

Any sale under this act shall be by public auction and shall be sold to the highest bidder.

[462.80] **Sec. 9. Waiver of building code.** Any municipality is authorized to waive any building code requirements in connection with emergency housing, with the approval of the city building inspector, if there be one.

[462.81] **Sec. 10. Non-applicable to Laws 1947, Chapter 487.** Nothing contained in this act shall be applicable to Laws 1947, Chapter 487, or any amendments thereto.

[462.82] **Sec. 11. Report to legislature.** The governing body of any municipality which has undertaken or operates emergency housing as herein defined on or after September 16, 1940, and the effective date of this act, shall prepare for the consideration of the next regular session of the Minnesota State Legislature a report concerning the operation of such emergency housing together with a proposed plan for the orderly disposition of such emergency housing at the earliest practical time.

Approved April 25, 1949.

CHAPTER 734—H. F. No. 1093

An act relating to taxes on and measured by net income; amending Minnesota Statutes 1945, Sections 290.01, Subdivisions 21 and 22, 290.06 Subdivision 2, 290.072, Subdivision 2, 290.09, 290.17, 290.18, 290.28, 290.42, 290.45, 290.49, Subdivision 7, 290.50, Subdivision 4; and amending Minnesota Statutes 1945, Sections 290.01, 290.08, 290.21, as amended.

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

Section 1. Minnesota Statutes 1945, Section 290.01, Subdivision 21, is amended to read:

290.01. **Definitions.** 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 tax-

able 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 stock dividend shall not be treated as income; but, 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. A dividend shall be deemed a stock dividend only if made in stock of the same kind or class as that with respect to which it was distributed;

(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 net income only to the extent provided in Section 290.16, Subdivision 2. No amounts received in liquidation shall be taxed as a gain until the dis-

tributee 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 361 (a) and (b) of the Internal Revenue Code of the United States, which are designated as capital gain dividends, as that term is defined in Section 362 (b) (7) of the Internal Revenue Code of the United States, shall be treated by the 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, Subdivision 2.*

Sec. 2. Minnesota Statutes 1945, Section 290.01, Subdivision 22, is amended to read:

Subd. 22. **Taxable net income.** *The term "taxable net income" means the net income assignable to this state. Where the tax is computed according to the schedule of taxes provided in Section 290.06, Subdivision 2, the term "taxable net income" means the adjusted gross income assignable to this state. In either case the taxable net income assignable to this state shall be determined as provided in Sections 290.17 to 290.20.*

Sec. 3. Minnesota Statutes 1945, Section 290.01, as amended by Laws 1947, Chapter 635, Section 1, is amended by adding a new subdivision to read:

Subd. 20. **Gross income.** *The term "adjusted gross income" means the gross income, as defined in Subdivision 20 of this section, less the allowable deductions provided in Sections 290.09, 290.075, 290.077, and 290.16, Subdivision 6, to the extent allowed by Section 290.18.*

Sec. 4. Minnesota Statutes 1945, Section 290.06, Subdivision 2, is amended to read:

290.06. **Rate of tax.** Subd. 2. **Manner of computing.**

(a) The income taxes imposed by this chapter upon individuals, estates, and trusts, other than those taxable as corpo-

rations, 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 \$1,000, one per cent;
- (2) On the second \$1,000, two per cent;
- (3) On the third \$1,000, three per cent;
- (4) On the fourth \$1,000, four per cent;
- (5) On the fifth \$1,000, five per cent;
- (6) On the sixth and seventh \$1,000, six per cent;
- (7) On the eighth and ninth \$1,000, seven per cent;
- (8) On all over \$9,000, and not over \$12,500, eight per cent;
- (9) On all over \$12,500, and not over \$20,000, nine per cent;
- (10) On the remainder, ten per cent.

(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 adjusted gross income for the taxable year is less than \$5,000, at his election shall be computed according to the following schedule:*

<i>If adjusted gross income is —</i>		
<i>At Least</i>	<i>But Less Than</i>	<i>The Tax Shall Be</i>
\$ 0	\$ 50	\$.25
50	100	.65
100	150	1.10
150	200	1.55
200	250	2.00
250	300	2.45
300	350	2.95
350	400	3.35

<i>400</i>	<i>450</i>	<i>3.80</i>
<i>450</i>	<i>500</i>	<i>4.25</i>
<i>500</i>	<i>550</i>	<i>4.70</i>
<i>550</i>	<i>600</i>	<i>5.20</i>
<i>600</i>	<i>650</i>	<i>5.65</i>
<i>650</i>	<i>700</i>	<i>6.10</i>
<i>700</i>	<i>750</i>	<i>6.55</i>
<i>750</i>	<i>800</i>	<i>7.00</i>
<i>800</i>	<i>850</i>	<i>7.45</i>
<i>850</i>	<i>900</i>	<i>7.95</i>
<i>900</i>	<i>950</i>	<i>8.35</i>
<i>950</i>	<i>1,000</i>	<i>8.75</i>
<i>1,000</i>	<i>1,050</i>	<i>9.25</i>
<i>1,050</i>	<i>1,100</i>	<i>9.65</i>
<i>1,100</i>	<i>1,150</i>	<i>10.30</i>
<i>1,150</i>	<i>1,200</i>	<i>11.15</i>
<i>1,200</i>	<i>1,250</i>	<i>12.05</i>
<i>1,250</i>	<i>1,300</i>	<i>12.95</i>
<i>1,300</i>	<i>1,350</i>	<i>13.85</i>
<i>1,350</i>	<i>1,400</i>	<i>14.75</i>
<i>1,400</i>	<i>1,450</i>	<i>15.65</i>
<i>1,450</i>	<i>1,500</i>	<i>16.55</i>
<i>1,500</i>	<i>1,550</i>	<i>17.45</i>
<i>1,550</i>	<i>1,600</i>	<i>18.35</i>
<i>1,600</i>	<i>1,650</i>	<i>19.25</i>
<i>1,650</i>	<i>1,700</i>	<i>20.15</i>
<i>1,700</i>	<i>1,750</i>	<i>21.05</i>
<i>1,750</i>	<i>1,800</i>	<i>21.95</i>
<i>1,800</i>	<i>1,850</i>	<i>22.85</i>

<i>1,850</i>	<i>1,900</i>	<i>23.75</i>
<i>1,900</i>	<i>1,950</i>	<i>24.65</i>
<i>1,950</i>	<i>2,000</i>	<i>25.55</i>
<i>2,000</i>	<i>2,050</i>	<i>26.45</i>
<i>2,050</i>	<i>2,100</i>	<i>27.35</i>
<i>2,100</i>	<i>2,150</i>	<i>28.25</i>
<i>2,150</i>	<i>2,200</i>	<i>29.15</i>
<i>2,200</i>	<i>2,250</i>	<i>30.15</i>
<i>2,250</i>	<i>2,300</i>	<i>31.45</i>
<i>2,300</i>	<i>2,350</i>	<i>32.75</i>
<i>2,350</i>	<i>2,400</i>	<i>34.15</i>
<i>2,400</i>	<i>2,450</i>	<i>35.50</i>
<i>2,450</i>	<i>2,500</i>	<i>36.80</i>
<i>2,500</i>	<i>2,550</i>	<i>38.15</i>
<i>2,550</i>	<i>2,600</i>	<i>39.55</i>
<i>2,600</i>	<i>2,650</i>	<i>40.85</i>
<i>2,650</i>	<i>2,700</i>	<i>42.25</i>
<i>2,700</i>	<i>2,750</i>	<i>43.55</i>
<i>2,750</i>	<i>2,800</i>	<i>44.95</i>
<i>2,800</i>	<i>2,850</i>	<i>46.25</i>
<i>2,850</i>	<i>2,900</i>	<i>47.65</i>
<i>2,900</i>	<i>2,950</i>	<i>48.90</i>
<i>2,950</i>	<i>3,000</i>	<i>50.35</i>
<i>3,000</i>	<i>3,050</i>	<i>51.70</i>
<i>3,050</i>	<i>3,100</i>	<i>53.00</i>
<i>3,100</i>	<i>3,150</i>	<i>54.35</i>
<i>3,150</i>	<i>3,200</i>	<i>55.70</i>
<i>3,200</i>	<i>3,250</i>	<i>57.05</i>
<i>3,250</i>	<i>3,300</i>	<i>58.40</i>

3,300	3,350	59.85
3,350	3,400	61.50
3,400	3,450	63.30
3,450	3,500	65.10
3,500	3,550	66.90
3,550	3,600	68.70
3,600	3,650	70.50
3,650	3,700	72.30
3,700	3,750	74.10
3,750	3,800	75.90
3,800	3,850	77.70
3,850	3,900	79.50
3,900	3,950	81.30
3,950	4,000	83.10
4,000	4,050	84.90
4,050	4,100	86.70
4,100	4,150	88.50
4,150	4,200	90.30
4,200	4,250	92.10
4,250	4,300	93.90
4,300	4,350	95.70
4,350	4,400	97.50
4,400	4,450	99.35
4,450	4,500	101.40
4,500	4,550	103.65
4,550	4,600	105.80
4,600	4,650	108.15
4,650	4,700	110.40
4,700	4,750	112.65

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4,750	4,800	114.85
4,800	4,850	117.10
4,850	4,900	119.35
4,900	4,950	121.60
4,950	5,000	123.85

Sec. 5. Minnesota Statutes 1945, Section 290.072, Subdivision 2, is amended to read:

290.072. **Certain alimony payments to be reported for taxation.** Subd. 2. Amounts received by the wife who is a resident of the state of Minnesota from property transferred under the conditions set forth in Subdivision 1 shall not be included in gross income of the husband.

Sec. 6. Minnesota Statutes 1945, Section 290.08, as amended by Laws 1947, Chapter 635, Section 6, is amended to read:

290.08. **Exemptions from gross income.** The following items shall not be included in gross income:

(1) The value of property acquired by gift, devise, bequest or inheritance, but the income from such property shall be included in gross income; the income received under a gift, devise, bequest or inheritance of a right to receive income shall also be included in gross income. Amounts paid, credited, or to be distributed at intervals, under the terms of the gift, devise or inheritance, shall be included in gross income of the recipient to the extent paid, credited, or to be distributed out of income;

(2) Amounts received under a life insurance contract payable by reason of the death of the insured, whether in a single sum or in instalments; but the interest accruing after December 31, 1932, and paid by the insurer on any such amount held by it after the death of the insured shall be included in gross income. *This paragraph shall not apply with respect to so much of a payment under a life insurance, endowment, or annuity contract, or any interest therein, as is includible in gross income under section 290.072:*

(3) Amounts received, other than those specified in clause (2), and other than amounts received as annuities, under a life insurance, or endowment contract; but, if such amounts when added to the amounts received under such contract before the taxable year (after deducting from the aggregate of amounts received such proportion as is represented by interest accrued prior to January 1, 1933) exceed the aggregate premiums or consideration paid, whether or not paid during the taxable year, then the excess shall be included in gross income. Amounts received as an annuity under an annuity or endowment contract shall be included in gross income; except that there shall be excluded from gross income the excess of the amount received in the taxable year over an amount equal to three per cent of the aggregate premiums or consideration paid for such annuity, whether or not paid during the taxable year, until the aggregate amount excluded from gross income under the income tax laws of this state plus the amounts received prior to January 1, 1933 (after deducting such proportion of such aggregate amount and amounts received as is represented by interest accrued prior to January 1, 1933), in respect to such annuity equal the aggregate premiums or consideration paid for such annuity. The amount which a transferee for a valuable consideration of any such contract, or interest therein, shall be permitted to exclude from his gross income shall be the actual value of the consideration paid by him plus the amount of the premiums and other sums subsequently paid by him hereunder. *This paragraph shall not apply with respect to so much of a payment under a life insurance, endowment, or annuity contract, or any interest therein, as is includible in gross income under Section 290.072;*

(4) Amounts received as compensation for personal injuries or sickness by the injured or sick taxpayer, whether received under accident or health insurance contracts, workmen's compensation acts, any plan maintained by employers for such purpose, or by way of damages received in any suit or by agreement; also amounts received as a compensation for the death of any member of the taxpayer's family, whether received under insurance contracts, workmen's compensation acts, any plan maintained by employers for such purposes, or by way of damages received in a suit or by agreement; and amounts received under any arrangement entered into by the taxpayer to provide a fund specifically intended to defray the funeral expenses of himself or any member of his family. The words "compensation" and "damages," as used in this clause,

shall include reimbursement for medical, hospital, and funeral expenses in connection with such sickness, injury, or death;

(5) Amounts received by any person from the United States or the State of Minnesota by way of a pension, public employees retirement benefit, unemployment compensation benefit, social security benefit or railroad retirement or unemployment compensation benefit, family allotment, or other similar allowance;

(6) Interest upon obligations of the State of Minnesota, any of its political or governmental subdivisions, any of its municipalities, or any of its governmental agencies or instrumentalities;

(7) Interest upon obligations of the United States, its possessions, its agencies, or its instrumentalities, so far as immune from state taxation under federal law; provided, that salaries, wages, fees, commissions or other compensation received from the United States, its possessions, its agencies, or its instrumentalities shall be excluded from gross income for all taxable years ending prior to January 1, 1939; provided, that salaries, wages, fees, commissions, or other compensation received from the United States, its possessions, its agencies, or its instrumentalities for taxable years ending, prior to January 1, 1939, shall be excluded only to the extent that salaries, wages, commissions, fees and other compensation received from the State of Minnesota, its political or governmental subdivisions, its municipalities, or its governmental agencies or instrumentalities for that year are excluded from gross income under the federal revenue acts; provided, that salaries, wages, fees, commissions, or other compensation received from the United States, its possessions, its agencies, or its instrumentalities by federal employees residing in "federal areas" shall be excluded from gross income for all taxable years ending prior to January 1, 1941;

(8) The rental value of the premises occupied by the taxpayer as his home, or for his business, except where the occupancy by such taxpayer of such premises for such purposes constitutes in whole or in part the consideration received by him in connection with a transaction such that, had such consideration been received thereunder in cash or other property, the amount thereof would have been required, either in whole or in part, to be included in his gross income;

(9) The value of food and goods produced by the taxpayer and consumed or used by his immediate family;

(10) Amounts deducted from the wages or salaries of employees by employers under a voluntary or compulsory plan of unemployment insurance shall not be included in the gross income of such employees;

(11) The amounts distributed by cooperative buying, selling or producing associations, however organized, as patronage dividends shall not be included in the gross income of such associations;

(12) Clauses (3), (4), (9), and (10) shall not apply to corporations and clauses (6) and (7) shall not apply to corporations taxable under Section 290.02 or under Section 290.361;

(13) Income, other than rent, derived by a lessor of real property upon the termination of a lease, representing the value of such property attributable to buildings erected or other improvements made by a lessee;

(14) The rental value of a dwelling house and of appurtenances thereof furnished to a minister of the gospel as part of his compensation;

(15) Amounts received during the taxable year as mustering-out payments with respect to service in the military or naval forces of the United States or the United Nations.

This amendment set forth in clause (15) shall apply to all taxable years beginning after December 31, 1943.

Sec. 7. Minnesota Statutes 1945, Section 290.09, is amended to read:

290.09. The following deductions from gross income shall be allowed in computing net income:

(1) Ordinary and necessary expenses paid or incurred in conducting the activity or in carrying on the trade, profession, gainful occupation or business from which the gross income is derived, including a reasonable allowance for sal-

aries and voluntary or compulsory contributions made by employers to maintain a voluntary or compulsory system of unemployment insurance or a system of old age pensions for their employees, and any welfare work for the benefit of such employees;

(2) The interest paid or accrued within the taxable year on indebtedness, except on indebtedness incurred or continued to purchase or carry obligations or securities the income from which is excludible from gross income under Section 290.08, or on indebtedness incurred or continued in connection with the purchasing or carrying of an annuity;

(3) Taxes paid or accrued within the taxable year, except (a) income or franchise taxes imposed by this chapter; and (b) taxes assessed against local benefits of a kind deemed in law to increase the value of the property assessed; and (c) inheritance, gift and estate taxes. 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;

(4) Losses sustained during the taxable year not compensated for by insurance or otherwise if incurred in connection with a business or transaction the gains from which, if any, would be includible in gross income; or if arising from fires not attributable to arson by the taxpayer or some one acting for him, or from storms, wrecks, other casualty, or theft. Losses from wagering transactions shall be allowed only to the extent of the gain from such transactions. No deductions shall be allowed under this clause for any loss sustained in any sale or other disposition of shares of stock or other securities if within 30 days before or after the date of such sale or other disposition the taxpayer has acquired (other than by bequest or inheritance) or entered into a contract or option to acquire substantially identical property and the property so acquired is held by the taxpayer for any period after such sale or disposition; but if such acquisition or the contract or option to acquire is to the extent of part only of substantially identical property, then only a proportionate part of such loss shall be disallowed. Deductible losses arising from fires, storms, wrecks, or other casualty shall be treated as sustained in the taxable year during which the property was injured or de-

stroyed, and deductible losses arising from theft shall be treated as sustained in the taxable year in which the taxpayer discovers the theft. The amount of the deductible loss shall be computed on the same basis as is provided by Section 290.12 for determining the gain or loss on the sale or other disposition of property;

(5) Debts which become worthless during the taxable year, provided, that the taxpayer may in the alternative deduct a reasonable addition to a reserve for bad debts; provided further, that the commissioner may allow a bad debt to be deducted or charged off in part. *Corporations taxable under the provisions of Section 290.361 which have heretofore in any taxable year taken such deductions by the reserve method in their income tax returns to the Federal Government may, on or before July 1, 1949, make application to the commissioner for permission to take such deductions for the same year upon the same method;*

(6) A reasonable allowance for the exhaustion, wear and tear of property the periodical income from which is includible in gross income, and of property used in an occupation or business, including a reasonable allowance for obsolescence. In the case of property held by one person for life with remainder to another person the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiary and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each. In the case of buildings or other structures or improvements constructed or made on leased premises by a lessee, and the fixtures and machinery therein installed, the lessee alone shall be entitled to the allowance of this deduction;

(7) In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion. In the case of leases the deduction shall be equitably apportioned between the lessor and lessee in accordance with rules prescribed by the commissioner. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable de-

duction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each;

(8) The amount of the deduction under clauses (6) and (7) shall be computed on the basis specified in Section 290.16;

(9) The deductions provided for herein shall be taken for the taxable year in which paid or accrued, dependent upon the method of accounting employed in computing net income, unless in order to clearly reflect income they should be taken as of a different year;

(10) No deductions shall be allowed unless the taxpayer, when thereunto requested by the commissioner, furnishes him with information sufficient to enable him to determine the validity and correctness thereof;

(11) Payments for expenses for hospital, nursing, medical, surgical, dental and other healing services, *including institutional care and treatment for the mentally ill and physically handicapped*, and for drugs, medical supplies and ambulance hire, incurred by the taxpayer on account of sickness, mental illness, physical handicap or personal injury to himself or his dependents. *Payments for traveling expenses shall not be deductible under the provisions of this subdivision: Payments for hotel or similar lodging expenses shall be deductible in the same manner as payments for hospital services, if the taxpayer or his dependent is not hospitalized but is nevertheless required to remain in a medical center away from his usual place of abode, for the purpose of receiving prescribed medical treatment;*

(12) An allowance for amortization of war facilities to the extent that such deduction is finally allowed under Section 124 of the internal revenue code provided no deduction has been claimed with respect thereto under clause (6) of this section or any other section, subdivision, or clause of this chapter;

(13) In the case of a corporation, the amount of any income of the taxpayer attributable to the discharge, within the taxable year, of any indebtedness of the taxpayer, or for which the taxpayer is liable evidenced by a security (as here-

inafter in this paragraph defined) if the taxpayer makes and files at the time of filing the return, in such manner as the commissioner by regulations prescribes, its consent to the regulations prescribed under Section 290.12, Subdivision 3, then in effect. In such cases the amount of any income of the taxpayer attributable to any unamortized premium (computed as of the first day of the taxable year in which such discharge occurred) with respect to such indebtedness shall not be included in gross income and amount of the deduction attributable to any unamortized discount (computed as of the first day of the taxable year in which such discharge occurred) with respect to such indebtedness shall not be allowed as a deduction. As used in this paragraph the term "security" means any bond, debenture, note, or certificate, or other evidence of indebtedness issued by any corporation;

(14) An allowance for all taxable years beginning after December 31, 1942, for amortization of bond premiums in accordance with the provisions of Section 125 of the Internal Revenue Code adapted to the provisions of this chapter under regulations issued by the commissioner, but only to the extent that such deduction has not been allowed under any other section of this chapter;

(15) *The amounts included in the gross income of a wife under the provision of Section 290.072 shall be deductible from gross income of the husband except to the extent they are excluded from his gross income as provided in Section 290.072 (2);*

(16) *In the case of an individual, at his election, a standard deduction as follows:*

(a) *If his adjusted gross income is \$5,000 or more, the standard deduction shall be \$500.*

(b) *If his adjusted gross income is less than \$5,000, the standard deduction shall be an amount equal to 10 per centum thereof; in such case the standard deduction will be available only through the use of the schedule of taxes provided in Section 290.06, Subdivision 2.*

The standard deduction shall be in lieu of the credits enumerated in Section 290.21, Clause (2), and all deductions provided for in this chapter other than those enumerated in Section 290.18, Subdivision 2.

If the adjusted gross income shown in the return is \$5,000 or more, the standard deduction shall be allowed only if the taxpayer so elects in his return. Claiming the standard deduction in the return shall constitute such election. If the adjusted gross income shown in the return is less than \$5,000, computation of the tax by the taxpayer in his return according to the schedule of taxes provided in Section 290.06, Subdivision 2 (b), shall constitute an election by him to take the standard deduction. Any election to take the standard deduction shall be irrevocable for the taxable year for which such election is made unless changed on or before the due date for filing the return.

If a taxpayer whose adjusted gross income as shown in his return is \$5,000 or more, has elected to take the standard deduction, that election shall be considered to be an election to have his tax computed according to the schedule of taxes provided in Section 290.06, Subdivision 2 (b), if his adjusted gross income is corrected to less than \$5,000. If he has not elected to take the standard deduction, and his adjusted gross income is corrected to less than \$5,000, his tax cannot be computed according to the schedule of taxes provided in Section 290.06, Subdivision 2 (b).

If a taxpayer whose adjusted gross income as shown in his return is less than \$5,000, has elected to take the standard deduction and his adjusted gross income is corrected to \$5,000 or more, that election shall be considered to be an election to take the standard deduction of \$500. If he has not elected to take the standard deduction, and his adjusted gross income is corrected to \$5,000 or more, he shall not be allowed to take the standard deduction of \$500

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.

If a taxable year is less than twelve months because of a change in the accounting period or because of a change in domicile, the standard deduction shall not be allowed.

Sec. 8. Minnesota Statutes 1945, Section 290.17, is amended to read:

290.17. Items of gross income shall be assigned to this state or other states or countries in accordance with the following principles;

(1) The entire income of all resident or domestic taxpayers from compensation for labor or personal services, or from a business consisting principally of the performance of personal or professional services, shall be assigned to this state, and the income of non-resident taxpayers from such sources shall be assigned to this state if, and to the extent that, the labor or services are performed within it; all other income from such sources shall be treated as income from sources without this state;

(2) *Income from the operation of a farm shall be assigned to this state if the farm is located within this state and to other states only if the farm is not located in this state.* Income and gains received from tangible property not employed in the business of the recipient of such income or gains, and from tangible property employed in the business of such recipient if such business consists principally of the holding of such property and the collection of the income and gains therefrom, shall be assigned to this state if such property has a situs within it, and to other states only if it has no situs in this state. Income or gains from intangible personal property not employed in the business of the recipient of such income or gains, and from intangible personal property employed in the business of such recipient if such business consists principally of the holding of such property and the collection of the income and gains therefrom, wherever held and whether in trust or otherwise, shall be assigned to this state if the recipient thereof is domiciled within this state; provided that income or gains from such property held in trust shall be assigned to this state if the recipient of such income is domiciled within this state and such income or gains would be taxable to such recipient under Section 290.22, or if the grantor of such trust is domiciled within this state and such income or gains would be taxable to such grantor under Section 290.29;

(3) Income derived from carrying on a trade or business, including in the case of a business owned by natural persons the income imputable to the owner for his services and the use of his property therein, shall be assigned to this state

if the trade or business is conducted wholly within this state, and to other states if conducted wholly without this state. This provision shall not apply to business income subject to the provision of clause (1) ;

(4) When a trade or business is carried on partly within and partly without this state, the entire income derived from such trade or business, including income from intangible property employed in such business and including, in the case of a business owned by natural persons, the income imputable to the owner for his services and the use of his property therein, shall be governed, except as otherwise provided in Sections 290.35 and 290.36, by the provisions of Section 290.19, notwithstanding any provisions of this section to the contrary. This shall not apply to business income subject to the provisions of clause (1) ;

(5) All other items of gross income shall be assigned to the taxpayer's domicile.

Sec. 9. Minnesota Statutes 1945, Section 290.18, is amended to read :

290.18. *Subdivision 1.* The taxable net income shall, except in so far as Section 290.19 is applicable, be computed by deducting from the gross income assignable to this state under Section 290.17 deductions of the kind permitted by Section 290.09 in accordance with the following provisions :

(1) Such deductions shall be allowed to the extent that they are connected with and allocable against the production or receipt of such gross income assignable to this state ;

(2) That proportion of such deductions, so far as not connected with and allocable against the production or receipt of such gross income assignable to this state and so far as not connected with and allocable against the production or receipt of gross income assignable to other states or countries and so far as not entering into the computation of the net income assignable to this state under Section 290.19, shall be allowed which the taxpayer's gross income from sources within this state, as determined under Section 290.17, clauses (1), (2), (3), and (5) bears to his gross income from all sources, including that entering into the computations provided for by Section 290.19 ; provided that taxes of the kind deductible un-

der Section 290.09, Clause (3), shall, so far as within the description of deductions deductible under this clause, be deductible in their entirety if paid to the State of Minnesota, or any of its subdivisions authorized to impose such taxes, and thereupon be excluded in making the computation of deductions, as in this clause provided;

Subd. 2. The adjusted gross income shall, except in so far as Section 290.19 is applicable, be computed by deducting from the gross income assignable to this state under Section 290.17, the following deductions:

(1) The deductions allowed by Sections 290.09, 290.075 and 290.077 which are attributable to a trade or business carried on by the taxpayer, if such trade or business does not consist of the performance of services by the taxpayer as an employee;

(2) The deductions allowed by Section 290.09 which consist of expenses of travel, meals, and lodging paid or incurred by the taxpayer in connection with the performance by him of services as an employee;

(3) The deductions allowed by Section 290.09, other than expenses of travel and lodging, which consist of expenses paid or incurred by the taxpayer in connection with the performance of services as an employee under a reimbursement or other expense allowance arrangement with his employer;

(4) The deductions (other than those provided in paragraphs 1, 6 and 7) allowed by Sections 290.09 and 290.077 which are attributable to property held for the production of rents or royalties;

(5) The deductions (other than those provided in paragraph 1) for depreciation and depletion allowed by Section 290.09 (6) and (7) to a life tenant of property or to an income beneficiary of property held in trust;

(6) The deductions (other than those provided in paragraph (1)) allowed by Sections 290.09, 290.16, Subdivision 6, as losses from the sale or exchange of property;

(7) Allowable Federal income taxes determined under the provisions of Section 290.09 (3), 290.10 (9) and 290.18.

The deductions enumerated in this subdivision shall be allowed to the extent provided in Subdivision 1 of this section.

Subd. 3. No deduction shall be allowed under this section unless the taxpayer, when requested by the commissioner, shall furnish him with information sufficient to enable him to determine the validity and correctness of such deductions.

Sec. 10. Minnesota Statutes 1945, Section 290.21, as amended by Laws 1947, Chapter 635, Section 10, is amended to read:

290.21. The taxes imposed by this chapter shall be on, or measured by, as the case may be, the taxable net income less the following credits against it:

(1) A credit of \$500 in the case of each corporation;

(2) An amount for contributions 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 operating within this state, organized and operating exclusively for religious, charitable, 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, if such contributions or gifts are to be used within this state exclusively for the purposes specified in clause (2) (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 not [no] part of their net income inures to the benefit of any private shareholder or individual;

(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 pur-*

poses specified in clauses (2) (b) and (2) (c), but not operating within this state, in an amount equal to the ratio of Minnesota taxable net income to total net income;

(e) The total credit against net income hereunder shall not exceed 15 per cent of the taxpayer's taxable net income;

(3) (a) 85 per cent 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 remaining 15 per cent shall be allowed if the recipient owns 80 per cent 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 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; except that with respect to dividends distributed during the year 1933 the rate shall be determined by the corporation's return for that year; 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 per cent 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 derived 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 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; except that with respect to dividends distributed during the year 1933 the rate shall be determined by the corporation's return for that year. 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;

(4) To each mutual savings bank organized and existing as such under the laws of this state, an amount equal to the interest and dividends paid or credited during the taxable year of its depositors;

(5) To each regulated investment company as that term is defined and limited by the United States internal revenue code, Section 361, (a) and (b) an amount equal to the interest and dividends paid during the taxable year, and to each building and loan and savings and loan association, an amount equal to the dividends paid during the taxable year to its members as members.

Sec. 11. Minnesota Statutes 1945, Section 290.28, is amended to read:

290.28. Where any part of the income of a trust

(1) Is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be, held or accumulated for future distribution to the grantor; or

(2) May, in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income, be distributed to the grantor; or

(3) Is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be, applied to the payment of premiums upon policies of insurance on the life of the grantor, except policies of insurance irrevocably payable for the purposes and in the manner specified in Section 291.21, Clause

(2), relating to the so-called "charitable contribution" deduction; then such part of the income of the trust shall be included in computing the net income of the grantor.

(4) Income of a trust shall not be considered taxable to the grantor under paragraphs 1, 2 and 3 of this section or any other provision of this chapter merely because such income, in the discretion of another person, the trustee, or the grantor acting as trustee or co-trustee, may be applied or distributed for the support or maintenance of a beneficiary whom the grantor is legally obligated to support or maintain, except to the extent that such income is so applied or distributed. In cases where the amounts so applied or distributed are paid out of corpus or out of other than income for the taxable year, such amounts shall be considered paid out of income to the extent of the income of the trust for each taxable year which is not paid, credited, or to be distributed under Section 290.23 and which is not otherwise taxable to the grantor.

As used in this section, the term "in the discretion of the grantor" means "in the discretion of the grantor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of the part of the income in question."

Sec. 12. Minnesota Statutes 1945, Section 290.42, is amended to read:

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

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

(2) Returns made on the basis of the fiscal year shall be filed on the fifteenth day of the third month following the close of such fiscal year;

(3) Returns made for a fractional part of a year as an incident to a change from one taxable year to another shall

be filed on the fifteenth day of the third month following the close of the period for which made;

(4) Other returns for a fractional part of a year shall be filed on the fifteenth day of the third month following the end of the month in which falls the last day of the period for which the return is made;

(5) In case of sickness, absence, or other disability, or when, in his judgment, good cause exists, the commissioner may extend the time for filing these returns for not more than six months, except that where the failure is due to absence outside the United States he may extend the period until 30 days after the taxpayer's return to this state. He may require each taxpayer in any of such cases to file a tentative return at the time fixed for filing the regularly required return from him, and to pay a tax on the basis of such tentative return at the times required for the payment of taxes on the basis of the regularly required return from such taxpayer. The commissioner may exercise his power under this clause by general regulation only.

Sec. 13. Minnesota Statutes 1945, Section 290.49, Subdivision 7, is amended to read:

Subd. 7. Where the assessment of any tax is hereafter made within the period of limitation properly applicable thereto, such tax may be collected by a proceeding in court, but only if begun

(1) within *six months* after the *expiration of the period for the assessment of the tax*, or

(2) within six months after the expiration of the period agreed upon by the commissioner and the taxpayer, pursuant to the provisions of Subdivision 8 of this section, or

(3) within six months after final disposition of any appeal from the order of assessment.

Sec. 14. Minnesota Statutes 1945, Section 290.50, is amended by adding a new subdivision to read:

If the taxpayer has within the period prescribed in Subdivision (1) of this section consented in writing to any exten-

sion of time for the assessment of the tax under the provisions of Section 290.49, Subdivision 8, the period within which a claim for refund may be filed, or a refund may be made or allowed, shall be the period within which the taxpayer has consented to an extension for the assessment of the tax. This subdivision shall not apply to any claim filed or refund made or allowed before the execution of the consent. The amount of the refund shall not be in excess of the proposed redetermination of additional tax as provided in Section 290.49, Subdivision 8.

Sec. 15. Minnesota Statutes 1945, Section 290.45, is amended to add a new Subdivision 3, as follows:

Subd. 3. A tax imposed by this chapter, or any installment thereof, may be paid, at the election of the taxpayer, prior to the date prescribed for its payment.

Sec. 16. The provisions of Laws 1949, Chapter 734, are applicable to all taxable years beginning after December 31, 1948, except as follows:

The amendments by Laws 1949, Chapter 734, Section 7, shall be applicable to all taxable years beginning after December 31, 1943.

The amendments by Laws 1949, Chapter 734, Section 10, shall be applicable to all taxable years beginning after December 31, 1946.

The amendments by Laws 1949, Chapter 734, Section 15, shall be applicable to all taxable years beginning after December 31, 1944.

The amendments by Laws 1949, Chapter 734, Sections 6, Clause (5), 13 and 14, shall take effect upon passage.

Approved April 25, 1949.

CHAPTER 735—H. F. No. 1268

An act relating to inheritance and transfer taxes; amending Minnesota Statutes 1945, Sections 291.01, Subdivision 5, and 291.05.