

MINNESOTA STATUTES 1975 SUPPLEMENT

INCOME AND EXCISE TAXES 290.01

CHAPTER 290. INCOME AND EXCISE TAXES

Sec.		Sec.	
290.01	Definitions.	290.16	Depreciation, basis; gain or loss on disposition of property, how taken into account in computing net income.
290.012	Definitions.		
290.02	Excise tax on corporations; imposition, measurement.	290.21	Credits against taxable net income.
290.032	Lump sum distribution tax. [New]	290.26	Employees' trust, annuity plans.
290.06	Rates of tax; credits against tax.	290.45	Payment of tax, time for.
290.0601	Definitions.	290.50	Overpayments, claims for refund or credits.
290.061	Proof of claim.	290.53	Penalties, interest.
290.072	Repealed.	290.92	Tax withheld at source upon wages.
290.08	Exemptions from gross income.	290.93	Declaration of estimated tax.
290.0801	Repealed.	290.931	Declarations of estimated income tax by corporations.
290.086	Nonpublic school education costs, credit.	290.933	Installment payments of estimated income tax by corporations.
290.087	Limitations, redeterminations, violations and penalties.	290.934	Failure by corporation to pay estimated income tax.
290.09	Deductions from gross income.	290.972	Election by small business corporation.
290.101	Denial of deductions relating to substandard buildings. [New]	290.985	Filing time limit for renters.
290.12	Gain or loss on disposition of property, computation.	290.988	Claims.

290.01 Definitions.

[For text of subd 1, see M.S.1974]

Subd. 1a. Uniform probate code. The definitions set forth in section 524.1-201, wherever appropriate to the administration of the provisions of chapter 290, are incorporated by reference herein.

[For text of subds 2 to 7, see M.S.1974]

Subd. 8. Fiduciary. The term "fiduciary" means a guardian, trustee, receiver, conservator, personal representative, or any person acting in any fiduciary capacity for any person or corporation.

Subd. 8a. Personal representative. The term "personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status.

[For text of subds 9 to 19, see M.S.1974]

Subd. 20. Gross income. Except as otherwise provided in this chapter, the term "gross income," as applied to corporations includes every kind of compensation for labor or personal services of every kind from any private or public employment, office, position or services; income derived from the ownership or use of property; gains or profits derived from every kind of disposition of, or every kind of dealing in, property; income derived from the transaction of any trade or business; and income derived from any source.

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

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

MINNESOTA STATUTES 1975 SUPPLEMENT

290.01 INCOME AND EXCISE TAXES

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

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

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

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

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

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

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

(2) Interest income on obligations of any authority, commission, or instrumentality of the United States, which the laws of the United States exempt from federal income tax, but not from state income taxes;

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

(4) Interest on indebtedness incurred or continued to purchase or carry securities the income from which is exempt from tax under chapter 290, to the extent deductible in determining federal adjusted gross income;

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

(6) Losses which do not arise from events or transactions which are assignable to Minnesota under the provisions of sections 290.17 to 290.20, including any capital loss or net operating loss carryforwards or carrybacks resulting from such losses, and including any such nonassignable losses which occur prior to the time the individual becomes a resident of the state of Minnesota;

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

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

MINNESOTA STATUTES 1975 SUPPLEMENT

INCOME AND EXCISE TAXES 290.01

(8) In the case of a change of residence from Minnesota to another state or nation, the amount of moving expenses which exceed total reimbursements and which were therefore deducted in arriving at federal adjusted gross income;

(9) In the case of property disposed of on or after January 1, 1973, the amount of any increase in the taxpayer's federal tax liability under section 47 of the Internal Revenue Code of 1954, as amended through December 31, 1974, to the extent of the credit under section 38 of the Internal Revenue Code of 1954, as amended through December 31, 1974, that was previously allowed as a deduction either under section 290.01, subdivision 20 (b) (9) or under section 290.09, subdivision 24; and

(10) Expenses and losses arising from a farm which are not allowable under section 290.09, subdivision 29;

(11) Expenses and depreciation attributable to substandard buildings disallowed by section 290.101.

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

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

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

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

(4) Income which does not arise from events or transactions which are assignable to Minnesota under the provisions of sections 290.17 to 290.20;

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

(6) If included in federal adjusted gross income, the amount of any overpayment of income tax to Minnesota, or any other state, for any previous taxable year, whether such amount is received as a refund or credited to another taxable year's income tax liability;

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

(8) The amount of compensation for personal services in the armed forces of the United States or the United Nations which is excluded from gross income under the provisions of section 290.65; and

MINNESOTA STATUTES 1975 SUPPLEMENT

290.01 INCOME AND EXCISE TAXES

(9) In the case of property acquired on or after January 1, 1973, the amount of any credit to the taxpayer's federal tax liability under section 38 of the Internal Revenue Code of 1954, as amended through December 31, 1974, but only to the extent that the credit is connected with or allocable against the production or receipt of income included in the measure of the tax imposed by this chapter.

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

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

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

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

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

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

MINNESOTA STATUTES 1975 SUPPLEMENT

INCOME AND EXCISE TAXES 290.01

Code of 1954 differs from the election made under this paragraph appropriate modification of the estate's federal taxable income shall be made to implement the election made under this paragraph in accordance with regulations prescribed by the commissioner.

Subd. 21. Dividends. (1) The term "dividends" means any distribution made by a corporation to its shareholders, whether in money or in other property, (a) out of its earnings or profits accumulated after December 31, 1932, or (b) out of the earnings or profits of the taxable year (computed as of the close of the taxable year without diminution by reason of any distributions made during the taxable year), without regard to the amount of the earnings and profits at the time the distribution was made. Dividends paid in property other than cash shall be included in the recipient's income at the fair market value of such property on the date the action ordering their distribution was taken, or if no such action was taken, on the date of the actual payment or credit thereof to the shareholder.

(2) For the purposes of this section every distribution is presumed to be made out of earnings or profits to the extent thereof, and from the most recently accumulated earnings or profits. Any earnings or profits accumulated, or increase in value of tangible property with situs in Minnesota, accrued, before January 1, 1933, may be distributed exempt from tax, after the earnings and profits accumulated after December 31, 1932, have been distributed, but any such tax-free distribution shall be applied against and reduce the cost or other income tax basis of the stock with respect to which such distribution is made. If such or any similar tax-free distributions exceed such cost or other income tax basis, any excess shall be treated in the same manner as a gain from the sale or exchange of property for the taxable year in which received by the distributee.

(3) A distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock shall not be treated as a dividend to the extent that it does not constitute income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution of the United States. Whenever a distribution by a corporation is, at the election of any of the shareholders (whether exercised before or after the declaration thereof), payable either (a) in its stock or in rights to acquire its stock or (b) in money or any other property (including its stock or rights to acquire its stock) then the distribution shall constitute a taxable dividend in the hands of all shareholders, regardless of the medium in which paid. If a corporation cancels or redeems its stock, whether or not such stock was issued as a stock dividend, at such time and in such manner as to make the distribution and cancellation or redemption, in whole or in part, essentially equivalent to the distribution of a taxable dividend, the amount so distributed in cancellation or redemption of the stock shall be treated as a taxable dividend to the extent that it represents a distribution of earnings or profits.

(4) Amounts distributed in liquidation of a corporation shall be treated as payment in exchange for the stock, and the gain or loss to the distributee resulting from such exchange shall be determined under section 290.12, but shall be recognized only to the extent provided in section 290.13, and shall be taken into account in computing gross income and net income only to the extent provided in section 290.16. No amounts received in liquidation shall be taxed as a gain until the distributee shall have received in liquidation an amount in excess of the applicable loss or gain basis of the stock in respect of which the distribution is received, and any such excess shall be taxed as gain in the year in which received. No amount received in liquidation shall be treated as the distribution of an ordinary dividend.

(5) Amounts distributed by a regulated investment company, as that term is defined and limited by section 851 of the Internal Revenue Code of 1954, as amended through December 31, 1974, which are designated as capital gain dividends, as that term is defined in section 852(b) (3) (C) of the Internal Revenue Code of 1954, as amended through December 31, 1974, shall be treated by the

MINNESOTA STATUTES 1975 SUPPLEMENT

290.01 INCOME AND EXCISE TAXES

shareholders of such a company as gains from the sale or exchange of capital assets held for more than six months and shall be taken into account in computing net income only to the extent provided in section 290.16.

Subd. 22. Taxable net income. The term "taxable net income" means the net income assignable to this state pursuant to sections 290.17 to 290.20.

[For text of subs 23 to 25, see M.S.1974]

Subd. 26. Internal revenue code of 1954. For purposes of chapter 290, for taxable years commencing after December 31, 1973, the provisions of Sections 401(d)(5), 401(d)(8), and 401(e) of the Internal Revenue Code of 1954 as amended through December 31, 1973 shall not be applicable.

(NOTE: Laws 1975, Chapter 47, Section 2, reads as follows:

"Sec. 2. This act is effective for taxable years commencing after December 31, 1973.")

[1975 c 47 s 1; 1975 c 226 s 2; 1975 c 349 s 1-6]

290.012 Definitions.

[For text of subs 1 to 3, see M.S.1974]

Subd. 4. "Income" means the sum of (a) gross income as defined in section 290.01, subdivision 20, (b) net income from sources outside the state, (c) alimony, (d) support money, and (e) relief, including relief granted under unemployment compensation, (f) the gross amount of any pension or annuity, including railroad retirement benefits, all payments received under the federal social security act, and veterans disability pensions, (g) nontaxable interest received from the state or federal governments or any of their instrumentalities, (h) the gross amount of "loss of time" insurance and (i) cash public assistance and relief, not including relief granted under sections 290.0601 to 290.0618. It does not include gifts from nongovernmental sources, or surplus food or other relief in kind supplied by a governmental agent.

[1975 c 437 art 9 s 1]

290.02 Excise tax on corporations; imposition, measurement.

An annual excise tax is hereby imposed upon every domestic corporation, except those included within section 290.03, for the privilege of existing as a corporation during any part of its taxable year, and upon every foreign corporation doing business within this state, except those included within section 290.03, including but not limited to railroad companies for the grant to it of the privilege of transacting or for the actual transaction by it of any local business within this state during any part of its taxable year, in corporate or organized form.

The tax so imposed shall be measured by such corporations' taxable net income for the taxable year for which the tax is imposed, and computed in the manner and at the rates provided in this chapter.

[1975 c 349 s 7]

290.032 Lump sum distribution tax.

Subdivision 1. There is hereby imposed as an addition to the annual income tax for a taxable year of a taxpayer in the classes described in section 290.03 a tax with respect to any distribution received by such taxpayer that is treated as a lump sum distribution under section 402(e) of the Internal Revenue Code of 1954, as amended through December 31, 1974, and that is subject to tax for such taxable year under section 402(e) of the Internal Revenue Code of 1954, as amended through December 31, 1974.

MINNESOTA STATUTES 1975 SUPPLEMENT

INCOME AND EXCISE TAXES 290.06

Subd. 2. The amount of tax imposed by subdivision 1 shall be computed in the same way as the tax imposed under section 402(e) of the Internal Revenue Code of 1954, as amended through December 31, 1974, except that the initial separate tax shall be an amount equal to ten times the tax which would be imposed by section 290.03 if the recipient was an individual referred to in such section and the taxable net income, excluding the credits allowed in section 290.06, subdivision 3c, and section 290.21, was an amount equal to one-tenth of the excess of

- (i) the total taxable amount of the lump sum distribution for the year, over
- (ii) the minimum distribution allowance, and except that references in section 402(e) of the Internal Revenue Code of 1954, as amended through December 31, 1974, to paragraph (1)(A) thereof shall instead be references to subdivision 1 of this section.

Subd. 3. The tax imposed by this section on a non-resident individual shall be based only on that part of the lump sum distribution attributable to personal or professional services within this state.

[1975 c 349 s 28]

290.06 Rates of tax; credits against tax.

[For text of subs 1 and 2b, see M.S.1974]

Subd. 2c. Schedule of rates for individuals, estates and trusts. (a) For taxable years beginning after December 31, 1971, the income taxes imposed by chapter 290 upon individuals, estates and trusts, other than those taxable as corporations, shall be computed by applying to their taxable net income in excess of the applicable credits allowed by section 290.21, the following schedule of rates:

- (1) On the first \$500, one and six-tenths percent;
- (2) On the second \$500, two and two-tenths percent;
- (3) On the next \$1,000, three and five-tenths percent;
- (4) On the next \$1,000, five and eight-tenths percent;
- (5) On the next \$1,000, seven and three-tenths percent;
- (6) On the next \$1,000, eight and eight-tenths percent;
- (7) On the next \$2,000, ten and two-tenths percent;
- (8) On the next \$2,000, eleven and five-tenths percent;
- (9) On the next \$3,500, twelve and eight-tenths percent;
- (10) On all over \$12,500, and not over \$20,000, fourteen percent;
- (11) On the remainder, fifteen percent.

(b) In lieu of a tax computed according to the rates set forth in clause (a) of this subdivision, the tax of any individual taxpayer whose taxable net income for the taxable year, reduced by the applicable credits allowed by section 290.21, is less than \$10,000 shall be computed in accordance with tables prepared and issued by the commissioner of revenue based on income brackets of not more than \$100. The amount of tax for each bracket shall be computed at the rates set forth in this subdivision.

MINNESOTA STATUTES 1975 SUPPLEMENT

290.06 INCOME AND EXCISE TAXES

[For text of subds 3a and 3b, see M.S.1974]

Subd. 3c. Credits against tax. Notwithstanding the provisions of subdivision 3a for taxable years which begin after December 31, 1971, the taxes due under the computation in accordance with section 290.06 shall be credited with the following amounts:

(1) In the case of an unmarried individual, and, except as provided in paragraph 6, in the case of the estate of a decedent, \$21, and in the case of a trust, \$5;

(2) In the case of a married individual, living with husband or wife, and in the case of a head of a household, \$42. If such husband and wife make separate returns the personal exemption may be taken by either or divided between them;

(3) In the case of an individual, \$21 for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer. One taxpayer only shall be allowed this credit with respect to any given dependent. In the case of the head of a household, a credit for one dependent shall be disallowed. A payment to a divorced or separated wife, other than a payment of the kind referred to in section 290.072, subdivision 3, shall not be considered a payment by the husband for the support of any dependent.

(4) (a) In the case of an unmarried individual who has attained the age of 65 before the close of his taxable year, an additional \$21;

(b) For taxable years which begin after December 31, 1974, in the case of an unmarried individual who is blind at the close of the taxable year, an additional \$25;

(c) In the case of a married individual, living with husband or wife, an additional \$21 for each spouse who has attained the age of 65 before the close of the individual's taxable year, and an additional \$25 for each spouse who is blind at the close of the individual's taxable year. If such husband and wife make separate returns, these credits may be taken by either or divided between them;

(d) For the purposes of sub-paragraphs (b) and (c) of paragraph (4), an individual is blind if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(e) For taxable years which begin after December 31, 1974, in the case of an unmarried individual who is deaf at the close of the taxable year, an additional \$25.

(f) For taxable years which begin after December 31, 1974, in the case of a married individual, an additional \$25 for each spouse who is deaf at the close of the taxable year. If the husband and wife make separate returns, these credits may be taken by either or divided between them.

(g) For taxable years which begin after December 31, 1974, in the case of an individual, an additional \$25 for each person (other than a spouse) who is deaf and dependent upon and receiving his chief support from the taxpayer.

(h) For the purposes of subparagraphs (e), (f) and (g) of paragraph (4), an individual is deaf if the average loss in the speech frequencies (500-2000 Hertz) in the better ear, unaided, is 92 decibels, American National Standards Institute, or worse.

(5) In the case of an insurance company, it shall receive a credit on the tax

MINNESOTA STATUTES 1975 SUPPLEMENT

INCOME AND EXCISE TAXES 290.06

computed as above equal in amount to any taxes based on premiums paid by it during the period for which the tax under Extra Session Laws 1967, Chapter 32, is imposed by virtue of any law of this state, other than the surcharge on premiums imposed by Extra Session Laws 1933, Chapter 53, as amended;

(6) If the status of a taxpayer, insofar as it affects the credits allowed under paragraphs 1, 2 and 3 shall change during the taxable year, or if the taxpayer shall either become or cease to be a resident of the state during such taxable year, such credit shall be apportioned, in accordance with the number of months before and after such change. For the purpose of such apportionment, a fractional part of a month shall be disregarded unless more than one-half of the month, in which case it shall be considered as a month. In case of death during a taxable year, a credit shall be allowed to the decedent, in proportion to the number of months before his death, and to his estate, in proportion to the number of months after his death, and in any event a minimum credit of \$5 shall be allowed to the decedent and his estate, respectively;

(7) In the case of a non-resident individual, credits under paragraphs 1, 2, 3 and 4 shall be apportioned in the proportion of the gross income from sources in Minnesota to the gross income from all sources, and in any event a minimum credit of \$5 shall be allowed.

Subd. 3d. Credits against tax. The taxes due as computed in accordance with section 290.06, subdivisions 2c and 3c shall be credited with the following amounts:

- (1) A credit equal to his tax liability in the case of:
 - (a) An unmarried claimant with an income of \$4,400 or less;
 - (b) A claimant with one dependent, with an income of \$5,200 or less;
 - (c) A claimant with two dependents, with an income of \$6,000 or less;
 - (d) A claimant with three dependents, with an income of \$6,700 or less;
 - (e) A claimant with four dependents, with an income of \$7,300 or less; and
 - (f) A claimant with five or more dependents, with an income of \$7,800 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 of the claimant and his spouse, if any, 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.

[For text of subds 9 to 10, see M.S.1974]

Subd. 11. Contributions to political parties and candidates. Effective for taxable years commencing after December 31, 1973, in lieu of the credit against taxable net in-

MINNESOTA STATUTES 1975 SUPPLEMENT

290.06 INCOME AND EXCISE TAXES

come provided by section 290.21, subdivision 3, clause (e), a taxpayer may take a credit against the tax due under chapter 290 of 50 percent but not more than \$12.50 of his contributions to a political party and candidate. A married couple, filing jointly, may take a similar credit of not more than \$25. However, the taxpayer may take a credit for contributions of no more than \$5 in the case of an individual return or \$10 in the case of a joint return for contributions to a political party. For purposes of this subdivision, "candidate" means a candidate as defined in section 10A.01, subdivision 5. The department of revenue shall provide on the first page of the Minnesota tax form an appropriate provision for the credit provided by Laws 1974, Chapter 470.

This credit shall be allowed only if the contribution is verified in the manner the commissioner of revenue shall prescribe.

[1975 c 349 s 8,9; 1975 c 355 s 1; 1975 c 437 art 9 s 2]

290.0601 Definitions.

[For text of subs 1 to 5, see M.S.1974]

Subd. 6. Rent and property tax credits; claimant. Claimant means a person who has filed a claim under sections 290.0601 to 290.0616 and 290.0618, has attained either the age of 65 or was eligible to receive "supplementary security income for the aged, blind, and disabled" provided under the social security amendments of 1972 (P.L. 92-603) or was eligible to receive social security aid to the disabled under USCA Title 42, Section 416, Paragraph (i)(1) or Section 423(d) during the calendar year for which the claim is filed, or who received disability pay from the armed forces under USCA Title 10, Section 1401 during the calendar year for which the claim was filed or is a former employee of the United States Postal Service who received disability pay under USCA Title 5, Section 8337 during the calendar year for which the claim was filed or is a former employee of a railroad who received disability pay under USCA Title 45, Section 228b during the calendar year for which the claim was filed and in all cases was domiciled in this state during the entire calendar year for which the claim for relief under sections 290.0601 to 290.0616 and 290.0618, was filed; provided, however, that with respect to a claim for the calendar year 1973, claimant shall mean a person who has filed a claim under sections 290.0601 to 290.0616 and 290.0618, has attained the age of 65 or has received aid to disabled persons under Minnesota Statutes 1971, Sections 256.451 to 256.475 or aid to blind persons under Minnesota Statutes 1971, Sections 256.49 to 256.71 during 1973 and was domiciled in this state during the entire calendar year 1973. In the case of claim for rent constituting property taxes accrued the claimant shall have rented property during any part of the calendar year for which he files claim for relief under sections 290.0601 to 290.0616 and 290.0618. When two individuals are able to meet the qualifications for a claimant and are husband and wife, they may determine between them as to which of the two the claimant shall be. If they are unable to agree the matter shall be referred to the commissioner of revenue and his decision shall be final. When a homestead is occupied by two or more individuals and more than one such individual is able to qualify as a claimant, and some or all such qualified individuals are not related as determined under subdivision 3, each such individual may be a claimant, provided he meets the requirements therefor. Each such claimant shall use only the rent constituting property taxes or property taxes accrued paid by him.

[For text of subs 7 and 8, see M.S.1974]

Subd. 9. Property taxes accrued. Property taxes accrued means the net property tax after deducting the credit allowed by Minnesota Statutes 1967, Section 273.13, Subdivisions 6 and 7, (exclusive of special assessments, delinquent interest and charges for service) levied on a claimant's homestead in 1967 or any calendar year thereafter pursuant to Minnesota Statutes 1965, Chapters 272 and 273. When a

MINNESOTA STATUTES 1975 SUPPLEMENT

INCOME AND EXCISE TAXES 290.08

homestead is owned by two or more persons or entities as joint tenants or tenants in common and one or more persons or entities is not a member of claimant's household, "property taxes accrued" is that part of property taxes levied on such homestead as reflects the ownership percentage of the claimant and his household. For purposes of this paragraph property taxes are "levied" when the tax roll is delivered to the local treasurer for collection. The local treasurer will include with the tax bill a statement advising the property owner of the particular categories in section 290.0601, subdivision 6, under which he may be eligible for a credit. When a claimant and his household own their homestead part of the preceding calendar year and rent the same or a different homestead for part of the same year "property taxes accrued" means only taxes levied on the homestead when both owned and occupied as such by claimant and his household at the time of the levy, multiplied by the percentage of 12 months that such property was owned and occupied by such household as its homestead during the preceding year. When a household owns and occupies two or more different homesteads in the same calendar year, property taxes accrued shall relate only to that property occupied by the household as a homestead on the levy date. Whenever a homestead is an integral part of a farm, the claimant may use the total property taxes accrued for the larger unit, but not exceeding 120 acres of land, as described in section 273.13, subdivision 6, except as the limitations of section 290.0608 apply. For the purpose of sections 290.0601 to 290.0616 and 290.0618, the "unit" refers to that parcel of property covered by a single tax statement of which the homestead is a part.

[1975 c 349 s 10,11]

290.061 Proof of claim.

Every claimant under sections 290.0601 to 290.0616 and 290.0618, shall supply to the department of revenue, in support of his claim, reasonable proof of age, proof of eligibility, rent paid, name and address of owner or managing agent of property rented, property taxes accrued, changes of homestead, household membership, household income, size and nature of property claimed as the homestead and a statement that the property taxes accrued, used for purposes of sections 290.0601 to 290.0616 and 290.0618, have been or will be paid by him and that there are no delinquent property taxes on the homestead.

[1975 c 349 s 12]

290.072 [Repealed, 1975 c 349 s 31]

290.08 Exemptions from gross income.

[For text of subs 1 to 8, see M.S.1974]

Subd. 9. [Repealed, 1975 c 349 s 31]

Subd. 10. [Repealed, 1975 c 349 s 31]

Subd. 11. [Repealed, 1975 c 349 s 31]

[For text of subs 12 to 14, see M.S.1974]

Subd. 15. [Repealed, 1975 c 349 s 31]

Subd. 16. [Repealed, 1975 c 349 s 31]

Subd. 17. [Repealed, 1975 c 349 s 31]

Subd. 18. [Repealed, 1975 c 349 s 31]

[For text of subs 19 to 21, see M.S.1974]

MINNESOTA STATUTES 1975 SUPPLEMENT

290.08 INCOME AND EXCISE TAXES

Subd. 22. [Repealed, 1975 c 349 s 31]

290.0801 [Repealed, 1975 c 349 s 31]

290.086 Nonpublic school education costs, credit.

[For text of subs 1 to 6, see M.S.1974]

Subd. 7. A claim for credit as provided in subdivision 5 shall be filed with the department of revenue on or before the time designated for the filing of income tax returns in section 290.42. A claim filed after the original or extended due date shall be allowed, but the amount of credit shall be reduced by five percent of the amount otherwise allowable, plus an additional five percent for each month of delinquency, not exceeding a total reduction of 25 percent. In any event no claim shall be allowed if the claim is not filed on or before two years after the original or extended due date for the filing of the claim.

No claim for credit shall be allowed unless accompanied by: (a) A receipt, or receipts, for each student signed by an official of the student's nonpublic school of enrollment showing the following information: (1) The name and location of the nonpublic school in which the student is enrolled; (2) the date of payment and the amount paid for education costs and textbooks; (3) the grade in which the student is enrolled during the period for which payment was made; (4) the name of the student and name of the remitter; (b) a certification from each nonpublic school of enrollment during the calendar year current to December 31 of each year showing: (1) that such nonpublic school satisfies the requirements of section 120.10, subdivision 2; (2) the restricted maintenance cost of education per pupil unit in average daily attendance in the school of enrollment based upon the most recently completed school year; (3) the total moneys paid by the taxpayer to the nonpublic school for education costs; (4) the maximum allowable tax credit per student for each month of enrollment in said nonpublic school for that calendar year; (5) the months, or portions thereof, during which the student was enrolled in said school and the student's name.

The total claim for tax credit shall be based upon ten school months, or portions thereof, for each calendar year; the claim shall be limited to ten percent of the total maximum allowable claim per month for each school calendar month, or portion thereof, during which the student is enrolled in a nonpublic school but not to exceed ten months for any given school year excluding summer or extra school sessions outside the regular school year session. The nonpublic school and grade of enrollment on the first school day attended by the student in any given school month during the regular school session shall be the designated school and grade of enrollment for that entire school month.

[1975 c 349 s 13]

[For text of subs 8 and 9, see M.S.1974]

290.087 Limitations, redeterminations, violations and penalties.

[For text of subs 1 to 3, see M.S.1974]

Subd. 4. In any case in which it is determined that a claim is or was filed with fraudulent intent, the claim shall be disallowed in full, and, if the claim has been paid or credit has been allowed against income taxes otherwise payable, the credit shall be cancelled and the amount paid may be recovered by assessment as income taxes are assessed. A penalty of 25 percent shall be imposed and such assessment shall bear interest from the due date of the return until refunded or paid, at the rate specified in section 270.75. The claimant in such case, and any person who assisted in the preparation or filing of such excessive claim or supplied infor-

MINNESOTA STATUTES 1975 SUPPLEMENT

INCOME AND EXCISE TAXES 290.09

mation upon which such excessive claim was prepared, with fraudulent intent, shall be guilty of a misdemeanor.

Subd. 5. In any case in which it is determined that a claim is or was excessive, a ten percent penalty shall be imposed on such excess and if the claim has been paid, or credited against income taxes otherwise payable, the credit shall be reduced or cancelled, and the proper portion of any amount paid shall be similarly recovered by assessment as income taxes are assessed and such assessment shall bear interest at the rate specified in section 270.75 from the date of payment until refunded or paid.

[1975 c 377 s 9,10]

[For text of subd 6, see M.S.1974]

290.09 Deductions from gross income.

[For text of subd 1, see M.S.1974]

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

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

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

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

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

(1) For the production or collection of income;

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

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

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

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

MINNESOTA STATUTES 1975 SUPPLEMENT

290.09 INCOME AND EXCISE TAXES

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

[For text of subd 3, see M.S.1974]

Subd. 4. Taxes. Taxes paid or accrued within the taxable year, except (a) income or franchise taxes imposed by this chapter; (b) taxes assessed against local benefits of a kind deemed in law to increase the value of the property assessed; (c) inheritance, gift and estate taxes except as provided in section 290.077, subdivision 4; (d) cigarette and tobacco products excise tax imposed on the consumer; (e) that part of Minnesota property taxes for which a credit or refund is claimed and allowed under section 290.0603 or 290.066; (f) federal income taxes, by corporations, national and state banks except as provided in section 290.18; and (g) 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, 1974. If the taxpayer's foreign tax credit consists of both foreign taxes deemed paid and foreign taxes actually paid or withheld, it will be conclusively presumed that foreign taxes deemed paid were first used by the taxpayer in its foreign tax credit. Minnesota gross income shall include the amount of foreign tax paid which had been allowed as a deduction in a previous year, provided such foreign tax is later allowed as a credit against federal income tax. Income taxes permitted to be deducted hereunder shall, regardless of the methods of accounting employed, be deductible only in the taxable year in which paid. Taxes imposed upon a shareholder's interest in a corporation which are paid by the corporation without reimbursement from the shareholder shall be deductible only by such corporation.

[For text of subds 5 to 14, see M.S.1974]

Subd. 15. Standard deduction. In lieu of all deductions provided for in this chapter other than those enumerated in section 290.18, subdivision 2, and in lieu of the credits enumerated in section 290.21, subdivision 3, an individual may claim or be allowed a standard deduction as follows:

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

(b) If his adjusted gross income is less than \$10,000, the standard deduction shall be an amount equal to ten percent thereof.

In the case of a husband and wife living together, the standard deduction shall not be allowed to either if the net income of one of the spouses is determined without regard to the standard deduction. For the purposes of this paragraph the determination of whether an individual is living with his spouse shall be made as of the last day of the taxable year unless the spouse dies during the taxable year in which case such determination shall be made as of the date of such spouse's death.

[For text of subds 16 to 28, see M.S.1974]

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

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

MINNESOTA STATUTES 1975 SUPPLEMENT

INCOME AND EXCISE TAXES 290.101

of income and gains arising from a farm.

(c) For taxable years beginning on or after January 1, 1974, expenses and losses arising from a farm or farms shall be allowed as deductions up to the amount of the income and gains arising from a farm or farms in any taxable year, plus the first \$15,000 of non-farm gross income, or non-farm taxable net income in the case of a corporation, provided however that in any case where non-farm income exceeds \$15,000, the maximum allowable amount of \$15,000 shall be reduced by twice the amount by which the non-farm income exceeds the amount of \$15,000. Any remaining balance of the deductions shall be carried back three years and carried forward five years, in chronological order.

Current expenses and losses shall be utilized as deductions in any taxable year, to the extent herein allowable, prior to the application of any carryback or carryover deductions. In any event, the combined amounts of such current expenses and losses and carryback or carryover deductions shall be allowed as deductions up to the amount of the income and gains arising from a farm or farms in any taxable year, plus the first \$15,000 of non-farm gross income, or non-farm taxable net income in the case of a corporation, provided however that in any case where non-farm income exceeds \$15,000, the maximum allowable amount of \$15,000 shall be reduced by twice the amount by which the non-farm income exceeds the amount of \$15,000.

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

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

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

[1975 c 284 s 47; 1975 c 349 s 14,15; 1975 c 437 art 5 s 1]

290.101 Denial of deductions relating to substandard buildings.

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 290.09 or 290.01, subdivision 20 which relate to that substandard building other than buildings used for agricultural purposes or owner-occupied buildings with four dwelling units or less.

Subd. 2. Substandard building means a building which:

(a) Has been determined, by a state, county, or city agency, charged by the governing body of the appropriate political subdivision with the responsibility for enforcing health, housing, building, fire prevention, or housing maintenance codes, to materially endanger the health and safety of the occupants or, if unoccupied, is a hazardous building within the meaning of section 463.15, subdivision 3; and

(b) After written notice by the agency to the owner, which (1) contains the particulars of the violation; (2) informs the owner of where an appeal may be filed; and (3) contains a general description of the tax consequences, if the violations are not corrected, has not been repaired or brought to a condition of compliance within six months after the date of the notice or within the time prescribed by the agency

MINNESOTA STATUTES 1975 SUPPLEMENT

290.101 INCOME AND EXCISE TAXES

in the notice in accordance with applicable state law or local ordinance, whichever period is shortest, or on which good faith efforts for compliance as determined by the agency have not commenced. The agency may, if statute or ordinance so authorizes, extend the compliance date prescribed in the violation notice, for good cause shown.

Subd. 3. The agency shall also, at the time of written notice of violation to the owner pursuant to subdivision 2, inform the owner of federal, state, or local public or private housing rehabilitation programs including but not limited to the Minnesota housing finance agency rehabilitation loan and grant program, authorized pursuant to chapter 462A, and shall also refer owners to such programs.

Subd. 4. When the period specified in subdivision 2 has expired without compliance the agency shall mail to the taxpayer a notice of noncompliance. The notice of noncompliance shall be in the form and shall contain the particulars of the noncompliance and shall include the information, as may be prescribed by the commissioner, shall be mailed by certified mail, return receipt requested, to the taxpayer at his last known address, and shall advise the taxpayer:

- (a) Of an intent to notify the commissioner of noncompliance;
- (b) Where an appeal may be filed; and

(c) A general description of the tax consequences of the filing with the commissioner and a general description of the tax consequences if the taxpayer should prevail on appeal. Appeals shall be made to the same body and in the same manner as appeals from other actions of the agency as authorized by statute or ordinance, including but not limited to an appeal to the county or municipal court of the county in which the building is located, concerning the violation and determination of material endangerment or hazard made pursuant to subdivision 2. No deduction shall be allowed for items provided in subdivision 1 from the date of the notice of noncompliance until the date the agency determines that the substandard building has been brought to a condition of compliance. The agency shall mail to the taxpayer a notice of compliance, which notice shall be in the form and include the information as may be prescribed by the commissioner. In the event the period of noncompliance does not cover an entire taxable year, the deductions shall be denied at the rate of one-twelfth for each full month during the period of noncompliance.

Subd. 5. On or before March 15 of each year, the agency shall notify the commissioner of revenue of all cases of noncompliance in the previous year, and other information which is necessary for the commissioner to carry out his responsibilities as set forth in subdivision 9, on a form prescribed by the commissioner. The notice shall be in the form and include the information as may be prescribed by the commissioner.

Subd. 6. If the taxpayer is sustained upon appeal, the agency shall notify the taxpayer concerning the procedures for the filing of a refund. The notice shall be in the form and include such information as may be prescribed by the commissioner. The taxpayer may then file for a refund as provided for by law.

Subd. 7. For purposes of this section, a notice of noncompliance shall not be mailed by an agency to the commissioner if the building was rendered substandard solely by reason of tornado, flood, or other natural disaster.

Subd. 8. A notice of noncompliance shall not be mailed by the agency to the taxpayer until after the time the state or the governing body of the appropriate political subdivision has prescribed by statute or ordinance the nature and types of violations of codes referred to in subdivision 2, which would constitute a material endangerment to the health and safety of occupants of buildings or which would constitute a hazardous building within the meaning of section 463.15, subdivision 3.

Subd. 9. On or before March 15 of each year, the commissioner of revenue shall report to the tax committees of both houses of the legislature information indicating: (a) the number of written notices of violations issued by the agency pursuant to subdivision 2; (b) the number and types of substandard buildings found to be in noncompliance under Laws 1975, Chapter 226 and the average time of such noncompliance; (c) the number and types of buildings brought into a condition of compliance under Laws 1975, Chapter 226; (d) a description of the types of viola-

MINNESOTA STATUTES 1975 SUPPLEMENT

INCOME AND EXCISE TAXES 290.16

tions found to endanger the health and safety of occupants under Laws 1975, Chapter 226; and (e) the number and types of buildings abandoned, destroyed or no longer used for rental purposes after the service of a notice of noncompliance pursuant to subdivision 4.

[1975 c 226 s 1]

290.12 Gain or loss on disposition of property, computation.

[For text of subd 1, see M.S.1974]

Subd. 2. Adjustments. In computing the amount of gain or loss under subdivision 1 proper adjustment shall be made for any expenditure, receipt, loss, or other item properly chargeable to capital account by the taxpayer during his ownership thereof, and for the gain or any part thereof realized from the sale, exchange or involuntary conversion of a residence where, by reason of the provisions of section 290.13, such gain or any part thereof is not recognized. The basis shall be diminished by the amount of the deductions for exhaustion, wear and tear, obsolescence, amortization, depletion, and the allowance for amortization of bond premium if an election to amortize was made in accordance with section 290.09, subdivision 13, which could, during the period of his ownership thereof, have been deducted by the taxpayer under this chapter in respect of such property. The basis shall also be diminished by the amount of depreciation relating to a substandard building disallowed by section 290.101. In addition, if the property was acquired before January 1, 1933, the basis, if other than the fair market value as of such date, shall be diminished by the amount of exhaustion, wear and tear, obsolescence, amortization, or depletion actually sustained before such date. In respect of any period since December 31, 1932, during which property was held by a person or an organization not subject to income taxation under this act, proper adjustment shall be made for exhaustion, wear and tear, obsolescence, amortization, and depletion of such property to the extent sustained. For the purpose of determining the amount of these adjustments the taxpayer who sells or otherwise disposes of property acquired by gift shall be treated as the owner thereof from the time it was acquired by the last preceding owner who did not acquire it by gift, and the taxpayer who sells or otherwise disposes of property acquired by gift through an inter vivos transfer in trust shall be treated as the owner from the time it was acquired by the grantor. The adjustments in case of a sale or other disposition of property received in a transaction of the kind specified in section 290.13, subdivision 1, and in the case of a transaction referred to in section 290.14, clause (6), shall include those which the taxpayer should have been required to make were he selling or otherwise disposing of the property exchanged, or sold, in any such transaction.

No adjustment shall be made:

(1) for taxes or other carrying charges described in section 290.10(10), or

(2) for expenditures described in section 290.09, subdivision 16 (relating to circulation expenditures), for which deductions have been taken by the taxpayer in determining taxable income for the taxable year or prior years.

[1975 c 226 s 3]

[For text of subds 3 and 4, see M.S.1974]

290.16 Depreciation, basis; gain or loss on disposition of property, how taken into account in computing net income.

[For text of subd 1, see M.S.1974]

Subd. 1a. Inapplicable to individuals, trusts, estates. With respect to individuals,

MINNESOTA STATUTES 1975 SUPPLEMENT

290.16 INCOME AND EXCISE TAXES

trusts and estates, the provisions of this section shall not be applicable and gains and losses shall be reported as provided in section 290.01, subdivision 20.

[1975 c 349 s 16]

[For text of subs 3 to 16, see M.S.1974]

290.21 Credits against taxable net income.

[For text of subs 1 and 2, see M.S.1974]

Subd. 3. An amount for contribution or gifts made within the taxable year:

(a) to or for the use of the state of Minnesota, or any of its political subdivisions for exclusively public purposes,

(b) to or for the use of any community chest, corporation, organization, trust, fund, association, or foundation located in and carrying on substantially all of its activities within this state, organized and operating exclusively for religious, charitable, public cemetery, scientific, literary, artistic, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual,

(c) to a fraternal society, order, or association, operating under the lodge system located in and carrying on substantially all of their activities within this state if such contributions or gifts are to be used exclusively for the purposes specified in subdivision 3(b), or for or to posts or organizations of war veterans or auxiliary units or societies of such posts or organizations, if they are within the state and no part of their net income inures to the benefit of any private shareholder or individual, or to an employee stock ownership trust as defined in this section. Where the beneficiaries of a stock ownership trust include the transferor, his spouse, children, grandchildren, parents, siblings or their children, the amount of the deduction shall be reduced by the product of multiplying said amount by their percentage interest in the trust,

(d) to or for the use of the United States of America for exclusively public purposes, and to or for the use of any community chest, corporation, trust, fund, association, or foundation, organized and operated exclusively for any of the purposes specified in subdivision 3(b) and (c) no part of the net earnings of which inures to the benefit of any private shareholder or individual, but not carrying on substantially all of their activities within this state, in an amount equal to the ratio of Minnesota taxable net income to total net income,

(e) to a political party, as defined in section 200.02, subdivision 7, or a political candidate, as defined in section 210A.01, or a political cause when sponsored by any party or association or committee, as defined in section 210A.01, in a maximum amount not to exceed the following:

(1) contributions made by individual natural persons, \$100,

(2) contributions made by a national committeeman, national committeewoman, state chairman, or state chairwoman of a political party, as defined in section 200.02, subdivision 7, \$1,000,

(3) contributions made by a congressional district committeeman or committeewoman of a political party, as defined in section 200.02, subdivision 7, \$350,

MINNESOTA STATUTES 1975 SUPPLEMENT

INCOME AND EXCISE TAXES 290.21

(4) contributions made by a county chairman or a county chairwoman of a political party, as defined in section 200.02, subdivision 7, \$150;

(f) in the case of an individual, the total credit against taxable net income allowable hereunder shall not exceed 30 percent of the taxpayer's Minnesota gross income as follows:

(i) the aggregate of contributions made to organizations specified in (a), (b) and (d) shall not exceed ten percent of the taxpayer's Minnesota gross income,

(ii) the total credits under this subparagraph for any taxable year shall not exceed 20 percent of the taxpayer's Minnesota gross income. For purposes of this subparagraph, the credits under this section shall be computed without regard to any deduction allowed under subparagraph (i) but shall take into account any contributions described in subparagraph (i) which are in excess of the amount allowable as a credit under subparagraph (i);

(g) in the case of a corporation, the total credit against net income hereunder shall not exceed 15 percent of the taxpayer's taxable net income less the credits allowable under this section other than those for contributions or gifts,

(h) in the case of a corporation reporting its taxable income on the accrual basis, if -- (A) the board of directors authorizes a charitable contribution during any taxable year, and (B) payment of such contribution is made after the close of such taxable year and on or before the fifteenth day of the third month following the close of such taxable year; then the taxpayer may elect to treat such contribution as paid during such taxable year. The election may be made only at the time of the filing of the return for such taxable year, and shall be signified in such manner as the commissioner shall by regulations prescribe.

Subd. 4. Dividend credit. (a) 85 percent of dividends received by a corporation during the taxable year from another corporation, when the corporate stock with respect to which dividends are paid does not constitute the stock in trade of the taxpayer or would not be included in the inventory of the taxpayer, or does not constitute property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, or when the trade or business of the taxpayer does not consist principally of the holding of the stocks and the collection of the income and gains therefrom. The credit shall be allowed only in the proportion that the recipient corporation's taxable net income that is assignable or allocable to this state bears to the entire net income of the corporation. The remaining 15 percent shall be allowed if the recipient owns 80 percent or more of all the voting stock of such other corporation, and the dividends were paid from income arising out of business done in this state by the corporation paying such dividends; but if the income out of which the dividends are declared was derived from business done within and without this state, then so much of the remainder shall be allowed as a credit as the amount of the taxable net income of the corporation paying the dividends assignable or allocable to this state bears to the entire net income of the corporation, such rate being determined by the returns under this chapter of the corporation paying such dividends for the taxable year preceding the distribution thereof; the burden shall be on the taxpayer of showing that the amount of remainder claimed as a credit has been received from income arising out of business done in this state,

(b) if the trade or business of the taxpayer consists principally of the holding of the stocks and the collection of the income and gains therefrom, dividends received by a corporation during the taxable year from another corporation, if the recipient owns 80 percent or more of all the voting stock of such other corporation, from income arising out of business done in this state by the corporation paying such dividends; but, if the income out of which the dividends are declared was de-

MINNESOTA STATUTES 1975 SUPPLEMENT

290.21 INCOME AND EXCISE TAXES

rived from business done within and without this state, then so much of the dividends shall be allowed as credit as the amount of the taxable net income of the corporation paying the dividends assignable or allocable to this state bears to the entire net income of the corporation, such rate being determined by the returns under this chapter of the corporation paying such dividends for the taxable year preceding the distribution thereof. The burden shall be on the taxpayer of showing that the amount of dividends claimed as a credit has been received from income arising out of business done in this state.

[1975 c 284 s 48; 1975 c 349 s 17]

[For text of subs 5 to 7, see M.S.1974]

290.26 Employees' trust, annuity plans.

Subdivision 1. Income of certain trusts not taxed. A trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries shall not be taxable under section 290.22 and no other provisions of this act shall apply with respect to such trust or its beneficiary if such trust or beneficiary comes within the provisions of sections 401 and 402 of the Internal Revenue Code of 1954, as amended through December 31, 1974 as adapted to the provisions of this chapter under regulations issued by the commissioner of revenue.

Subd. 2. Employer contributions. Contributions of an employer to an employee's trust or annuity plan and compensation under a deferred-payment plan shall be allowed as a deduction in accordance with the provisions of Section 404 of the Internal Revenue Code of 1954, as amended through December 31, 1974 as adapted to the provisions of this act under regulations issued by the commissioner of revenue.

Subd. 2a. Employer stock ownership trust contributions. All contributions of an employer to an employee stock ownership trust as defined by section 290.01, subdivision 24, shall be allowed as a deduction in accordance with the provisions of section 404 of the Internal Revenue Code of 1954, as amended through December 31, 1974, except that the limitation contained therein on the amount of contributions allowed as a deduction shall not be applicable and in lieu thereof a limitation of 30 percent shall apply. An employer who in any year claims a deduction under this subdivision shall not in that year claim a deduction under section 290.21.

Subd. 3. Distributions. Distributions received by a beneficiary from a trust or annuity plan of the kind described in subdivision 1 or 2 of this section shall be treated in accordance with the provisions of section 290.08, subdivision 4, and sections 402 and 403 of the Internal Revenue Code of 1954, as amended through December 31, 1974 as adapted to the provisions of this chapter by regulations issued by the commissioner of revenue.

Subd. 4. Effective date. The provisions of subdivisions 1, 2 and 3 shall be applicable to the same taxable years as provided in section 290.08, subdivision 4, as adapted to the provisions of this chapter by regulations issued by the commissioner of revenue.

Subd. 5. Custodial account; trust. A custodial account within the meaning of section 401(f) or section 403(b)(7) of the Internal Revenue Code of 1954, as amended through December 31, 1974, shall be treated as a trust under this section.

Subd. 6. Individual retirement account; exemption. Any individual retirement account that is exempt from taxation under the provisions of section 408 of the Internal Revenue Code of 1954, as amended through December 31, 1974, shall also be exempt from taxation under the provisions of this chapter.

[1975 c 349 s 27]

290.45 Payment of tax, time for.

[For text of subd 1, see M.S.1974]

MINNESOTA STATUTES 1975 SUPPLEMENT

INCOME AND EXCISE TAXES 290.50

Subd. 2. Extensions. (A) At the request of the taxpayer, and for good cause shown, the commissioner may extend the time for payment of the amount determined as the tax by the taxpayer, or any installment thereof, or any amount determined as a deficiency, for a period not to exceed six months from the date prescribed for the payment of the tax or an installment thereof. In such case the amount in respect of which the extension is granted shall be paid together with interest at the rate specified in section 270.75 on or before the date of the expiration of the period of the extension.

(B) When any portion of the tax as reported by the taxpayer together with interest and penalty thereon, if any, has not been paid six months from the date prescribed by law for the payment thereof the commissioner may extend the time for payment thereof for a further period not to exceed 30 months. When the authority of this paragraph (B) is invoked, the extension shall be evidenced by written agreement signed by the taxpayer and the commissioner, stating the amount of such tax with penalty and interest, if any, and providing for the payment of such amount in regular weekly, semi-monthly or monthly installments, which agreement shall contain a confession of judgment for such amount and for any unpaid portion thereof and providing that the commissioner may forthwith enter judgment against the taxpayer in the district court of the county of his residence as shown upon his tax return for the unpaid portion of the amount specified in said extension agreement. The principal sum specified in said agreement shall bear interest at the rate specified in section 270.75 on all unpaid portions thereof until the same has been fully paid or the unpaid portion thereof has been entered as a judgment, which judgment shall bear interest at the rate specified in section 270.75. If it shall appear to the satisfaction of the commissioner that the tax reported by the taxpayer is in excess of the amount actually owing by the taxpayer, the extension agreement or the judgment entered pursuant thereto shall be so corrected. If after making such extension agreement or entering judgment with respect thereto, the commissioner shall determine that the tax as reported by the taxpayer is less than the amount actually due, the commissioner shall assess such further tax in accordance with the provisions of this chapter. The authority granted to the commissioner by this paragraph (B) is in addition to any other authority granted to the commissioner by law to extend the time of payment or the time for filing a return and shall not be construed in limitation thereof.

[1975 c 377 s 11]

[For text of subds 2a to 4, see M.S.1974]

290.50 Overpayments, claims for refund or credits.

Subdivision 1. Procedure, time limit. (a) A taxpayer who has paid or from whom there has been collected an amount of tax for any year in excess of the amount legally due for that year, may file with the commissioner a claim for a refund of such excess. Except as otherwise provided in this section, no claim or refund shall be allowed or made after three and one-half years from the date prescribed for filing the return (plus any extension of time granted for filing the return, but only if filed within the extended time) or after two years from the date of overpayment, whichever period is longer, unless before the expiration of the period a claim is filed by the taxpayer. For this purpose an income tax return or amended return claiming an overpayment shall constitute a claim for refund.

(b) If no claim was filed, the credit or refund shall not exceed the amount which would be allowable if a claim was filed on the date the credit or refund is allowed.

(c) If a claim relates to an overpayment on account of a failure to deduct a loss due to a bad debt or to a security becoming worthless, the claim shall be allowed if filed within seven years from the date prescribed in section 290.42 for the filing of the return, and the refund or credit shall be limited to the amount of overpayment attributable to the loss.

(d) For purposes of this section, the prepayment of tax made through the

MINNESOTA STATUTES 1975 SUPPLEMENT

290.50 INCOME AND EXCISE TAXES

withholding of tax at the source, or payment of estimated tax, prior to the due date of the tax are considered as having been paid on the last day prescribed by law for the payment of the tax by the taxpayer. A return filed before the due date shall be considered as filed on the due date.

(e) Except as provided in sections 290.92, subdivision 13, and 290.936, interest on the overpayment refunded or credited to the taxpayer shall be allowed at the rate of six percent per annum computed from the date of payment of the tax until the date the refund is paid or credit is made to the taxpayer. However, to the extent that the basis for the refund is a net operating loss carryback, a capital loss carryback or the carryback of a pollution control credit, interest shall be computed only from the end of the taxable year in which the loss occurs or in which the pollution control credit arises.

(f) If a taxpayer reports a change in his federal gross income or deductions, or a renegotiation, or files a copy of his amended federal return, within 90 days as provided by section 290.56, subdivision 2, a refund may be made of any overpayment within one year after such report or amended return is filed.

(g) There is hereby appropriated from the general fund to the commissioner of revenue the amounts necessary to make payments of refunds allowed pursuant to this section.

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 years of the date that the claim for refund was filed.

Subd. 3. Exceptions. This section shall not be construed so as to disallow:

(a) a net operating loss carryback to any taxable year authorized by section 290.095 or section 172 of the Internal Revenue Code of 1954, as amended through December 31, 1974, but the refund or credit shall be limited to the amount of overpayment arising from the carryback;

(b) a capital loss carryback by a corporation under section 290.16, provided that the claim for refund or credit is made prior to the expiration of the 15th day of the 45th month following the end of the taxable year of the net capital loss which results in the carryback, and the refund or credit is limited to the amount of overpayment arising from the carryback;

(c) the carryback of a pollution control credit under section 290.06, subdivision 9, provided that the claim for refund or credit is made prior to the expiration of the 15th day of the 46th month (or the 45th month, in the case of a corporation) following the end of the taxable year in which the pollution control credit arises, and the refund or credit is limited to the amount of overpayment arising from the carryback.

[1975 c 349 s 18-20]

[For text of subs 4 and 5, see M.S.1974]

290.53 Penalties, interest.

Subdivision 1. Failure to pay tax. If any tax imposed by this act, or any portion thereof, is not paid within the time herein specified for the payment thereof, or within 30 days after final determination of an appeal to the tax court relating thereto, there shall be added thereto a specific penalty equal to ten percent of the amount so remaining unpaid. Such penalty shall be collected as part of said tax,

MINNESOTA STATUTES 1975 SUPPLEMENT

INCOME AND EXCISE TAXES 290.92

and the amount of said tax not timely paid, together with said penalty shall bear interest at the rate specified in section 270.75 from the time such tax should have been paid until paid. Interest accruing upon the tax due as disclosed by the return or upon the amount determined as a deficiency from the date prescribed for the payment of the tax (if the tax is payable in installments, from the date the installment or installments become due and payable under the provisions of section 290.45, subdivision 1) shall be added to the tax and be collected as a part thereof. Where an extension of time for payment has been granted under section 290.45, subdivision 2, interest shall be paid at the rate specified in section 270.75 from the date when such payment should have been made if no extension had been granted, until such tax is paid. If payment is not made at the expiration of the extended period the penalties provided in this section shall apply.

Subd. 2. Failure to make and file return, not due to wilful neglect. In case of any failure to make and file a return as required by this chapter within the time prescribed by law or prescribed by the commissioner in pursuance of law, unless it is shown that such failure is not due to wilful neglect, there shall be added to the tax in lieu of the penalty provided in subdivision 1: ten percent if the failure is for not more than 30 days with an additional five percent for each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate. The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax, and the amount of said tax together with the amount so added shall bear interest at the rate specified in section 270.75 from the time such tax should have been paid until paid unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax.

For the purposes of this subdivision the amount of any taxes required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return.

[1975 c 377 s 12,13]

[For text of subs 3 to 6, see M.S.1974]

290.92 Tax withheld at source upon wages.

[For text of subs 1 to 5, see M.S.1974]

Subd. 6. Employer to furnish information. (1) Every employer required to deduct and withhold tax under subdivision 2a or subdivision 3 shall file with the commissioner of revenue, and pay over the tax required to be withheld under subdivision 2a and subdivision 3 for each quarterly period, on or before the last day of the month following the close of each quarterly period or another reporting period as the commissioner may prescribe and make and file with the commissioner a return and pay over to him the tax required to be withheld under subdivision 2a or subdivision 3, except that, if during any calendar month, other than the last month of the calendar quarter, the aggregate amount of the tax withheld under subdivision 2a or subdivision 3 exceeds \$100, such employer shall deposit such aggregate amount within 15 days after the close of such calendar month with the commissioner of revenue. However, any such return may be filed on or before the tenth day of the second calendar month following such period if such return shows timely deposits in full payment of such taxes due for such period. For the purpose of the preceding sentence, a deposit which is not required to be made within such return period, may be made on or before the last day of the first calendar month following the close of such period. Every employer, in preparing said quarterly return, shall take credit for monthly deposits previously made in accordance with this subdivision.

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 collec-

MINNESOTA STATUTES 1975 SUPPLEMENT

290.92 INCOME AND EXCISE TAXES

tion. In no event shall the duration of the reporting period be more than one year or less than one month, provided that for employers with annual payrolls of less than \$100,000 the reporting period shall be no more frequent than quarterly.

Such return shall be in such form and contain such information as the commissioner may prescribe. The commissioner may grant a reasonable extension of time for making such return or deposit and paying such tax, but no such extension shall be granted for more than six months.

(2) If less than the correct amount of such 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 such manner and at such times as the commissioner may prescribe. If such underpayment cannot be so adjusted the amount of the underpayment shall be assessed and collected in such manner and at such times as the commissioner may prescribe.

(3) If any employer fails to make and file any return required by paragraph (1) at the time prescribed therefor, or makes and files a false or fraudulent return, the commissioner shall make for him a return from his own knowledge and from such information as he can obtain through testimony, or otherwise, and assess a tax on the basis thereof. The amount of tax shown thereon shall be paid to the commissioner at such times as the commissioner may prescribe. Any such return or assessment so 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 thereto.

(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 such tax, whether or not the time otherwise prescribed by law for making and filing the return and paying such 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 regulations 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 three and one-half years after the due date of the return required by paragraph (1), or the date the return was filed, whichever is later; except that in the case of a false or fraudulent return or failure to file a return, the tax may be assessed at any time.

(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 of Minnesota for such sum or sums (and any added penalties and interest); and 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 the provision of this section, fails to deduct and withhold the tax under this section, and thereafter the taxes against which such tax may be credited are paid, the tax so required to be deducted and withheld shall not be collected from the employer; but this shall in no case relieve the employer from liability for any penalties and interest otherwise applicable in respect of such 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

MINNESOTA STATUTES 1975 SUPPLEMENT

INCOME AND EXCISE TAXES 290.92

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), such 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 such employer. The statement shall also give the address of the employer owing such tax, the period for which the tax is due, the date of the delinquency, and such other information as may be required by the attorney general. It shall be the duty of the attorney general to institute legal action in the name of the state to recover the amount of such 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 therein stated and that the amount shown therein is due from the employer named in the statement. In event action is instituted as herein provided, 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 the same as security for any judgment which has been or may be recovered. Any such action shall be brought within four years and three months 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; except that in the case of failure to make and file such return or if such return is false or fraudulent, or such deposit is not made such action may be brought at any time.

(9) The tax required to be withheld under subdivision 2a or subdivision 3 or paid to, or deposited with the commissioner under this subdivision, together with penalties, interest and costs, shall become a lien upon all of the real property of the employer within this state, except his homestead, from and after the filing by the commissioner of a notice of such lien in the offices of the register of deeds of the county in which such real property is situated.

(10) Either party to an action for the recovery of any tax, interest or penalties under this subdivision may remove the judgment to the supreme court by appeal, as provided for appeals in civil cases.

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

(12) When any tax is due and payable as provided in paragraph (8) the commissioner may issue his warrant to the sheriff of any county of the state commanding him to levy upon and sell the real and personal property of the employer and to levy upon the rights to property of the employer within the county and to return such warrant to the commissioner and pay to him the money collected by virtue thereof by a time to be therein specified, not less than 60 days from the date of the warrant. The sheriff shall proceed thereunder to levy upon and seize any property of the employer and to levy upon the rights to property of the employer within his county, except the homestead and household goods of the employer and property of the employer not liable to attachment, garnishment, or sale on any final process issued from any court under the provisions of Minnesota Statutes 1961, Section 550.37, and acts amendatory thereof, and shall sell so much thereof as is required to satisfy such taxes, interest, and penalties, together with his costs; but such sales shall, as to their manner, be governed by the laws applicable to sales of like property on execution issued against property upon a judgment of a court of record. The proceeds of such sales, less the sheriff's costs, shall be turned over to the commissioner, who shall retain such part thereof as is required to satisfy the tax, interest, penalties and costs, and pay over any balance to the taxpayer. Any action taken by the commissioner pursuant to this subdivision shall not constitute an election by the state to pursue a remedy to the exclusion of any other remedy providing for the collection of taxes required to be withheld by employers.

[For text of subs 6a to 14, see M.S.1974]

Subd. 15. Penalties. (1) If any tax required to be deducted and withheld under

MINNESOTA STATUTES 1975 SUPPLEMENT

290.92 INCOME AND EXCISE TAXES

subdivision 2a or subdivision 3, or any portion thereof, is not paid to or deposited with the commissioner within the time specified in subdivision 6 for the payment thereof, there shall be added thereto a penalty equal to ten percent of the amount so remaining unpaid. Such penalty shall be collected as part of said tax, and the amount of said tax not timely paid, together with said penalty, shall bear interest at the rate specified in section 270.75 from the time such tax should have been paid or deposited until paid. Where an extension of time for payment has been granted under the provisions of subdivision 6, interest shall be paid at the rate specified in section 270.75 from the date when such payment or deposit should have been made if no extension had been granted, until such tax is paid. If payment is not made at the expiration of the extended period the penalties provided in this subdivision shall apply.

(2) In the case of any failure to withhold a tax on wages, make and file quarterly returns or make payments to or deposits with the commissioner of amounts withheld, as required by this section, within the time prescribed by law, unless it is shown that such failure is not due to wilful neglect, there shall be added to the tax in lieu of the penalty provided in paragraph (1) a penalty equal to ten percent of the amount of tax that should have been properly withheld and paid over to or deposited with the commissioner if the failure is for not more than 30 days with an additional five percent for each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate. The amount so added to the tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

(3) If any employer required to withhold a tax on wages, make deposits, make and file quarterly returns and make payments to the commissioner of amounts withheld, as required by sections 290.92 to 290.97, wilfully fails to withhold such a tax or make such deposits, files a false or fraudulent return, wilfully fails to make such a payment or deposit, or wilfully attempts in any manner to evade or defeat any such tax or the payment or deposit thereof, there shall also be imposed on such employer as a penalty an amount equal to 50 percent of the amount of tax (less any amount paid or deposited by such employer on the basis of such false or fraudulent return or deposit) that should have been properly withheld and paid over or deposited with the commissioner. The penalty imposed by this paragraph shall be collected as a part of the tax, and shall be in addition to any other penalties civil and criminal, prescribed by this subdivision.

(4) If any person required under the provisions of subdivision 7 to furnish a statement to an employee and a duplicate statement to the commissioner, wilfully furnishes a false or fraudulent statement to an employee or a false or fraudulent duplicate statement to the commissioner, or wilfully fails to furnish a statement in the manner, at the time, and showing the information required by the provisions of subdivision 7, or regulations prescribed by the commissioner thereunder, there shall be imposed on such a person a penalty of \$10 for each such act or failure to act. The penalty imposed by this paragraph shall become due and payable within ten days after the mailing of a written demand therefor, and may be collected in the manner prescribed in subdivision 6(8).

(5) In addition to the penalties hereinbefore prescribed, any person required to withhold a tax on wages, make and file quarterly returns and make payments or deposits to the commissioner of amounts withheld, as required by this section, who wilfully fails to withhold such a tax or truthfully make and file such a quarterly return or make such a payment or deposit, shall be guilty of a gross misdemeanor.

(6) In lieu of any other penalty provided by law, except the penalty provided by paragraph (4), any person required under the provisions of subdivision 7 to furnish a statement to an employee and a duplicate statement to the commissioner,

MINNESOTA STATUTES 1975 SUPPLEMENT

INCOME AND EXCISE TAXES 290.92

who wilfully furnishes a false or fraudulent statement to an employee or a false or fraudulent duplicate statement to the commissioner, or who wilfully fails to furnish a statement in the manner, at the time, and showing the information required by the provisions of subdivision 7, or regulations prescribed by the commissioner thereunder, shall be guilty of a gross misdemeanor.

(7) Any employee required to supply information to his employer under the provisions of subdivision 5, who wilfully fails to supply information thereunder which would require an increase in the tax to be deducted and withheld under subdivision 2a or subdivision 3, shall be guilty of a misdemeanor.

(8) The term "person," as used in this section, includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(9) All payments received shall be credited first to penalties, next to interest, and then to the tax due.

(10) The commissioner shall have power to abate any civil penalties prescribed in this subdivision when in his opinion their enforcement would be unjust and inequitable. The exercise of this power shall be subject to the approval of the attorney general if the abatement exceeds \$500.

[For text of subds 16 to 18, see M.S.1974]

Subd. 19. Employees incurring no income tax liability. Notwithstanding any other provision of this section, 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 credit provided by section 290.06, subdivision 3d, no withholding shall be required, clause (a) notwithstanding. The commissioner shall by regulations provide for the coordination of the provisions of this subdivision with the provisions of section 290.92, subdivision 7.

[For text of subds 20 and 21, see M.S.1974]

Subd. 22. Liability of third parties paying or providing for wages. (a) For purposes of this section, if a lender, surety, or other person, who is not an employer with respect to an employee or group of employees, pays wages directly to such an employee or group of employees, employed by one or more employers, or to an agent on behalf of such employee or employees, such lender, surety, or other person shall be liable to the commissioner in a sum equal to the taxes required to be deducted and withheld from such wages by such employer.

(b) If a lender, surety, or other person supplies funds to or for the account of an employer for the specific purpose of paying wages of the employees of such employer, with actual notice or knowledge that such employer does not intend to or will not be able to make timely payment or deposit of the amounts of tax required by this section to be deducted and withheld by such employer from such wages, such lender, surety, or other person shall be liable personally to the commissioner.

MINNESOTA STATUTES 1975 SUPPLEMENT

290.92 INCOME AND EXCISE TAXES

in a sum equal to the taxes which are not paid over to the commissioner by such employer with respect to such wages.

(c) For purposes of this subdivision, a person shall be deemed for purposes of a particular transaction to have actual notice or knowledge of any fact from the time such fact is brought to the attention of the individual conducting such transaction, and in any event from the time such fact would have been brought to such individual's attention if the person had exercised due diligence. A person exercises due diligence if he maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the person to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

(d) Any amounts paid to the commissioner pursuant to this subdivision shall be credited to the liability of the employer.

[1975 c 349 s 21,22; 1975 c 377 s 14,15]

290.93 Declaration of estimated tax.

[For text of subds 1 to 9, see M.S.1974]

Subd. 10. Underpayment of estimated tax. (1) In the case of any underpayment of estimated tax by an individual, except as provided in paragraph (4), there may be added to and become a part of the taxes imposed by this chapter, for the taxable year an amount determined at the rate specified in section 270.75 upon the amount of the underpayment for the period of the underpayment.

(2) For purposes of the preceding paragraph, the amount of underpayment shall be the excess of

(a) The amount of the installment which would be required to be paid if the estimated tax were equal to 70 percent (66 2/3 percent in the case of farmers referred to in subdivision 5(2) of this section) of the taxes shown on the return for the taxable year or the taxes for such year if no return was filed, over

(b) The amount, if any, of the installment paid on or before the last day prescribed for such payment.

(3) The period of the underpayment shall run from the date the installment was required to be paid to whichever of the following dates is the earlier

(a) The 15th day of the fourth month following the close of the taxable year.

(b) With respect to any portion of the underpayment, the date on which such portion is paid. For purposes of this sub-paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under paragraph (2) (a) for such installment date.

(4) The addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds whichever of the following is the lesser

(a) The total tax liability shown on the return of the individual for the pre-

MINNESOTA STATUTES 1975 SUPPLEMENT

INCOME AND EXCISE TAXES 290.931

ceding taxable year (if a return showing a liability for such taxes was filed by the individual for the preceding taxable year of 12 months), or

(b) An amount equal to the tax computed, at the rates applicable to the taxable year, on the basis of the taxpayer's status with respect to credits allowed by section 290.06, subdivision 3c, for the taxable year, but otherwise on the basis of the facts shown on his return for, and the law applicable to the preceding taxable year, or

(c) An amount equal to 70 percent (66 2/3 percent in the case of farmers referred to in subdivision 5(2) of this section) of the tax for the taxable year (after deducting personal credits) computed by placing on an annualized basis the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid. For purposes of this sub-paragraph, the taxable income shall be placed on an annualized basis by

(i) Multiplying by 12 (or in the case of a taxable year of less than 12 months, the number of months in the taxable year) the taxable income computed for the months in the taxable year ending before the month in which the installment is required to be paid.

(ii) Dividing the resulting amount by the number of months in the taxable year ending before the month in which such installment date falls, or

(d) An amount equal to 90 percent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual taxable income for the months in the taxable year ending before the month in which the installment is required to be paid.

(5) For the purposes of applying this subdivision, the estimated tax shall be computed without any reduction for the amount which the individual estimates as his credit under section 290.92, subdivision 12 (relating to tax withheld at source on wages), and the amount of such credit for the taxable year shall be deemed a payment of estimated tax, and an equal part of such amount shall be deemed paid on each installment date (determined under subdivisions 6 and 7 of this section) for such taxable year, unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts so withheld shall be deemed payments of estimated tax on the dates on which such amounts were actually withheld.

(6) The application of this subdivision to taxable years of less than 12 months shall be in accordance with regulations prescribed by the commissioner.

[1975 c 377 s 16]

[For text of subs 11 and 12, see M.S.1974]

290.931 Declarations of estimated income tax by corporations.

Subdivision 1. Requirements of declaration. Every corporation subject to taxation under this chapter (excluding sections 290.031 and 290.92) shall make a declaration of estimated tax for the taxable year if its tax liability so computed can reasonably be expected to exceed \$1,000.

Subd. 2. [Repealed, 1975 c 349 s 31]

[1975 c 349 s 23]

[For text of subs 3 to 5, see M.S.1974]

MINNESOTA STATUTES 1975 SUPPLEMENT

290.933 INCOME AND EXCISE TAXES

290.933 Installment payments of estimated income tax by corporations.

Subdivision 1. Amount and time for payment of each installment. The amount of estimated tax with respect to which a declaration is required under section 290.931 shall be paid as follows:

(1) If the declaration is filed on or before the 15th day of the 3rd month of the taxable year, the estimated tax shall be paid in four equal installments on the 15th day of the 3rd, 6th, 9th and 12th month of the taxable year.

(2) If the declaration is filed after the 15th day of the 3rd month and not after the 15th day of the 6th month of the taxable year, and is not required by section 290.932, subdivision 1, to be filed on or before the 15th day of such 3rd month, the estimated tax shall be paid in three equal installments on the 15th day of the 6th, 9th and 12th month of the taxable year.

(3) If the declaration of estimated tax is filed after the 15th day of the 6th month and not after the 15th day of the 9th month of the taxable year, and is not required by section 290.932, subdivision 1, to be filed on or before the 15th day of such 6th month, the estimated tax shall be paid in two equal installments on the 15th day of the 9th and 12th month of the taxable year.

(4) If the declaration of estimated tax is filed after the 15th day of the 9th month of the taxable year, and is not required by section 290.932, subdivision 1, to be filed on or before the 15th day of such 9th month, the estimated tax shall be paid in one installment.

(5) If the declaration is filed after the time prescribed in section 290.932, subdivision 1 (determined without regard to any extension of time for filing the declaration under section 290.932, subdivision 4), paragraphs (2), (3), and (4) of this subdivision shall not apply, and there shall be paid at the time of such filing all installments of estimated tax which would have been payable on or before such time if the declaration had been filed within the time prescribed in section 290.932, subdivision 1, and the remaining installments shall be paid at the times at which, and in the amounts in which, they would have been payable if the declaration had been so filed.

[1975 c 349 s 24]

[For text of subs 2 to 4, see M.S.1974]

290.934 Failure by corporation to pay estimated income tax.

Subdivision 1. Addition to the tax. In case of any underpayment of estimated tax by a corporation, except as provided in subdivision 4, there shall be added to the tax for the taxable year an amount determined at the rate specified in section 270.75 upon the amount of the underpayment (determined under subdivision 2) for the period of the underpayment (determined under subdivision 3).

[1975 c 377 s 17]

[For text of subs 2 to 7, see M.S.1974]

290.972 Election by small business corporation.

[For text of subd 1, see M.S.1974]

Subd. 2. Effect. If a small business corporation makes an election under subdivision 1, then

(1) with respect to the taxable years of the corporation for which such election is in effect, such corporation shall not be subject to the taxes imposed by this chapter, section 290.031 excepted, and

(2) with respect to the taxable years of a shareholder of such corporation in which or with which the taxable years of the corporation for which such election is

MINNESOTA STATUTES 1975 SUPPLEMENT

INCOME-ADJUSTED HOMESTEAD CREDIT 290A.01

in effect and, the provisions of section 290.973 shall apply to such shareholder.

[1975 c 349 s 25]

[For text of subs 3 to 7, see M.S.1974]

290.985 Filing time limit for renters.

Claims for rent accrued in 1969 or later years shall be filed on or before the times specified in section 290.42, except that any person who is eligible to be a claimant pursuant to section 290.0601, subdivision 6, in order to effectively exercise the option provided in section 290.991, shall be allowed to file timely in accordance with the provisions of section 290.0604. A claim filed after the original or extended due date shall be allowed, but the amount of credit shall be reduced by five percent of the amount otherwise allowable, plus an additional five percent for each month of delinquency, not exceeding a total reduction of 25 percent. In any event no claim shall be allowed if the claim is not filed on or before two years after the original or extended due date for the filing of the claim.

[1975 c 349 s 26]

290.988 Claims.

[For text of subd 1, see M.S.1974]

Subd. 2. Fraudulent claim. In any case in which it is determined that a claim is or was excessive and was filed with fraudulent intent, the claim shall be disallowed in full, and, if the claim has been paid or a credit has been allowed against income taxes otherwise payable, the credit shall be cancelled and the amount paid may be recovered by assessment as income taxes are assessed. A penalty of 25 percent shall be imposed and such assessment shall bear interest from the due date of the return, until refunded or paid, at the rate specified in section 270.75. The claimant in such case, and any person who assisted in the preparation or filing of such excessive claim or supplied information upon which such excessive claim was prepared, with fraudulent intent, shall be guilty of a misdemeanor.

Subd. 3. Excessive or negligent claim. In any case in which it is determined that a claim is or was excessive, a ten percent penalty shall be imposed on such excess and if the claim has been paid, or credited against income taxes otherwise payable, the credit shall be reduced or cancelled, and the proper portion of any amount paid shall be similarly recovered by assessment as income taxes are assessed and such assessment shall bear interest at the rate specified in section 270.75 from the date of payment until refunded or paid.

[1975 c 377 s 18,19]

CHAPTER 290A. INCOME-ADJUSTED HOMESTEAD CREDIT

Sec.		Sec.	
290A.01	Citation. [New]	290A.13	No relief allowed in certain cases. [New]
290A.02	Purpose. [New]	290A.14	Property tax statement. [New]
290A.03	Definitions. [New]	290A.15	Claim applied against outstanding liability. [New]
290A.04	Credit allowable. [New]	290A.16	Income tax deduction prohibited. [New]
290A.05	Combined household income. [New]	290A.17	Publicity of claims. [New]
290A.06	Filing time limit, late filing. [New]	290A.18	Right to file claim. [New]
290A.07	Time for payment. [New]	290A.19	Landlord to furnish rent certificate; penalty. [New]
290A.08	One claimant per household. [New]	290A.20	Rules and regulations. [New]
290A.09	Proof of claim. [New]	290A.21	Exclusive relief. [New]
290A.10	Proof of taxes paid. [New]		
290A.11	Objections to claims. [New]		
290A.12	Appeal. [New]		

290A.01 Citation.

Sections 290A.01 to 290A.21 may be cited as the "State of Minnesota In-