

CHAPTER 74—S.F.No.816

An act relating to taxes on and measured by net income; operating loss deduction; amending Minnesota Statutes 1971, Section 290.095, Subdivisions 1, 2, 3 and 4.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1971, Section 290.095, Subdivision 1, is amended to read:

290.095 TAXATION; INCOME TAX; OPERATING LOSS DEDUCTION. Subdivision 1. ~~The term "net operating loss" as used in this section shall mean the excess of the deductions of the kind provided for in section 290.09, permitted to be taken in computing a taxpayer's taxable net income, as that term is defined in section 290.01, subdivision 19, over the gross income used in computing such taxable net income, with the exceptions, additions and limitations provided in subdivision 4. A net operating loss deduction shall be available under this section only to corporate taxpayers except as provided in subdivisions 6, 7 and 9 hereof.~~ **ALLOWANCE OF DEDUCTION.** (a) There shall be allowed as a deduction for the taxable year the amount of any net operating loss deduction as defined in subdivision 2, clause (b); provided, however, that the modifications specified in subdivision 4 shall be made in computing the taxable net income for the taxable year before the net operating loss deduction shall be allowed.

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

Sec. 2. Minnesota Statutes 1971, Section 290.095, Subdivision 2, is amended to read:

Subd. 2. (a) ~~Except as provided in subdivision 8, a net operating loss for any taxable year commencing on or after January 1, 1957, shall be: (1) a net operating loss carryback to each of the three taxable years preceding the taxable year of such loss, and~~

~~(2) A net operating loss carryover to each of the five taxable years following the taxable year of such loss; provided however,~~

~~(3) That a net operating loss incurred in a taxable year commencing prior to December 31, 1956, shall be computed under Minnesota Statutes, Section 290.095, but the net operating loss so determined shall be a carryover to each of the five taxable years following the taxable year of such loss, which year of loss shall not be prior to a taxable year ending in the year 1952. A net~~

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~~operating loss incurred in a taxable year commencing on or after January 1, 1956, may not be carried back to any taxable year commencing prior to December 31, 1956.~~ **DEFINED AND LIMITED.** (a) The term "net operating loss" as used in this section shall mean the excess of the deductions of the kind provided for in section 290.09, permitted to be taken in computing a taxpayer's taxable net income, as that term is defined in section 290.01, subdivision 22, over the gross income used in computing such taxable net income, with the modifications specified in subdivision 4.

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

Sec. 3. Minnesota Statutes 1971, Section 290.095, Subdivision 3, is amended to read:

Subd. 3. ~~The amount of the net operating loss allowed as a deduction in computing net income shall be the aggregate of the net operating loss carryovers and carrybacks to the taxable year reduced by the amount, if any, by which the net income (computed with the exceptions and limitations provided in subdivision 4(b) through (h)) exceeds the net income (computed without such deduction).~~ **CARRYOVER AND CARRYBACK.** (a) Except as provided in subdivision 8, a net operating loss for any taxable year commencing on or after January 1, 1957 shall be:

(1) A net operating loss carryback to each of the three taxable years preceding the taxable year of such loss, and

(2) A net operating loss carryover to each of the five taxable years following the taxable year of such loss; provided, however,

(3) That a net operating loss incurred in a taxable year commencing prior to December 31, 1956, shall be computed under Minnesota Statutes, Section 290.095, but the net operating loss so determined shall be a carryover to each of the five taxable years following the taxable year of such loss, which year of loss shall not be prior to a taxable year ending in the year 1952. A net operating loss incurred in a taxable year commencing on or after January 1, 1956, may not be carried back to any taxable year commencing prior to December 31, 1956.

(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, by reason of subdivision 3, clause (a), 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

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over the sum of the taxable net income, adjusted by the modifications specified in subdivision 4, for each of the prior taxable years to which such loss may be carried.

(c) Where a corporation does business both within and without Minnesota, and apportions its income under the provisions of section 290.19, the net operating loss deduction shall be allowed to the extent of the apportionment ratio of the loss year, or the year to which the loss is carried, whichever is smaller.

Sec. 4. Minnesota Statutes 1971, Section 290.095, Subdivision 4, is amended to read:

Subd. 4. **COMPUTATION AND MODIFICATIONS.** ~~The exceptions, additions and limitations referred to in subdivisions 1, 2, and 3 shall be as follows~~ The following modifications shall be made in computing a net operating loss in any taxable year and also in computing the taxable net income for any taxable year before a net operating loss deduction shall be allowed:

(a) Deductions otherwise allowable in computing taxable net income, but which are not attributable to the operation of a trade or business regularly carried on by the taxpayer, shall be allowed only to the extent of the amount of the gross income, not derived from such trade or business, included in computing such taxpayer's taxable net income. ~~For the purpose of this paragraph, deductions and gross income shall be computed with the exceptions, additions and limitations provided in paragraphs (4)(b), (d), (e), (f), (g), and (h).~~

(b) There shall be included in computing the gross income used in computing taxable net income the amount of the interest, excludable from gross income under section 290.08, that would be treated as assignable to this state, decreased by the amount of interest paid or accrued to purchase or carry the investments earning such interest to the extent that such interest would not have been deductible in computing the taxpayer's taxable net income.

~~(c) In the case of a taxpayer conducting any trade or business whose taxable net income is determined by an allocation of net income under section 290.19, the net operating loss shall be computed for any such business in the same manner as if the entire gross income therefrom were assignable to this state, and the entire amount of such net operating loss (computed with the exceptions, additions and limitations provided in paragraphs (b), (d), (e), (f), (g) and (h)) shall be carried over in accordance with the provisions of subdivisions 2 and 3 as a deduction in computing net income. The net operating loss referred to herein shall be separately computed in regard to such separate business. No deduction shall be allowed~~

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for or with respect to losses connected with income producing activities if the income therefrom would not be required to be either assignable to this state or included in computing the taxpayer's taxable net income.

~~(d) No taxpayer shall be allowed a net operating loss deduction for or with respect to losses connected with income producing activities if the income therefrom would not be required to be either assignable to this state or included in computing the taxpayer's taxable net income. A net operating loss deduction shall not be allowed.~~

~~(e) In computing the net operating loss for any taxable year, a net operating loss for any prior or succeeding year shall not be allowed as a deduction.~~

~~(f) (e)~~ The amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets. The deduction for long-term capital gains provided by section 290.16, subdivision 4, shall not be allowed.

~~(g) (f)~~ Renegotiation of profits for a prior taxable year under the renegotiation laws of the United States of America, including renegotiation of the profits with a subcontractor, shall not enter into the computation of ~~a net operating loss.~~

~~(h) (g)~~ Federal income and excess profits taxes shall not be allowed as a deduction ~~in computing a net operating loss.~~

Approved April 2, 1973.

CHAPTER 75—S.F.No.817

An act relating to the sales and use tax; exemptions; road building materials; amending Minnesota Statutes 1971, Section 297A.25, Subdivision 1.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1971, Section 297A.25, Subdivision 1, is amended to read:

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