

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 75

(SENATE AUTHORS: SKOE and Rest)

DATE	D-PG	OFFICIAL STATUS
01/22/2013	79	Introduction and first reading Referred to Taxes
03/06/2013		Comm report: To pass as amended Second reading

A bill for an act

1.1 relating to taxation; sales and use; repealing June accelerated tax payment;
 1.2 amending Minnesota Statutes 2012, sections 289A.18, subdivision 4; 289A.20,
 1.3 subdivision 4; 297F.09, subdivisions 1, 2; 297F.25, subdivision 2; repealing
 1.4 Minnesota Statutes 2012, sections 289A.60, subdivision 15; 297F.09, subdivision
 1.5 10; 297G.09, subdivision 9.
 1.6

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

1.8 Section 1. Minnesota Statutes 2012, section 289A.18, subdivision 4, is amended to read:

1.9 Subd. 4. **Sales and use tax returns.** (a) Sales and use tax returns must be filed on or
 1.10 before the 20th day of the month following the close of the preceding reporting period,
 1.11 except that annual use tax returns provided for under section 289A.11, subdivision 1, must
 1.12 be filed by April 15 following the close of the calendar year, in the case of individuals.
 1.13 Annual use tax returns of businesses, including sole proprietorships, and annual sales tax
 1.14 returns must be filed by February 5 following the close of the calendar year.

1.15 ~~(b) Returns for the June reporting period filed by retailers required to remit their~~
 1.16 ~~June liability under section 289A.20, subdivision 4, paragraph (b), are due on or before~~
 1.17 ~~August 20.~~

1.18 ~~(e)~~ (b) If a retailer has an average sales and use tax liability, including local sales and
 1.19 use taxes administered by the commissioner, equal to or less than \$500 per month in any
 1.20 quarter of a calendar year, and has substantially complied with the tax laws during the
 1.21 preceding four calendar quarters, the retailer may request authorization to file and pay the
 1.22 taxes quarterly in subsequent calendar quarters. The authorization remains in effect during
 1.23 the period in which the retailer's quarterly returns reflect sales and use tax liabilities of less
 1.24 than \$1,500 and there is continued compliance with state tax laws.

2.1 ~~(d)~~ (c) If a retailer has an average sales and use tax liability, including local sales and
 2.2 use taxes administered by the commissioner, equal to or less than \$100 per month during a
 2.3 calendar year, and has substantially complied with the tax laws during that period, the
 2.4 retailer may request authorization to file and pay the taxes annually in subsequent years.
 2.5 The authorization remains in effect during the period in which the retailer's annual returns
 2.6 reflect sales and use tax liabilities of less than \$1,200 and there is continued compliance
 2.7 with state tax laws.

2.8 ~~(e)~~ (d) The commissioner may also grant quarterly or annual filing and payment
 2.9 authorizations to retailers if the commissioner concludes that the retailers' future tax
 2.10 liabilities will be less than the monthly totals identified in paragraphs (b) and (c) ~~and (d)~~.
 2.11 An authorization granted under this paragraph is subject to the same conditions as an
 2.12 authorization granted under paragraphs (b) and (c) ~~and (d)~~.

2.13 ~~(f)~~ (e) A taxpayer who is a materials supplier may report gross receipts either on:
 2.14 (1) the cash basis as the consideration is received; or
 2.15 (2) the accrual basis as sales are made.

2.16 As used in this paragraph, "materials supplier" means a person who provides materials
 2.17 for the improvement of real property; who is primarily engaged in the sale of lumber and
 2.18 building materials-related products to owners, contractors, subcontractors, repairers,
 2.19 or consumers; who is authorized to file a mechanics lien upon real property and
 2.20 improvements under chapter 514; and who files with the commissioner an election to file
 2.21 sales and use tax returns on the basis of this paragraph.

2.22 ~~(g)~~ (f) Notwithstanding paragraphs (a) to ~~(f)~~ (e), a seller that is not a Model 1, 2, or
 2.23 3 seller, as those terms are used in the Streamlined Sales and Use Tax Agreement, that
 2.24 does not have a legal requirement to register in Minnesota, and that is registered under the
 2.25 agreement, must file a return by February 5 following the close of the calendar year in
 2.26 which the seller initially registers, and must file subsequent returns on February 5 on an
 2.27 annual basis in succeeding years. Additionally, a return must be submitted on or before
 2.28 the 20th day of the month following any month by which sellers have accumulated state
 2.29 and local tax funds for the state in the amount of \$1,000 or more.

2.30 **EFFECTIVE DATE.** This section is effective beginning with the June 2013 tax
 2.31 liabilities.

2.32 Sec. 2. Minnesota Statutes 2012, section 289A.20, subdivision 4, is amended to read:

2.33 Subd. 4. **Sales and use tax.** (a) The taxes imposed by chapter 297A are due and
 2.34 payable to the commissioner monthly on or before the 20th day of the month following the

3.1 month in which the taxable event occurred, or following another reporting period as the
3.2 commissioner prescribes or as allowed under section 289A.18, subdivision 4, paragraph
3.3 (e) or (f) or (g), except that:

3.4 (1) use taxes due on an annual use tax return as provided under section 289A.11,
3.5 subdivision 1, are payable by April 15 following the close of the calendar year; and

3.6 (2) except as provided in paragraph (f), for a vendor having a liability of \$120,000
3.7 or more during a fiscal year ending June 30, 2009, and fiscal years thereafter, the taxes
3.8 imposed by chapter 297A, except as provided in paragraph (b), are due and payable to the
3.9 commissioner monthly in the following manner:

3.10 (i) On or before the 14th day of the month following the month in which the taxable
3.11 event occurred, the vendor must remit to the commissioner 90 percent of the estimated
3.12 liability for the month in which the taxable event occurred.

3.13 (ii) On or before the 20th day of the month in which the taxable event occurs, the
3.14 vendor must remit to the commissioner a prepayment for the month in which the taxable
3.15 event occurs equal to 67 percent of the liability for the previous month.

3.16 (iii) On or before the 20th day of the month following the month in which the taxable
3.17 event occurred, the vendor must pay any additional amount of tax not previously remitted
3.18 under either item (i) or (ii) or, if the payment made under item (i) or (ii) was greater than
3.19 the vendor's liability for the month in which the taxable event occurred, the vendor may
3.20 take a credit against the next month's liability in a manner prescribed by the commissioner.

3.21 (iv) Once the vendor first pays under either item (i) or (ii), the vendor is required to
3.22 continue to make payments in the same manner, as long as the vendor continues having a
3.23 liability of \$120,000 or more during the most recent fiscal year ending June 30.

3.24 (v) Notwithstanding items (i), (ii), and (iv), if a vendor fails to make the required
3.25 payment in the first month that the vendor is required to make a payment under either item
3.26 (i) or (ii), then the vendor is deemed to have elected to pay under item (ii) and must make
3.27 subsequent monthly payments in the manner provided in item (ii).

3.28 (vi) For vendors making an accelerated payment under item (ii), for the first month
3.29 that the vendor is required to make the accelerated payment, on the 20th of that month, the
3.30 vendor will pay 100 percent of the liability for the previous month and a prepayment for
3.31 the first month equal to 67 percent of the liability for the previous month.

3.32 (b) Notwithstanding paragraph (a), a vendor having a liability of \$120,000 or more
3.33 during a fiscal year ending June 30 must remit the June liability for the next year in the
3.34 following manner:

3.35 (1) Two business days before June 30 of the year, the vendor must remit 90 percent
3.36 of the estimated June liability to the commissioner.

4.1 ~~(2) On or before August 20 of the year, the vendor must pay any additional amount~~
4.2 ~~of tax not remitted in June.~~

4.3 ~~(e) (b) A vendor having a liability of:~~

4.4 ~~(1) \$10,000 or more, but less than \$120,000 during a fiscal year ending June 30,~~
4.5 ~~2009, and fiscal years thereafter, must remit by electronic means all liabilities on returns~~
4.6 ~~due for periods beginning in the subsequent calendar year on or before the 20th day of~~
4.7 ~~the month following the month in which the taxable event occurred, or on or before the~~
4.8 ~~20th day of the month following the month in which the sale is reported under section~~
4.9 ~~289A.18, subdivision 4; or.~~

4.10 ~~(2) \$120,000 or more, during a fiscal year ending June 30, 2009, and fiscal years~~
4.11 ~~thereafter, must remit by electronic means all liabilities in the manner provided in~~
4.12 ~~paragraph (a), clause (2), on returns due for periods beginning in the subsequent calendar~~
4.13 ~~year, except for 90 percent of the estimated June liability, which is due two business days~~
4.14 ~~before June 30. The remaining amount of the June liability is due on August 20.~~

4.15 ~~(d) (c) Notwithstanding paragraph (a) or (b) or (e), a person prohibited by the~~
4.16 ~~person's religious beliefs from paying electronically shall be allowed to remit the payment~~
4.17 ~~by mail. The filer must notify the commissioner of revenue of the intent to pay by mail~~
4.18 ~~before doing so on a form prescribed by the commissioner. No extra fee may be charged to~~
4.19 ~~a person making payment by mail under this paragraph. The payment must be postmarked~~
4.20 ~~at least two business days before the due date for making the payment in order to be~~
4.21 ~~considered paid on a timely basis.~~

4.22 ~~(e) Whenever the liability is \$120,000 or more separately for: (1) the tax imposed~~
4.23 ~~under chapter 297A; (2) a fee that is to be reported on the same return as and paid with the~~
4.24 ~~chapter 297A taxes; or (3) any other tax that is to be reported on the same return as and~~
4.25 ~~paid with the chapter 297A taxes, then the payment of all the liabilities on the return must~~
4.26 ~~be accelerated as provided in this subdivision.~~

4.27 ~~(f) At the start of the first calendar quarter at least 90 days after the cash flow account~~
4.28 ~~established in section 16A.152, subdivision 1, and the budget reserve account established in~~
4.29 ~~section 16A.152, subdivision 1a, reach the amounts listed in section 16A.152, subdivision~~
4.30 ~~2, paragraph (a), the remittance of the accelerated payments required under paragraph (a),~~
4.31 ~~clause (2), must be suspended. The commissioner of management and budget shall notify~~
4.32 ~~the commissioner of revenue when the accounts have reached the required amounts.~~
4.33 ~~Beginning with the suspension of paragraph (a), clause (2), for a vendor with a liability of~~
4.34 ~~\$120,000 or more during a fiscal year ending June 30, 2009, and fiscal years thereafter, the~~
4.35 ~~taxes imposed by chapter 297A are due and payable to the commissioner on the 20th day~~

5.1 of the month following the month in which the taxable event occurred. Payments of tax
 5.2 liabilities for taxable events occurring in June under paragraph (b) are not changed.

5.3 **EFFECTIVE DATE.** This section is effective beginning with the June 2013 tax
 5.4 liabilities.

5.5 Sec. 3. Minnesota Statutes 2012, section 297F.09, subdivision 1, is amended to read:

5.6 Subdivision 1. **Monthly return; cigarette distributor.** On or before the 18th day
 5.7 of each calendar month, a distributor with a place of business in this state shall file a
 5.8 return with the commissioner showing the quantity of cigarettes manufactured or brought
 5.9 in from outside the state or purchased during the preceding calendar month and the
 5.10 quantity of cigarettes sold or otherwise disposed of in this state and outside this state
 5.11 during that month. A licensed distributor outside this state shall in like manner file a
 5.12 return showing the quantity of cigarettes shipped or transported into this state during the
 5.13 preceding calendar month. Returns must be made in the form and manner prescribed by
 5.14 the commissioner and must contain any other information required by the commissioner.
 5.15 The return must be accompanied by a remittance for the full unpaid tax liability shown by
 5.16 it. ~~For distributors subject to the accelerated tax payment requirements in subdivision 10,~~
 5.17 ~~the return for the May liability is due two business days before June 30th of the year and~~
 5.18 ~~the return for the June liability is due on or before August 18th of the year.~~

5.19 **EFFECTIVE DATE.** This section is effective beginning with the June 2013 tax
 5.20 liabilities.

5.21 Sec. 4. Minnesota Statutes 2012, section 297F.09, subdivision 2, is amended to read:

5.22 Subd. 2. **Monthly return; tobacco products distributor.** (a) On or before the 18th
 5.23 day of each calendar month, a distributor with a place of business in this state shall file
 5.24 a return with the commissioner showing the quantity and wholesale sales price of each
 5.25 tobacco product:

5.26 (1) brought, or caused to be brought, into this state for sale; and

5.27 (2) made, manufactured, or fabricated in this state for sale in this state, during the
 5.28 preceding calendar month.

5.29 (b) Every licensed distributor outside this state shall in like manner file a return showing
 5.30 the quantity and wholesale sales price of each tobacco product shipped or transported to
 5.31 retailers in this state to be sold by those retailers, during the preceding calendar month.
 5.32 Returns must be made in the form and manner prescribed by the commissioner and
 5.33 must contain any other information required by the commissioner. The return must be

6.1 accompanied by a remittance for the full tax liability shown. ~~For distributors subject to the~~
6.2 ~~accelerated tax payment requirements in subdivision 10, the return for the May liability is~~
6.3 ~~due two business days before June 30th of the year and the return for the June liability is~~
6.4 ~~due on or before August 18th of the year.~~

6.5 **EFFECTIVE DATE.** This section is effective beginning with the June 2013 tax
6.6 liabilities.

6.7 Sec. 5. Minnesota Statutes 2012, section 297F.25, subdivision 2, is amended to read:

6.8 Subd. 2. **Payment.** Each taxpayer must remit payments of the taxes to the
6.9 commissioner on the same dates prescribed under section 297F.09, subdivision 1, for
6.10 cigarette tax returns, ~~including the accelerated remittance of the June liability.~~

6.11 **EFFECTIVE DATE.** This section is effective beginning with the June 2013 tax
6.12 liabilities.

6.13 Sec. 6. **REPEALER.**

6.14 Minnesota Statutes 2012, sections 289A.60, subdivision 15; 297F.09, subdivision
6.15 10; and 297G.09, subdivision 9, are repealed.

6.16 **EFFECTIVE DATE.** This section is effective beginning with the June 2013 tax
6.17 liabilities.

289A.60 CIVIL PENALTIES.

Subd. 15. Accelerated payment of June sales tax liability; penalty for underpayment.

For payments made after December 31, 2006, if a vendor is required by law to submit an estimation of June sales tax liabilities and 90 percent payment by a certain date, the vendor shall pay a penalty equal to ten percent of the amount of actual June liability required to be paid in June less the amount remitted in June. The penalty must not be imposed, however, if the amount remitted in June equals the lesser of 90 percent of the preceding May's liability or 90 percent of the average monthly liability for the previous calendar year.

297F.09 RETURNS; PAYMENT OF TAX.

Subd. 10. Accelerated tax payment; cigarette or tobacco products distributor. A cigarette or tobacco products distributor having a liability of \$120,000 or more during a fiscal year ending June 30, shall remit the June liability for the next year in the following manner:

(a) Two business days before June 30 of the year, the distributor shall remit the actual May liability and 90 percent of the estimated June liability to the commissioner and file the return in the form and manner prescribed by the commissioner.

(b) On or before August 18 of the year, the distributor shall submit a return showing the actual June liability and pay any additional amount of tax not remitted in June. A penalty is imposed equal to ten percent of the amount of June liability required to be paid in June, less the amount remitted in June. However, the penalty is not imposed if the amount remitted in June equals the lesser of:

- (1) 90 percent of the actual June liability; or
- (2) 90 percent of the preceding May's liability.

297G.09 RETURNS; PAYMENT OF TAX.

Subd. 9. Accelerated tax payment; penalty. A person liable for tax under this chapter having a liability of \$120,000 or more during a fiscal year ending June 30, shall remit the June liability for the next year in the following manner:

(a) Two business days before June 30 of the year, the taxpayer shall remit the actual May liability and 90 percent of the estimated June liability to the commissioner and file the return in the form and manner prescribed by the commissioner.

(b) On or before August 18 of the year, the taxpayer shall submit a return showing the actual June liability and pay any additional amount of tax not remitted in June. A penalty is imposed equal to ten percent of the amount of June liability required to be paid in June less the amount remitted in June. However, the penalty is not imposed if the amount remitted in June equals the lesser of:

- (1) 90 percent of the actual June liability; or
- (2) 90 percent of the preceding May liability.