

## CHAPTER 60 — H.F.No. 435

*An act relating to taxation; income; property tax refund; adopting certain federal income tax amendments; amending Minnesota Statutes 1980, Sections 290.01, Subdivision 20; 290.06, Subdivision 14; 290.07, Subdivision 5; 290.077, Subdivision 4; 290.08, Subdivisions 8 and 20; 290.09, Subdivisions 3, 4, 17a, and 19; 290.091; 290.131, Subdivision 2; 290.132, Subdivision 2; 290.135, Subdivision 2; 290.136, Subdivision 1; 290.138, by adding a subdivision; 290.26, Subdivision 2; 290.31, Subdivision 3; 290.41, by adding subdivisions; 290.92, Subdivision 20; 290.934, Subdivision 4; 290.971, by adding a subdivision; 290A.03, Subdivision 3; 474.12, Subdivision 2; and Laws 1980, Chapter 607, Article 1, Section 34; repealing Minnesota Statutes 1980, Sections 290.08, Subdivisions 7 and 13; 290.09, Subdivision 12; 290.136, Subdivisions 2, 3, 4, 5, 6, 7, and 9; 290.137; and 290.138, Subdivisions 1 and 2.*

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

Section 1. Minnesota Statutes 1980, Section 290.01, Subdivision 20, is amended to read:

Subd. 20. **GROSS INCOME.** Except as otherwise provided in this chapter, the term "gross income," as applied to corporations includes every kind of compensation for labor or personal services of every kind from any private or public employment, office, position or services; income derived from the ownership or use of property; gains or profits derived from every kind of disposition of, or every kind of dealing in, property; income derived from the transaction of any trade or business; and income derived from any source; except that gross income shall not include "exempt function income" of a "homeowners association" as those terms are defined in Section 528 of the Internal Revenue Code of 1954, as amended through December 31, 1979 1980.

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

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

(ii) The Internal Revenue Code of 1954, as amended through December 31, 1976, including the amendments made to section 280A (relating to licensed day care centers) in H.R. 3477 as it passed the Congress on May 16, 1977, shall be in effect for the taxable years beginning after December 31, 1976. The provisions of the Tax Reform Act of 1976, P.L. 94-455, which affect adjusted gross income shall become effective for purposes of this chapter at the same time they become effective for federal income tax purposes. Section 207

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(relating to extension of period for nonrecognition of gain on sale or exchange of residence) and section 402 (relating to time for making contributions to pension plans of self employed people) of P.L. 94-12 shall be effective for taxable years beginning after December 31, 1974.

The provisions of section 4 of P.L. 95-458, ~~and sections 131, 133, 134, 141, 152, 156, 157, and 405, and 543 of P.L. 95-600, and section 2 of P.L. 96-608~~ (relating to pensions, individual retirement accounts, deferred compensation plans, ~~and to the sale of a residence and to conservation payments to farmers~~) including the amendments made to these sections in P.L. 96-222 shall be effective at the same time that these provisions became effective for federal income tax purposes.

(iii) The Internal Revenue Code of 1954, as amended through December 31, 1979, shall be in effect for taxable years beginning after December 31, 1979.

For taxable years beginning after December 31, 1980 and before January 1, 1983, (iv) The Internal Revenue Code of 1954, as amended through December 31, 1980, shall be in effect for taxable years beginning after December 31, 1980 including the provisions of section 404 (relating to partial exclusions of dividends and interest received by individuals) of the Crude Oil Windfall Profit Tax Act of 1980, P.L. 96-223, shall apply. The provisions of P.L. 96-471 (relating to installment sales) shall be effective at the same time that they become effective for federal income tax purposes.

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

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

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

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

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

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

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

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

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

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

(8) In the case of property disposed of on or after January 1, 1973, the amount of any increase in the taxpayer's federal tax liability under section 47 of the Internal Revenue Code of 1954 to the extent of the credit under section 38 of the Internal Revenue Code of 1954 that was previously allowed as a deduction either under section 290.01, subdivision 20 (b) (7) or under section 290.09, subdivision 24;

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

(10) Expenses and depreciation attributable to substandard buildings disallowed by section 290.101;

(11) The amount by which the gain determined pursuant to section 41.59, subdivision 2 exceeds the amount of such gain included in federal adjusted gross income;

(12) To the extent deducted in computing the taxpayer's federal adjusted gross income for the taxable year, losses recognized upon a transfer of property to the spouse or former spouse of the taxpayer in exchange for the release of the spouse's marital rights;

(13) Interest income from qualified scholarship funding bonds as defined in section 103(e) of the Internal Revenue Code of 1954, if the nonprofit corporation is domiciled outside of Minnesota;

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(14) Exempt-interest dividends, as defined in section 852(b)(5)(A) of the Internal Revenue Code of 1954, not included in federal adjusted gross income pursuant to section 852(b)(5)(B) of the Internal Revenue Code of 1954, except for that portion of exempt-interest dividends derived from interest income on obligations of the state of Minnesota, any of its political or governmental subdivisions, any of its municipalities, or any of its governmental agencies or instrumentalities;

(15) The amount of any excluded gain recognized by a trust on the sale or exchange of property as defined in section 641(c)(1) of the Internal Revenue Code of 1954;

(16) An amount equal to one-sixth of any gain from the sale or other disposition of property deducted under sections 1202(a) and 1202(c)(1) of the Internal Revenue Code of 1954;

(17) To the extent not included in the taxpayer's federal adjusted gross income, the amount of any gain, from the sale or other disposition of property having a lower adjusted basis for Minnesota income tax purposes than for federal income tax purposes. This modification shall not exceed the difference in basis. If the gain is considered a long term capital gain for federal income tax purposes, the modification shall be limited to 50 percent of the portion of the gain. This modification is limited to property that qualified for the energy credit contained in section 290.06, subdivision 14, and to property acquired in exchange for the release of the taxpayer's marital rights contained in section 290.14, clause (9);

(18) The amount of any loss from a source outside of Minnesota which is not allowed under section 290.17 including any capital loss or net operating loss carryforwards or carrybacks resulting from the loss; and

(19) The amount of a distribution from an individual housing account which is to be included in gross income as required under clause (c) of section 290.09, subdivision 30.

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

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

(2) The portion of any gain, from the sale or other disposition of property having a higher adjusted basis for Minnesota income tax purposes than for federal income tax purposes, that does not exceed such difference in basis; but if such gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to 50 per centum of the portion

of the gain. This modification shall not be applicable if the difference in basis is due to disallowance of depreciation pursuant to section 290.101.

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

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

(5) If included in federal adjusted gross income, the amount of any credit received, whether received as a refund or credit to another taxable year's income tax liability, pursuant to chapter 290A, and the amount of any overpayment of income tax to Minnesota, or any other state, for any previous taxable year, whether the amount is received as a refund or credited to another taxable year's income tax liability;

(6) To the extent included in federal adjusted gross income, or the amount reflected as the ordinary income portion of a lump sum distribution under section 402(e) of the Internal Revenue Code of 1954, notwithstanding any other law to the contrary, the amount received by any person (i) from the United States, its agencies or instrumentalities, the Federal Reserve Bank or from the state of Minnesota or any of its political or governmental subdivisions or from any other state or its political or governmental subdivisions, or a Minnesota volunteer firefighter's relief association, by way of payment as a pension, public employee retirement benefit, or any combination thereof, or (ii) as a retirement or survivor's benefit made from a plan qualifying under section 401, 403, 404, 405, 408, 409 or 409A of the Internal Revenue Code of 1954. The maximum amount of this subtraction shall be \$11,000 less the amount by which the individual's federal adjusted gross income, plus the ordinary income portion of a lump sum distribution as defined in section 402(e) of the Internal Revenue Code of 1954, exceeds \$17,000. In the case of a volunteer firefighter who receives an involuntary lump sum distribution of his pension or retirement benefits, the maximum amount of this subtraction shall be \$11,000; this subtraction shall not be reduced by the amount of the individual's federal adjusted gross income in excess of \$17,000;

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

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(8) To the extent included in the taxpayer's federal adjusted gross income for the taxable year, gain recognized upon a transfer of property to the spouse or former spouse of the taxpayer in exchange for the release of the spouse's marital rights;

(9) The amount of any distribution from a qualified pension or profit sharing plan included in federal adjusted gross income in the year of receipt to the extent of any contribution not previously allowed as a deduction by reason of a change in federal law which was not adopted by Minnesota law for a taxable year beginning in 1974 or later;

(10) Interest, including payment adjustment to the extent that it is applied to interest, earned by the seller of the property on a family farm security loan executed before January 1, 1982 that is guaranteed by the commissioner of agriculture as provided in sections 41.51 to 41.60;

(11) The first \$3,000 of compensation for personal services in the armed forces of the United States or the United Nations, and the next \$2,000 of compensation for personal services in the armed forces of the United States or the United Nations wholly performed outside the state of Minnesota. This modification does not apply to compensation defined in clause (b)(6);

(12) The amount of any income earned for personal services rendered outside of Minnesota prior to the date when the taxpayer became a resident of Minnesota. This modification does not apply to compensation defined in clause (b)(6);

(13) In the case of wages or salaries paid or incurred on or after January 1, 1977, the amount of any credit for employment of certain new employees under sections 44B and 51 to 53 of the Internal Revenue Code of 1954 which is claimed as a credit against the taxpayer's federal tax liability, but only to the extent that the credit is connected with or allocable against the production or receipt of income included in the measure of the tax imposed by this chapter;

(14) In the case of work incentive program expenses paid or incurred on or after January 1, 1979, the amount of any credit for expenses of work incentive programs under sections 40, 50A and 50B of the Internal Revenue Code of 1954 which is claimed as a credit against the taxpayer's federal tax liability, but only to the extent that the credit is connected with or allocable against the production or receipt of income included in the measure of the tax imposed by this chapter;

(15) Unemployment compensation to the extent includible in gross income for federal income tax purposes under section 85 of the Internal Revenue Code of 1954;

(16) To the extent included in federal adjusted gross income, severance pay that may be treated as a lump sum distribution under the provisions of section 290.032, subdivision 5;

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(17) The amount of any income or gain which is not assignable to Minnesota under the provisions of section 290.17; and

(18) Minnesota exempt-interest dividends as provided by subdivision 27.

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

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

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

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

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

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of taxes deducted from gross income during any taxable year shall be treated as gross income for the year in which actually received, but only to the extent that such amounts resulted in a reduction of the tax imposed by this act.

(d) Modification in computing taxable income of the estate of a decedent. Amounts allowable under section 291.07, subdivision 1, clause (2) in computing Minnesota inheritance or estate tax liability shall not be allowed as a deduction in computing the taxable income of the estate unless there is filed within the time and in the manner and form prescribed by the commissioner a statement that the amounts have not been allowed as a deduction under section 291.07 and a waiver of the right to have the amounts allowed at any time as deductions under section 291.07. The provisions of this paragraph shall not apply with respect to deductions allowed under section 290.077 (relating to income in respect of decedents). In the event that the election made for federal tax purposes under section 642(g) of the Internal Revenue Code of 1954 differs from the election made under this paragraph appropriate modification of the estate's federal taxable income shall be made to implement the election made under this paragraph in accordance with regulations prescribed by the commissioner.

Sec. 2. Minnesota Statutes 1980, Section 290.06, Subdivision 14, is amended to read:

Subd. 14. **RESIDENTIAL ENERGY CREDIT.** A credit of 20 percent of the first \$10,000 of renewable energy source expenditures, including the expenditures described in clauses (a), (b) and (d) if made by an individual taxpayer on a Minnesota building of six dwelling units or less and expenditures for biomass conversion equipment described in clause (c), may be deducted from the tax due under this chapter for the taxable year in which the expenditures were made. For purposes of this subdivision, the term "building" shall include a condominium or townhouse used by the taxpayer as a residence. In the case of qualifying expenditures incurred in connection with a building under construction by a contractor, the credit shall be deducted from the tax liability of the first individual to purchase the building for use as a principal residence or for residential rental purposes; the contractor shall not be eligible for the credit given pursuant to this subdivision for that expenditure.

A "renewable energy source expenditure" which qualifies shall include:

(a) Expenditures which qualify for the federal renewable energy source credit, pursuant to Section 44C of the Internal Revenue Code of 1954, as amended through December 31, ~~1979~~ 1980, and any regulations promulgated pursuant thereto, provided that, after December 31, 1980, any solar collector included in the claimed expenditure is certified by the energy agency. A solar collector is a device designed to absorb incident solar radiation, convert it to thermal energy, and transfer the thermal energy to a fluid passing through or in contact with the device. "Solar collector" shall not include passive solar energy systems as defined in clause (d):

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(b) Expenditures for earth sheltered dwelling units. For purposes of this credit, an "earth sheltered dwelling unit" shall mean a structure which complies with applicable building standards and which is constructed so that:

(1) 80 percent or more of the roof area is covered with a minimum depth of 12 inches of earth; and

(2) 50 percent or more of the wall area is covered with a minimum depth of 12 inches of earth; and

(3) Those portions of the structure not insulated with a minimum of seven feet of earth shall have additional insulation;

(c) Expenditures for biomass conversion equipment located in Minnesota which produces ethanol, methane or methanol for use as a gaseous or as a liquid fuel which is not offered for sale; and

(d) Expenditures for passive solar energy systems. For purposes of this credit, a "passive solar energy system" is defined to include systems which utilize elements of the building and its operable components to heat or cool a building with the sun's energy by means of conduction, convection, radiation, or evaporation. A passive system shall include:

(1) Collection aperture, including glazing installed in south facing walls and roofs; and

(2) Storage element, including thermal mass in the form of water, masonry, rock, concrete, or other mediums which is designed to store heat collected from solar radiation.

A passive system may include:

(1) Control and distribution element, including fans, louvers, and air ducts; and/or

(2) Retention element, including movable insulation used to minimize heat loss caused by nocturnal radiation through areas used for direct solar heat gain during daylight hours.

Eligible passive expenditures shall be for equipment, materials or devices that are an integral part of the components listed above and essential to the functioning of a passive design which qualifies pursuant to rules promulgated by the commissioner of revenue in cooperation with the director of the energy agency. Expenditures for equipment, materials, or devices which are a part of the normal heating, cooling, or insulation system of a building are not eligible for the credit.

If a credit was allowed to a taxpayer under this subdivision for any prior taxable year, the dollar amount of the maximum expenditure for which a taxpayer may qualify for a credit under this subdivision in subsequent years

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shall be \$10,000 reduced by the amount of expenditures which a credit was claimed pursuant to this subdivision in prior years. A taxpayer shall never be allowed to claim more than \$10,000 of expenditures during the duration of the renewable energy credit.

The credit provided in this subdivision shall not be allowed in a taxable year if the amount of the credit would be less than \$10.

If the credit allowable under this subdivision exceeds the amount of tax due in a taxable year, the excess credit shall not be refunded but may be carried forward to the succeeding taxable year and added to the credit allowable for that year. No amount may be carried forward to a taxable year beginning after December 31, 1984.

A shareholder in a family farm corporation and each partner in a partnership operating a family farm shall be eligible for the credit provided by this subdivision in the same manner and to the same extent allowed a joint owner of property under section 44C (d) of the Internal Revenue Code of 1954, as amended through December 31, ~~1979~~ 1980. "Family farm corporation" and "family farm" have the meanings given in section 500.24.

The credit provided in this subdivision is subject to the provisions of Section 44C, (c) (7) and (10), (d) (1) to (3), and (e), of the Internal Revenue Code of 1954, as amended through December 31, ~~1979~~ 1980, and any regulations promulgated pursuant thereto.

The commissioner of revenue in cooperation with the director of the energy agency shall promulgate rules establishing additional qualifications and definitions for the credits provided in this subdivision.

Notwithstanding section 290.61, the commissioner of revenue may request the energy agency to assist in the review and auditing of the information furnished by the taxpayer for purposes of claiming this credit. The provisions of section 290.61 shall apply to employees of the energy agency who receive information furnished by a taxpayer for purposes of claiming this credit.

The director of the energy agency shall promulgate rules establishing the criteria for certification of solar collectors as required by clause (a). The criteria shall:

- (1) Specify the testing procedures to be used in the evaluation of solar collectors;
- (2) Establish minimum levels of collector quality for safety;
- (3) Provide a means to determine the maintainability and structural integrity of solar collectors;
- (4) Establish a system for evaluating and rating the thermal performance of solar collectors;

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(5) Specify the procedures to follow to obtain certification of a solar collector;

(6) Conform to the maximum extent practicable to the solar collector certification requirements of other states which have adopted certification procedures; and

(7) Allow for individual variation so as not to hamper the development of innovative solar collectors.

*The director of the energy agency may promulgate temporary rules pursuant to section 15.0412, subdivision 5 to establish this certification procedure.*

This subdivision is effective for expenditures made during taxable years beginning after December 31, 1978 and before January 1, 1983.

Sec. 3. Minnesota Statutes 1980, Section 290.07, Subdivision 5, 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 31, 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 evidences of indebtedness of the purchaser) do not exceed 30 percent of the selling price.

(3) The filing of a return by a corporation reporting income from the sale of property on an installment basis shall constitute an election which election shall be irrevocable unless changed on or before the due date for filing return.

(4) 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. Except as provided in section 290.077 (relating to recipients of income in respect of decedents), this paragraph (4) shall not apply to the transmission of installment obligations at death. If an installment obligation is distributed by one corporation to another corporation in the course of a liquidation, and under section 290.134, subdivision 2 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 290.135, subdivision 2, 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.

(5) 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 (6).

(6) In determining the adjustment referred to in paragraph (5) (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 profit which was included in gross income for such prior taxable year, and which by reason of paragraph (5) (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 (5) (b) for the adjustment year is the sum of the amounts determined under the preceding sentence.

(7) For purposes of paragraph (6), 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 (6)) as the gross profit described in such paragraph bears to the gross income for such taxable year. Income from installment sales shall be determined in accordance with the provisions of sections 453, 453A, and 453B of the Internal Revenue Code of 1954, as amended through December 31, 1980.

Sec. 4. Minnesota Statutes 1980, Section 290.077, Subdivision 4, is amended to read:

Subd. 4. **DEDUCTION FOR FEDERAL ESTATE TAX AND MINNESOTA INHERITANCE OR ESTATE TAX. (1) ALLOWANCE OF DEDUCTION; FEDERAL ESTATE TAX. (A) GENERAL RULE.** A person who includes an amount in gross income under this section, shall be allowed, for the same taxable year, as a deduction an amount which bears the same ratio to the estate tax attributable to the net value for estate tax purposes of all the items described in subdivision 1, as the value for estate tax purposes of the items of gross income or portions thereof in respect of which such person included the amount in gross income (or the amount included in gross income, whichever is lower) bears to the value for estate tax purposes of all the items described in subdivision 1.

**(B) ESTATES AND TRUSTS.** In the case of an estate or trust, the amount allowed as a deduction under subparagraph (A) of this subdivision shall be computed by excluding from the gross income of the estate or trust the portion (if any) of the items described in subdivision 1, which is properly paid, credited, or to be distributed to the beneficiaries during the taxable year. This subparagraph shall apply to the same taxable years, and to the same extent, as is provided in section 290.23, subdivision 5.

**(2) METHOD OF COMPUTING DEDUCTION.** For purposes of paragraph (1) of this subdivision

**(A)** The term "estate tax" means the tax imposed on the estate of the decedent or any prior decedent under the Internal Revenue Code of 1954, as amended through December 31, 1979 section 2001 or 2101, reduced by the credits against such tax.

**(B)** The net value for estate tax purposes of all the items described in subdivision 1, shall be the excess of the value for estate tax purposes of all the items described in subdivision 1, over the deductions from the gross estate in respect of claims which represent the deductions and credit described in subdivision 2. Such net value shall be determined with regard to the provisions of the Internal Revenue Code of 1954, as amended through December 31, 1979, section 421(c)(2), relating to the deduction for estate tax with respect to restricted stock options.

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(C) The estate tax attributable to such net value shall be an amount equal to the excess of the estate tax over the estate tax computed without including in the gross estate such net value.

**(3) ALLOWANCE OF DEDUCTION; MINNESOTA INHERITANCE OR ESTATE TAX. (A) GENERAL RULE.** A person who includes an amount in gross income under this section, shall be allowed, for the same taxable year, as a deduction an amount which bears the same ratio to the Minnesota inheritance or estate tax attributable to the net value for inheritance or estate tax purposes of all the items described in subdivision 1, as the value for *inheritance or estate tax purposes of the items of gross income or portions thereof* in respect of which such person included the amount in gross income (or the amount included in gross income, whichever is lower) bears to the value for inheritance or estate tax purposes of all the items described in subdivision 1.

**(B) ESTATES AND TRUSTS.** In the case of an estate or trust, the amount allowed as a deduction under subparagraph (A) of this subdivision shall be computed by excluding from the gross income of the estate or trust the portion (if any) of the items described in subdivision 1, which is properly paid, credited, or to be distributed to the beneficiaries during the taxable year. This subparagraph shall apply to the same taxable years, and to the same extent as is provided in section 290.23, subdivision 5.

**(4) METHOD OF COMPUTING DEDUCTION.** For purposes of paragraph (3) of this subdivision

(A) (i) The term "inheritance tax" means the tax imposed by Minnesota on the estates of decedents dying before January 1, 1980, reduced by the credits against such tax; (ii) The term "estate tax" means the tax imposed by Minnesota on the estates of decedents dying on or after January 1, 1980, reduced by the credits against the tax; (iii) The terms "inheritance tax" or "estate tax" also include the tax imposed by other states on the estates of decedents reduced by the credits against the tax.

(B) The net value for inheritance or estate tax purposes of all the items described in subdivision 1, shall be the excess of the value for inheritance or estate tax purposes of all the items described in subdivision 1, over the deductions from the gross inheritance or gross estate in respect of claims which represent the deductions and credit described in subdivision 2.

(C) (i) The inheritance tax attributable to such net value shall be an amount equal to the excess of the inheritance tax over the inheritance tax computed without including in the gross inheritance such net value; (ii) The estate tax attributable to such net value shall be an amount equal to the excess of the estate tax over the estate tax computed without including in the gross estate the net value.

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**(5) LUMP SUM DISTRIBUTION ADJUSTMENT.** For purposes of section 290.032 (other than the minimum distribution allowance), the total taxable amount of any lump sum distribution shall be reduced by the amount of the deduction allowable under paragraph (1) of this subdivision which is attributable to the total taxable amount (determined without regard to this paragraph).

Sec. 5. Minnesota Statutes 1980, Section 290.08, Subdivision 8, is amended to read:

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

Sec. 6. Minnesota Statutes 1980, Section 290.08, Subdivision 20, is amended to read:

**Subd. 20. INCOME FROM DISCHARGE OF INDEBTEDNESS.** No amount shall be included in gross income by reason of the discharge, in whole or in part, within the taxable year, of any indebtedness for which the taxpayer is liable, or subject to which the taxpayer holds property, if the indebtedness was incurred or assumed by a corporation, or by an individual in connection with property used in his trade or business, and such taxpayer makes and files a consent to the regulations prescribed under the last paragraph of this subdivision then in effect at such time and in such manner as the commissioner by regulation prescribes.

In such case, the amount of any income of such taxpayer attributable to any unamortized premium (computed as of the first day of the taxable year in which such discharge occurred) with respect to such indebtedness shall not be included in gross income, and the amount of the deduction attributable to any unamortized discount (computed as of the first day of the taxable year in which such discharge occurred) with respect to such indebtedness shall not be allowed as a deduction.

Where any amount is excluded from gross income under this subdivision the whole or a part of the amount so excluded from gross income shall be applied in reduction of the basis of any property held (whether before or after the time of the discharge) by the taxpayer during any portion of the taxable year in which such discharge occurred. The amount to be so applied (not in excess of the amount so excluded from gross income, reduced by the amount of any deduction disallowed under the preceding paragraph) and the particular properties to which the reduction shall be allocated, shall be determined under

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regulations (prescribed by the commissioner) in effect at the time of the filing of the consent by the taxpayer. ~~The reduction shall be made as of the first day of the taxable year in which the discharge occurred, except in the case of property not held by the taxpayer on such first day, in which case it shall take effect as of the time the holding of the taxpayer began.~~ The exclusion of income from discharge of indebtedness and the determination of the basis of any property shall be determined in accordance with the provisions of sections 108 and 1017 of the Internal Revenue Code of 1954, as amended through December 31, 1980.

Sec. 7. Minnesota Statutes 1980, Section 290.09, Subdivision 3, is amended to read:

Subd. 3. **INTEREST.** (a) All interest paid or accrued within the taxable year on indebtedness, except as hereinafter provided.

(b) Interest paid or accrued within the taxable year on indebtedness incurred or continued to purchase or carry obligations or securities the income from which is excludable from gross income under section 290.08, or shares of a regulated investment company which during the taxable year of the holder thereof distributes Minnesota exempt-interest dividends as defined in section 290.01, subdivision 27, or on indebtedness incurred or continued in connection with the purchasing or carrying of a single premium life insurance, annuity, or endowment contract, shall not be allowed as a deduction. (For purposes of this paragraph, a contract shall be treated as a single premium contract if substantially all the premiums on the contract are paid within a period of four years from the date on which the contract is purchased, or if an amount is deposited after January 1, 1955 with the insurer for payment of a substantial number of future premiums on the contract.)

(c) If personal property or educational services are purchased under a contract which provides that payment of part or all of the purchase price is to be made in installments, and in which carrying charges are separately stated but the interest charge cannot be ascertained, then the payments made during the taxable year under the contract shall be treated for purposes of this paragraph as if they included interest equal to six percent of the average unpaid balance under the contract during the taxable year, and such interest shall be allowed as a deduction. For purposes of the preceding sentence, the average unpaid balance is the sum of the unpaid balance outstanding on the first day of each month beginning during the taxable year, divided by 12. In the case of any contract to which this paragraph applies, the amount treated as interest for any taxable year shall not exceed the aggregate carrying charges which are properly attributable to such taxable year.

For purposes of this subdivision the term "educational services" means any service including lodging which is purchased from an educational institution (as defined in section 151(e) (4) of the Internal Revenue Code of 1954, as amended through December 31, 1979) and which is provided for a student of such institution.

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(d) A cash basis taxpayer may elect to deduct interest as it accrues on a reverse mortgage loan as defined in section 47.58, subdivision 1, rather than when it is actually paid. This election must be made, if at all, in the first taxable year in which it is available to the cash basis taxpayer and, if made, shall be binding on the taxpayer for each subsequent taxable year until maturity of the loan.

(e) A taxpayer may not deduct interest on indebtedness incurred or continued to purchase or carry obligations or shares, or to make deposits or other investments, the interest on which is described in section 116(c) of the Internal Revenue Code of 1954, as amended through December 31, 1980 to the extent such interest is excludable from gross income under section 116 of the Internal Revenue Code of 1954 as amended through December 31, 1980.

Sec. 8. Minnesota Statutes 1980, Section 290.09, Subdivision 4, is amended to read:

Subd. 4. **TAXES.** Taxes paid or accrued within the taxable year, except (a) income or franchise taxes imposed by this chapter and income or franchise taxes paid to any other state or to any province or territory of Canada for which a credit is allowed under section 290.081; (b) taxes assessed against local benefits of a kind deemed in law to increase the value of the property assessed; (c) inheritance, gift and estate taxes except as provided in section 290.077, subdivision 4; (d) cigarette and tobacco products excise tax imposed on the consumer; (e) that part of Minnesota property taxes for which a credit or refund is claimed and allowed under chapter 290A; (f) federal income taxes (including the windfall profit tax on domestic crude oil), by corporations, national and state banks except as provided in section 290.18; (g) mortgage registry tax; (h) real estate transfer tax; (i) federal telephone tax; (j) federal transportation tax; and (k) tax paid by any corporation or national or state bank to any foreign country or possession of the United States to the extent that a credit against federal income taxes is allowed under the provisions of the Internal Revenue Code of 1954, as amended through December 31, ~~1979~~ 1980. If the taxpayer's foreign tax credit consists of both foreign taxes deemed paid and foreign taxes actually paid or withheld, it will be conclusively presumed that foreign taxes deemed paid were first used by the taxpayer in its foreign tax credit. Minnesota gross income shall include the amount of foreign tax paid which had been allowed as a deduction in a previous year, provided such foreign tax is later allowed as a credit against federal income tax. Income taxes permitted to be deducted hereunder shall, regardless of the methods of accounting employed, be deductible only in the taxable year in which paid. Taxes imposed upon a shareholder's interest in a corporation which are paid by the corporation without reimbursement from the shareholder shall be deductible only by such corporation.

Sec. 9. Minnesota Statutes 1980, Section 290.09, Subdivision 17a, is amended to read:

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

Subd. 17a. **STOCK ACQUIRED BY ORIGINAL SELLER IN CO-OPERATIVE APARTMENT CORPORATION.** (a) If the original seller acquires any stock of a cooperative apartment corporation (1) from the corporation by purchase, or (2) by foreclosure, or by instrument in lieu of foreclosure, of any purchase-money security interest in stock of the corporation held by the original seller, for purposes of subdivision 17, the original seller shall be treated as a tenant-stockholder for a period not to exceed three years from the date of the acquisition of the stock.

(b) Except in the case of an acquisition of stock of a corporation by foreclosure, clause (a) shall apply only if the acquisition of stock occurs not later than one year after the date on which the apartments (or leaseholds therein) are transferred by the original seller to the corporation. For purposes of this clause and clause (a), the term "by foreclosure" means by foreclosure (or by instrument in lieu of foreclosure) of any purchase-money security interest in the stock held by the original seller.

(c) This subdivision Clause (a) shall apply with respect to any acquisition of stock of a cooperative apartment corporation only if, together with such acquisition, the original seller acquires the right to occupy an apartment to which the stock is appurtenant. For purposes of the preceding sentence, there shall not be taken into account the fact that, by agreement with a cooperative apartment corporation, the original seller or its nominee may not occupy an apartment without the prior approval of the corporation.

(d) The term "original seller" means the person or corporation from whom the cooperative apartment corporation has acquired the apartments or leaseholds therein.

Sec. 10. Minnesota Statutes 1980, Section 290.09, Subdivision 19, is amended to read:

Subd. 19. **ORGANIZATIONAL EXPENDITURES.** The organizational and start up expenditures of a corporation may, at the election of the corporation (~~made in accordance with regulations prescribed by the commissioner~~), be treated as deferred expenses and in computing net income, such deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months as may be selected by the corporation (beginning with the month in which the corporation begins business). The term "organizational expenditures" means any expenditure which is incident to the creation of the corporation; is chargeable to capital account; and is of a character which, if expended incident to the creation of a corporation having a limited life, would be amortizable over such life. The election provided herein may be made for any taxable year beginning after December 31, 1954, but only if made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). The period so elected shall be adhered to in computing the net income of the corporation for the taxable year for which the

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election is made and all subsequent taxable years. The election shall apply only with respect to expenditures paid or incurred on or after January 1, 1955 be deducted in accordance with the provisions of sections 248 and 195 of the Internal Revenue Code of 1954, as amended through December 31, 1980.

Sec. 11. Minnesota Statutes 1980, Section 290.091, is amended to read:  
290.091 MINIMUM TAX ON PREFERENCE ITEMS.

(a) In addition to all other taxes imposed by this chapter there is hereby imposed, a tax which, in the case of a resident individual, ~~estate or trust~~, shall be equal to 40 percent of the amount of the taxpayer's minimum tax liability for tax preference items pursuant to the provisions of sections 55 to 58 and 443(d) of the Internal Revenue Code of 1954 as amended through December 31, ~~1979~~ 1980 except that for purposes of the tax imposed by this section, ~~excess itemized deductions as defined in section 57(b) shall not include any deduction taken for Minnesota income tax paid and capital gain as defined in section 57(a) of the Internal Revenue Code shall not include that portion of any gain occasioned by sale, transfer or the granting of a perpetual easement pursuant to any eminent domain proceeding or threat thereof as described in section 290.13, subdivision 5. This modification shall apply to the years in which the gain or reduction in loss is actually included in federal adjusted gross income even though amounts received pursuant to the eminent domain proceedings were received in prior years. In the case of a taxpayer other than a corporation, an amount equal to one-half of the net capital gain for the taxable year shall be used as the definition of capital gain in place of the deduction determined under section 1202 of the Internal Revenue Code. In the case of a resident individual, ~~estate or trust~~ having preference items which could not be taken to reduce income from sources outside the state pursuant to section 290.17, subdivision 1, or any other taxpayer the tax shall equal 40 percent of that federal liability, multiplied by a fraction the numerator of which is the amount of the taxpayer's preference item income allocated to this state pursuant to the provisions of sections 290.17, subdivision 1, to 290.20, and the denominator of which is the taxpayer's total preference item income for federal purposes.~~

(b) In the case of a resident individual, ~~estate or trust~~ having preference items in taxable years beginning after December 31, 1976, and before January 1, 1978, which are not allocable to Minnesota under the provisions of sections 290.17 to 290.20 in effect for such years, the tax shall equal 40 percent of the taxpayer's federal minimum tax liability, multiplied by a fraction the numerator of which is the amount of the taxpayer's preference items allocable to Minnesota under the provisions of sections 290.17 to 290.20 in effect for those years and the denominator of which is the taxpayer's total preference items for federal purposes.

Sec. 12. Minnesota Statutes 1980, Section 290.131, Subdivision 2, is amended to read:

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Subd. 2. **DISTRIBUTIONS IN REDEMPTION OF STOCK.** (a) If a corporation redeems its stock (within the meaning of section 290.133, 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, is 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

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paragraph (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 290.133, 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 290.133, 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 agreement 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 acquisitions 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 290.133, 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 290.133, 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 290.131 to 290.138, if a corporation redeems its stock (within the meaning of section 290.133, 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 subdivision 1 of this section applies. The provisions of section 302 of the Internal Revenue Code of 1954, as amended through December 31, 1980 shall apply to the determination of distributions in redemption of stock.

Sec. 13. Minnesota Statutes 1980, Section 290.132, Subdivision 2, is amended to read:

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 year;

(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.

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(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 accounting 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 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 this chapter 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 this chapter, or

(B) if the distribution was not subject to tax in the hands of such distributee by reason of section 290.131, 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 the effect on earnings and profits shall be determined according to the provisions of section 312 of the Internal Revenue Code of 1954, as amended through December 31, 1980.

(e) (b) In the case of amounts distributed in partial liquidation (whether before, on, or after December 31, 1956) or in a redemption to which section 290.131, 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) (c) (1) The gain or loss realized from the sale or other disposition (after December 31, 1932) of property by a corporation

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(A) for the purpose of the computation of the earnings and profits of the corporation, shall (except as provided in paragraph (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 deduction is disallowed, section 290.09, subdivision 5, (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 290.131, subdivision 7(b), be so allocated).

~~(g)~~ (d) (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.

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(2) If the application of clause ~~(f)~~ (c) 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)~~ (c) 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 290.136, subdivision 3 (or so much of section 290.136, subdivision 4 as relates to section 290.136, 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.~~

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Sec. 14. Minnesota Statutes 1980, Section 290.135, Subdivision 2, is amended to read:

Subd. 2. **GAIN OR LOSS ON SALES OR EXCHANGES IN CONNECTION WITH CERTAIN LIQUIDATION.** (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 subdivision 3(b)), or

(B) following the adoption of a plan of complete liquidation, if section 290.134, 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 290.134, subdivision 2 applies with respect to such liquidation, then

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(A) if the basis of the property of the liquidating corporation in the hands of the distributee is determined under section 290.134, 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 290.134, 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 290.134, 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.

(d) If a corporation adopts a plan of complete liquidation on or after January 1, 1961, and if clause (a) does not apply to sales or exchanges of property by such corporation, solely by reason of the application of clause (c) (2) (A), then for the first taxable year of any shareholder (other than a corporation which meets the 80 percent stock ownership requirement specified in section 290.134, subdivision 2(b) (1)) in which he receives a distribution in complete liquidation

(1) the amount realized by such shareholder on the distribution shall be increased by his proportionate share of the amount by which the tax imposed by this chapter on such corporation would have been reduced if clause (c) (2) (A) had not been applicable; and

(2) for purposes of this chapter, such shareholder shall be deemed to have paid, on the last day prescribed by law for the payment of the tax imposed by this chapter on such shareholder for such taxable year, an amount of tax equal to the amount of the increase described in paragraph (1). The determination of gain or loss on sales or exchanges in connection with certain liquidations shall be determined in accordance with the provisions of section 337 of the Internal Revenue Code of 1954, as amended through December 31, 1980.

Sec. 15. Minnesota Statutes 1980, Section 290.136, Subdivision 1, is amended to read:

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 subdivision 9(e)) of the corporation. For purposes of this subdivision, stock or securities issued for services shall not be considered as issued in return for property.

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(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. The provisions of sections 351 to 361, 367, and 368 of the Internal Revenue Code of 1954, as amended through December 31, 1980 shall apply to corporate organizations and reorganizations.

Sec. 16. Minnesota Statutes 1980, Section 290.138, is amended by adding a subdivision to read:

Subd. 3. The provisions of sections 381 and 382 of the Internal Revenue Code of 1954, as amended through December 31, 1980, shall apply to carryovers in certain corporate acquisitions and special limitations on net operating loss carryovers.

Sec. 17. Minnesota Statutes 1980, Section 290.26, Subdivision 2, is amended to read:

Subd. 2. **EMPLOYER CONTRIBUTIONS.** Contributions of an employer to an employee's trust or annuity plan and compensation under a deferred-payment plan or to a simplified employee pension shall be allowed as a deduction in accordance with the provisions of Section 404 or 408(k) of the Internal Revenue Code of 1954, as amended through December 31, ~~1979~~ 1980 as adapted to the provisions of this chapter under rules issued by the commissioner of revenue.

Sec. 18. Minnesota Statutes 1980, Section 290.31, Subdivision 3, is amended to read:

Subd. 3. **PARTNERSHIP COMPUTATIONS.** The taxable net income of a partnership shall be computed in the same manner as in the case of an individual except that

(1) the items described in subdivision 2(1) shall be separately stated, and

(2) *the following deductions and credits shall not be allowed to the partnership:*

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- (a) the standard deduction provided in section 290.09, subdivision 15,
- (b) the credit for charitable contributions provided in section 290.21, subdivision 3,
- (c) the net operating loss deduction provided in section 290.095, and
- (d) the additional itemized deductions for individuals provided in section 290.09, as adapted to the provisions of this subdivision under regulations issued by the commissioner.

Any election affecting the computation of taxable net income derived from a partnership shall be made by the partnership except as provided in section 703(b) of the Internal Revenue Code of 1954, as amended through December 31, 1980.

Sec. 19. Minnesota Statutes 1980, Section 290.41, is amended by adding a subdivision to read:

**Subd. 5. RELATING TO ENERGY GRANTS AND FINANCING.** Every person who administers a federal, state or local program a principal purpose of which is to provide subsidized financing or grants for projects to produce energy shall make a return meeting the requirements of section 6050D of the Internal Revenue Code of 1954, as amended through December 31, 1980.

Sec. 20. Minnesota Statutes 1980, Section 290.41, is amended by adding a subdivision to read:

**Subd. 6. REAL PROPERTY HOLDINGS OF ALIENS.** Every person and corporation required to make a return under section 6039C (relating to information return on a foreign person holding a United States real property interest) of the Internal Revenue Code of 1954, as amended through December 31, 1980, shall make a similar return for the commissioner for foreign persons holding a Minnesota real property interest.

Sec. 21. Minnesota Statutes 1980, Section 290.92, Subdivision 20, is amended to read:

**Subd. 20. VOLUNTARY WITHHOLDING AGREEMENTS.** (a) (1) For purposes of this section, any payment of an annuity to an individual ~~to the extent includible in such individual's Minnesota gross income,~~ if at the time the payment is made a request that such annuity be subject to withholding under this section is in effect, shall be treated as if it were a payment of wages by an employer to an employee for a payroll period. Any payment to an individual of sick pay which does not constitute wages, (determined without regard to this subdivision), shall be treated as if it were a payment of wages by an employer to an employee for a payroll period, if, at the time the payment is made a request that such sick pay be subject to withholding under this section is in effect. Sick pay means any amount which

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(i) is paid to an employee pursuant to a plan to which the employer is a party, and

(ii) constitutes remuneration or a payment in lieu of remuneration for any period during which the employee is temporarily absent from work on account of sickness or personal injuries.

(2) A request that an annuity be subject to withholding under this section shall be made by the payee in writing to the person making the annuity payments, as prescribed by the commissioner. Such a request may, notwithstanding any provision of law to the contrary, be terminated by furnishing to the person making the payments a written statement of termination. Such a request for withholding or statement of termination shall take effect in the same manner such a request or statement would take effect under the laws of the United States except to the extent the commissioner shall by regulation, provide otherwise. A request for withholding, the amount withheld, and sick pay paid pursuant to certain collective bargaining agreements shall conform with the provisions of section 3402(o)(3), (4), and (5) of the Internal Revenue Code of 1954, as amended through December 31, 1980.

(b) The commissioner is authorized by regulations to provide for withholding

(1) from remuneration for services performed by an employee for his employer which (without regard to this subdivision) does not constitute wages, and

(2) from any other type of payment with respect to which the commissioner finds that withholding would be appropriate under the provisions of this section, if the employer and the employee, or in the case of any other type of payment the person making and the person receiving the payment, agree to such withholding. Such agreement shall be made in such form and manner as the commissioner may by regulations provide. For purposes of this section remuneration or other payments with respect to which such agreement is made shall be treated as if they were wages paid by an employer to an employee to the extent that such remuneration is paid or other payments are made during the period for which the agreement is in effect.

Sec. 22. Minnesota Statutes 1980, Section 290.934, Subdivision 4, is amended to read:

Subd. 4. **EXCEPTION.** (a) Notwithstanding the provisions of the preceding subdivisions, the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the lesser

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(1) The tax shown on the return of the corporation for the preceding taxable year reduced by \$1,000, if a return showing a liability for tax was filed by the corporation for the preceding taxable year and such preceding year was a taxable year of 12 months.

(2) An amount equal to the tax computed at the rates applicable to the taxable year but otherwise on the basis of the facts shown on the return of the corporation for, and the law applicable to, the preceding taxable year.

(b) Notwithstanding clause (a), in the case of a large corporation, the addition to the tax with respect to any underpayment of any installment shall be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of the installment is less than the amount required to be paid on or before the date. The amount required to be paid as estimated tax for the taxable year shall in no event be less than 60 percent of (A) the tax shown on the return for the taxable year, or (B) if no return was filed, the tax for the year. The term "large corporation" means any corporation (or any predecessor corporation) which had taxable net income of \$1,000,000 or more for any taxable year during the testing period. The term "testing period" means the three taxable years immediately preceding the taxable year involved.

Sec. 23. Minnesota Statutes 1980, Section 290.971, is amended by adding a subdivision to read:

Subd. 7. "ESTATE" DEFINED. For purposes of subdivision 1, clause (2), the term "estate" includes the estate of an individual in a case under title 11 of the United States Code.

Sec. 24. Minnesota Statutes 1980, Section 290A.03, Subdivision 3, is amended to read:

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

(a) federal adjusted gross income as defined in the Internal Revenue Code of 1954 as amended through December 31, ~~1979~~ 1980; and

(b) the sum of the following amounts to the extent not included in clause (a):

(i) additions to federal adjusted gross income as provided in Minnesota Statutes, Section 290.01, Subdivision 20, Clause (a)(1), (a)(2), (a)(3), (a)(9), (a)(14), and (a)(15);

(ii) all nontaxable income;

(iii) recognized net long term capital gains;

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

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(v) cash public assistance and relief;

(vi) any pension or annuity (including railroad retirement benefits, all payments received under the federal social security act, supplemental security income, and veterans disability pensions), which was not exclusively funded by the claimant or spouse, or which was funded exclusively by the claimant or spouse and which funding payments were excluded from federal adjusted gross income in the years when the payments were made;

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

(viii) workers' compensation;

(ix) unemployment benefits;

(x) nontaxable strike benefits; and

(xi) the gross amounts of payments received in the nature of disability income or sick pay as a result of accident, sickness, or other disability, whether funded through insurance or otherwise. In the case of an individual who files an income tax return on a fiscal year basis, the term "federal adjusted gross income" shall mean federal adjusted gross income reflected in the fiscal year ending in the calendar year. "Income" does not include

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

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

(c) gifts from nongovernmental sources;

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

(e) relief granted under sections 290A.01 to 290A.21;

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

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

Sec. 25. Minnesota Statutes 1980, Section 474.12, Subdivision 2, is amended to read:

Subd. 2. Notwithstanding subdivision 1, the interest paid on bonds issued under authority of this chapter and issued after June 30, 1979 shall be

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exempt only as provided under section sections 290.01, subdivision 20, and 290.08, subdivision 7 8, for obligations of the issuing municipality.

Sec. 26. Laws 1980, Chapter 607, Article I, Section 34, is amended to read:

**Sec. 34. EFFECTIVE DATE.**

Except as otherwise provided, section 1, clause (b)(13) is effective for taxable years beginning after December 31, 1976, and section 1, clauses (a)(12), (a)(17), (a)(18), (b)(6) (but only in regard to the changes relating to lump sum distributions), (b)(8), (b)(11), (b)(12), (b)(14), (b)(16), and (b)(17) are effective for taxable years beginning after December 31, 1978. For purposes of allowable carrybacks, section 1, clauses (b)(13) and (b)(14) are effective at the same time the carrybacks were allowable for federal income tax purposes. For taxable years beginning before January 1, 1980, section 1, clauses (b)(13) and (b)(14) are effective only if the taxpayer also applies the provision disallowing a portion of wages as required under section 280C of the Internal Revenue Code of 1954 for that taxable year. The amendments made in section 103(a)(5), (6) and (7) of P.L. 96-222, section 3 of P.L. 96-178, and section 208(b) of P.L. 96-272 which affect section 1, clauses (b)(13) and (b)(14) shall be effective at the same time that these amendments become effective for federal income tax purposes. Section 7 is effective for expenditures made during taxable years beginning after December 31, 1978 and before January 1, 1983, except as otherwise specifically provided. Section 1, clause (b)(10) and section 8 are effective for interest received during taxable years beginning after December 31, 1977 on loans executed before January 1, 1982. Sections 11 and 12 are effective for taxable years beginning after December 31, 1980. Section 18 is effective for sales and exchanges occurring after December 31, 1975. Sections 16, 20, 22, 23 and 26 through 31, and 33 are effective for taxable years beginning after December 31, 1978. Section 25 is effective July 1, 1980.

The rest of this article is effective for taxable years beginning after December 31, 1979, except as otherwise provided.

**Sec. 27. DIRECTION TO REVISOR.**

In the next and subsequent editions of Minnesota Statutes the revisor of statutes shall substitute the words "Internal Revenue Code of 1954, as amended through December 31, 1980" for the words "Internal Revenue Code of 1954, as amended through December 31, 1979" wherever such words occur in chapter 290, except section 290.01, subdivision 20.

**Sec. 28. REPEALER.**

Minnesota Statutes 1980, Sections 290.08, Subdivisions 7 and 13; 290.09, Subdivision 12; 290.136, Subdivisions 2, 3, 4, 5, 6, 7, and 9; and 290.138, Subdivisions 1 and 2 are repealed.

**Sec. 29. REPEALER.**

Minnesota Statutes 1980, Section 290.137, is repealed.

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**Sec. 30. EFFECTIVE DATE.**

Section 2 is effective for taxable years beginning after December 31, 1980. Section 3 is effective at the same time these provisions become effective for federal income tax purposes in P.L. 96-471. Section 4, clause (5) is effective for estates of decedents dying after April 1, 1980. Sections 9 and 11 are effective for taxable years beginning after December 31, 1979. Section 8 is effective on March 1, 1980 for taxable years ending after that date. Section 17 is effective on September 26, 1980. Section 21 is effective on July 1, 1981. Section 22 is effective for taxable years beginning after June 30, 1981. Section 23 is effective for any bankruptcy case commenced on or after October 1, 1979. Section 24 is effective for claims based on rent paid in 1980 and subsequent years and property taxes payable in 1981 and subsequent years. Section 29 is effective for any proceeding which is begun after September 30, 1979. A taxpayer, who makes a retroactive election under section 7(f) of P.L. 96-589 (relating to bankruptcy) shall make a similar election for Minnesota purposes and the election shall have the same effect for Minnesota purposes as it does for federal purposes.

The rest of this act is effective for taxable years beginning after December 31, 1980, except as otherwise provided.

Approved April 30, 1981

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**CHAPTER 61 — H.F.No. 30**

*An act relating to Independent School District No. 219, Elmore; requiring revision of its certified statutory operating debt.*

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

**Section 1. INDEPENDENT SCHOOL DISTRICT NO. 219; STATUTORY OPERATING DEBT.**

The commissioner of education shall revise the amount certified as statutory operating debt pursuant to Minnesota Statutes, Section 121.914, for Independent School District No. 219, Elmore. The revision shall increase the certified amount from \$130,378.41 to \$140,221.34.

**Sec. 2. EFFECTIVE DATE.**

Section 1 is effective upon compliance with Minnesota Statutes, Section 645.021, Subdivision 3.

Approved April 30, 1981

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