

(b) In the case of operating and maintenance services, the maximum rate or amount of taxes to be levied or the maximum service charge to be imposed in any year and the maximum number of years, or a statement that the tax will be imposed for an indefinite number of years, the taxes will be levied or service charges imposed to pay for operation and maintenance services.

The resolution may provide that the maximum amount of tax to be levied or maximum service charge to be imposed in any year will increase or decrease from the maximum amount authorized in the preceding year based on an indicator of increased cost or a percentage amount established by the resolution.

#### Sec. 11. REPORT TO LEGISLATURE.

The manager of the city of New Ulm shall file a written report with the chairman of the house local and urban affairs committee and the chairman of the senate local and urban government committee on or before January 31, 1986. The report shall apprise the committee as to the activities undertaken pursuant to this act and recommend any changes that should be considered if the legislature were to enact statewide legislation for the establishment of special service districts.

#### Sec. 12. EFFECTIVE DATE.

Sections 1 to 10 are effective the day following final enactment.

Approved May 23, 1985

### CHAPTER 210 — H.F.No. 1045

*An act relating to taxation; making administrative and technical changes to income tax and property tax refund provisions; amending Minnesota Statutes 1984, sections 60A.13, subdivision 1a; 80A.09, subdivision 1; 136D.28, subdivision 4; 136D.741, subdivision 7; 136D.89, subdivision 4; 270.67, by adding a subdivision; 270.75, subdivision 4; 290.06, subdivision 3d; 290.069, subdivision 5; 290.08, subdivision 8; 290.09, subdivision 4; 290.095, subdivision 10; 290.101, subdivision 1; 290.172; 290.18, subdivision 2; 290.42; 290.50, subdivision 2; 290.523, subdivision 2; 290.92, subdivisions 5a, 6, 19, and 28; 290.97; 290.9726, subdivision 2; 290A.03, subdivisions 3 and 11; 290A.11, subdivision 2, and by adding a subdivision; 290A.19; repealing Laws 1983, chapters 213, section 2; and 247, section 122; and Laws 1984, chapter 514, article 2, section 13.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:  
**ARTICLE 1**  
**ADMINISTRATIVE**

Section 1. Minnesota Statutes 1984, section 60A.13, subdivision 1a, is amended to read:

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

Subd. 1a. In addition, on or before March 1 of each year, an insurance company, including fraternal beneficiary associations and reciprocal exchanges, doing business in Minnesota shall file with the commissioner of revenue a copy of the annual statement required by subdivision 1. A company that fails to file a copy of the statement with the commissioner is subject to the penalties in section 72A.061.

Sec. 2. Minnesota Statutes 1984, section 80A.09, subdivision 1, is amended to read:

Subdivision 1. The following securities may be registered by notification:

(a) any industrial revenue bond, ~~the interest on which is exempt from tax under chapter 290;~~ issued by the state of Minnesota or any of its political subdivisions, municipalities, governmental agencies, or instrumentalities; and

(b) any securities issued by a person organized exclusively for social, religious, educational, benevolent, fraternal, charitable, reformatory, athletic, chamber of commerce, trade, industrial development, or professional association purposes and not for pecuniary gain, and no part of the net earnings of which inures to the benefit of any private stockholder or individual; provided that no securities issued by any person offering and furnishing a burial service or funeral benefit, directly or indirectly for financial consideration, may be registered under this section.

Sec. 3. Minnesota Statutes 1984, section 136D.28, subdivision 4, is amended to read:

Subd. 4. **TAX EXEMPT SECURITIES.** When lawfully issued, the bonds of the board may be purchased by the state board of investment for any fund administered by the board, shall be deemed authorized securities within the provisions of section 50.14, and shall be deemed and treated as instruments of a public governmental agency, ~~and as such the bonds and the interest thereon shall be exempt from taxation, including taxation by or under any provisions of chapter 290, or any act amendatory thereof or supplemental thereto.~~

Sec. 4. Minnesota Statutes 1984, section 136D.741, subdivision 7, is amended to read:

Subd. 7. **TAX EXEMPT SECURITIES.** In all other respects chapter 475, shall apply and said bonds shall be deemed authorized securities within the provisions of section 50.14, and shall be deemed instruments of a public governmental agency ~~and exempt from taxation under provisions of chapter 290, or any other act similar thereto.~~

Sec. 5. Minnesota Statutes 1984, section 136D.89, subdivision 4, is amended to read:

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Subd. 4. **TAX EXEMPT SECURITIES.** When lawfully issued, the bonds of the board may be purchased by the state board of investment for any fund administered by the board, shall be deemed authorized securities within the provisions of section 50.14, and shall be deemed and treated as instruments of a public governmental agency, and as such the bonds and the interest thereon shall be exempt from taxation, including taxation by or under any provisions of chapter 290, or any act amendatory thereof or supplemental thereto.

Sec. 6. Minnesota Statutes 1984, section 270.67, is amended by adding a subdivision to read:

Subd. 3. **CONSENT AGREEMENT.** A taxpayer shall have the right at any time, whether or not an order has been issued, to sign and deliver to the commissioner a written consent to a change in tax liability which waives the requirement of any additional notice and all rights of appeal to the tax court concerning the assessment and collection of any part or all of the tax liability.

Sec. 7. Minnesota Statutes 1984, section 270.75, subdivision 4, is amended to read:

Subd. 4. There shall be added to the amount of any underpayment of estimated income tax, computed pursuant to chapter 290, an amount in lieu of interest determined at the rate of 12 percent per annum. For taxable years beginning after December 31, 1981, the amount in lieu of interest shall be determined at the rate of 20 percent per annum. For taxable years beginning after December 31, 1982, the amount in lieu of interest for that taxable year shall be the amount determined in subdivision 5 for January 1 on which begins the taxable year or precedes the beginning of the taxable year. The amount in lieu of interest does not bear interest after the due date of the return for that taxable year.

Sec. 8. Minnesota Statutes 1984, section 290.08, subdivision 8, is amended to read:

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

(b) The interest on any bond issued under the provisions of any local or special law enacted prior to January 1, 1985, is subject to tax as provided in this chapter, notwithstanding the provisions of the local or special law.

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Sec. 9. Minnesota Statutes 1984, section 290.09, subdivision 4, is amended to read:

Subd. 4. **TAXES.** Taxes paid or accrued within the taxable year, except (a) income, excise, or franchise taxes imposed by this chapter and income, excise, or franchise taxes paid to any other state or to any province or territory of Canada for which a credit is allowed under section 290.081; (b) taxes assessed against local benefits of a kind deemed in law to increase the value of the property assessed; (c) federal income taxes (including the windfall profit tax on domestic crude oil), by corporations, national and state banks; (d) income, excise, or franchise taxes based on net income paid by a corporation to another state, to a political subdivision of another state, or to the District of Columbia; and (e) 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, 1983. 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.

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.

Property taxes shall be allowed as a deduction to the same taxpayer and in the same manner as provided in section 164 of the Internal Revenue Code of 1954, as amended through December 31, 1983, notwithstanding the provisions of section 272.31.

Sec. 10. Minnesota Statutes 1984, section 290.18, subdivision 2, is amended to read:

Subd. 2. **FEDERAL INCOME TAX PAYMENTS AND REFUNDS.** The adjusted gross income shall be computed by deducting from the gross income assignable to this state under section 290.17, the deduction for allowable federal income taxes determined under the provisions of sections 290.10 (8), (9) or (10), and 290.18. For purposes of the preceding sentence, federal income tax shall include the foreign tax credit allowed under section ~~33~~ 27 of the Internal Revenue Code of 1954, as amended through December 31, ~~1983~~ 1984, reduced by the amount of any foreign tax credit allowed for taxes payable to a province or territory of Canada for which a credit is allowed under section 290.081.

This deduction shall be allowed to individuals, estates, or trusts (i) for taxable years beginning after December 31, 1980 in the taxable year to which the

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liability applies. Such liability includes the portion of self-employment tax allowed under section 290.10, clause (8). The self-employment tax must be deducted by the person who is deriving the income. When the federal tax liability is joint and several under the computation of a joint federal return of husband and wife, the federal tax liability must be split between the spouses in the same ratio that the federal adjusted gross income of that spouse bears to the total federal adjusted gross income. For purposes of the preceding sentence, "federal adjusted gross income" includes the ordinary income portion of a lump sum distribution as defined in section 402(e) of the Internal Revenue Code of 1954, as amended through December 31, 1983.

(ii) Taxes paid for a taxable year beginning before January 1, 1981 shall be allowed as follows:

(1) Those taxes paid in a taxable year beginning before January 1, 1981, shall be claimed in the year in which the payment was made.

(2) Those paid in a taxable year beginning after December 31, 1980 but before January 1, 1983 shall be divided and deducted in equal installments reflected by the yearly periods beginning with the first day of the taxable year in which the payment was made and ending December 31, 1986. For an amount which remains to be deducted in a taxable year beginning after December 31, 1982, where the federal tax liability for the year in which the payment was made is joint and several under the computation of a joint federal return of husband and wife, the remaining amounts to be deducted shall be claimed by the same spouse and in the same dollar amount as the deduction was claimed in the first taxable year beginning after December 31, 1981.

(3) Those paid in a taxable year beginning after December 31, 1982 shall be claimed in the year in which the payment was made. This amount shall be apportioned between spouses as provided in clause (i) and shall be allocated for exempt income under the provisions of section 290.10, clause (9) or (10) as though the payment was part of the federal tax liability for the year in which the payment was made.

(4) In the case of a person who was self employed during all or a portion of the taxable year, the federal income tax liability for purposes of this clause shall be increased by the self-employment tax allowed under section 290.10, clause (8). The self-employment tax shall be deducted in the year paid as provided in paragraph (1), (2), or (3). The self-employment tax must be deducted by the person who earned the income. Self-employment tax paid in a taxable year beginning after December 31, 1982 shall be allocated for exempt income as provided in paragraph (3).

(iii) If a taxpayer's federal tax liability is eventually not paid by reason of compromise, discharge, or court order, the deduction allowed pursuant to this

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subdivision shall be disallowed for the taxable year in which the liability was accrued.

(iv) In the event a federal tax liability for a taxable year commencing after December 31, 1980 is increased, decreased or modified, and such increase, decrease or modification has resulted in a change in the amount of Minnesota income tax in the year to which such increase, decrease or modification is attributable, the taxpayer's deduction under this subdivision shall be modified for such year.

(v) If the readjustments required in (iii) or (iv) are for taxes reflected in the transition rule described in (ii)(2), the readjustment shall be made equally to the remaining installments and if a reduction to such installments is required under this readjustment which exceeds the total of all remaining installments, the remaining installments will be reduced to zero and the excess included in income as a federal income tax refund.

(vi) Refunds which are not involved with any readjustments under the transition rule shall be included in income under Minnesota Statutes 1982, section 290.01, subdivision 20a, clause (6) if it is from a year beginning before January 1, 1981.

(vii) Refunds of taxes for years beginning after December 31, 1980, shall be used to adjust the deduction in the taxable year of the liability unless that year is closed by statute and no other adjustments are to be required or allowable in which case such refund shall be reportable in the year received.

Sec. 11. Minnesota Statutes 1984, section 290.50, subdivision 2, is amended to read:

Subd. 2. **DENIAL OF CLAIM, COURT PROCEEDINGS.** If the claim is denied in whole or in part, the commissioner shall mail an order of denial to the taxpayer in the manner prescribed in section 290.46. An appeal from this order may be taken to the Minnesota tax court in the manner prescribed in section 271.06, or the taxpayer may commence an action against the commissioner to recover the denied overpayment. Such action may be brought in the district court of the district in which lies the county of his residence or principal place of business or if an estate or trust, of the principal place of its administration, or in the district court for Ramsey county. The action in the district court shall be commenced within 18 months following the mailing of the order of denial to the taxpayer. If a claim for refund is filed by a taxpayer and no order of denial is issued within six months of the filing, the taxpayer may commence an action in the district court as in the case of a denial, but the action shall be commenced within ~~two~~ four years of the date that the claim for refund was filed; provided that the commissioner and the taxpayer may agree to extend this period beyond four years.

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Sec. 12. Minnesota Statutes 1984, section 290.92, subdivision 5a, is amended to read:

Subd. 5a. **VERIFICATION OF WITHHOLDING EXEMPTIONS; APPEAL.** (1) An employer shall submit to the commissioner a copy of any withholding exemption certificate received from an employee on which the employee claims any of the following:

(a) a total number of withholding exemptions in excess of 14 or a number prescribed by the commissioner, or

(b) a status that would exempt the employee from Minnesota withholding, including where the employee is a nonresident exempt from withholding under subdivision 4a, clause (3), except where the employer reasonably expects, at the time that the certificate is received, that the employee's wages under subdivision 1 from the employer will not then usually exceed \$200 per week, or

(c) any number of withholding exemptions which the employer has reason to believe is in excess of the number to which the employee is entitled.

(2) Copies of exemption certificates required to be submitted by clause (1) shall be submitted to the commissioner within 30 days after receipt by the employer unless the employer is also required by federal law to submit copies to the Internal Revenue Service, in which case the employer may elect to submit the copies to the commissioner at the same time that he is required to submit them to the Internal Revenue Service.

(3) An employer who submits a copy of a withholding exemption certificate in accordance with clause (1) shall honor the certificate until notified by the commissioner that the certificate is invalid. The commissioner shall mail a copy of any such notice to the employee. Upon notification that a particular certificate is invalid, the employer shall not honor that certificate or any subsequent certificate unless instructed to do so by the commissioner. The employer shall allow the employee the number of exemptions and compute the withholding tax as instructed by the commissioner in accordance with clause (4).

(4) The commissioner may require an employee to verify that he or she is entitled to the number of exemptions or to the exempt status claimed on the withholding exemption certificate or, that he or she is a nonresident. The employee shall be allowed at least 30 days to submit the verification, after which time the commissioner shall, on the basis of the best information available to him, determine the employee's status and allow the employee the maximum number of withholding exemptions allowable under this chapter. The commissioner shall mail a notice of this determination to the employee at the address listed on the exemption certificate in question or to the last known address of the employee. Notwithstanding the provisions of section 290.61, the commissioner may notify the employer of this determination and instruct the employer to withhold tax in accordance with the determination.

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However, where the commissioner has reasonable grounds for believing that the employee is about to remove himself from this state or that the collection of any tax due under this chapter will be jeopardized by delay, the commissioner may immediately notify the employee and the employer, notwithstanding section 290.61, that the certificate is invalid, and the employer must not honor that certificate or any subsequent certificate unless instructed to do so by the commissioner. The employer shall allow the employee the number of exemptions and compute the withholding tax as instructed by the commissioner.

(5) The commissioner's determination under clause (4) shall be appealable to tax court in accordance with section 271.06, and shall remain in effect for withholding tax purposes pending disposition of any appeal.

Sec. 13. Minnesota Statutes 1984, section 290.92, subdivision 6, is amended to read:

Subd. 6. **RETURNS, DEPOSITS.** (1) (a) **RETURNS.** Every employer who is required to deduct and withhold tax under subdivision 2a or 3 shall file a return with the commissioner for each quarterly period, on or before the last day of the month following the close of each quarterly period, unless otherwise prescribed by the commissioner. Any tax required to be deducted and withheld during the quarterly period shall be paid with the return unless an earlier time for payment is provided. However, any return may be filed on or before the tenth day of the second calendar month following the period if the return shows timely deposits in full payment of the taxes due for that period. For the purpose of the preceding sentence, a deposit which is not required to be made within the return period, may be made on or before the last day of the first calendar month following the close of the period. Every employer, in preparing a quarterly return, shall take credit for monthly deposits previously made in accordance with this subdivision.

The return shall be in the form and contain the information prescribed by the commissioner. The commissioner may grant a reasonable extension of time for filing the return and paying the tax, but no extension shall be granted for more than six months.

(b) **ADVANCE DEPOSITS REQUIRED IN CERTAIN CASES.** (i) Unless clause (ii) is applicable, if during any calendar month, other than the last month of the calendar quarter, the aggregate amount of the tax withheld during that quarter under subdivision 2a or 3 exceeds \$500, the employer shall deposit the aggregate amount with the commissioner within 15 days after the close of the calendar month. (ii) If at the close of any eighth-monthly period the aggregate amount of undeposited taxes is \$3,000 or more, the employer shall deposit the undeposited taxes with the commissioner within three banking days after the close of the eighth-monthly period. For purposes of this subparagraph, the term "eighth-monthly period" means the first three days of a calendar month, the fourth day through the seventh day of a calendar month, the eighth day through

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the 11th day of a calendar month, the 12th day through the 15th day of a calendar month, the 16th day through the 19th day of a calendar month, the 20th day through the 22nd day of a calendar month, the 23rd day through the 25th day of a calendar month, or the portion of a calendar month following the 25th day of the month.

(c) **OTHER METHODS.** The commissioner may by rule prescribe other return periods or deposit requirements. In prescribing the reporting period, the commissioner may classify employers according to the amount of their tax liability and may adopt an appropriate reporting period for each class which he deems to be consistent with efficient tax collection. In no event shall the duration of the reporting period be more than one year, ~~provided that for employers with annual withholding tax liabilities of less than \$1,200 the reporting period shall be no more frequent than quarterly.~~

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

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

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

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

(6) Any assessment of tax under this subdivision shall be made within 3-1/2 years after the due date of the return required by paragraph (1), or the date the return was filed, whichever is later. In the case of a false or fraudulent return or failure to file a return, the tax may be assessed at any time. The tax

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may be assessed within six and one-half years after the due date of the return or the date the return was filed, whichever is later, where the employer omitted withholding tax from the return which is properly includable therein and the omitted withholding tax is in excess of 25 percent of the amount of withholding tax stated on the return.

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

(b) If the employer, in violation of this section, fails to deduct and withhold the tax under this section, and thereafter the taxes against which the tax may be credited are paid, the tax required to be deducted and withheld shall not be collected from the employer; but this does not relieve the employer from liability for any penalties and interest otherwise applicable for failure to deduct and withhold.

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

(8a) The period of time during which a tax must be assessed or collection proceedings commenced under this subdivision shall be suspended during the

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period from the date of filing of a petition in bankruptcy until 30 days after the commissioner of revenue receives notice that the bankruptcy proceedings have been closed or dismissed or the automatic stay has been terminated or has expired.

The suspension of the statute of limitations under this subdivision shall apply to the person against whom the petition in bankruptcy is filed and all other persons who may also be wholly or partially liable for the tax under this chapter.

(9) Either party to an action for the recovery of any tax, interest or penalties under this subdivision may appeal the judgment as in other civil cases.

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

Sec. 14. Minnesota Statutes 1984, section 290.92, subdivision 19, is amended to read:

Subd. 19. **EMPLOYEES INCURRING NO INCOME TAX LIABILITY.** Notwithstanding any other provision of this section, except the provisions of subdivision 5a, an employer shall not be required to deduct and withhold any tax under this chapter upon a payment of wages to an employee if there is in effect with respect to such payment a withholding exemption certificate, in such form and containing such other information as the commissioner may prescribe, furnished to the employer by the employee certifying that the employee

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

(b) anticipates that he will incur no liability for income tax imposed under this chapter for his current taxable year. When an employee anticipates no liability for the current taxable year because of the provision contained in section 290.06, subdivision 3d, no withholding shall be required, clause (a) notwithstanding, except for the provisions of subdivision 5a. The commissioner shall by ~~regulations~~ rule provide for the coordination of the provisions of this subdivision with the provisions of subdivision 7.

Sec. 15. Minnesota Statutes 1984, section 290.92, subdivision 28, is amended to read:

Subd. 28. Effective with payments made after April 1, 1988, any holder of a ~~class A or B~~ license issued by the Minnesota racing commission who makes a payment for personal or professional services to a holder of a class C license issued by the commission, except an amount paid as a purse, shall deduct from the payment and withhold seven percent of the amount as Minnesota withholding tax when the amount paid to that individual by the same person during the calendar year exceeds \$600. For purposes of the provisions of this section, a payment to any person which is subject to withholding under this subdivision must be treated as if the payment was a wage paid by an employer to an

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employee. Every individual who is to receive a payment which is subject to withholding under this subdivision shall furnish the license holder with a statement, made under the penalties of perjury, containing the name, address, and social security account number of the person receiving the payment. No withholding is required if the individual presents a signed certificate from his employer which states that the individual is an employee of that employer. A nonresident individual who holds a class C license must be treated as an athlete for purposes of applying the provisions of sections 290.17, subdivision 2(1)(b)(ii) and 290.92, subdivision 4a.

Sec. 16. Minnesota Statutes 1984, section 290.97, is amended to read:

**290.97 CONTRACTS WITH STATE; WITHHOLDING.**

No department of the state of Minnesota, nor any political or governmental subdivision of the state shall make final settlement with any contractor under a contract requiring the employment of employees for wages by said contractor and by subcontractors whose business location is outside of the state of Minnesota, until satisfactory showing is made that said contractor or out-of-state subcontractor has complied with the provisions of section 290.92. A certificate by the commissioner of revenue shall satisfy this requirement with respect to the contractor or out-of-state subcontractor. If, at the time of final settlement, there are any unpaid withholding taxes, penalties, or interest arising from the government contract, the department shall issue a certification to the contractor or out-of-state subcontractor upon payment, with certified funds, of any unpaid withholding taxes, penalties, and interest. Payment is received by the department upon delivery of the certified funds to the central office located in St. Paul, or any district or subdistrict office located throughout the state.

Sec. 17. Minnesota Statutes 1984, section 290A.03, subdivision 11, is amended to read:

Subd. 11. **RENT CONSTITUTING PROPERTY TAXES.** "Rent constituting property taxes" means the amount of gross rent actually paid in cash, or its equivalent, which is attributable (a) to the property tax paid on the unit or (b) to the amount paid in lieu of property taxes, in any calendar year by a claimant for the right of occupancy of his Minnesota homestead in the calendar year, and which rent constitutes the basis, in the succeeding calendar year of a claim for relief under this chapter by the claimant. The amount of rent attributable to property taxes paid or payments in lieu made on the unit shall be determined by multiplying the net tax on the property where the unit is located by a fraction, the numerator of which is the gross rent paid by the claimant for the calendar year for the unit and the denominator of which is the gross rent paid for the calendar year for the property in which the unit is located. In no case may the rent constituting property taxes exceed 50 percent of the gross rent paid by the claimant during that calendar year. In the case of a claimant who resides in a unit for which (1) a rent subsidy is paid pursuant to section 8 of the United

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States Housing Act of 1937, as amended, or under another state or federal program providing rent supplements or reduced rent for low and moderate income families to, or for, the claimant based on the income of the claimant or the claimant's family, or (2) a subsidy is paid to a public housing authority that owns or operates the claimant's rental unit, pursuant to United States Code, title 42, section 1437c, 20 percent of gross rent actually paid in cash or its equivalent shall be the claimant's "rent constituting property taxes paid." For purposes of this subdivision, "rent subsidy" does not include any housing assistance received under aid to families with dependent children, general assistance, Minnesota supplemental assistance, supplemental security income, or similar income maintenance programs.

Sec. 18. Minnesota Statutes 1984, section 290A.11, subdivision 2, is amended to read:

Subd. 2. **FRAUDULENT CLAIM; PENALTY.** In any case in which it is determined that the claim is or was excessive and was filed with fraudulent intent, the claim shall be disallowed in full. If the claim has been paid, the amount disallowed shall be recovered by assessment and collection in the manner provided in chapter 290 for collection of income tax. The assessment shall bear interest from the date the claim is paid by the state until the date of repayment by the claimant, at the rate specified in section 270.75.

Any person who knowingly prepares, assists in preparing, or files a false or excessive claim or claims with the intent of defrauding the state of Minnesota, is guilty of an offense and may be sentenced as follows:

(1) to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000; or both, if the amount of the claim or claims, aggregated within any 12-month period, exceeds \$2,500; or

(2) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000; or both, if the amount of the claim or claims, aggregated within any 12-month period, is more than \$300, but not more than \$2,500; or

(3) to imprisonment for not more than one year or to payment of a fine of not more than \$3,000; or both, if the amount of the claim or claims does not exceed \$300.

Notwithstanding the provisions of section 628.26, or any other provisions of the criminal laws of this state, an indictment may be found and filed upon any criminal offense specified in this subdivision, in the proper court within six years after the commission of the offense.

Sec. 19. Minnesota Statutes 1984, section 290A.11, is amended by adding a subdivision to read:

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Subd. 5. ASSIGNMENT OF REFUND. The commissioner shall not honor an assignment by the claimant to another person or entity of a property tax refund prior to the refund check being presented to the claimant.

Sec. 20. Minnesota Statutes 1984, section 290A.19, is amended to read:

**290A.19 OWNER OR MANAGING AGENT TO FURNISH RENT CERTIFICATE; PENALTY.**

(a) The owner or managing agent of any property for which rent is paid for occupancy as a homestead shall furnish a certificate of rent constituting property tax to each person who is a renter on December 31, in the form prescribed by the commissioner. If the renter moves prior to December 31, the owner or managing agent shall at his option either provide the certificate to the renter at the time he moves, or mail the certificate to the forwarding address if an address has been provided by the renter. The certificate shall be made available to the renter not later than January 31 of the year following the year in which the rent was paid. Any owner or managing agent who willfully fails to furnish a certificate as provided herein shall be liable to the commissioner for a penalty of \$20 for each act or failure to act. The penalty shall be assessed and collected in the manner provided in chapter 290 for the assessment and collection of income tax.

(b) If the owner or managing agent elects to provide the renter with the certificate at the time he moves, rather than after December 31, the amount of rent constituting property taxes shall be computed as follows:

(i) The net tax shall be reduced by 1/12th for each month remaining in the calendar year.

(ii) In calculating the denominator of the fraction pursuant to section 290A.03, subdivision 11, the gross rent paid through the last month of claimant's occupancy shall be substituted for "the gross rent paid for the calendar year for the property in which the unit is located."

(c) The certificate of rent constituting property taxes shall include the address of the property, including the county, and the property tax parcel identification number and any additional information which the commissioner determines is appropriate.

(d) If the owner or managing agent fails to provide the renter with a certificate of rent constituting property taxes, the commissioner shall allocate the net tax on the building to the unit on a square footage basis or other appropriate basis as the commissioner determines. The renter shall supply the commissioner with a statement from the county treasurer which gives the amount of property tax on the parcel, the address and property tax parcel identification number of the property, and the number of units in the building.

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

(e) Effective January 1, 1986 Notwithstanding the provisions of section 290A.17, the commissioner shall provide to the commissioner of energy and economic development a copy of all certificates of rent constituting property taxes that have been filed with the department. No certificates of rent constituting property taxes for any county need be given to the commissioner of energy and economic development by the commissioner if a book has been published detailing the property taxes for each parcel in the county for the given year. The copies of the certificates shall be provided by June 1 of each year February 1 of the year following the year in which the property tax refund return was filed.

**Sec. 21. REPEALER.**

Laws 1983, chapter 213, section 2, is repealed.

**Sec. 22. EFFECTIVE DATE.**

Sections 2 to 5, 8, and 21 are effective for income earned after June 30, 1985. Sections 1, 6, 12 to 16, 18, and 19 are effective the day after final enactment. Sections 7 and 10 are effective for taxable years beginning after December 31, 1983. Section 9 is effective the day after final enactment, and applies to all taxable years of a corporation for which the time for additional assessment or refund has not yet expired except that the amendment in clause (d) is effective for taxable years beginning after December 31, 1982. Section 11 is effective for any claim for refund which was filed with the department after January 1, 1983. Section 17 is effective for claims based on rent paid in 1985 and thereafter. Section 20 is effective January 1, 1986.

**ARTICLE 2  
TECHNICAL**

Section 1. Minnesota Statutes 1984, section 290.06, subdivision 3d, is amended to read:

Subd. 3d. **LOW INCOME CREDIT.** A claimant as defined in section 290.012 must pay the tax computed under subdivision 2c as reduced by this credit and by any nonrefundable credits provided in this chapter which may not be carried back or carried over to other taxable years.

(1) The credit provided in this subdivision equals the tax liability for the following claimants:

- (a) An unmarried claimant with an income of \$5,800 or less;
- (b) A claimant with one dependent, with an income of \$7,400 or less;
- (c) A claimant with two dependents, with an income of \$8,800 or less;
- (d) A claimant with three dependents, with an income of \$10,000 or less;

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(e) A claimant with four dependents, with an income of \$10,500 or less; and

(f) A claimant with five or more dependents, with an income of \$11,000 or less.

(2) In the case of a claimant with an income in excess of that set forth in the appropriate category of clause (1), he may pay a tax equal to 15 percent of that portion of his income that is in excess of the amount set forth in the appropriate category of clause (1), or his tax obligation as it would have been in the absence of section 290.012 and this subdivision, whichever is less.

(3) The total income for the entire calendar year of the claimant and his spouse, if any, including income not assignable to this state, shall be the figure employed for the purposes of this subdivision. No individual dependent upon and receiving his chief support from any other individual may be a claimant under section 290.012 and this subdivision. The commissioner of revenue shall prescribe the additional forms or alterations in existing forms as necessary to comply with the provisions of section 290.012 and this subdivision. All claimants shall submit their returns on these forms.

Sec. 2. Minnesota Statutes 1984, section 290.069, subdivision 5, is amended to read:

Subd. 5. **CARRYOVER; OTHER CONDITIONS.** If the amount of the allowable credit pursuant to subdivision 2 or 3 for the taxable year exceeds the taxpayer's tax liability or if the limitation contained in subdivision 4, clause (a)(3) applies, the unused credit for the taxable year is a carryover to each of the succeeding five taxable years. The entire amount of the unused credit must be carried to the earliest of the taxable years to which it may be carried. "Tax liability" means the tax imposed by this chapter reduced by the sum of the nonrefundable credits allowed under this chapter ~~except the credit allowed by section 290.068~~ any nonrefundable credits which may be carried back to a prior tax year. The credits allowed by subdivisions 2 and 3 shall only be available to corporations and banks whose tax is computed pursuant to section 290.06, subdivision 1.

The maximum limitations on the amount of credits pursuant to subdivisions 2, 3, and 4 shall be determined by aggregating together the credits of all the corporations in the controlled group of corporations with the taxpayer. In order to facilitate compliance with and enforcement of this provision the commissioner may require the taxpayer to claim the credit on a combined report of the unitary business or to file a copy of the consolidated federal return with the state return or both.

Sec. 3. Minnesota Statutes 1984, section 290.095, subdivision 10, is amended to read:

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

Subd. 10. **PRODUCT LIABILITY LOSS CARRYBACK.** In the case of a taxpayer which has a product liability loss, as defined in section 172(4) (j) of the Internal Revenue Code of 1954 as amended through December 31, 1983, for a taxable year beginning after September 30, 1979 (referred to as "loss year"), the product liability loss shall be a net operating loss carryback to each of the ten taxable years preceding the loss year.

Sec. 4. Minnesota Statutes 1984, section 290.101, subdivision 1, is amended to read:

Subdivision 1. No taxpayer who receives or has received rental income from a substandard building located in this state is allowed a deduction for interest and depreciation authorized under sections ~~section~~ section 290.089, 290.09<sub>2</sub>, or 290.01, subdivisions 20 to 20f which relate to that substandard building other than buildings used for agricultural purposes or owner-occupied buildings with four dwelling units or less.

Sec. 5. Minnesota Statutes 1984, section 290.172, is amended to read:  
**290.172 COMMISSIONER OF REVENUE.**

The commissioner of revenue shall represent the state of Minnesota on the multistate tax commission. The commissioner may be represented on the commission by an alternate designated by him. The alternate shall be a ~~deputy or assistant commissioner in an employee of~~ deputy or assistant commissioner in an employee of the department of revenue.

Sec. 6. Minnesota Statutes 1984, section 290.42, is amended to read:  
**290.42 FILING RETURNS, DATE.**

The returns required to be made under sections 290.37 to 290.39 and 290.41, other than those under section 290.41, subdivisions 3 and 4, which shall be made within 30 days after demand therefor by the commissioner, shall be filed at the following times:

(1) Returns made on the basis of the calendar year shall be filed on the fifteenth day of April, following the close of the calendar year, except that returns of corporations shall be filed on the fifteenth day of March following the close of the calendar year;

(2) Returns made on the basis of the fiscal year shall be filed on the fifteenth day of the fourth month following the close of such fiscal year, except that returns of corporations shall be filed on the fifteenth day of the third month following the close of the fiscal year;

(3) Returns made for a fractional part of a year as an incident to a change from one taxable year to another shall be filed on the fifteenth day of the fourth month following the close of the period for which made, except that such returns of corporations shall be filed on the fifteenth day of the third month following the close of the period for which made;

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(4) Other returns for a fractional part of a year shall be filed on the fifteenth day of the fourth month following the end of the month in which falls the last day of the period for which the return is made, except that such returns of corporations shall be filed on the fifteenth day of the third month following the end of the month in which falls the last day of the period for which the return is made:

In the case of a final return of a decedent for a fractional part of a year, such return shall be filed on the fifteenth day of the fourth month following the close of the twelve-month period which began with the first day of such fractional part of a year.

(4a) In the case of the return of a cooperative association such returns shall be filed on or before the fifteenth day of the ninth month following the close of the taxable year.

(5) If the due date for any return required under chapter 290 falls upon:

A Saturday, Sunday, or a legal holiday such return filed by the next succeeding day which is not a Saturday, Sunday, or legal holiday shall be considered to be timely filed. The term "legal holiday" means any day made a holiday in Minnesota by section 645.44, subdivision 5 or by the laws of the United States.

(6) In case of sickness, absence, or other disability, or when, in his judgment, good cause exists, the commissioner may extend the time for filing these returns for not more than six months, except that where the failure is due to absence outside the United States he may extend the period as provided in section 6081 of the Internal Revenue Code of 1954, as amended through December 31, 1983. He may require each taxpayer in any of such cases to file a tentative return at the time fixed for filing the regularly required return from him, and to pay a tax on the basis of such tentative return at the times required for the payment of taxes on the basis of the regularly required return from such taxpayer. ~~The commissioner may exercise his power under this clause by rule only.~~

(7) Every person making a return under section 290.41 (except subdivisions 3 and 4) shall furnish to each person whose name is set forth in the return a written statement showing

- (A) the name and address of the person making the return, and
- (B) the aggregate amount of payments to the person shown on the return.

This written statement shall be furnished to the person on or before January 31 of the year following the calendar year for which the return was made. A duplicate of this written statement shall be furnished to the commissioner on or before February 28 of the year following the calendar year for which the return was made.

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

Sec. 7. Minnesota Statutes 1984, section 290.523, subdivision 2, is amended to read:

Subd. 2. **UNDERSTATEMENT OF LIABILITY DEFINED.** For purposes of this section, the term "understatement of liability" means any understatement of the net amount payable with respect to any tax imposed by this chapter, or any overstatement of the net amount creditable or refundable with respect to any such tax. The determination of whether or not there is an understatement of liability shall be made without regard to any administrative or judicial action involving the taxpayer.

For purposes of this subdivision, the amount determined for underpayment of estimated tax under section 290.93, subdivision 10, or 290.934, subdivision 4, is not considered an understatement of liability.

Sec. 8. Minnesota Statutes 1984, section 290.9726, subdivision 2, is amended to read:

Subd. 2. **CHARACTER OF ITEMS DISTRIBUTED OR CONSIDERED DISTRIBUTED.** The character of any item of income, gain, loss, or deduction included in shareholder's income, for the period of time that the shareholder is not a resident of Minnesota, shall be assignable as provided in section 290.17, subdivision 2, as if the item were realized directly from the source from which it was realized by the corporation or incurred in the same manner as incurred by the corporation.

Sec. 9. Minnesota Statutes 1984, section 290A.03, subdivision 3, is amended to read:

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

(a) federal adjusted gross income as defined in the Internal Revenue Code of 1954 as amended through December 31, 1983; 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 20a, clauses (1), (2), (4), (9), (10), and (14);

(ii) all nontaxable income;

(iii) recognized net long term capital gains;

(iv) dividends and interest excluded from federal adjusted gross income under sections 116 or 128 of the Internal Revenue Code of 1954;

(v) cash public assistance and relief;

(vi) any pension or annuity (including railroad retirement benefits, all payments received under the federal social security act, supplemental security

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income, and veterans benefits), which was not exclusively funded by the claimant or spouse, or which was funded exclusively by the claimant or spouse and which funding payments were excluded from federal adjusted gross income in the years when the payments were made;

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

(viii) workers' compensation;

(ix) unemployment benefits;

(x) nontaxable strike benefits; and

(xi) the gross amounts of payments received in the nature of disability income or sick pay as a result of accident, sickness, or other disability, whether funded through insurance or otherwise; and

(xii) the ordinary income portion of a lump sum distribution under section 402(e) of the Internal Revenue Code of 1954.

In the case of an individual who files an income tax return on a fiscal year basis, the term "federal adjusted gross income" shall mean federal adjusted gross income reflected in the fiscal year ending in the calendar year. Federal adjusted gross income shall not be reduced by the amount of a net operating loss carryback.

(2) "Income" does not include

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

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

(c) surplus food or other relief in kind supplied by a governmental agency;

(d) relief granted under this chapter;

(e) child support payments received under a temporary or final decree of dissolution or legal separation; or

(f) federal adjusted gross income shall be reduced by wage or salary expense which is not allowed as a deduction under provisions of section 280C of the Internal Revenue Code of 1954.

#### Sec. 10. **REPEALER.**

Laws 1983, chapter 247, section 122, and Laws 1984, chapter 514, article 2, section 13, are repealed.

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

Sec. 11. **EFFECTIVE DATE.**

Sections 1, 3, 4, 7, and 8 are effective for taxable years beginning after December 31, 1983. Sections 2 and 10 are effective for taxable years beginning after December 31, 1984. Section 5 is effective beginning on June 15, 1983. Section 6 is effective for taxable years beginning after December 31, 1982. Section 9 is effective for claims based on rent paid in 1985 and thereafter, and for property taxes payable in 1986 and thereafter.

Approved May 23, 1985

**CHAPTER 211 — H.F.No. 755**

*An act relating to horseracing; authorizing the legislative auditor to perform certain audits; requiring the commission to adopt certain medication rules; authorizing the attorney general to prosecute certain felonies; amending Minnesota Statutes 1984, sections 240.02, by adding a subdivision; 240.24; and 240.26, by adding a subdivision.*

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

Section 1. Minnesota Statutes 1984, section 240.02, is amended by adding a subdivision to read:

Subd. 7. AUDIT. The legislative auditor shall audit or the commission may contract for an audit of the books and accounts of the commission annually or as often as the legislative auditor's funds and personnel permit. The commission shall pay the total cost of the audit. All collections received for the audits must be deposited in the general fund.

Sec. 2. Minnesota Statutes 1984, section 240.24, is amended to read:

**240.24 MEDICATION.**

Subdivision 1. PROHIBITION. The commission shall make and enforce rules governing medication and medical testing for horses running at licensed racetracks. The rules must provide that no medication, as the commission defines that term by rule, may be administered to a horse within 48 hours of a race it runs at a licensed racetrack. The commission shall by rule establish the qualifications for laboratories used by it as testing laboratories to enforce its rules under this section.

Subd. 2. EXCEPTION. Notwithstanding subdivision 1, the commission by rule shall allow the use of: (1) topical external applications that do not contain anesthetics or steroids; (2) food additives; (3) Furosemide or other pulmonary hemostatic agents if the agents are administered under the visual supervision of the veterinarian or assistant veterinarian employed by the commis-

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