

357.03 **Extra fees of clerk of district court.** In any county of this state where incumbents of the office of clerk of the district court prior to the incumbent holding office at the time of the passage of this section have neglected for six years to enter or file papers or other documents or index the same in such office which should have been entered or filed by them, and as a result thereof the county records are incomplete, the board of county commissioners may agree with the clerk of the district court to properly enter or file all such papers and documents and index the same, and for such work may pay such clerk, in addition to the salary and clerk hire provided by law, the fees provided for such work by section 1 of this act; provided, that no such extra fee shall be paid for the doing of any work which should have been done by such incumbent.

Sec. 4. **Repealer.** Minnesota Statutes 1953, Section 357.02, is repealed.

Approved April 24, 1957.

CHAPTER 621—H. F. No. 1872

An act relating to taxes on and measured by net income providing for the treatment of corporate distributions and adjustments; amending Minnesota Statutes 1953, Section 290.01, Subdivision 21, as amended, Section 290.07, Subdivision 5, as amended, Section 290.12, Subdivision 2, as amended, Section 290.13, Subdivisions 1, 2 and 4, Section 290.14, as amended; repealing Section 290.13, Subdivisions 3, 6, 7 and 8.

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

Section 1. [290.131] **Distribution by corporations; effects on recipients.** *Subdivision 1. Distributions of property. (a) Except as otherwise provided in chapter 290, a distribution of property (as defined in section 3, subdivision 2 (a)) made by a corporation to a shareholder with respect to its stock shall be treated in the manner provided in clause (c).*

(b) *Amount distributed:*

(1) *For purposes of this subdivision, the amount of any distribution shall be;*

(A) *If the shareholder is not a corporation, the amount of money received, plus the fair market value of the other property received.*

(B) *If the shareholder is a corporation, the amount of money received, plus whichever of the following is the lesser:*

(i) *the fair market value of the other property received; or*

(ii) *the adjusted basis (in the hands of the distributing corporation immediately before the distribution) of the other property received, increased in the amount of gain to the distributing corporation which is recognized under clause (b) or (c) of section 2, subdivision 1.*

(2) *The amount of any distribution determined under paragraph (1) shall be reduced (but not below zero) by;*

(A) *the amount of any liability of the corporation assumed by the shareholder in connection with the distribution, and*

(B) *the amount of any liability to which the property received by the shareholder is subject immediately before, and immediately after, the distribution.*

(3) *For purposes of this subdivision, fair market value shall be determined as of the date of the distribution.*

(c) *In the case of a distribution to which clause (a) applies;*

(1) *That portion of the distribution which is a dividend (as defined in section 3, subdivision 1) shall be included in gross income.*

(2) *That portion of the distribution which is not a dividend shall be supplied against and reduce the adjusted basis of the stock.*

(3) *Amount in excess of basis.*

(A) *Except as provided in subparagraph (B), that portion of the distribution which is not a dividend, to the extent that it exceeds the adjusted basis of the stock, shall be treated as gain from the sale or exchange of property.*

(B) *That portion of the distribution which is not a dividend, to the extent that it exceeds the adjusted basis of the stock and to the extent that is out of increase in value accrued before January 1, 1933, shall be exempt from tax.*

(d) *The basis of property received in a distribution to which clause (a) applies shall be;*

(1) *If the shareholder is not a corporation, the fair market value of such property.*

(2) If the shareholder is a corporation, whichever of the following is the lesser:

(A) the fair market value of such property; or

(B) the adjusted basis (in the hands of the distributing corporation immediately before the distribution) of such property, increased in the amount of gain to the distributing corporation which is recognized under clause (b) or (c) of section 2, subdivision 1.

(e) Any distribution made by a corporation, which was classified as a personal service corporation under the provisions of the Revenue Act of 1918, or the Revenue Act of 1921, out of its earnings or profits which were taxable in accordance with the provisions of section 218 of the Revenue Act of 1918 (40 Stat. 1070), or section 218 of the Revenue Act of 1921 (42 Stat. 245), shall be exempt from tax to the distributees.

Subd. 2. Distributions in redemption of stock. (a) If a corporation redeems its stock (within the meaning of section 3, subdivision 2 (b)), and if paragraph (1), (2), 3), or (4) of clause (b) applies, such redemption shall be treated as a distribution in part or full payment in exchange for the stock.

(b) (1) Clause (a) shall apply if the redemption is not essentially equivalent to a dividend.

(2) Substantially disproportionate redemption of stock.

(A) Clause (a) shall apply if the distribution is substantially disproportionate with respect to the shareholder.

(B) This paragraph shall not apply unless immediately after the redemption the shareholder owns less than 50 percent of the total combined voting power of all classes of stock entitled to vote.

(C) For purposes of this paragraph, the distribution is substantially disproportionate if;

(i) the ratio which the voting stock of the corporation owned by the shareholder immediately after the redemption bears to all of the voting stock of the corporation at such time, less than 80 percent of;

(ii) the ratio which the voting stock of the corporation owned by the shareholder immediately before the redemption bears to all of the voting stock of the corporation at such time. For purposes of this paragraph, no distribution shall be treated as substantially disproportionate unless the shareholder's

ownership of the common stock of the corporation (whether voting or nonvoting) after and before redemption also meets the 80 percent requirement of the preceding sentence. For purposes of the preceding sentence, if there is more than one class of common stock, the determinations shall be made by reference to fair market value.

(D) This paragraph shall not apply to any redemption made pursuant to a plan the purpose or effect of which is a series of redemptions resulting in a distribution which (in the aggregate) is not substantially disproportionate with respect to the shareholder.

(3) Clause (a) shall apply if the redemption is in complete redemption of all of the stock of the corporation owned by the shareholder.

(4) Clause (a) shall apply if the redemption is of stock issued by a railroad corporation (as defined in section 77 (m) of the Bankruptcy Act, as amended) pursuant to a plan of reorganization under section 77 of the Bankruptcy Act.

(5) In determining whether a redemption meets the requirements of paragraph (1), the fact that such redemption fails to meet the requirements of paragraphs (2), (3), or (4) shall not be taken into account. If a redemption meets the requirements of paragraph (3) and also the requirements of paragraph (1), (2), or (4), then so much of clause (c) (2) as would (but for this sentence) apply in respect of the acquisition of an interest in the corporation within the ten year period beginning on the date of the distribution shall not apply.

(c) (1) Except as provided in paragraph (2) of this clause, section 3, subdivision 3 (a) shall apply in determining the ownership of stock for purposes of this subdivision.

(2) (A) In the case of a distribution described in clause (b) (3), section 3, subdivision 3 (a) (1) shall not apply if;

(i) immediately after the distribution the distributee has no interest in the corporation (including an interest as officer, director, or employee, other than an interest as a creditor,

(ii) the distributee does not acquire any such interest (other than stock acquired by bequest or inheritance) within ten years from the date of such distribution, and

(iii) the distributee, at such time and in such manner as the commissioner by regulations prescribes, files an agree-

ment to notify the commissioner of any acquisition described in (ii) and to retain such records as may be necessary for the application of this paragraph. If the distributee acquires such an interest in the corporation (other than by bequest or inheritance) within ten years from the date of the distribution, then the periods of limitation provided in sections 290.46 and 290.49 on the making of an assessment and the collection by levy or a proceeding in court shall, with respect to any deficiency (including interest and additions to the tax) resulting from such acquisition, include one year immediately following the date on which the distributee (in accordance with regulations prescribed by the commissioner) notifies the commissioner of such acquisition; and such assessment and collection may be made notwithstanding any provision of law or rule of law which otherwise would prevent such assessment and collection.

(B) subparagraph (A) of this paragraph shall not apply if;

(i) any portion of the stock redeemed was acquired, directly or indirectly, within the ten year period ending on the date of the distribution by the distributee from a person the ownership of whose stock would (at the time of distribution) be attributable to the distributee under section 3, subdivision 3 (a), or

(ii) any person owns (at the time of the distribution) stock the ownership of which is attributable to the distributee under section 3, subdivision 3 (a) and such person acquired any stock in the corporation, directly or indirectly, from the distributee within the ten year period ending on the date of the distributions, unless such stock so acquired from the distributee is redeemed in the same transaction.

The preceding sentence shall not apply if the acquisition (or, in the case of (ii), the disposition) by the distributee did not have as one of its principal purposes the avoidance of state income tax.

(d) Except as otherwise provided in sections 1 through 8 of this act, if a corporation redeems its stock (within the meaning of section 3, subdivision 2 (b)), and if clause (a) of this subdivision does not apply, such redemption shall be treated as a distribution of property to which section 1, subdivision 1 applies.

Subd. 3. Distributions in redemption of stock to pay death taxes. (a) A distribution of property to a shareholder by a corporation in redemption of part or all of the

stock of such corporation which (for federal estate tax purposes) is included in determining the gross estate of a decedent, to the extent that the amount of such distribution does not exceed the sum of;

(1) the estate, inheritance, legacy, and succession taxes (including any interest collected as a part of such taxes) imposed because of such decedent's death, and

(2) the amount of funeral and administration expenses allowable as deductions to the estate under section 2053 of the 1954 Internal Revenue Code (or under section 2106 of the 1954 Internal Revenue Code in the case of the estate of a decedent nonresident, not a citizen of the United States), shall be treated as a distribution in full payment in exchange for the stock so redeemed.

(b) (1) Clause (a) shall apply only to amounts distributed after the death of the decedent and;

(A) within the period of limitations provided in section 6501 (a) of the 1954 Internal Revenue Code for the assessment of the federal estate tax (determined without the application of any provision other than section 6501 (a) of the 1954 Internal Revenue Code), or within 90 days after the expiration of such period, or

(B) if a petition for redetermination of a deficiency in such estate tax has been filed with the tax court within the time prescribed in section 6213 of the 1954 Internal Revenue Code, at any time before the expiration of 60 days after the decision of the tax court becomes final.

(2) (A) Clause (a) shall apply to a distribution by a corporation only if the value (for federal estate tax purposes) of all of the stock of such corporation which is included in determining the value of the decedent's gross estate is either;

(i) more than 35 percent of the value of the gross estate of such decedent, or

(ii) more than 50 percent of the taxable estate of such decedent.

(B) For purposes of the 35 percent and 50 percent requirements of subparagraph (A), stock of two or more corporations, with respect to each of which there is included in determining the value of the decedent's gross estate more than 75 percent in value of the outstanding stock, shall be treated as the stock of a single corporation. For the purpose of the 75 percent requirement of the preceding sentence, stock which,

at the decedent's death, represents the surviving spouse's interest in property held by the decedent and the surviving spouse as community property shall be treated as having been included in determining the value of the decedent's gross estate.

(c) (1) a shareholder owns stock of a corporation (referred to in this clause as "new stock") the basis of which is determined by reference to the basis of stock of a corporation (referred to in this clause as "old stock"),

(2) the old stock was included (for federal estate tax purposes) in determining the gross estate of a decedent, and

(3) clause (a) would apply to a distribution of property to such shareholder in redemption of the old stock, then, subject to the limitation specified in clause (b) (1), clause (a) shall apply in respect of a distribution in redemption of the new stock.

Subd. 4. Redemption through use of related corporations. (a) (1) For purposes of section 1, subdivisions 2 and 3, if; (A) one or more persons are in control of each of two corporations, and

(B) in return for property, one of the corporations acquires stock in the other corporation from the person (or persons) so in control, then (unless paragraph (2) applies) such property shall be treated as a distribution in redemption of the stock of the corporation acquiring such stock. In any such case, the stock so acquired shall be treated as having been transferred by the person from whom acquired, and as having been received by the corporation acquiring it, as a contribution to the capital of such corporation.

(2) For purposes of section 1, subdivisions 2 and 3, if;

(A) in return for property, one corporation acquires from a shareholder of another corporation stock in such other corporation, and

(B) the issuing corporation controls the acquiring corporation, then such property shall be treated as a distribution in redemption of the stock of the issuing corporation.

(b) (1) Rule for determinations under section 1, subdivision 2 (b). In the case of any acquisition of stock to which clause (a) of this subdivision applies, determinations as to whether the acquisition is, by reason of section 1, subdivision 2 (b), to be treated as a distribution in part or full payment in exchange for the stock shall be made by reference to the stock

of the issuing corporation. In applying section 3, subdivision 3 (a) relating to constructive ownership of stock) with respect to section 1, subdivision 2 (b) for purposes of this paragraph, section 3, subdivision 3 (a) (2) (C) shall be applied without regard to the 50 percent limitation contained therein.

(2) (A) In the case of any acquisition of stock to which paragraph (1) (and not paragraph (2) of clause (a) of this subdivision) applies, the determination of the amount which is a dividend shall be made solely by reference to the earnings and profits of the acquiring corporation.

(B) In the case of any acquisition of stock to which clause (a) (2) of this subdivision applies, the determination of the amount which is a dividend shall be made as if the property were distributed by the acquiring corporation to the issuing corporation and immediately thereafter distributed by the issuing corporation.

(c) (1) For purposes of this subdivision, control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote, or at least 50 percent of the total value of shares of all classes of stock. If a person (or persons) is in control (within the meaning of the preceding sentence) of a corporation which in turn owns at least 50 percent of the total combined voting power of all stock entitled to vote of another corporation, or owns at least 50 percent of the total value of the shares of all classes of stock of another corporation, then such person (or persons) shall be treated as in control of such other corporation.

(2) Section 3, Subdivision 3 (a) (relating to the constructive ownership of stock) shall apply for purposes of determining control under paragraph (1). For purposes of the preceding sentence, section 3, subdivision 3 (a) (2) (C) shall be applied without regard to the 50 percent limitation contained therein.

Subd. 5. Distributions of stock and stock rights. (a) Except as provided in clause (b), gross income does not include the amount of any distribution made by a corporation to its shareholders, with respect to the stock of such corporation, in its stock or in rights to acquire its stock.

(b) Clause (a) shall not apply to a distribution by a corporation of its stock (or rights to acquire its stock), and the distribution shall be treated as a distribution of property to which section 1, subdivision 1 applies;

(1) to the extent that the distribution is made in dis-

charge of preference dividends for the taxable year of the corporation in which the distribution is made or for the preceding taxable year; or

(2) if the distribution 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 property.

Subd. 6. Dispositions of certain stock. (a) If a shareholder sells or otherwise disposes of subdivision 6 stock (as defined in clause (c));

(1) If such disposition is not a redemption (within the meaning of section 3, subdivision 2 (b));

(A) The amount realized shall be treated as gain from the sale of property which is not a capital asset. This subparagraph shall not apply to the extent that;

(i) the amount realized, exceeds

(ii) such stock's ratable share of the amount which would have been a dividend at the time of distribution if (in lieu of subdivision 6 stock) the corporation had distributed money in an amount equal to the fair market value of the stock at the time of distribution.

(B) Any excess of the amount realized over the sum of;

(i) the amount treated under subparagraph (A) as gain from the sale of property which is not a capital asset, plus

(ii) the adjusted basis of the stock, shall be treated as gain from the sale of such stock.

(C) No loss shall be recognized.

(2) If the disposition is a redemption, the amount realized shall be treated as a distribution of property to which section 1, subdivision 1 applies.

(b) Clause (a) shall not apply;

(1) Termination of shareholder's interest.

(A) If the disposition

(i) is not a redemption;

(ii) is not, directly or indirectly, to a person the ownership of whose stock would (under section 3, subdivision 3 (a)) be attributable to the shareholder; and

(iii) terminates the entire stock interest of shareholder in the corporation (and for purposes of this part of subparagraph (A), section 3, subdivision 3 (a) shall apply).

(B) If the disposition is a redemption and section 1, subdivision 2 (b) (3) applies.

(2) If the subdivision 6 stock is redeemed in a distribution in partial or complete liquidation to which sections 4 and 5 of this act apply.

(3) To the extent that, under any provision of chapter 290, gain or loss to the shareholder is not recognized with respect to the disposition of the subdivision 6 stock.

(4) If it is established to the satisfaction of the commissioner;

(A) that the distribution, and the disposition or redemption, or

(B) in the case of a prior or simultaneous disposition (or redemption) of the stock with respect to which the subdivision 6 stock disposed of (or redeemed) was issued, that the disposition (or redemption) of the subdivision 6 stock, was not in pursuance of a plan having as one of its principal purposes the avoidance of state income tax.

(c) (1) For purposes of sections 1 through 8 of this act, the term "subdivision 6 stock" means stock which meets the requirements of subparagraph (A), (B), or (C) of this paragraph.

(A) Stock (other than common stock issued with respect to common stock) which was distributed to the shareholder selling or otherwise disposing of such stock if, by reason of section 1, subdivision 5 (a), any part of such distribution was not includible in the gross income of the shareholder.

(B) Stock which is not common stock and;

(i) which was received, by the shareholder selling or otherwise disposing of such stock, in pursuance of a plan of reorganization (within the meaning of section 6, subdivision 9 (a)), or in a distribution or exchange to which section 6, subdivision 3 (or so much of section 6, subdivision 4 as relates to section 6, subdivision 3) applied, and

(ii) with respect to the receipt of which gain or loss

to the shareholder was to any extent not recognized by reason of section 6, but only to the extent that either the effect of the transaction was substantially the same as the receipt of a stock dividend, or the stock was received in exchange for subdivision 6 stock. For purposes of this subdivision, a receipt of stock to which the foregoing provisions of this subparagraph apply shall be treated as a distribution of stock.

(C) Except as otherwise provided in subparagraph (B), stock the basis of which (in the hands of the shareholder selling or otherwise disposing of such stock) is determined by reference to the basis (in the hands of such shareholder or any other person) of subdivision 6 stock.

(2) For purposes of this subdivision, the term "subdivision 6 stock" does not include any stock no part of the distribution of which would have been a dividend at the time of the distribution if money had been distributed in lieu of the stock.

(d) For purposes of this subdivision

(1) stock rights shall be treated as stock, and

(2) stock acquired through the exercise of stock rights shall be treated as stock distributed at the time of the distribution of the stock rights, to the extent of the fair market value of such rights at the time of the distribution.

(e) For purposes of clause (c)

(1) if subdivision 6 stock was issued with respect to common stock and later such subdivision 6 stock is exchanged for common stock in the same corporation (whether or not such exchange is pursuant to a conversion privilege contained in the subdivision 6 stock), then (except as provided in paragraph (2)) the common stock so received shall not be treated as subdivision 6 stock; and

(2) common stock with respect to which there is a privilege of converting into stock other than common stock (or into property), whether or not the conversion privilege is contained in such stock, shall not be treated as common stock.

(f) If a substantial change is made in the terms and conditions of any stock, then, for purposes of this subdivision

(1) the fair market value of such stock shall be the fair market value at the time of the distribution or at the time of such change, whichever such value is higher;

(2) such stock's ratable share of the amount which

would have been a dividend if money had been distributed in lieu of stock shall be determined as of the time of distribution or as of the time of such change, whichever such ratable share is higher; and

(3) clause (c) (2) shall not apply unless the stock meets the requirements of such clause both at the time of such distribution and at the time of such change.

Subd. 7. Basis of stock and stock rights acquired in distributions. (a) If a shareholder in a corporation receives its stock or rights to acquire its stock (referred to in this clause as "new stock") in a distribution to which section 1, subdivision 5 (a) applies, then the basis of such new stock and of the stock with respect to which it is distributed (referred to in this subdivision as "old stock"), respectively, shall, in the shareholder's hands, be determined by allocating between the old stock and the new stock the adjusted basis of the old stock. Such allocation shall be made under regulations prescribed by the commissioner.

(b) (1) If

(A) a corporation distributes rights to acquire its stock to a share holder in a distribution to which section 1, subdivision 5 (a) applies, and

(B) the fair market value of such rights at the time of the distribution is less than 15 percent of the fair market value of the old stock at such time, then clause (a) shall not apply and the basis of such rights shall be zero, unless the taxpayer elects under paragraph (2) of this clause to determine the basis of the old stock and of the stock rights under the method of allocation provided in clause (a).

(2) The election referred to in paragraph (1) shall be made in the return filed within the time prescribed by law (including extensions thereof) for the taxable year in which such rights were received. Such election shall be made in such manner as the commissioner may by regulations prescribe, and shall be irrevocable when made.

Sec. 2. [290.132] Distributions by corporations; effects on corporation. Subdivision 1. Taxability of corporation on distribution. (a) Except as provided in clauses (b) and (c) of this subdivision and section 290.07, subdivision 5 (3), no gain or loss shall be recognized to a corporation on the distribution, with respect to its stock, of:

- (1) its stock (or rights to acquire its stock), or
- (2) property.

(b) (1) *If a corporation inventorying goods under the LIFO method (relating to last-in, first-out inventories) distributes inventory assets (as defined in paragraph (2) (A)), then the amount (if any) by which;*

(A) *the inventory amount (as defined in paragraph (2) (B)) of such assets under a method authorized by section 290.11 (relating to general rule for inventories), exceeds*

(B) *the inventory amount of such assets under the LIFO method, shall be treated as gain to the corporation recognized from the sale of such inventory assets.*

(2) *For purposes of paragraph (1);*

(A) *The term "inventory assets" means stock in trade of the corporation, or other property of a kind which would properly be included in the inventory of the corporation if on hand at the close of the taxable year.*

(B) *The term "inventory amount" means, in the case of inventory assets distributed during a taxable year, the amount of such inventory assets determined as if the taxable year closed at the time of such distribution.*

(3) *For purposes of this clause, the inventory amount of assets under a method authorized by section 290.11 shall be determined;*

(A) *if the corporation uses the LIFO method of valuing inventories, by using such method, or*

(B) *if subparagraph (A) does not apply, by using cost or market, whichever is lower.*

(c) *If;*

(1) *a corporation distributes property to a shareholder with respect to its stock,*

(2) *such property is subject to a liability, or the shareholder assumes a liability of the corporation in connection with the distribution, and*

(3) *the amount of such liability exceeds the adjusted basis (in the hands of the distributing corporation) of such property, then gain shall be recognized to the distributing corporation in an amount equal to such excess as if the property distributed had been sold at the time of the distribution. In the case of a distribution of property subject to a liability which is not assumed by the shareholder, the amount of gain to be recognized under the preceding sentence shall not exceed*

the excess, if any, of the fair market value of such property over its adjusted basis.

Subd. 2. Effect on earnings and profits. (a) Except as otherwise provided in this subdivision, on the distribution of property by a corporation with respect to its stock, the earnings and profits of the corporation (to the extent thereof) shall be decreased by the sum of

(1) *the amount of money,*

(2) *the principal amount of the obligations of such corporation, and*

(3) *the adjusted basis of the other property, so distributed.*

(b) (1) *On the distribution by a corporation, with respect to its stock, of inventory assets (as defined in paragraph (2) (A)) the fair market value of which exceeds the adjusted basis thereof, the earnings and profits of the corporation*

(A) *shall be increased by the amount of such excess; and*

(B) *shall be decreased by whichever of the following is the lesser:*

(i) *the fair market value of the inventory assets distributed, or*

(ii) *the earnings and profits (as increased under subparagraph (A)).*

(2) (A) *For purposes of paragraph (1), the term "inventory assets" means;*

(i) *stock in trade of the corporation, or other property of a kind which would properly be included in the inventory of the corporation if on hand at the close of the taxable years;*

(ii) *property held by the corporation primarily for sale to customers in the ordinary course of its trade or business; and*

(iii) *unrealized receivables or fees, except receivables from sales or exchanges of assets other than assets described in this subparagraph.*

(B) *For purposes of subparagraph (A) (iii), the term "unrealized receivables or fees" means, to the extent not previously includible in income under the method of account-*

ing used by the corporation, any rights (contractual or otherwise) to payment for;

(i) *goods delivered, or to be delivered, to the extent that the proceeds therefrom would be treated as amounts received from the sale or exchange of property other than a capital asset, or*

(ii) *services rendered or to be rendered.*

(c) *In making the adjustments to the earnings and profits of a corporation under clause (a) or (b), proper adjustment shall be made for;*

(1) *the amount of any liability to which the property distributed is subject,*

(2) *the amount of any liability of the corporation assumed by a shareholder in connection with the distribution, and*

(3) *any gain to the corporation recognized under clause (b) or (c) of section 2, subdivision 1.*

(d) (1) *The distribution to a distributee by or on behalf of a corporation of its stock or securities, of stock or securities in another corporation, or of property, in a distribution to which chapter 290 applies, shall not be considered a distribution of the earnings and profits of any corporation*

(A) *if no gain to such distributee from the receipt of such stock or securities, or property, was recognized under Chapter 290, or*

(B) *if the distribution was not subject to tax in the hands of such distributee by reason of section 1, subdivision 5 (a).*

(2) *In the case of a distribution of stock or securities, or property, to which corresponding provisions of law prior to the passage of this act apply, the effect on earnings and profits of such distribution shall be determined under such prior law.*

(3) *For purposes of this clause, the term "stock or securities" includes rights to acquire stock or securities.*

(e) *In the case of amounts distributed in partial liquidation (whether before, on, or after December 31, 1956) or in a redemption to which section 1, subdivision 2 (a) or subdivision 3 applies, the part of such distribution which is properly chargeable to capital account shall not be treated as a distribution of earnings and profits.*

(f) (1) *The gain or loss realized from the sale or other disposition (after December 31, 1932) of property by a corporation*

(A) *for the purposes of the computation of the earnings and profits of the corporation, shall (except as provided in subparagraph (B)) be determined by using as the adjusted basis the adjusted basis (under the law applicable to the year in which the sale or other disposition was made) for determining gain, except that no regard shall be had to the value of the property as of January 1, 1933, but*

(B) *for purposes of the computation of the earnings and profits of the corporation for any period beginning after December 31, 1932, shall be determined by using as the adjusted basis the adjusted basis (under the law applicable to the year in which the sale or other disposition was made) for determining gain. Gain or loss so realized shall increase or decrease the earnings and profits to, but not beyond, the extent to which such a realized gain or loss was recognized in computing taxable income under the law applicable to the year in which such sale or disposition was made. Where, in determining the adjusted basis used in computing such realized gain or loss, the adjustment to the basis differs from the adjustment proper for the purpose of determining earnings and profits, then the latter adjustment shall be used in determining the increase or decrease above provided. For purposes of this clause, a loss with respect to which a reduction is disallowed section 290.09 (4) (relating to wash sales of stock or securities), or the corresponding provision of prior law, shall not be deemed to be recognized.*

(2) *Effect on earnings and profits of receipt of tax-free distributions. Where a corporation receives (after December 31, 1932) a distribution from a second corporation which (under the law applicable to the year in which the distribution was made) was not a taxable dividend to the shareholders of the second corporation, the amount of such distribution shall not increase the earnings and profits of the first corporation in the following cases:*

(A) *no such increase shall be made in respect of the part of such distribution which (under such law) is directly applied in reduction of the basis of the stock in respect of which the distribution was made; and*

(B) *no such increase shall be made if (under such law) the distribution causes the basis of the stock in respect of which the distribution was made to be allocated between such*

stock and the property received (or such basis would, but for section 1, subdivision 7 (b), be so allocated).

(g) (1) If any increase or decrease in the earnings and profits for any period beginning after December 31, 1932, with respect to any matter would be different had the adjusted basis of the property involved been determined without regard to its January 1, 1933, value, then except as provided in paragraph (2), an increase (properly reflecting such difference) shall be made in that part of the earnings and profits consisting of increase in value of property accrued before January 1, 1933.

(2) If the application of clause (f) to a sale or other disposition after December 31, 1932, results in a loss which is to be applied in decrease of earnings and profits for any period beginning after December 31, 1932, then, notwithstanding clause (f) and in lieu of the rule provided in paragraph (1) of this clause, the amount of such loss so to be applied shall be reduced by the amount, if any, by which the adjusted basis of the property used in determining the loss exceeds the adjusted basis computed without regard to the value of the property on January 1, 1933, and if such amount so applied in reduction of the decrease exceeds such loss, the excess over such loss shall increase that part of the earnings and profits consisting of increase in value of property accrued before January 1, 1933.

(h) In the case of a personal service corporation subject for any taxable year to supplement S of the Internal Revenue Code of 1939, an amount equal to the undistributed supplement S net income of the personal service corporation for its taxable year shall be considered as paid in as of the close of such taxable year as paid-in surplus or as a contribution to capital, and the accumulated earnings and profits as of the close of such taxable year shall be correspondingly reduced, if such amount or any portion thereof is required to be included as a dividend in the gross income of the shareholders.

(i) In the case of a distribution or exchange to which section 6, subdivision 3 (or so much of section 6, subdivision 4 as relates to section 6, subdivision 3) applies, proper allocation with respect to the earnings and profits of the distributing corporation and the controlled corporation (or corporations) shall be made under regulations prescribed by the commissioner.

(j) (1) If a corporation distributes property with respect to its stock, and if, at the time of the distributions;

(A) *there is outstanding a loan to such corporation which was made, guaranteed, or insured by the United States (or by any agency or instrumentality thereof), and*

(B) *the amount of such loan so outstanding exceeds the adjusted basis of the property constituting security for such loan, then the earnings and profits of the corporation shall be increased by the amount of such excess, and (immediately after the distribution) shall be decreased by the amount of such excess. For purposes of subparagraph (B) of the preceding sentence, the adjusted basis of the property at the time of distribution shall be determined without regard to any adjustment under section 290.12, subdivision 2 (relating to adjustment for depreciation, etc.). For the purposes of this paragraph, a commitment to make, guarantee, or insure a loan shall be treated as the making, guaranteeing, or insuring of a loan.*

(2) *Paragraph (1) shall apply only with respect to distributions made on or after December 31, 1956.*

Sec. 3. [290.133] Definitions; constructive ownership of stock. Subdivision 1. Dividend defined. (a) *For purposes of chapter 290, the term "dividend" means any distribution of property made by a corporation to its shareholders;*

(1) *out of its earnings and profits accumulated after December 31, 1932, or*

(2) *out of its earnings and 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. Except as otherwise provided in chapter 290, every distribution is made out of earnings and profits to the extent thereof, and from the most recently accumulated earnings and profits. To the extent that any distribution is, under any provision of sections 1 through 8 of this act, treated as a distribution of property to which section 1, subdivision 1 applies, such distribution shall be treated as a distribution of property for purposes of this clause.*

Subd. 2. Other definitions. (a) *For purposes of sections 1 through 3 of this act, the term "property" means money, securities, and any other property; except that such term does not include stock in the corporation making the distribution (or rights to acquire such stock).*

(b) *For purposes of sections 1 through 3 of this act, stock shall be treated as redeemed by a corporation if the cor-*

poration acquires its stock from a shareholder in exchange for property, whether or not the stock so acquired is cancelled, retired, or held as treasury stock.

Subd. 3. Constructive ownership of stock. (a) For purposes of those provisions of chapter 290 to which the rules contained in this subdivision are expressly made applicable;

(1) (A) An individual shall be considered as owning the stock owned, directly or indirectly, by or for;

(i) his spouse (other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance), and

(ii) his children, grandchildren, and parents.

(B) For purposes of subparagraph (A) (ii), a legally adopted child of an individual shall be treated as a child of such individual by blood.

(2) (A) Stock owned, directly or indirectly, by or for a partnership or estate shall be considered as being owned proportionately by its partners or beneficiaries. Stock owned, directly or indirectly, by or for a partner or a beneficiary of an estate shall be considered as being owned by the partnership or estate.

(B) Stock owned, directly or indirectly, by or for a trust shall be considered as being owned by its beneficiaries in proportion to the actuarial interest of such beneficiaries in such trust. Stock owned, directly or indirectly, by or for a beneficiary of a trust shall be considered as being owned by the trust, unless such beneficiary's interest in the trust is a remote contingent interest. For purposes of the preceding sentence, a contingent interest of a beneficiary in a trust shall be considered remote if, under the maximum exercise of discretion by the trustee in favor of such beneficiary, the value of such interest, computed actuarially, is five percent or less of the value of the trust property. Stock owned, directly or indirectly, by or for any portion of a trust of which a person is considered the owner under sections 290.27 or 290.28 (relating to grantors and others treated as substantial owners) shall be considered as being owned by such person; and such trust shall be treated as owning the stock owned, directly or indirectly, by or for that person. This subparagraph shall not apply with respect to any employee's trust described in section 290.26 which is exempt from tax under said section.

(C) If 50 percent or more in value of the stock in a

corporation is owned, directly or indirectly, by or for any person, then;

(i) such person shall be considered as owning the stock owned, directly or indirectly, by or for that corporation, in that proportion which the value of the stock which such person so owns bears to the value of all the stock in such corporation; and

(ii) such corporation shall be considered as owning the stock owned, directly or indirectly, by or for that person.

(3) If any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

(4) (A) Except as provided in subparagraphs (B), stock constructively owned by a person by reason of the application of paragraph (1), (2), or (3) shall, for purposes of applying paragraph (1), (2), or (3), be treated as actually owned by such person.

(B) Stock constructively owned by an individual by reason of the application of paragraph (1) shall not be treated as owned by him for purposes of again applying paragraph (1) in order to make another the constructive owner of such stock.

(C) For purposes of this paragraph, if stock may be considered as owned by an individual under paragraph (1) or (3), it shall be considered as owned by him under paragraph (3).

Sec. 4. [290.134] Corporate liquidation; effects on recipients. Subdivision 1. Gain or loss to shareholders in corporate liquidations. (a) (1) Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock.

(2) Amounts distributed in partial liquidation of a corporation (as defined in section 5, subdivision 4) shall be treated as in part or full payment in exchange for the stock.

(b) Section 1, subdivision 1, (relating to effects on shareholder of distributions of property) shall not apply to any distribution of property in partial or complete liquidation.

Subd. 2. Complete liquidations of subsidiaries. (a) No gain or loss shall be recognized on the receipt by a corpo-

ration of property distributed in complete liquidation of another corporation.

(b) For purposes of clause (a), a distribution shall be considered to be in complete liquidation only if;

(1) the corporation receiving such property was, on the date of the adoption of the plan of liquidation, and has continued to be at all times until the receipt of the property, the owner of stock (in such other corporation) possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and the owner of at least 80 percent of the total number of shares of all other classes of stock (except nonvoting stock which is limited and preferred as to dividends); and either

(2) the distribution is by such other corporation in complete cancellation or redemption of all its stock, and the transfer of all the property occurs within the taxable year; in such case the adoption by the shareholders of the resolution under which is authorized the distribution of all the assets of such corporation in complete cancellation or redemption of all its stock shall be considered an adoption of a plan of liquidation, even though no time for the completion of the transfer of the property is specified in such resolution; or

(3) such distribution is one of a series of distributions by such other corporation in complete cancellation or redemption of all its stock in accordance with a plan of liquidation under which the transfer of all the property under the liquidation is to be completed within 3 years from the close of the taxable year during which is made the first of the series of distributions under the plan, except that if such transfer is not completed within such period, or if the taxpayer does not continue qualified under paragraph (1) until the completion of such transfer, no distribution under the plan shall be considered a distribution in complete liquidation. If such transfer of all the property does not occur within the taxable year, the commissioner may require of the taxpayer such bond, or waiver of the statute of limitations on assessment and collection, or both, as he may deem necessary to insure, if the transfer of the property is not completed within such three-year period, or if the taxpayer does not continue qualified under paragraph (1) until the completion of such transfer, the assessment and collection of all income taxes then imposed by law for such taxable year or subsequent taxable years, to the extent attributable to property so received. A distribution otherwise constituting a distribution in complete liquidation within the meaning of this clause shall not be considered as not constituting such a distribution merely because it does not

constitute a distribution or liquidation within the meaning of the corporate law under which the distribution is made; and for purposes of this clause a transfer of property of such other corporation to the taxpayer shall not be considered as not constituting a distribution (or one of a series of distributions) in complete cancellation or redemption of all the stock of such other corporation, merely because the carrying out of the plan involves (A) the transfer under the plan to the taxpayer by such other corporation of property, not attributable to shares owned by the taxpayer, on an exchange described in section 6, subdivision 7 and (B) the complete cancellation or redemption under the plan, as a result of exchanges described in section 6, subdivision 2, of the shares not owned by taxpayer.

(c) *If;*

(1) *a corporation is liquidated and clause (a) applies to such liquidation, and*

(2) *on the date of the adoption of the plan of liquidation, such corporation was indebted to the corporation which meets the 80 percent stock ownership requirements specified in clause (b), then no gain or loss shall be recognized to the corporation so indebted because of the transfer of property in satisfaction of such indebtedness.*

Subd. 3. Election as to recognition of gain in certain liquidations. (a) *In the case of property distributed in complete liquidation of a corporation (other than a collapsible corporation to which section 5, subdivision 3 (a) applies), if;*

(1) *the liquidation is made in pursuance of a plan of liquidation adopted on or after December 31, 1956, and*

(2) *the distribution is in complete cancellation or redemption of all the stock, and the transfer of all the property under the liquidation occurs within some one calendar month, then in the case of each qualified electing shareholder (as defined in clause (c)) gain on the shares owned by him at the time of the adoption of the plan of liquidation shall be recognized only to the extent provided in clauses (e) and (f).*

(b) *For purposes of this subdivision, the term "excluded corporation" means a corporation which at any time between December 31, 1956, and the date of the adoption of the plan of liquidation, both dates inclusive; was the owner of stock possessing 50 percent or more of the total combined voting power of all classes of stock entitled to vote on the adoption of such plan.*

(c) *For purposes of this subdivision, the term "qual-*

ified electing shareholder" means a shareholder (other than an excluded corporation) of any class of stock (whether or not entitled to vote on the adoption of the plan of liquidation) who is a shareholder at the time of the adoption of such plan, and whose written election to have the benefits of clause (a) has been made and filed in accordance with clause (d), but;

(1) *in the case of a shareholder other than a corporation, only if written elections have been so filed by shareholders (other than corporations) who at the time of the adoption of the plan of liquidation are owners of stock possessing at least 80 percent of the total combined voting power (exclusive of voting power possessed by stock owned by corporations) of all classes of stock entitled to vote on the adoption of such plan of liquidation; or*

(2) *in the case of a shareholder which is a corporation, only if written elections have been so filed by corporate shareholders (other than an excluded corporation) which at the time of the adoption of such plan of liquidation are owners of stock possessing at least 80 percent of the total combined voting power (exclusive of voting power possessed by stock owned by an excluded corporation and by shareholders who are not corporations) of all classes of stock entitled to vote on the adoption of such plan of liquidation.*

(d) *The written elections referred to in clause (c) must be made and filed in such manner as to be not in contravention of regulations prescribed by the commissioner. The filing must be within 30 days after the date of the adoption of the plan of liquidation.*

(e) *In the case of a qualified electing shareholder other than a corporation;*

(1) *there shall be recognized, and treated as a dividend, so much of the gain as is not in excess of his ratable share of the earnings and profits of the corporation accumulated after December 31, 1932, such earnings and profits to be determined as of the close of the month in which the transfer in liquidation occurred under clause (a) (2), but without diminution by reason of distributions made during such month; but by including in the computation thereof all amounts accrued up to the date on which the transfer of all the property under the liquidation is completed; and*

(2) *there shall be recognized, and treated as short-term or long-term capital gain, as the case may be, so much of the remainder of the gain as is not in excess of the amount by which the value of that portion of the assets received by*

him which consists of money, or of stock or securities acquired by the corporation after December 31, 1956, exceeds his ratable share of such earnings and profits.

(f) In the case of a qualified electing shareholder which is a corporation, the gain shall be recognized only to the extent of the greater of the two following;

(1) the portion of the assets received by it which consists of money, or of stock or securities acquired by the liquidating corporation after December 31, 1956; or

(2) its ratable share of the earnings and profits of the liquidating corporation accumulated after December 31, 1932, such earnings and profits to be determined as of the close of the month in which the transfer in liquidation occurred under clause (a) (2), but without diminution by reason of distributions made during such month; but by including in the computation thereof all amounts accrued up to the date on which the transfer of all the property under the liquidation is completed.

Subd. 4. Basis of property received in liquidations. (a) If property is received in a distribution in partial or complete liquidation (other than a distribution to which section 4, subdivision 3 applies), and if gain or loss is recognized on receipt of such property, then the basis of the property in the hands of the distributee shall be the fair market value of such property at the time of the distribution.

(b) (1) If property is received by a corporation in a distribution in complete liquidation of another corporation (within the meaning of section 4, subdivision 2 (b)), then, except as provided in paragraph (2), the basis of the property in the hands of the distributee shall be the same as it would be in the hands of the transferor. If property is received by a corporation in a transfer to which section 4, subdivision 2 (c) applies, and if paragraph (2) of this clause does not apply, then the basis of the property in the hands of the transferee shall be the same as it would be in the hands of the transferor.

(2) If property is received by a corporation in a distribution in complete liquidation of another corporation (within the meaning of section 4, subdivision 2 (b)), and if;

(A) the distribution is pursuant to a plan of liquidation adopted;

(i) on or after December 31, 1956, and

(ii) not more than 2 years after the date of the trans-

action described in subparagraph (B) (or, in the case of a series of transactions, the date of the last such transaction); and (B) stock of the distributing corporation possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote, and at least 80 percent of the total number of shares of all other classes of stock (except nonvoting stock which is limited and preferred as to dividends), was acquired by the distributee by purchase (as defined in paragraph (3)) during a period of not more than 12 months, then the basis of the property in the hands of the distributee shall be the adjusted basis of the stock with respect to which the distribution was made. For purposes of the preceding sentence, under regulations prescribed by the commissioner, proper adjustment in the adjusted basis of any stock shall be made for any distribution made to the distributee with respect to such stock before the adoption of the plan of liquidation, for any money received, for any liabilities assumed or subject to which the property was received, and for other items.

(3) For purposes of paragraph (2) (B), the term "purchase" means any acquisition of stock, but only if;

(A) the basis of the stock in the hands of the distributee is not determined (i) in whole or in part by reference to the adjusted basis of such stock in the hands of the person from whom acquired, or (ii) under section 290.14 (4) (relating to property acquired from a decedent).

(B) the stock is not acquired in an exchange to which section 6, subdivision 1 applies, and

(C) the stock is not acquired from a person the ownership of whose stock would, under section 3, subdivision 3 (a), be attributed to the person acquiring such stock.

(4) For purposes of this clause, the term "distributee" means only the corporation which meets the 80 percent stock ownership requirements specified in section 4, subdivision 2 (b).

(c) If;

(1) property was acquired by a shareholder in the liquidation of a corporation in cancellation or redemption of stock, and

(2) with respect to such acquisition;

(A) gain was realized, but

(B) as the result of an election made by the sharehold-

er under section 4, subdivision 3, the extent to which gain was recognized was determined under section 4, subdivision 3, then the basis shall be the same as the basis of such stock cancelled or redeemed in the liquidation, decreased in the amount of any money received by the shareholder, and increased in the amount of gain recognized to him.

Sec. 5. [290.135] Corporate liquidations; effects on corporation. Subdivision 1. General rule. *Except as provided in section 290.07, subdivision 5 (3) (relating to disposition of installment obligations), no gain or loss shall be recognized to a corporation on the distribution of property in partial or complete liquidation.*

Subd. 2. Gain or loss on sales or exchanges in connection with certain liquidations. (a) If;

(1) a corporation adopts a plan of complete liquidation on or after December 31, 1956, and

(2) within the 12-month period beginning on the date of the adoption of such plan, all of the assets of the corporation are distributed in complete liquidation, less assets retained to meet claims, then no gain or loss shall be recognized to such corporation from the sale or exchange by it of property within such 12-month period.

(b) (1) For purposes of clause (a), the term "property" does not include;

(A) stock in trade of the corporation, or other property of a kind which would properly be included in the inventory of the corporation if on hand at the close of the taxable year, and property held by the corporation primarily for sale to customers in the ordinary course of its trade or business.

(B) installment obligations acquired in respect of the sale or exchange (without regard to whether such sale or exchange occurred before, on, or after the date of the adoption of the plan referred to in clause (a)) of stock in trade or other property described in subparagraph (A) of this paragraph, and

(C) installment obligations acquired in respect of property (other than property described in subparagraph (A)) sold or exchanged before the date of the adoption of such plan of liquidation.

(2) Notwithstanding paragraph (1) of this clause, if substantially all of the property described in subparagraph (A) of such paragraph (1) which is attributable to a trade or

business of the corporation is, in accordance with this subdivision, sold or exchanged to one person in one transaction, then for purposes of clause (a) the term "property" includes;

(A) *such property so sold or exchanged, and*

(B) *installment obligations acquired in respect of such sale or exchange.*

(c) (1) *This subdivision shall not apply to any sale or exchange*

(A) *made by a collapsible corporation (as defined in section 5, subdivision 3 (b)), or*

(B) *following the adoption of a plan of complete liquidation, if section 4, subdivision 3 applies with respect to such liquidation.*

(2) *In the case of a sale or exchange following the adoption of a plan of complete liquidation, if section 4, subdivision 2 applies with respect to such liquidation, then*

(A) *if the basis of the property of the liquidating corporation in the hands of the distributee is determined under section 4, subdivision 4 (b) (1), this subdivision shall not apply; or*

(B) *if the basis of the property of the liquidating corporation in the hands of the distributee is determined under section 4, subdivision 4 (b) (2), this subdivision shall apply only to that portion (if any) of the gain which is not greater than the excess of (i) that portion of the adjusted basis (adjusted for any adjustment required under the second sentence of section 4, subdivision 4 (b) (2)) of the stock of the liquidating corporation which is allocable, under regulations prescribed by the commissioner, to the property sold or exchanged, over (ii) the adjusted basis, in the hands of the liquidating corporation, of the property sold or exchanged.*

Subd. 3. Collapsible corporations. (a) Gain from

(1) *the sale or exchange of stock of a collapsible corporation,*

(2) *a distribution in partial or complete liquidation of a collapsible corporation, which distribution is treated under sections 4 and 5 of this act as in part or full payment in exchange for stock, and*

(3) *a distribution made by a collapsible corporation which, under section 1, subdivision 1 (c) (3) (A), is treated, to the extent it exceeds the basis of the stock, in the same man-*

ner as a gain from the sale or exchange of property, to the extent that it would be considered (but for the provisions of this subdivision) as gain from the sale or exchange of a capital asset held for more than 6 months shall, except as provided in clause (d), be considered as gain from the sale or exchange of property which is not a capital asset.

(b) (1) For purposes of this subdivision, the term "collapsible corporation" means a corporation formed or availed of principally for the manufacture, construction, or production of property, for the purchase of property which (in the hands of the corporation) is property described in paragraph (3), or for the holding of stock in a corporation so formed or availed of, with a view to

(A) the sale or exchange of stock by its shareholders (whether in liquidation or otherwise), or a distribution to its shareholders, before the realization by the corporation manufacturing, constructing, producing, or purchasing the property of a substantial part of the taxable income to be derived from such property, and

(B) the realization by such shareholders of gain attributable to such property.

(2) For purposes of paragraph (1), a corporation shall be deemed to have manufactured, constructed, produced, or purchased property, if;

(A) it engaged in the manufacture, construction, or production of such property to any extent.

(B) it holds property having a basis determined, in whole or in part, by reference to the cost of such property in the hands of a person who manufactured, constructed, produced, or purchased the property, or

(C) it holds property having a basis determined, in whole or in part, by reference to the cost of property manufactured, constructed, produced, or purchased by the corporation.

(3) For purposes of this subdivision, the term "section 5, subdivision 3 assets" means property held for a period of less than three years which is;

(A) stock in trade of the corporation, or other property of a kind which would properly be included in the inventory of the corporation if on hand at the close of the taxable year;

(B) property held by the corporation primarily for

sale to customers in the ordinary course of its trade or business;

(C) *unrealized receivables or fees, except receivables from sales of property other than property described in this paragraph; or*

(D) *property described in section 290.16, subdivision 9 (without regard to any holding period therein provided), except such property which is or has been used in connection with the manufacture, construction, production, or sale of property described in subparagraph (A) or (B). In determining whether the three-year holding period specified in this paragraph has been satisfied, section 290.16, subdivision 8 shall apply, but no such period shall be deemed to begin before the completion of the manufacture, construction, production, or purchase.*

(4) *For purposes of paragraph (3) (C), the term "unrealized receivables or fees" means, to the extent not previously includible in income under the method of accounting used by the corporation, any rights (contractual or otherwise) to payment for;*

(A) *goods delivered, or to be delivered, to the extent the proceeds therefrom would be treated as amounts received from the sale or exchange of property other than a capital asset, or*

(B) *services rendered or to be rendered.*

(c) (1) *For purposes of this subdivision, a corporation shall, unless shown to the contrary, be deemed to be a collapsible corporation if (at the time of the sale or exchange, or the distribution, described in clause (a)) the fair market value of its section 5, subdivision 3 assets (as defined in clause (b) (3)) is;*

(A) *50 percent or more of the fair market value of its total assets, and*

(B) *120 percent or more of the adjusted basis of such section 5, subdivision 3 assets.*

Absence of the conditions described in subparagraphs (A) and (B) shall not give rise to a presumption that the corporation was not a collapsible corporation.

(2) *In determining the fair market value of the total assets of a corporation for purposes of paragraph (1) (A), there shall not be taken into account;*

(A) *cash.*

(B) *obligations which are capital assets in the hands of the corporation (and obligations of the United States or any of its possessions, or of a state or territory, or any political subdivision thereof, or of the District of Columbia, issued on or after March 1, 1941, on a discount basis and payable without interest at a fixed maturity date not exceeding one year from the date of issue), and*

(C) *stock in any other corporation.*

(d) *In the case of gain realized by a shareholder with respect to his stock in a collapsible corporation, this subdivision shall not apply;*

(1) *unless, at any time after the commencement of the manufacture, construction, or production of the property, or at the time of the purchase of the property described in clause (b) (3) or at any time thereafter, such shareholder (A) owned (or was considered as owning) more than five percent in value of the outstanding stock of the corporation, or (B) owned stock which was considered as owned at such time by another shareholder who then owned (or was considered as owning) more than five percent in value of the outstanding stock of the corporation:*

(2) *to the gain recognized during a taxable year, unless more than 70 percent of such gain is attributable to the property so manufactured, constructed, produced, or purchased; and*

(3) *to gain realized after the expiration of three years following the completion of such manufacture, construction, production, or purchase. For purposes of paragraph (1), the ownership of stock shall be determined in accordance with the rules prescribed in paragraphs (1), (2), (3), (5), and (6) of section 544 (a) of the 1954 Internal Revenue Code (relating to personal holding companies); except that, in addition to the persons prescribed by paragraph (2) of that section, the family of an individual shall include the spouses of that individual's brothers and sisters (whether by the whole or half blood) and the spouses of that individual's lineal descendants.*

Subd. 4. Partial liquidation defined. (a) *For purposes of sections 1 through 8 of this act, a distribution shall be treated as in partial liquidation of a corporation if;*

(1) *the distribution is one of a series of distributions in redemption of all of the stock of the corporation pursuant to a plan; or*

(2) *the distribution is not essentially equivalent to a dividend, is in redemption of a part of the stock of the corporation pursuant to a plan, and occurs within the taxable year in which the plan is adopted or within the succeeding taxable year, including (but not limited to) a distribution which meets the requirements of clause (b). A partial liquidation includes a redemption of stock to which section 1, subdivision 2 applies.*

(b) *A distribution shall be treated as a distribution described in clause (a) (2) if the requirement of paragraphs (1) and (2) of this clause are met.*

(1) *The distribution is attributable to the corporation's ceasing to conduct, or consists of the assets of, a trade or business which has been actively conducted throughout the five-year period immediately before the distribution, which trade or business was not acquired by the corporation within such period in a transaction in which gain or loss was recognized in whole or in part.*

(2) *Immediately after the distribution the liquidating corporation is actively engaged in the conduct of a trade or business, which trade or business was actively conducted throughout the five-year period ending on the date of the distribution and was not acquired by the corporation within such period in a transaction in which gain or loss was recognized in whole or in part. Whether or not a distribution meets the requirements of paragraphs (1) and (2) of this clause shall be determined without regard to whether or not the distribution is pro rata with respect to all of the shareholders of the corporation.*

(c) *The fact that, with respect to a shareholder, a distribution qualifies under section 1, subdivision 2 (a) (relating to redemptions treated as distributions in part or full payment in exchange for stock) by reason of section 1, subdivision 2 (b) shall not be taken into account in determining whether the distribution, with respect to such shareholder, is also a distribution in partial liquidation of the corporation.*

Sec. 6. [290.136] Corporate organizations and reorganizations. Subdivision 1. Transfer to corporation controlled by transferor. (a) No gain or loss shall be recognized if property is transferred to a corporation by one or more persons solely in exchange for stock or securities in such corporation and immediately after the exchange such person or persons are in control (as defined in section 6, subdivision 9 (c)) of the corporation. For purposes of this subdivision, stock or securities issued for services shall not be considered as issued in return for property.

(b) *If clause (a) would apply to an exchange but for the fact that there is received, in addition to the stock or securities permitted to be received under clause (a), other property or money, then:*

(1) *gain (if any) to such recipient shall be recognized, but not in excess of:*

(A) *the amount of money received, plus*

(B) *the fair market value of such other property received; and*

(2) *no loss to such recipient shall be recognized.*

(c) *In determining control, for purposes of this subdivision, the fact that any corporate transferor distributes part or all of the stock which it receives in the exchange to its shareholders shall not be taken into account.*

Subd. 2. Exchanges of stock and securities in certain corporations. (a) (1) *No gain or loss shall be recognized if stock or securities in a corporation a party to a reorganization are, in pursuance of the plan of reorganization, exchanged solely for stock or securities in such corporation or in another corporation a party to the reorganization.*

(2) *Paragraph (1) shall not apply if:*

(A) *the principal amount of any such securities received exceeds the principal amount of any such securities surrendered, or*

(B) *any such securities are received and no such securities are surrendered.*

(b) (1) *Clause (a) shall not apply to an exchange in pursuance of a plan of reorganization within the meaning of section 6, subdivision 9 (a) (1) (D), unless:*

(A) *the corporation to which the assets are transferred acquires substantially all of the assets of the transferor of such assets; and*

(B) *the stock, securities, and other properties received by such transferor, as well as the other properties of such transferor, are distributed in pursuance of the plan of reorganization.*

(c) *Notwithstanding any other provision of sections 1 through 8 of this act, clause (a) (1) (and so much of section 6, subdivision 4 as relates to this subdivision) shall apply with respect to a plan of reorganization (whether or not a reorgani-*

zation within the meaning of section 6, subdivision 9 (a)) for a railroad approved by the Interstate Commerce Commission under section 77 of the Bankruptcy Act, or under section 20b of the Interstate Commerce Act, as being in the public interest.

Subd. 3. Distribution of stock and securities of a controlled corporation. (a) (1) If:

(A) a corporation (referred to in this subdivision as the "distributing corporation"):

(i) distributes to a shareholder, with respect to its stock, or

(ii) distributes to a security holder, in exchange for its securities, solely stock or securities of a corporation (referred to in this subdivision as "controlled corporation") which it controls immediately before the distribution.

(B) the transaction was not used principally as a device for the distribution of the earnings and profits of the distributing corporation or the controlled corporation or both (but the mere fact that subsequent to the distribution stock or securities in one or more of such corporations are sold or exchanged by all or some of the distributees (other than pursuant to an arrangement negotiated or agreed upon prior to such distribution) shall not be construed to mean that the transaction was used principally as such a device).

(C) the requirements of clause (b) (relating to active businesses) are satisfied, and

(D) as part of the distribution, the distributing corporation distributes:

(i) all of the stock and securities in the controlled corporation held by it immediately before the distribution, or

(ii) an amount of stock in the controlled corporation constituting control within the meaning of section 6, subdivision 9 (c), and it is established to the satisfaction of the commissioner that the retention by the distributing corporation of stock (or stock and securities) in the controlled corporation was not in pursuance of a plan having as one of its principal purposes the avoidance of state income tax, then no gain or loss shall be recognized to (and no amount shall be includible in the income of) such shareholder or security holder on the receipt of such stock or securities.

(2) Paragraph (1) shall be applied without regard to the following:

(A) *whether or not the distribution is pro rata with respect to all of the shareholders of the distributing corporation,*

(B) *whether or not the shareholder surrenders stock in the distributing corporation, and*

(C) *whether or not the distribution is in pursuance of a plan of reorganization (within the meaning of section 6, subdivision 9 (a) (1) (D)).*

(3) *Paragraph (1) shall not apply if:*

(A) *the principal amount of the securities in the controlled corporation which are received exceeds the principal amount of the securities which are surrendered in connection with such distribution, or*

(B) *securities in the controlled corporation are received and no securities are surrendered in connection with such distribution. For purposes of this subdivision (other than paragraph (1) (D) of this clause) and so much of Section 6, subdivision 4 as relates to this subdivision, stock of a controlled corporation acquired by the distributing corporation by reason of any transaction which occurs within five years of the distribution of such stock and in which gain or loss was recognized in whole or in part, shall not be treated as stock of such controlled corporation, but as other property.*

(b) (1) *Clause (a) shall apply only if either:*

(A) *the distributing corporation, and the controlled corporation (or, if stock of more than one controlled corporation is distributed, each of such corporations), is engaged immediately after the distribution in the active conduct of a trade or business, or*

(B) *immediately before the distribution, the distributing corporation had no assets other than stock or securities in the controlled corporations and each of the controlled corporations is engaged immediately after the distribution in the active conduct of a trade or business.*

(2) *For purposes of paragraph (1), a corporation shall be treated as engaged in the active conduct of a trade or business if and only if:*

(A) *it is engaged in the active conduct of a trade or business, or substantially all of its assets consist of stock and securities of a corporation controlled by it (immediately after the distribution which is so engaged,*

(B) *such trade or business has been actively conducted throughout the five-year period ending on the date of the distribution,*

(C) *such trade or business was not acquired within the period described in subparagraph (B) in a transaction in which gain or loss was recognized in whole or in part, and*

(D) *control of a corporation which (at the time of acquisition of control) was conducting such trade or business:*

(i) *was not acquired directly (or through one or more corporations) by another corporation within the period described in subparagraph (B), or*

(ii) *was so acquired by another corporation within such period, but such control was so acquired only by reason of transactions in which gain or loss was not recognized in whole or in part, or only by reason of such transactions combined with acquisitions before the beginning of such period.*

(c) *Any such distribution made in a taxable year ending after December 31, 1955, shall if heretofore determined to be non-taxable under federal law by the secretary of the treasury of the United States, or his delegate, be governed by the provisions of this subdivision 3.*

Subd. 4. Receipt of additional consideration. (a)

(1) *If:*

(A) *section 6, subdivision 2 or subdivision 3 would apply to an exchange but for the fact that*

(B) *the property received in the exchange consists not only of property permitted by section 6, subdivision 2 or subdivision 3 to be received without the recognition of gain but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property.*

(2) *If an exchange is described in paragraph (1) but has the effect of the distribution of a dividend, then there shall be treated as a dividend to each distributee such an amount of the gain recognized under paragraph (1) as is not in excess of his ratable share of the undistributed earnings and profits of the corporation accumulated after December 31, 1932. The remainder, if any, of the gain recognized under paragraph (1) shall be treated as gain from the exchange of property.*

(b) *If:*

(1) *section 6, subdivision 3 would apply to a distribution but for the fact that*

(2) *the property received in the distribution consists not only of property permitted by section 6, subdivision 3 to be received without the recognition of gain, but also of other property or money, than an amount equal to the sum of such money and the fair market value of such other property shall be treated as a distribution of property to which section 1, subdivision 1 applies.*

(c) *If:*

(1) *section 6, subdivision 2 would apply to an exchange, or section 6, subdivision 3 would apply to an exchange or distribution, but for the fact that*

(2) *the property received in the exchange or distribution consists not only of property permitted by section 6, subdivisions 2 or 3 to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange or distribution shall be recognized.*

(d) *For purposes of this subdivision:*

(1) *Except as provided in paragraph (2), the term "other property" includes securities.*

(2) (A) *The term "other property" does not include securities to the extent that, under section 6, subdivisions 2 or 3, such securities would be permitted to be received without the recognition of gain.*

(B) *If:*

(i) *in an exchange described in section 6, subdivision 2 (other than subsection (c) thereof), securities of a corporation a party to the reorganization are surrendered and securities of any corporation a party to the reorganization are received, and*

(ii) *the principal amount of such securities received exceeds the principal amount of such securities surrendered, then, with respect to such securities received, the term "other property" means only the fair market value of such excess. For purposes of this subparagraph and subparagraph (c), if no securities are surrendered, the excess shall be the entire principal amount of the securities received.*

(C) *If, in an exchange or distribution described in section 6, subdivision 3, the principal amount of the securities in the controlled corporation which are received exceeds the*

principal amount of the securities in the distributing corporation which are surrendered, then, with respect to such securities received, the term "other property" means only the fair market value of such excess.

(e) *Notwithstanding any other provision of this subdivision, to the extent that any of the other property (or money) is received in exchange for section 1, subdivision 6 stock, an amount equal to the fair market value of such other property (or the amount of such money) shall be treated as a distribution of property to which section 1, subdivision 1 applies.*

Subd. 5. Assumption of liability. (a) Except as provided in clauses (b) and (c), if:

(1) *the taxpayer receives property which would be permitted to be received under section 6, subdivision 1 or 7, or section 7, subdivision 1 or 3 without the recognition of gain if it were the sole consideration, and*

(2) *as part of the consideration, another party to the exchange assumes a liability of the taxpayer, or acquires from the taxpayer property subject to a liability, then such assumption or acquisition shall not be treated as money or other property, and shall not prevent the exchange from being within the provisions of section 6, subdivision 1 or 7, or section 7, subdivision 1 or 3 as the case may be.*

(b) (1) *If, taking into consideration the nature of the liability and the circumstances in the light of which the arrangement for the assumption or acquisition was made, it appears that the principal purpose of the taxpayer with respect to the assumption or acquisition described in clause (a):*

(A) *was a purpose to avoid state income tax on the exchange, or*

(B) *if not such purpose, was not a bona fide business purpose, then such assumption or acquisition (in the total amount of the liability assumed or acquired pursuant to such exchange) shall, for purposes of section 6, subdivision 1 or 7, or section 7, subdivision 1 or 3 (as the case may be), be considered as money received by the taxpayer on the exchange.*

(2) *In any suit or proceeding where the burden is on the taxpayer to prove such assumption or acquisition is not to be treated as money received by the taxpayer, such burden shall not be considered as sustained unless the taxpayer sustains such burden by the clear preponderance of the evidence.*

(c) (1) *In the case of an exchange:*

(A) *to which section 6, subdivision 1 applies, or*

(B) *to which section 6, subdivision 7 applies by reason of a plan of reorganization within the meaning of section 6, subdivision 9 (a) (1) (D), if the sum of the amount of the liabilities assumed, plus the amount of the liabilities to which the property is subject, exceeds the total of the adjusted basis of the property transferred pursuant to such exchange, then such excess shall be considered as a gain from the sale or exchange of a capital asset or of property which is not a capital asset, as the case may be.*

(2) *Paragraph (1) shall not apply to any exchange to which:*

(A) *clause (b) (1) of this subdivision applies, or*

(B) *section 7, subdivision 1 or 3 applies.*

Subd. 6. Basis to distributees. (a) *In the case of an exchange to which section 6, subdivision 1, 2, 3, 4, 7 or section 7, subdivision 1 (b) applies;*

(1) *The basis of the property permitted to be received under such subdivision without the recognition of gain or loss shall be the same as that of the property exchanged;*

(A) *decreased by;*

(i) *the fair market value of any other property (except money) received by the taxpayer, and*

(ii) *the amount of any money received by the taxpayer, and*

(B) *increased by;*

(i) *the amount which was treated as a dividend, and*

(ii) *the amount of gain to the taxpayer which was recognized on such exchange (not including any portion of such gain which was treated as a dividend).*

(2) *The basis of any other property (except money) received by the taxpayer shall be its fair market value.*

(b) (1) *Under regulations prescribed by the commissioner, the basis determined under clause (a) (1) shall be allocated among the properties permitted to be received without the recognition of gain or loss.*

(2) *In the case of an exchange to which section 6, subdivision 3 (or so much of section 6, subdivision 4 as relates to section 6, subdivision 3) applies, then in making the allocation under paragraph (1) of this clause, there shall be taken into account not only the property so permitted to be received without the recognition of gain or loss, but also the stock or securities (if any) of the distributing corporation which are retained, and the allocation of basis shall be made among all such properties.*

(c) *For purposes of this subdivision, a distribution to which section 6, subdivision 3 (or so much of section 6, subdivision 4 as relates to section 6, subdivision 3) applies shall be treated as an exchange, and for such purposes the stock and securities of the distributing corporation which are retained shall be treated as surrendered, and received back, in the exchange.*

(d) *Where, as part of the consideration to the taxpayer, another party to the exchange assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability such assumption or acquisition (in the amount of the liability) shall, for purposes of this subdivision, be treated as money received by the taxpayer on the exchange.*

(e) *This subdivision shall not apply to property acquired by a corporation by the issuance of its stock or securities as consideration in whole or in part for the transfer of the property to it.*

Subd. 7. Nonrecognition of gain or loss to corporations

(a) *No gain or loss shall be recognized if a corporation a party to a reorganization exchanges property, in pursuance of the plan of reorganization, solely for stock or securities in another corporation a party to the reorganization.*

(b) (1) *If clause (a) would apply to an exchange but for the fact that the property received in exchange consists not only of stock or securities permitted by clause (a) to be received without the recognition of gain, but also of other property or money, then;*

(A) *if the corporation receiving such other property or money distributes it in pursuance of the plan of reorganization, no gain to the corporation shall be recognized from the exchange, but*

(B) *if the corporation receiving such other property or money does not distribute it in pursuance of the plan of reorganization, the gain, if any, to the corporation shall be recognized, but in an amount not in excess of the sum of such*

money and the fair market value of such other property so received, which is not so distributed.

(2) If clause (a) would apply to an exchange but for the fact that the property received in exchange consists not only of property permitted by clause (a) to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

Subd. 8. Basis to corporation. (a) If property was acquired in a taxable year beginning after December 31, 1956, by a corporation;

(1) in connection with a transaction to which section 6, subdivision 1 (relating to transfer of property to corporation controlled by transferor) applies, or

(2) as paid-in surplus or as a contribution to capital, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain recognized to the transferor on such transfer.

(b) If property was acquired by a corporation in connection with a reorganization to which section 6 of this act applies, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain recognized to the transferor on such transfer. This clause shall not apply if the property acquired consists of stock or securities in a corporation a party to the reorganization, unless acquired by the issuance of stock or securities of the transferee as the consideration in whole or in part for the transfer.

(c) (1) Notwithstanding clause (a) (2), if property other than money;

(A) is acquired by a corporation, on or after December 31, 1956, as a contribution to capital, and

(B) is not contributed by a shareholder as such, then the basis of such property shall be zero.

(2) Notwithstanding clause (a) (2), if money;

(A) is received by a corporation, on or after December 31, 1956, as a contribution to capital, and

(B) is not contributed by a shareholder as such, then the basis of any property acquired with such money during the 12-month period beginning on the day the contribution is received shall be reduced by the amount of such contribution. The excess (if any) of the amount of such contribution over the amount of the reduction under the preceding sentence shall

be applied to the reduction (as of the last day of the period specified in the preceding sentence) of the basis of any other property held by the taxpayer. The particular properties to which the reductions required by this paragraph shall be allocated shall be determined under regulations prescribed by the commissioner.

Subd. 9. Definitions relating to corporate reorganizations. (a) (1). For purposes of sections 1 through 6 of this act the term "reorganization" means;

(A) a statutory merger or consolidation;

(B) the acquisition by one corporation, in exchange solely for all or a part of its voting stock, of stock of another corporation if, immediately after the acquisition, the acquiring corporation has control of such other corporation (whether or not such acquiring corporation had control immediately before the acquisition);

(C) the acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of substantially all of the properties of another corporation, but in determining whether the exchange is solely for stock the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded;

(D) a transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor, or one or more of its shareholders (including persons who were shareholders immediately before the transfer), or any combination thereof, is in control of the corporation to which the assets are transferred; but only if, in pursuance of the plan, stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 6, subdivision 2, 3, or 4 of this act;

(E) a recapitalization; or

(F) a mere change in identity, form, or place or organization, however effected.

(2) (A). If a transaction is described in both paragraph (1) (C) and paragraph (1) (D), then, for purposes of sections 1 through 8 of this act, such transaction shall be treated as described only in paragraph (1) (D).

(B) If - (i) one corporation acquires substantially all of the properties of another corporation,

(ii) the acquisition would qualify under paragraph (1) (C) but for the fact that the acquiring corporation exchanges money or other property in addition to voting stock, and

(iii) the acquiring corporation acquires, solely for voting stock described in paragraph (1) (C), property of the other corporation having a fair market value which is at least 80 percent of the fair market value of all of the property of the other corporation, then such acquisition shall (subject to subparagraph (A) of this paragraph) be treated as qualifying under paragraph (1) (C). Solely for the purpose of determining whether part (iii) of the preceding sentence applies, the amount of any liability assumed by the acquiring corporation, and the amount of any liability to which any property acquired by the acquiring corporation is subject, shall be treated as money paid for the property.

(C) A transaction otherwise qualifying under paragraph (1) (A) or paragraph (1) (C) shall not be disqualified by reason of the fact that part or all of the assets which were acquired in the transaction are transferred to a corporation controlled by the corporation acquiring such assets.

(b) For purposes of section 6, the term "a party to a reorganization" includes

(1) a corporation resulting from a reorganization, and

(2) both corporations, in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another. In the case of a reorganization qualifying under paragraph (1) (C) of clause (a), if the stock exchanged for the properties is stock of a corporation which is in control of the acquiring corporation, the term "a party to a reorganization" includes the corporation so controlling the acquiring corporation. In the case of a reorganization qualifying under paragraph (1) (A) or (1) (C) of clause (a) by reason of paragraph (2) (C) of clause (a), the term "a party to a reorganization" includes the corporation controlling the corporation to which the acquired assets are transferred.

(c) For purposes of sections 1 through 6 of this act except section 1, subdivision 4, the term "control" means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation.

Sec. 7. [290.137] **Insolvency reorganizations.** *Subdivision 1. Reorganization in certain receivership and bankruptcy proceedings.* (a) (1). *No gain or loss shall be recognized if property of a corporation (other than a railroad corporation, as defined in section 77 (m) of the Bankruptcy Act (49 Stat. 922; 11 U.S.C. 205)) is transferred in pursuance of an order of the court having jurisdiction of such corporation*

(A) *in a receivership, foreclosure, or similar proceedings, or*

(B) *in a proceeding under chapter X of the Bankruptcy Act (52 Stat. 883-905; 11 U.S.C., chapter 10) or the corresponding provisions of prior law, to another corporation organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, in exchange solely for stock or securities in such other corporation.*

(2) *If an exchange would be within the provisions of paragraph (1) if it were not for the fact that the property received in exchange consists not only of stock or securities permitted by paragraph (1) to be received without the recognition of gain, but also of other property or money, then*

(A) *if the corporation receiving such other property or money distributes it in pursuance of the plan of reorganization, no gain to the corporation shall be recognized from the exchange, but*

(B) *if the corporation receiving such other property or money does not distribute it in pursuance of the plan of reorganization, the gain, if any, to the corporation shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property so received, which is not so distributed.*

(b) (1) *No gain or loss shall be recognized on an exchange consisting of the relinquishment of extinguishment of stock or securities in a corporation the plan of reorganization of which is approved by the court in a proceeding described in clause (a), in consideration of the acquisition solely of stock or securities in a corporation organized or made use of to effectuate such plan of reorganization.*

(2) *If an exchange would be within the provisions of paragraph (1) if it were not for the fact that the property received in exchange consists not only of property permitted by paragraph (1) to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not*

in excess of the sum of such money and the fair market value of such other property.

(c) If an exchange would be within the provisions of clause (a) (1) or (b) (1) if it were not for the fact that the property received in exchange consists not only of property permitted by clause (a) (1) or (b) (1) to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

(d) In the case of a transaction involving an assumption of a liability or the acquisition of property subject to a liability, the rules provided in section 6, subdivision 5 shall apply.

Subd. 2. Basis in connection with certain receivership and bankruptcy proceedings. *(a) If property was acquired by a corporation in a transfer to which*

(1) section 7, subdivision 1 (a) applies,

(2) so much of section 7, subdivision 1 (c) as relates to section 7, subdivision 1 (a) (1) applies, or

(3) the corresponding provisions of prior law apply, then notwithstanding the provisions of section 270 of the Bankruptcy Act (54 Stat. 709; 11 U.S.C. 670), the basis in the hands of the acquiring corporation shall be the same as it would be in the hands of the corporation whose property was so acquired, increased in the amount of gain recognized to the corporation whose property was so acquired under the law applicable to the year in which the acquisition occurred, and such basis shall not be adjusted under section 290.09 (13) by reason of a discharge of indebtedness in pursuance of the plan of reorganization under which such transfer was made.

Subd. 3. Gain or loss not recognized in certain railroad reorganizations. *(a) (1) No gain or loss shall be recognized if property of a railroad corporation, as defined in section 77 (m) of the Bankruptcy Act (49 Stat. 922; 11 U.S.C. 205), is transferred after December 31, 1956, in pursuance of an order of the court having jurisdiction of such corporation;*

(A) in a receivership proceeding, or

(B) in a proceeding under section 77 of the Bankruptcy Act, to another railroad corporation (as defined in section 77 (m) of the Bankruptcy Act) organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, in exchange solely for stock or securities in such other railroad corporation.

(2) *If an exchange would be within the provisions of paragraph (1) if it were not for the fact that the property received in exchange consists not only of stock or securities permitted by paragraph (1) to be received without the recognition of gain, but also of other property or money, then;*

(A) *if the corporation receiving such other property or money distributes it in pursuance of the plan of reorganization, no gain to the corporation shall be recognized from the exchange, but*

(B) *if the corporation receiving such other property or money does not distribute it in pursuance of the plan of reorganization, the gain, if any, to the corporation shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property so received, which is not so distributed.*

(3) *If an exchange would be within the provisions of paragraph (1) if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.*

(b) *If the property of a railroad corporation (as defined in section 77 (m) of the Bankruptcy Act) was acquired after December 31, 1956, in pursuance of an order of the court having jurisdiction of such corporation;*

(1) *in a receivership proceeding, or*

(2) *in a proceeding under section 77 of the Bankruptcy Act, and the acquiring corporation is a railroad corporation (as defined in section 77 (m) of the Bankruptcy Act) organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, the basis shall be the same as it would be in the hands of the railroad corporation whose property was so acquired, increased in the amount of gain recognized under clause (a) (2) to the transferor on such transfer.*

(c) *In the case of a transaction involving an assumption of a liability or the acquisition of property subject to a liability, the rules provided in section 6, subdivision 5 shall apply.*

Sec. 8. [290.138] *Carryovers. Subdivision 1. Carryover in certain corporate acquisitions. (a) In the case of the acquisition of assets of a corporation by another corporation;*

(1) *in a distribution to such other corporation to which section 4, subdivision 2 (relating to liquidations of subsidiaries) applies, except in a case in which the basis of the assets distributed is determined under section 4, subdivision 4 (b) (2); or*

(2) *in a transfer to which section 6, subdivision 7 (relating to non-recognition of gain or loss to corporations) applies, but only if the transfer is in connection with a reorganization described in subparagraph (A), (C), (D) (but only if the requirements of subparagraphs (A) and (B) of section 6, subdivision 2 (b) (1) are met), or (F) of section 6, subdivision 9 (a) (1), the acquiring corporation shall succeed to and take into account, as of the close of the day of distribution or transfer, the items described in clause (c) of the distributor or transferor corporation, subject to the conditions and limitations specified in clauses (b) and (c).*

(b) *Except in the case of an acquisition in connection with a reorganization described in subparagraph (F) of section 6, subdivision 9 (a) (1);*

(1) *The taxable year of the distributor or transferor corporation shall end on the date of distribution or transfer.*

(2) *For purposes of this subdivision, the date of distribution or transfer shall be the day on which the distribution or transfer is completed; except that, under regulations prescribed by the commissioner, the date when substantially all of the property has been distributed or transferred may be used if the distributor or transferor corporation ceases all operations, other than liquidating activities, after such date.*

(3) *The corporation acquiring property in a distribution or transfer described in clause (a) shall not be entitled to carry back a net operating loss for a taxable year ending after the date of distribution or transfer to a taxable year of the distributor or transferor corporation.*

(c) *The items referred to in clause (a) are:*

(1) *The net operating loss carryovers determined under section 290.095, subject to the following conditions and limitations:*

(A) *The taxable year of the acquiring corporation to which the net operating loss carryovers of the distributor or transferor corporation are first carried shall be the first taxable year ending after the date of distribution or transfer.*

(B) *In determining the net operating loss deduction, the portion of such deduction attributable to the net operating*

loss carryovers of the distributor or transferor corporation to the first taxable year of the acquiring corporation ending after the date of distribution or transfer shall be limited to an amount which bears the same ratio to the taxable income (determined without regard to a net operating loss deduction) of the acquiring corporation in such taxable year as the number of days in the taxable year after the date of distribution or transfer bears to the total number of days in the taxable year.

(C) For the purpose of determining the amount of the net operating loss carryovers under section 290.095, subdivision 3, a net operating loss for a taxable year (hereinafter in this subparagraph referred to as the "loss year") of a distributor or transferor corporation which ends on or before the end of a loss year of the acquiring corporation shall be considered to be a net operating loss for a year prior to such loss year of the acquiring corporation. For the same purpose, the taxable income for a "prior taxable year" (as the term is used in section 290.095, subdivision 3) shall be computed as provided in such section; except that, if the date of distribution or transfer is on a day other than the last day of a taxable year of the acquiring corporation;

(i) such taxable year shall (for the purpose of this subparagraph only) be considered to be 2 taxable years (hereinafter in this subparagraph referred to as the "pre-acquisition part year" and the "post-acquisition part year"):

(ii) the pre-acquisition part year shall begin on the same day as such taxable year begins and shall end on the date of distribution or transfer:

(iii) the post-acquisition part year shall begin on the day following the date of distribution or transfer and shall end on the same day as the end of such taxable year:

(iv) the taxable income for such taxable year (computed with the modifications specified in section 290.095, subdivision 3 (1) but without a net operating loss deduction) shall be divided between the pre-acquisition part year and the post-acquisition part year in proportion to the number of days in each:

(v) the net operating loss deduction for the pre-acquisition part year shall be determined as provided in section 290.095, subdivision 3 (2), but without regard to a net operating loss year of the distributor or transferor corporation; and

(vi) the net operating loss deduction for the post-ac-

quisition part year shall be determined as provided in section 290.095, subdivision 3 (2).

(2) In the case of a distribution or transfer described in clause (a);

(A) the earnings and profits or deficit in earnings and profits, as the case may be, of the distributor or transferor corporation shall, subject to subparagraph (B), be deemed to have been received or incurred by the acquiring corporation as of the close of the date of the distribution or transfer; and

(B) a deficit in earnings and profits of the distributor, transferor, or acquiring corporation shall be used only to offset earnings and profits accumulated after the date of transfer. For this purpose, the earnings and profits for the taxable year of the acquiring corporation in which the distribution or transfer occurs shall be deemed to have been accumulated after such distribution or transfer in an amount which bears the same ratio to the undistributed earnings and profits of the acquiring corporation for such taxable year (computed without regard to any earnings and profits received from the distributor or transferor corporation, as described in subparagraph (A) of this paragraph) as the number of days in the taxable year after the date of distribution or transfer bears to the total number of days in the taxable year.

(3) The capital loss carryover determined under section 290.16, subdivision 6, subject to the following conditions and limitations:

(A) The taxable year of the acquiring corporation to which the capital loss carryover of the distributor or transferor corporation is first carried shall be the first taxable year ending after the date of distribution or transfer.

(B) The capital loss carryover shall be a short-term capital loss in the taxable year determined under subparagraph (A) but shall be limited to an amount which bears the same ratio to the net capital gain (determined without regard to a short-term capital loss attributable to capital loss carryover), if any, of the acquiring corporation in such taxable year as the number of days in the taxable year after the date of distribution or transfer bears to the total number of days in the taxable year.

(C) For purposes of determining the amount of such capital loss carryover to taxable years following the taxable year determined under subparagraph (A), the net capital gain in the taxable year determined under subparagraph (A)

shall be considered to be an amount equal to the amount determined under subparagraph (B).

(4) The acquiring corporation shall use the method of accounting used by the distributor or transferor corporation on the date of distribution or transfer unless different methods were used by several distributor or transferor corporations or by a distributor or transferor corporation and the acquiring corporation. If different methods were used, the acquiring corporation shall use the method or combination of methods of computing taxable income adopted pursuant to regulations prescribed by the commissioner.

(5) In any case in which inventories are received by the acquiring corporation, such inventories shall be taken by such corporation, (in determining its income) on the same basis on which such inventories were taken by the distributor or transferor corporation, unless different methods were used by several distributor or transferor or by a distributor or transferor corporation and the acquiring corporation. If different methods were used, the acquiring corporation shall use the method or combination of methods of taking inventory adopted pursuant to regulations prescribed by the commissioner.

(6) The acquiring corporation shall be treated as the distributor or transferor corporation for purposes of computing the depreciation allowance under paragraphs 2, 3, and 4 of section 290.09, subdivision 7 (b) on property acquired in a distribution or transfer with respect to that part or all of the basis in the hands of the acquiring corporation as does not exceed the basis in the hands of the distributor or transferor corporation.

(7) If the acquiring corporation acquires installment obligations (the income from which the distributor or transferor corporation has elected, under section 290.07, subdivision 5, to report on the installment basis) the acquiring corporation shall, for purposes of section 290.07, subdivision 5, be treated as if it were the distributor or transferor corporation.

(8) If the acquiring corporation assumes liability for bonds of the distributor or transferor corporation issued at a discount or premium, the acquiring corporation shall be treated as the distributor or transferor corporation after the date of distribution or transfer for purposes of determining the amount of amortization allowable or includible with respect to such discount or premium.

(9) The acquiring corporation shall be considered to be the distributor or transferor corporation after the date

of distribution or transfer for the purpose of determining the amounts deductible under section 290.26 with respect to pension plans, employees' annuity plans, and stock bonus and profitsharing plans.

(10) *If the acquiring corporation is entitled to the recovery of bad debts previously deducted or credited by the distributor or transferor corporation, the acquiring corporation shall include in its income such amounts as would have been includible by the distributor or transferor corporation in accordance with section 290.071, subdivision 5 (relating to the recovery of bad debts).*

(11) *The acquiring corporation shall be treated as the distributor or transferor corporation after the date of distribution or transfer for purposes of applying section 290.13, subdivision 5.*

(12) *If the acquiring corporation;*

(A) *Assumes an obligation of the distributor or transferor corporation which, after the date of the distribution or transfer, gives rise to a liability, and*

(B) *such liability, if paid or accrued by the distributor or transferor corporation, would have been deductible in computing its taxable income, the acquiring corporation shall be entitled to deduct such items when paid or accrued, as the case may be, as if such corporation were the distributor or transferor corporation. A corporation which would have been an acquiring corporation under this subdivision if the date of distribution or transfer had occurred on or after the effective date of the provisions of sections 1 through 8 of this act applicable to a liquidation or reorganization, as the case may be, shall be entitled, even though the date of distribution or transfer occurred before such effective date, to apply this paragraph with respect to amounts paid or accrued in taxable years beginning after December 31, 1956, on account of such obligations of the distributor or transferor corporation. This paragraph shall not apply if such obligations are reflected in the amount of stock, securities, or property transferred by the acquiring corporation to the transferor corporation for the property of the transferor corporation.*

Subd. 2. Special limitations on net operating loss carryovers. (a) (1) *If, at the end of a taxable year of a corporation*

(A) *any one or more of those persons described in paragraph (2) own a percentage of the total fair market value of the outstanding stock of such corporation which is at least*

50 percentage points more than such person or persons owned at;

- (i) the beginning of such taxable year, or
- (ii) the beginning of the prior taxable year,

(B) the increase in percentage points at the end of such taxable year is attributable to;

(i) a purchase by such person or persons of such stock, the stock of another corporation owning stock in such corporation, or an interest in a partnership or trust owning stock in such corporation, or

(ii) a decrease in the amount of such stock outstanding or the amount of stock outstanding of another corporation owning stock in such corporation, except a decrease resulting from a redemption to pay death taxes to which section 1, subdivision 3 applies, and (C) such corporation has not continued to carry on a trade or business substantially the same as that conducted before any change in the percentage ownership of the fair market value of such stock, the net operating loss carryovers, if any, from prior taxable years of such corporation to such taxable year and subsequent taxable years shall not be included in the net operating loss deduction for such taxable year and subsequent taxable years.

(2) The person or persons referred to in paragraph (1) shall be the ten persons (or such lesser number as there are persons owning the outstanding stock at the end of such taxable year) who own the greatest percentage of the fair market value of such stock at the end of such taxable year; except that, if any other person owns the same percentage of such stock at such time as is owned by one of the ten persons, such person shall also be included. If any of the persons are so related that such stock owned by one is attributed to the other under the rules specified in paragraph (3), such persons shall be considered as only one person solely for the purpose of selecting the ten persons (more or less) who own the greatest percentage of the fair market value of such outstanding stock.

(3) Section 3, subdivision 3 (relating to constructive ownership of stock) shall apply in determining the ownership of stock, except that section 3, subdivision 3 (a) (2) (C) shall be applied without regard to the 50 percent limitation contained therein.

(4) For purposes of this clause, the term "purchase" means the acquisition of stock, the basis of which is determined solely by reference to its cost to the holder thereof, in

a transaction from a person or persons other than the person or persons the ownership of whose stock would be attributed to the holder by application of paragraph (3).

(b) (1) If, in the case of a reorganization specified in paragraph (2) of section 8, subdivision 1 (a), the transferor corporation or the acquiring corporation:

(A) has a net operating loss which is a net operating loss carryover to the first taxable year of the acquiring corporation ending after the date of transfer, and

(B) the stockholders (immediately before the reorganization) of such corporation (hereinafter in this clause referred to as the "loss corporation"), as the result of owning stock of the loss corporation, own (immediately after the reorganization) less than 20 percent of the fair market value of the outstanding stock of the acquiring corporation, the total net operating loss carryover from prior taxable years of the loss corporation to the first taxable year of the acquiring corporation ending after the date of transfer shall be reduced by the percentage determined under paragraph (2).

(2) The reduction applicable under paragraph (1) shall be the percentage determined by subtracting from 100 percent:

(A) the percent of the fair market value of the outstanding stock of the acquiring corporation owned (immediately after the reorganization) by the stockholders (immediately before the reorganization) of the loss corporation, as the result of owning stock of the loss corporation, multiplied by

(B) five.

(3) The limitation in this clause shall not apply if the transferor corporation and the acquiring corporation are owned substantially by the same persons in the same proportion.

(4) In computing the net operating loss carryovers to taxable years subsequent to a taxable year in which there was a limitation applicable to a net operating loss carryover by operation of this clause, the income in such taxable year, as computed under section 290.095, subdivision 3, shall be increased by the amount of the reduction of the total net operating loss carryover determined under paragraph (2).

(5) If the transferor corporation or the acquiring corporation owns (immediately before the reorganization) any of the outstanding stock of the loss corporation, such transferor

corporation or acquiring corporation shall, for purposes of this clause, be treated as owning (immediately after the reorganization) a percentage of the fair market value of the acquiring corporation's outstanding stock which bears the same ratio to the percentage of the fair market value of the outstanding stock of the loss corporation (immediately before the reorganization) owned by such transferor corporation or acquiring corporation as the fair market value of the total outstanding stock of the loss corporation (immediately before the reorganization) bears to the fair market value of the total outstanding stock of the acquiring corporation (immediately after the reorganization).

(6) If the stockholders of the loss corporation (immediately before the reorganization) own, as a result of the reorganization, stock in a corporation controlling the acquiring corporation, such stock of the controlling corporation shall, for purposes of this clause, be treated as stock of the acquiring corporation in an amount valued at an equivalent fair market value.

(c) For purposes of this subdivision, "stock" means all shares except nonvoting stock which is limited and preferred as to dividends.

Sec. 9. Minnesota Statutes 1953, Section 290.01, Subdivision 21, as amended by Laws 1955, Chapter 385, is amended to read:

Subd. 21. **Dividends.** (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, 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, 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. 10. Minnesota Statutes 1953, Section 290.07, Subdivision 5, as amended by Laws 1955, Chapter 426, is amended to read:

Subd. 5. **Property sold on installment plan.** (1) Under regulations prescribed by the commissioner, a person who regularly sells or otherwise disposes of personal property on the installment plan may return as income therefrom in any taxable year that proportion of the installment payments actually received in that year which the gross profit, realized

or to be realized when payment is completed, bears to the total contract price.

(2) Income from a sale or other disposition of real property, or from a casual sale or other casual disposition of personal property (other than property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year) for a price exceeding \$1,000, may (under regulations prescribed by the commissioner) be returned on the basis and in the manner prescribed in paragraph (1). The preceding sentence shall apply in the case of a sale or other disposition during a taxable year beginning after December 1, 1954, (whether or not such taxable year ends after the date of enactment of this act), only if in the taxable year of the sale or other disposition there are no payments or the payments (exclusive of evidence of indebtedness of the purchaser) do not exceed 30 percent of the selling price; and shall apply in the case of a sale or other disposition during a taxable year beginning after January 1, 1955, only if the income was returnable on the basis and in the manner prescribed in Minnesota Statutes 1953, Section 290.07, Subdivision 3 (1).

(3) If an installment obligation is satisfied at other than its face value or distributed, transmitted, sold or otherwise disposed of, gain or loss shall result to the extent of the difference between the basis of the obligation, and (a) in the case of satisfaction at other than face value or a sale or exchange the amount realized, or (b) in case of a distribution, transmission or disposition otherwise than by sale or exchange the fair market value of the obligation at the time of such distribution, transmission, or disposition. Any gain or loss so resulting shall be considered as resulting from the sale or exchange of the property in respect of which the installment obligation was received. The basis of the obligation shall be the excess of the face value of the obligation over an amount equal to the income which would be returnable were the obligation satisfied in full. This subsection shall not apply to the transmission at death of installment obligations if there is filed with the commissioner, at such time as he may by regulation prescribe, a bond in such amount and with such sureties as he may deem necessary, conditioned upon the return as income, by the person receiving any payment on such obligations, of the same proportion of such payment as would be returnable as income by the decedent if he had lived and had received such payment. If an installment obligation is distributed by one corporation to another corporation in the course of a liquidation, and under section 4, subdivision 2, of this act, no gain or loss with respect to the receipt of such obligation is recognized in the

case of the recipient corporation, then no gain or loss with respect to the distribution of such obligation shall be recognized in the case of the distributing corporation. If an installment obligation is distributed by a corporation in the course of a liquidation, and under section 5, *subdivision 2, of this act*, no gain or loss would have been recognized to the corporation if the corporation had sold or exchanged such installment obligation on the day of such distribution, then no gain or loss shall be recognized to such corporation by reason of such distribution.

(4) If a taxpayer entitled to the benefits of paragraph (1) of this subdivision elects for any taxable year to report his net income and taxable net income on the installment basis, then in computing his net income and taxable net income for such year (referred to in this and the succeeding two paragraphs as "year of change") or for any subsequent year, (a) installment payments actually received during any such year on account of sales or other dispositions of property made in any taxable year before the year of change shall not be excluded; but (b) the tax imposed by this chapter for any taxable year (referred to in this and the succeeding two paragraphs as "adjustment year") beginning after December 31, 1954, shall be reduced by the adjustment computed under paragraph (5).

(5) In determining the adjustment referred to in paragraph (4) (b) first determine, for each taxable year before the year of change, the amount which equals the lesser of: (a) the portion of the tax for such prior taxable year which is attributable to the gross profits which was included in gross income for such prior taxable year, and which by reason of paragraph (4) (a) is includible in gross income for the taxable year, or (b) the portion of the tax for the adjustment year which is attributable to the gross profit described in subparagraph (a) of this paragraph. The adjustment referred to in paragraph (4) (b) for the adjustment year is the sum of the amounts determined under the preceding sentence.

(6) For purpose of paragraph (5), the portion of the tax for a prior taxable year, or for the adjustment year, which is attributable to the gross profit described in such paragraph is that amount which bears the same ratio to the tax imposed by this chapter (or by the corresponding provisions of prior Minnesota income tax laws) for such taxable year (computed without regard to paragraph (5)) as the gross profit described in such paragraph bears to the gross income for such taxable year.

Sec. 11. Minnesota Statutes 1953, Section 290.12, Subdi-

vision 2, as amended by Laws 1955, Chapter 195, is amended to read:

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 (14), which could, during the period of his ownership thereof, have been deducted by the taxpayer under this chapter in respect of such property. 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, clause (1), and in the case of a transaction referred to in section 290.14, clause 5, 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.

Sec. 12. Minnesota Statutes 1953, Section 290.13, Subdivision 1, is amended to read:

290.13 Gain or loss on disposition of property, recognition. Subdivision 1. **Transactions in which no gain or loss is recognized.** No gain or loss from the following transactions shall be recognized at the time of their occurrence, except as otherwise specified in this section:

(1) If the property held for productive use in trade or business or for investment (not including stock in trade or other property held primarily for sale, nor stocks, bonds, notes, choses in action, certificates of trust or beneficial interest, or other securities or evidences of indebtedness or interest) is exchanged solely for property of a like kind to be held either for productive use in trade or business or for investment;

(2) If common stock in a corporation is exchanged solely for common stock in the same corporation, or if preferred stock in a corporation is exchanged solely for preferred stock in the same corporation;

Sec. 13. Minnesota Statutes 1953, Section 290.13, Subdivision 2, is amended to read:

Subd. 2. **Certain gains recognized.** If an exchange would be within the provisions of subdivision 1, if it were not for the fact that the property received in exchange consists not only of property permitted by any such clause to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property;

Sec. 14. Minnesota Statutes 1953, Section 290.13, Subdivision 4, is amended to read:

Subd. 4. **Nonrecognition of loss.** If an exchange would be within the provisions of subdivision 1, if it were not for the fact that the property received in exchange consists not only of property permitted by any such clause to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

Sec. 15. Minnesota Statutes 1953, Section 290.14, as amended by Laws 1955, Chapter 191, is amended to read:

290.14 Gain or loss on disposition of property, basis. The basis for determining the gain or loss from the sale or other disposition of property acquired on or after January 1, 1933, shall be the cost to the taxpayer of such property, with the following exceptions:

(1) If the property should have been included in the last inventory, it shall be the last inventory value thereof;

(2) If the property was acquired by gift, it shall be the same as it would be if it were being sold or otherwise disposed of by the last preceding owner not acquiring it by gift; if the facts required for this determination cannot be ascer-

tained, it shall be the fair market value as of the date, or approximate date, of acquisition by such last preceding owner, as nearly as the requisite facts can be ascertained by the commissioner;

(3) If the property was acquired by gift through an inter vivos transfer in trust, it shall be the same as it would be if it were being sold or otherwise disposed of by the grantor;

(4) If the property was acquired by devise, bequest or inheritance, or by the estate of a decedent from such decedent, it shall be the fair market value at the date of the decedent's death, and, for the purpose of this clause, an inter vivos transfer in trust made by the decedent in which he reserved the income, or the control thereof, to himself for his life and a power of revoking the trust, shall be treated as a disposition by will at his death of the property transferred on such trust terms;

(5) If the property was acquired after December 31, 1932, upon an exchange described in section 290.13, subdivision 1, the basis, shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized upon such exchange under the law applicable to the year in which the exchange was made. If the property so acquired consisted in part of the type of property permitted by section 290.13, subdivision 1, to be received without the recognition of gain or loss, and in part of other property, the basis provided in this clause shall be allocated between the properties, other than money, received, and for the purpose of the allocation there shall be assigned to such other property an amount equivalent to its fair market value at the date of the exchange. This clause shall not apply to property acquired by a corporation by the issuance of its stock or securities as the consideration, in whole or in part, for the transfer of the property to it;

(6) If substantially identical property was acquired in the place of stocks or securities which were sold or disposed of and in respect of which loss was not allowed as a deduction under section 290.09, clause (4), the basis in the case of property so acquired shall be the same as in the case of the stock or securities so sold or disposed of, increased by the excess of the repurchase price of such property over the sale price of such stock or securities, or decreased by the excess of the sale price of such stock or securities over the repurchase price of such property;

(7) If the property was acquired after December 31, 1932, as the result of a compulsory or involuntary conversion described in section 290.13, subdivision 5, the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law applicable to the year in which such conversion was made, determining the taxable status of the gain or loss upon such conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

(8) Neither the basis nor the adjusted basis of any portion of real property shall, in the case of a lessor of such property, be increased or diminished on account of income derived by the lessor in respect of such property and excludible from gross income under section 290.08, clause (13).

If an amount representing any part of the value of real property attributable to buildings erected or other improvements made by a lessee in respect of such property was included in gross income of the lessor for any taxable year beginning before January 1, 1943, the basis of each portion of such property shall be properly adjusted for the amount so included in gross income.

Sec. 16. Repealer. Minnesota Statutes 1953, Section 290.13, Subdivisions 3, 6, 7 and 8, are hereby repealed.

Sec. 17. [290.139] Prior laws applicable in certain cases. *The basis of property acquired in transactions occurring prior to the effective date of this act, and adjustments to such basis occurring prior to the effective date of this act, shall be determined in accordance with the income tax laws applicable to the years involved.*

Sec. 18. *Except as herein otherwise provided, the provisions of this chapter are applicable to all taxable years beginning after December 31, 1956.*

Approved April 24, 1957.

CHAPTER 622—H. F. No. 1875

An act relating to public corporations created under and pursuant to Minnesota Statutes 1953, Sections 360.101 to 360.133; amending Minnesota Statutes 1953, Section 360.107, Subdivision 15.