CHAPTER 8008
DEPARTMENT OF REVENUE
INCOME TAX DIVISION
EXEMPTIONS FROM GROSS INCOME

8008.0100 GIFTS AND INHERITANCES.

Subpart 1. **General rule.** Property received as a gift, or received under a will or under statutes of descent and distribution, is not includible in gross income, although the income from such property is includible in gross income. An amount of principal paid under a marriage settlement is a gift. However, see Minnesota Statutes, section 290.072 and the rules thereunder for rules relating to alimony or allowances paid upon divorce or separation. Minnesota Statutes, section 290.08, subdivision 2 does not apply to prizes and awards (see Minnesota Statutes, sections 290.0801 and 2008.01) nor to scholarships and fellowship grants (see Minnesota Statutes, section 290.08, subdivision 18 and the rules thereunder).

Subp. 2. **Income from gifts and inheritances.** The income from any property received as a gift or under a will or statute of descent and distribution shall not be excluded from gross income under subpart 1.

Subp. 3. **Gifts and inheritances of income.** If the gift, bequest, devise, or inheritance is of income from property, it shall not be excluded from gross income under subpart 1. Minnesota Statutes, section 290.08, subdivision 2 provides a special rule for the treatment of certain gifts, bequests, devises, or inheritances which by their terms are to be paid, credited, or distributed at intervals. Except as provided in subpart 4 and Minnesota Statutes, section 290.23, subdivision 10, clause (1)(a), to the extent any such gift, bequest, devise, or inheritance is paid, credited, or to be distributed out of income from property, it shall be considered a gift, bequest, devise, or inheritance of income from property. Minnesota Statutes, section 290.08, subdivision 2 provides the same treatment for amounts of income from property which is paid, credited, or to be distributed under a gift or bequest whether the gift or bequest is in terms of a right to payments at intervals (regardless of income) or is in terms of a right to income. To the extent the amounts in either case are paid, credited, or to be distributed at intervals out of income, they are not to be excluded under Minnesota Statutes, section 290.08, subdivision 2 from the taxpayer's gross income.

Subp. 4. **Effect of Minnesota Statutes, section 290.23.** Any amount required to be included in the gross income of a beneficiary under Minnesota Statutes, section 290.23, subdivisions 7, 9, and 14 shall be treated for purposes of this section as a gift, bequest, devise, or inheritance of income from property. On the other hand, any amount excluded from the gross income of a beneficiary under Minnesota Statutes, section 290.23, subdivision 10, clause (1)(a) shall be treated for purposes of this section as property acquired by gift, bequest, devise, or inheritance.

Subp. 5. **Income taxes to grantor or assignor.** Minnesota Statutes, section 290.08, subdivision 2 is not intended to tax a donee upon the same income which is taxed to the grantor of a trust or assignor of income under Minnesota Statutes, section 290.01, subdivision 20, 290.25, 290.26, 290.27, or 290.28.

Statutory Authority: *MS s 290.52*

NOTE: Regulation 2008.01 has been repealed.

8008.0200 INCOME FROM THE UNITED STATES.

Salaries, wages, fees, commissions, or compensation received after December 31, 1938, from the United States, its possessions, its agencies, or its instrumentalities are includible in gross income.

For taxable years beginning after December 31, 1940, salaries, wages, fees, commissions, or other compensation received from the United States, its possessions, its agencies, or its instrumentalities by federal employees residing in federal areas are includible in gross income.

Interest upon obligations of the United States and its possessions is generally not includible in the gross income of the recipient. However, in the case of a corporation which is taxable under the franchise tax provision of Minnesota Statutes, section 290.02, such interest must be included in gross income. In other words, every corporation taxable under Minnesota Statutes, section 290.02 must include in its gross income interest received from the United States which would otherwise be exempt from tax under Minnesota Statutes, section 290.08, subdivision 8.

Gains derived from the sale of United States bonds and other tax exempt securities are taxable.

With respect to obligations of the United States, issued at a discount and redeemable for fixed amounts increasing at stated intervals, see Minnesota Statutes, section 290.071, subdivision 1, and 2007.1 (1).

Dividends received from national banks constitute taxable income to all taxpayers after January 1, 1940.

Statutory Authority: *MS s 290.52*

NOTE: Regulation 2007.1 (1) has been repealed.

8008.0300 PATRONAGE DIVIDENDS.

The amount of patronage dividends distributed by cooperative associations is not includible in the gross income of such associations. Such dividends, however, are includible in the gross income of the recipient.

The term "patronage dividends" includes patronage rebates, refunds, and credits. See part 8001.0600.

Statutory Authority: *MS s 290.52*

8008.0400 IMPROVEMENTS BY LESSEE ON LESSOR'S PROPERTY.

For taxable years beginning after December 31, 1942, income derived by a lessor of real property upon the termination, through forfeiture or otherwise, of the lease of such property and attributable to buildings erected or other improvements made by the lessee upon the leased property is excluded from gross income. However, where the facts disclose that such buildings or improvements represent in whole or in part a liquidation in kind of lease rentals, the exclusion from gross income shall not apply to the extent that such buildings or improvements represent such liquidation. The exclusion applies only with respect to the income realized by the lessor upon the termination of the lease and has no application to income, if any, in the form of rent which may be derived by a lessor during the period of the lease and attributable to buildings erected or other improvements made by the lessee. It has no application to income which may be realized by the lessor upon the termination of the lease but not attributable to the value of such buildings or improvements. Neither does it apply to income derived by the lessor subsequent to the termination of the lease incident to the ownership of such buildings and improvements.

The provisions of this rule may be illustrated by the following example: The A corporation leased in 1936 for a period of 50 years unimproved real property to the B corporation under a lease providing that the B corporation erect on the leased premises an office building costing $500,000, in addition to paying the A corporation a lease rental of $10,000 per annum beginning on the date of completion of the improvements, the sum of $100,000 being placed in escrow for the payment of the rental. The building was completed on January 1, 1938. The lease provided that all improvements made by the lessee on the leased property would become the absolute property of A corporation on the termination of the lease by forfeiture or otherwise and that the lessor would become entitled on such termination to the remainder of the sum, if any, remaining in the escrow fund. The B corporation forfeited its lease on January 1, 1943, when the improvements had a value of $100,000. Under the provisions of Minnesota Statutes, section 290.08, subdivision 14, the $100,000 is excluded from gross income. The amount of $50,000 representing the remainder in the escrow fund is forfeited to the A corporation and is included in the gross income of that taxpayer. If, in this example, the lease covered a period of only 25 years and the building upon completion had an estimated value of $75,000 as of the end of the lease term and in accordance with an option granted by the rules the A corporation included in gross income the sum of $3,000 for each taxable year from 1938 to 1942, both years inclusive, then there shall be excluded from gross income for the taxable year 1943 and subsequent taxable years any such amounts otherwise includible in gross income for such years and attributable to the building erected by the B corporation, notwithstanding the exercise of such option.

As to the basis of the property in the hands of the lessor, see Minnesota Statutes, section 290.14, clause (12) and 2014 (12).

Statutory Authority: *MS s 290.52*

NOTE: Regulation 2014 (12) has been repealed.

8008.0500 CONTRIBUTIONS TO CAPITAL OF CORPORATION.

In the case of a corporation, Minnesota Statutes, section 290.08, subdivision 19 provides an exclusion from gross income with respect to any contribution of money or property to the capital of the taxpayer. Thus, if a corporation requires additional funds for conducting its business and obtains such funds through voluntary pro rata payments by its shareholders, the amounts so received being credited to its surplus account or to a special account, such amounts do not constitute income, although there is no increase in the outstanding shares of stock of the corporation. In such a case the payments are in the nature of assessments upon, and represent an additional price paid for, the shares of stock held by the individual shareholders, and will be treated as an addition to and as a part of the operating capital of the company. Minnesota Statutes, section 290.08, subdivision 19 also applies to contributions to capital made by persons other than shareholders. For example, the exclusion applies to the value of land or other property contributed to a corporation by a governmental unit or by a civic group for the purpose of inducing the corporation to locate its business in a particular community, or for the purpose of enabling the corporation to expand its operating facilities. However, the exclusion does not apply to any money or property transferred to the corporation in consideration for goods or services rendered, or to subsidies paid for the purpose of inducing the taxpayer to limit production. See Minnesota Statutes, section 290.136, subdivision 8 for the basis of property acquired by a corporation through a contribution to its capital by its stockholders or by nonstockholders.

Statutory Authority: *MS s 290.52*