposed by this chapter a tax is imposed on individuals, estates, and trusts equal to the excess (if any) of

(a) an amount equal to 6.5 percent of alternative minimum taxable income after subtracting the exemption amount, over

(b) the regular tax for the taxable year.

Subd. 2. **Definitions.** For purposes of the tax imposed by this section, the following terms have the meanings given:

(a) "Alternative minimum taxable income" means the sum of the following for the taxable year:

(1) the taxpayer's federal alternative minimum taxable income as defined in section 55(b)(2) of the Internal Revenue Code;

(2) the taxpayer's itemized deductions allowed in computing federal alternative minimum taxable income, but excluding:

(i) the Minnesota charitable contribution deduction;

(ii) the medical expense deduction;

(iii) the casualty, theft, and disaster loss deduction;

(iv) the impairment-related work expenses of a disabled person; and

(v) holocaust victims' settlement payments to the extent allowed under section 290.01, subdivision 19b;

(3) for depletion allowances computed under section 613A(c) of the Internal Revenue Code, with respect to each property (as defined in section 614 of the Internal Revenue Code), to the extent not included in federal alternative minimum taxable income, the excess of the deduction for depletion allowable under section 611 of the Internal Revenue Code for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year);

(4) to the extent not included in federal alternative minimum taxable income, the amount of the tax preference for intangible drilling cost under section 57(a)(2) of the Internal Revenue Code determined without regard to subparagraph (E); and

(5) to the extent not included in federal alternative minimum taxable income, the amount of interest income as provided by section 290.01, subdivision 19a, clause (1);

less the sum of the amounts determined under the following:

(1) interest income as defined in section 290.01, subdivision 19b, clause (1);

(2) an overpayment of state income tax as provided by section 290.01, subdivision 19b, clause (2), to the extent included in federal alternative minimum taxable income; and

(3) the amount of investment interest paid or accrued within the taxable year on indebtedness to the extent that the amount does not exceed net investment income, as defined in section 163(d)(4) of the Internal Revenue Code. Interest does not include amounts deducted in computing federal adjusted gross income.

In the case of an estate or trust, alternative minimum taxable income must be computed as provided in section 59(c) of the Internal Revenue Code.

(b) "Investment interest" means investment interest as defined in section 163(d)(3) of the Internal Revenue Code.

(c) "Tentative minimum tax" equals 6.5 percent of alternative minimum taxable income after subtracting the exemption amount determined under subdivision 3.

(d) "Regular tax" means the tax that would be imposed under this chapter (without regard to this section and section 290.032), reduced by the sum of the nonrefundable credits allowed under this chapter.

(e) "Net minimum tax" means the minimum tax imposed by this section.

(f) "Minnesota charitable contribution deduction" means a charitable contribution deduction under section 170 of the Internal Revenue Code to or for the use of an entity described in section 290.21, subdivision 3, clauses (a) to (e). When the federal deduction for charitable contributions is limited under section 170(b) of the Internal Revenue Code, the allowable contributions in the year of contribution are deemed to be first contributions to entities described in section 290.21, subdivision 3, clauses (a) to (e).

[For text of subds 3 to 5, see M.S.1998]

Subd. 6. Credit for prior years' liability. (a) A credit is allowed against the tax imposed by this chapter on individuals, trusts, and estates equal to the minimum tax credit for the taxable year. The minimum tax credit equals the adjusted net minimum tax for taxable years beginning after December 31, 1988, reduced by the minimum tax credits allowed in a prior taxable year. The credit may not exceed the excess (if any) for the taxable year of

(1) the regular tax, over

(2) the greater of (i) the tentative alternative minimum tax, or (ii) zero.

(b) The adjusted net minimum tax for a taxable year equals the lesser of the net minimum tax or the excess (if any) of

(1) the tentative minimum tax, over

(2) 6.5 percent of the sum of

(i) adjusted gross income as defined in section 62 of the Internal Revenue Code,

(ii) interest income as defined in section 290.01, subdivision 19a, clause (1),

(iii) interest on specified private activity bonds, as defined in section 57(a)(5) of the Internal Revenue Code, to the extent not included under clause (ii),

(iv) depletion as defined in section 57(a)(1), determined without regard to the last sentence of paragraph (1), of the Internal Revenue Code, less

(v) the deductions allowed in computing alternative minimum taxable income provided in subdivision 2, paragraph (a), clause (2) of the first series of clauses and clauses (1), (2), and (3) of the second series of clauses, and

(vi) the exemption amount determined under subdivision 3.

In the case of an individual who is not a Minnesota resident for the entire year, adjusted net minimum tax must be multiplied by the fraction defined in section 290.06, subdivision 2c, paragraph (e). In the case of a trust or estate, adjusted net minimum tax must be multiplied by the fraction defined under subdivision 4, paragraph (b).

History: 1999 c 243 art 2 s 16-18

290.0921 CORPORATE ALTERNATIVE MINIMUM TAX AFTER 1989.

[For text of subds 1 to 4, see M.S.1998]

Subd. 5. Charitable contributions. (a) A deduction from alternative minimum taxable net income is allowed equal to the contributions subject to the deduction for charitable contributions under section 290.21, subdivision 3, without application of the limitation in section 290.21, subdivision 3. The deduction allowable for capital gain property is limited to the adjusted basis of the property as defined in section 290.01, subdivision 19f. The term capital gain property has the meaning given by section 170(b)(1)(C)(iv) of the Internal Revenue Code, but does not include property to which an election under section 170(b)(1)(C)(iii) of the Internal Revenue Code applies.

(b) The amount of the deduction may not exceed 15 percent of alternative minimum taxable net income less the deduction allowed under subdivision 6.

[For text of subds 6 to 8, see M.S.1998]

History: 1999 c 243 art 2 s 19

290.095 OPERATING LOSS DEDUCTION.*[For text of subds 1 to 2, see M.S.1998]*

Subd. 3. **Carryover.** (a) A net operating loss incurred in a taxable year: (i) beginning after December 31, 1986, shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of such loss; (ii) beginning before January 1, 1987, shall be a net operating loss carryover to each of the five taxable years following the taxable year of such loss subject to the provisions of Minnesota Statutes 1986, section 290.095; and (iii) beginning before January 1, 1987, shall be a net operating loss carryback to each of the three taxable years preceding the loss year subject to the provisions of Minnesota Statutes 1986, section 290.095.

(b) The entire amount of the net operating loss for any taxable year shall be carried to the earliest of the taxable years to which such loss may be carried. The portion of such loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of such loss over the sum of the taxable net income, adjusted by the modifications specified in subdivision 4, for each of the taxable years to which such loss may be carried.

(c) Where a corporation apportion its income under the provisions of section 290.191, the net operating loss deduction incurred in any taxable year shall be allowed to the extent of the apportionment ratio of the loss year.

(d) The provisions of sections 381, 382, and 384 of the Internal Revenue Code apply to carryovers in certain corporate acquisitions and special limitations on net operating loss carryovers. The limitation amount determined under section 382 shall be applied to net income, before apportionment, in each post change year to which a loss is carried.

*[For text of subds 4 to 11, see M.S.1998]***History:** 1999 c 243 art 2 s 20**290.17 GROSS INCOME, ALLOCATION TO STATE.***[For text of subds 1 and 2, see M.S.1998]*

Subd. 3. **Trade or business income; general rule.** All income of a trade or business is subject to apportionment except nonbusiness income. Income derived from carrying on a trade or business must be assigned to this state if the trade or business is conducted wholly within this state, assigned outside this state if conducted wholly without this state and apportioned between this state and other states and countries under this subdivision if conducted partly within and partly without this state. For purposes of determining whether a trade or business is carried on exclusively within or without this state:

(a) A trade or business physically located exclusively within this state is nevertheless carried on partly within and partly without this state if any of the principles set forth in section 290.191 for the allocation of sales or receipts within or without this state when applied to the taxpayer's situation result in the allocation of any sales or receipts without this state.

(b) A trade or business physically located exclusively without this state is nevertheless carried on partly within and partly without this state if any of the principles set forth in section 290.191 for the allocation of sales or receipts within or without this state when applied to the taxpayer's situation result in the allocation of any sales or receipts without this state. The jurisdiction to tax such a business under this chapter must be determined in accordance with sections 290.014 and 290.015.

Subd. 4. **Unitary business principle.** (a) If a trade or business conducted wholly within this state or partly within and partly without this state is part of a unitary business, the entire income of the unitary business is subject to apportionment pursuant to section 290.191. Notwithstanding subdivision 2, paragraph (c), none of the income of a unitary business is considered to be derived from any particular source and none may be allocated to a particular place except as provided by the applicable apportionment formula. The provisions of this subdivision do not apply to business income subject to subdivision 5, income of an insurance company determined under section 290.35, or income of an investment company determined under section 290.36.

(b) The term "unitary business" means business activities or operations which result in a flow of value between them. The term may be applied within a single legal entity or between multiple entities and without regard to whether each entity is a sole proprietorship, a corporation, a partnership or a trust.

(c) Unity is presumed whenever there is unity of ownership, operation, and use, evidenced by centralized management or executive force, centralized purchasing, advertising, accounting, or other controlled interaction, but the absence of these centralized activities will not necessarily evidence a nonunitary business. Unity is also presumed when business activities or operations are of mutual benefit, dependent upon or contributory to one another, either individually or as a group.

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

(e) Unity of ownership is not deemed to exist when a corporation is involved unless that corporation is a member of a group of two or more business entities and more than 50 percent of the voting stock of each member of the group is directly or indirectly owned by a common owner or by common owners, either corporate or noncorporate, or by one or more of the member corporations of the group. For this purpose, the term "voting stock" shall include membership interests of mutual insurance holding companies formed under section 60A.077.

(f) The net income and apportionment factors under section 290.191 or 290.20 of foreign corporations and other foreign entities which are part of a unitary business shall not be included in the net income or the apportionment factors of the unitary business. A foreign corporation or other foreign entity which is required to file a return under this chapter shall file on a separate return basis. The net income and apportionment factors under section 290.191 or 290.20 of foreign operating corporations shall not be included in the net income or the apportionment factors of the unitary business except as provided in paragraph (g).

(g) The adjusted net income of a foreign operating corporation shall be deemed to be paid as a dividend on the last day of its taxable year to each shareholder thereof, in proportion to each shareholder's ownership, with which such corporation is engaged in a unitary business. Such deemed dividend shall be treated as a dividend under section 290.21, subdivision 4.

Dividends actually paid by a foreign operating corporation to a corporate shareholder which is a member of the same unitary business as the foreign operating corporation shall be eliminated from the net income of the unitary business in preparing a combined report for the unitary business. The adjusted net income of a foreign operating corporation shall be its net income adjusted as follows:

(1) any taxes paid or accrued to a foreign country, the commonwealth of Puerto Rico, or a United States possession or political subdivision of any of the foregoing shall be a deduction; and

(2) the subtraction from federal taxable income for payments received from foreign corporations or foreign operating corporations under section 290.01, subdivision 19d, clause (11), shall not be allowed.

If a foreign operating corporation incurs a net loss, neither income nor deduction from that corporation shall be included in determining the net income of the unitary business.

(h) For purposes of determining the net income of a unitary business and the factors to be used in the apportionment of net income pursuant to section 290.191 or 290.20, there must be included only the income and apportionment factors of domestic corporations or other domestic entities other than foreign operating corporations that are determined to be part of the unitary business pursuant to this subdivision, notwithstanding that foreign corporations or other foreign entities might be included in the unitary business.

(i) Deductions for expenses, interest, or taxes otherwise allowable under this chapter that are connected with or allocable against dividends, deemed dividends described in para-

graph (g), or royalties, fees, or other like income described in section 290.01, subdivision 19d, clause (11), shall not be disallowed.

(j) Each corporation or other entity, except a sole proprietorship, that is part of a unitary business must file combined reports as the commissioner determines. On the reports, all intercompany transactions between entities included pursuant to paragraph (h) must be eliminated and the entire net income of the unitary business determined in accordance with this subdivision is apportioned among the entities by using each entity's Minnesota factors for apportionment purposes in the numerators of the apportionment formula and the total factors for apportionment purposes of all entities included pursuant to paragraph (h) in the denominators of the apportionment formula.

(k) If a corporation has been divested from a unitary business and is included in a combined report for a fractional part of the common accounting period of the combined report:

(1) its income includable in the combined report is its income incurred for that part of the year determined by proration or separate accounting; and

(2) its sales, property, and payroll included in the apportionment formula must be prorated or accounted for separately.

[For text of subd 5, see M.S.1998]

Subd. 6. Nonbusiness income. Nonbusiness income is income of the trade or business that cannot be apportioned by this state because of the United States Constitution or the constitution of the state of Minnesota and includes income that cannot constitutionally be apportioned to this state because it is derived from a capital transaction that solely serves an investment function. Nonbusiness income must be allocated under subdivision 2.

History: 1999 c 243 art 2 s 21-23

290.191 APPORTIONMENT OF NET INCOME.

[For text of subd 1, see M.S.1998]

Subd. 2. Apportionment formula of general application. Except for those trades or businesses required to use a different formula under subdivision 3 or section 290.35 or 290.36, and for those trades or businesses that receive permission to use some other method under section 290.20 or under subdivision 4, a trade or business required to apportion its net income must apportion its income to this state on the basis of the percentage obtained by taking the sum of:

(1) 75 percent of the percentage which the sales made within this state in connection with the trade or business during the tax period are of the total sales wherever made in connection with the trade or business during the tax period;

(2) 12.5 percent of the percentage which the total tangible property used by the taxpayer in this state in connection with the trade or business during the tax period is of the total tangible property, wherever located, used by the taxpayer in connection with the trade or business during the tax period; and

(3) 12.5 percent of the percentage which the taxpayer's total payrolls paid or incurred in this state or paid in respect to labor performed in this state in connection with the trade or business during the tax period are of the taxpayer's total payrolls paid or incurred in connection with the trade or business during the tax period.

Subd. 3. Apportionment formula for financial institutions. Except for an investment company required to apportion its income under section 290.36, a financial institution that is required to apportion its net income must apportion its net income to this state on the basis of the percentage obtained by taking the sum of:

(1) 75 percent of the percentage which the receipts from within this state in connection with the trade or business during the tax period are of the total receipts in connection with the trade or business during the tax period, from wherever derived;

(2) 12.5 percent of the percentage which the sum of the total tangible property used by the taxpayer in this state and the intangible property owned by the taxpayer and attributed to this state in connection with the trade or business during the tax period is of the sum of the

total tangible property, wherever located, used by the taxpayer and the intangible property owned by the taxpayer and attributed to all states in connection with the trade or business during the tax period; and

(3) 12.5 percent of the percentage which the taxpayer's total payrolls paid or incurred in this state or paid in respect to labor performed in this state in connection with the trade or business during the tax period are of the taxpayer's total payrolls paid or incurred in connection with the trade or business during the tax period.

[For text of subds 4 to 12, see M.S.1998]

History: 1999 c 243 art 2 s 24,25

NOTE: The amendments to subdivisions 2 and 3 by Laws 1999, chapter 243, article 2, sections 24 and 25, respectively, are effective for taxable years beginning after December 31, 2000. Laws 1999, chapter 243, article 2, section 32, paragraph (g).

290.431 NONGAME WILDLIFE CHECKOFF.

Every individual who files an income tax return or property tax refund claim form may designate on their original return that \$1 or more shall be added to the tax or deducted from the refund that would otherwise be payable by or to that individual and paid into an account to be established for the management of nongame wildlife. The commissioner of revenue shall, on the income tax return and the property tax refund claim form, notify filers of their right to designate that a portion of their tax or refund shall be paid into the nongame wildlife management account. The sum of the amounts so designated to be paid shall be credited to the nongame wildlife management account for use by the nongame program of the section of wildlife in the department of natural resources. All interest earned on money accrued, gifts to the program, contributions to the program, and reimbursements of expenditures in the nongame wildlife management account shall be credited to the account by the state treasurer. The commissioner of natural resources shall submit a work program for each fiscal year and semi-annual progress reports to the legislative commission on Minnesota resources in the form determined by the commission. None of the money provided in this section may be expended unless the commission has approved the work program.

The state pledges and agrees with all contributors to the nongame wildlife management account to use the funds contributed solely for the management of nongame wildlife projects and further agrees that it will not impose additional conditions or restrictions that will limit or otherwise restrict the ability of the commissioner of natural resources to use the available funds for the most efficient and effective management of nongame wildlife.

History: 1999 c 231 s 178

290.432 CORPORATE NONGAME WILDLIFE CHECKOFF.

A corporation that files an income tax return may designate on its original return that \$1 or more shall be added to the tax or deducted from the refund that would otherwise be payable by or to that corporation and paid into the nongame wildlife management account established by section 290.431 for use by the section of wildlife in the department of natural resources for its nongame wildlife program. The commissioner of revenue shall, on the corporate tax return, notify filers of their right to designate that a portion of their tax return be paid into the nongame wildlife management account for the protection of endangered natural resources. All interest earned on money accrued, gifts to the program, contributions to the program, and reimbursements of expenditures in the nongame wildlife management account shall be credited to the account by the state treasurer. The commissioner of natural resources shall submit a work program for each fiscal year to the legislative commission on Minnesota resources in the form determined by the commission. None of the money provided in this section may be spent unless the commission has approved the work program.

The state pledges and agrees with all corporate contributors to the nongame wildlife account to use the funds contributed solely for the nongame wildlife program and further agrees that it will not impose additional conditions or restrictions that will limit or otherwise restrict the ability of the commissioner of natural resources to use the available funds for the most efficient and effective management of those programs.

History: 1999 c 231 s 179

290.92 TAX WITHHELD AT SOURCE UPON WAGES; OTHER PAYMENTS.

[For text of subds 1 to 20, see M.S.1998]

Subd. 21. **Notice to reemployment compensation claimants.** At the time an individual makes a claim for reemployment compensation benefits, the commissioner of economic security must notify the individual that the individual's reemployment compensation may be subject to state income taxes depending on the individual's other income.

[For text of subds 22 to 30, see M.S.1998]

290.9725 S CORPORATION.

For purposes of this chapter, the term "S corporation" means any corporation having a valid election in effect for the taxable year under section 1362 of the Internal Revenue Code. An S corporation shall not be subject to the taxes imposed by this chapter, except:

(1) the taxes imposed under sections 290.0922, 290.92, 290.9727, 290.9728, and 290.9729; and

(2) the tax under sections 290.06, subdivision 1, and 290.0921 apply to a financial institution to which either section 585 or 593 of the Internal Revenue Code applies or that has a wholly owned subsidiary as described in section 1361(b)(3)(B) of the Internal Revenue Code which is a financial institution under section 585 or 593 of the Internal Revenue Code.

History: 1999 c 243 art 2 s 26

290.9726 CORPORATION TAXABLE INCOME TAXED TO SHAREHOLDERS.

[For text of subds 1 to 4, see M.S.1998]

Subd. 7. **Financial institutions.** An S corporation that is subject to the tax under section 290.9725, clause (2), must report to each shareholder an apportionment of the S corporation's tax obligation for the taxable year for purposes of the credit under section 290.06, subdivision 26. The apportionment to a shareholder must be made in proportion to the amount of taxable income of the S corporation apportioned to the shareholder.

History: 1999 c 243 art 2 s 27