

of more programs, under periodic review by the commission, which make significant investments in and expenditures for energy conservation improvements. The commission shall give special consideration to the needs of renters and low income families and individuals. Provisions of the previous sentences shall expire on January 1, 1993. Investments and expenditures made pursuant to an order shall be treated for ratemaking purposes in the manner prescribed in section 216B.16, subdivision 6b. No utility shall make an energy conservation improvement pursuant to this section to a ~~residential~~ building envelope unless it is the primary supplier of energy used for either space heating or cooling in the building.

Sec. 8. Minnesota Statutes 1982, section 216B.241, subdivision 3, is amended to read:

Subd. 3. **OWNERSHIP OF RESIDENTIAL ENERGY CONSERVATION IMPROVEMENTS.** Any energy conservation improvement made to or installed in any ~~residential~~ building pursuant to this section, except systems owned by the utility and designed to turn off, limit, or vary the delivery of energy, shall be the exclusive property of the owner of the building except insofar as it is subjected to a security interest in favor of the utility in case of a loan to the building owner. The utility shall have no liability for loss, damage or injury caused directly or indirectly by any energy conservation improvement except for negligence by the utility in purchase, installation, or modification of the product.

Sec. 9. **EFFECTIVE DATE.**

Sections 1 to 8 are effective the day following final enactment.

Approved May 19, 1983

CHAPTER 180 — H.F.No. 223

An act relating to taxation; authorizing the assessment of personal liability of corporate or partnership officers or employees; deleting obsolete references; clarifying that administrative subpoenas are enforced in the judicial district where the party served is located; providing that tax liens include certain costs; providing for the filing of liens and the transcription of liens to other counties; eliminating the requirement of notification to commissioner of foreclosure in certain instances; providing for the assessment of taxes; providing time limitations for court proceedings to collect certain taxes; providing for a suspension of certain time limitations in bankruptcy cases; clarifying the classification of tax claims in estates; providing a bond requirement to secure withholding taxes; providing for payment of withholding taxes by contractors and certain subcontractors prior to final

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contract settlement; amending Minnesota Statutes 1982, sections 270.06; 270.10, by adding a subdivision; 270.69, subdivisions 1, 4, 7, and by adding a subdivision; 270.70, subdivisions 1, 10, and 14; 290.49, subdivision 6; 290.58; 290.92, subdivisions 6 and 6a; 290.97; 297A.34, subdivisions 4, 5, and by adding a subdivision; 297A.42, subdivision 2; and 524.3-805.

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

Section 1. Minnesota Statutes 1982, section 270.06, is amended to read:

270.06 POWERS AND DUTIES.

It shall be the duty of the commissioner of revenue and he shall have power and authority:

(1) To have and exercise general supervision over the administration of the assessment and taxation laws of the state, over assessors, town, county, and city boards of review and equalization, and all other assessing officers in the performance of their duties, to the end that all assessments of property be made relatively just and equal in compliance with the laws of the state;

(2) To confer with, advise and give the necessary instructions and directions to local assessors and local boards of review throughout the state as to their duties under the laws of the state;

(3) To direct proceedings, actions, and prosecutions to be instituted to enforce the laws relating to the liability and punishment of public officers and officers and agents of corporations for failure or negligence to comply with the provisions of the laws of this state governing returns of assessment and taxation of property, and to cause complaints to be made against local assessors, members of boards of equalization, members of boards of review, or any other assessing or taxing officer, to the proper authority, for their removal from office for misconduct or negligence of duty;

(4) To require county attorneys to assist in the commencement of prosecutions in actions or proceedings for removal, forfeiture and punishment for violation of the laws of this state in respect to the assessment and taxation of property in their respective districts or counties;

(5) To require town, city, county, and other public officers to report information as to the assessment of property, collection of taxes received from licenses and other sources, and such other information as may be needful in the work of the department of revenue, in such form and upon such blanks as he may prescribe;

(6) To require individuals, copartnerships, companies, associations, and corporations to furnish information concerning their capital, funded or other debt, current assets and liabilities, earnings, operating expenses, taxes, as well as all other statements now required by law for taxation purposes;

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(7) To summon witnesses to appear and give testimony, and to produce books, records, papers and documents relating to any tax matter which he may have authority to investigate or determine. Provided, that any summons which does not identify the person or persons with respect to whose tax liability the summons is issued may be served only if (a) the summons relates to the investigation of a particular person or ascertainable group or class of persons, (b) there is a reasonable basis for believing that such person or group or class of persons may fail or may have failed to comply with any tax law administered by the commissioner, (c) the information sought to be obtained from the examination of the records (and the identity of the person or persons with respect to whose liability the summons is issued) is not readily available from other sources, (d) the summons is clear and specific as to the information sought to be obtained, and (e) the information sought to be obtained is limited solely to the scope of the investigation. Provided further that the party served with a summons which does not identify the person or persons with respect to whose tax liability the summons is issued shall have the right, within 20 days after service of the summons, to petition the district court for the judicial district in which lies the county in which ~~the summons is served~~ that party is located for a determination as to whether the commissioner of revenue has complied with all the requirements in (a) to (e), and thus, whether the summons is enforceable. If no such petition is made by the party served within the time prescribed, the summons shall have the force and effect of a court order;

(8) To cause the deposition of witnesses residing within or without the state, or absent therefrom, to be taken, upon notice to the interested party, if any, in like manner that depositions of witnesses are taken in civil actions in the district court, in any matter which he may have authority to investigate or determine;

(9) To investigate the tax laws of other states and countries and to formulate and submit to the legislature such legislation as he may deem expedient to prevent evasions of assessment and taxing laws, and to secure just and equal taxation and improvement in the system of assessment and taxation in this state;

(10) To consult and confer with the governor upon the subject of taxation, the administration of the laws in regard thereto, and the progress of the work of the department of revenue, and to furnish the governor, from time to time, such assistance and information as he may require relating to tax matters;

(11) To transmit to the governor, on or before the third Monday in December of each even-numbered year, and to each member of the legislature, on or before November 15 of each even numbered year, the report of the department of revenue for the preceding years, showing all the taxable property in the state and the value of the same, in tabulated form;

(12) To inquire into the methods of assessment and taxation and ascertain whether the assessors faithfully discharge their duties, particularly as to their

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compliance with the laws requiring the assessment of all property not exempt from taxation;

(13) To exercise and perform such further powers and duties as may be required or imposed upon the commissioner of revenue by law;

(14) The commissioner of revenue may promulgate rules and regulations for the administration and enforcement of the property tax. Such rules and regulations shall have the force and effect of law;

(15) To execute and administer any agreement with the secretary of the treasury of the United States regarding the exchange of information and administration of the tax laws of both the United States and the state of Minnesota;

(16) To administer and enforce the provisions of sections 325.64 to 325.76, the Minnesota unfair cigarette sales act.

Sec. 2. Minnesota Statutes 1982, section 270.10, is amended by adding a subdivision to read:

Subd. 4. ORDERS ASSESSING PERSONAL LIABILITY. The commissioner may, based upon information available to him and within the prescribed period of limitations for assessing the underlying tax, assess personal liability against any officer, director, or employee of a corporation, or a member or employee of a partnership, who as an officer, director, employee, or member, falls within the personal liability provisions of section 290.92, chapter 296, or chapter 297A, for taxes arising thereunder which are due and owing by that corporation or partnership. An order assessing personal liability under this subdivision shall be appealable to the tax court without payment of the tax, penalty, or interest in the manner provided by law, but an appeal shall not preclude the commissioner from exercising any collection action he deems necessary to preserve the interests of the state while the matter is pending.

Sec. 3. Minnesota Statutes 1982, section 270.69, subdivision 1, is amended to read:

Subdivision 1. CREATION OF LIEN. The tax imposed by any chapter administered by the commissioner of revenue, and interest and penalties imposed with respect thereto, including any recording fees, sheriff fees, or court costs that may accrue, shall become a lien upon all the property within this state, both real and personal, of the person liable for the payment or collection of the tax, except his homestead, from and after the filing by the commissioner of a notice of lien in the office of the county recorder of the county in which the property is situated, or in the case of personal property belonging to an individual who is not a resident of this state, or which is a corporation, partnership, or other organization, in the office of the secretary of state.

Sec. 4. Minnesota Statutes 1982, section 270.69, subdivision 4, is amended to read:

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Subd. 4. **PERIOD OF LIMITATIONS.** The lien imposed by this section shall, notwithstanding any other provision of law to the contrary, be valid and enforceable for ten years from the date of filing the notice of lien, which must be filed by the commissioner within five years after the tax should have been paid or the return is filed, whichever is later. A notice of lien filed in one county may be transcribed to any other county within ten years after the date of its filing, but the transcription shall not extend the period during which the lien is enforceable.

Sec. 5. Minnesota Statutes 1982, section 270.69, subdivision 7, is amended to read:

Subd. 7. **NOTICE OF MORTGAGE FORECLOSURE OR CONTRACT TERMINATION.** If a lien has been filed by the commissioner of revenue against real property pursuant to this section, and, subsequent to the recording of the lien, a mortgage foreclosure upon the real property is commenced under chapter 580, or a termination of contract of sale of the real property is commenced under section 559.21, notice of the mortgage foreclosure or termination of contract of sale shall be mailed to the commissioner not less than 25 days prior to the foreclosure or termination. Provided, notice need not be given pursuant to this subdivision if the lien of the commissioner has been filed within 30 days or less prior to the foreclosure or termination. The contents of the notice shall be as prescribed in section 7425(c)(1) of the Internal Revenue Code of 1954, as amended through December 31, 1982.

Sec. 6. Minnesota Statutes 1982, section 270.69, is amended by adding a subdivision to read:

Subd. 8. **FILING ENTITLEMENT.** Execution of notices of liens or of other notices affecting state tax liens by the commissioner of revenue or his delegate entitles them to be filed, and no other attestation, certification, or acknowledgement is necessary.

Sec. 7. Minnesota Statutes 1982, section 270.70, subdivision 1, is amended to read:

Subdivision 1. **AUTHORITY OF COMMISSIONER.** If any tax payable to the commissioner of revenue or to the department of revenue is not paid when due, such tax may be collected by the commissioner of revenue within five years after the tax should have been paid or the return is filed, whichever is later, or if the tax judgment has been filed, within the statutory period of enforcement of a valid tax judgment, by a levy upon all property and rights to property of the person liable for the payment or collection of such tax (except that which is exempt from execution pursuant to section 550.37) or property on which there is a lien provided in section 270.69. For this purpose, the term "tax" shall include any penalty, interest and costs properly payable. The term "levy" includes the power of distraint and seizure by any means.

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Sec. 8. Minnesota Statutes 1982, section 270.70, subdivision 10, is amended to read:

Subd. 10. **PERSON DEFINED.** The term "person" as used in subdivision 8 includes an officer or employee of a corporation or a member or employee of a partnership who, as such officer, employee or member is under a duty to surrender the property or rights to property or to discharge the obligation. The personal liability imposed by subdivision 8 and the penalty imposed by subdivision 9 may, after demand to honor a levy has been made, be assessed by the commissioner within 60 days after service of the levy. An assessing tax order under this subdivision shall be appealable to the tax court without payment of the tax, penalty, or interest in the manner provided by law, but an appeal shall not preclude the commissioner from exercising any collection action he deems necessary to preserve the interests of the state while the matter is pending.

Sec. 9. Minnesota Statutes 1982, section 270.70, subdivision 14, is amended to read:

Subd. 14. **PRIORITY OF LEVY.** Notwithstanding section 52.12, a levy by the commissioner made pursuant to the provisions of this section upon a taxpayer's funds on deposit in a financial institution located in this state, shall have priority over any unexercised right of setoff of the financial institution to apply the levied funds toward the balance of an outstanding loan or loans owed by the taxpayer to the financial institution. A claim by the financial institution that it exercised its right to setoff prior to the levy by the commissioner must be substantiated by evidence of the date of the setoff, and shall be verified by the sworn statement of a responsible corporate officer of the financial institution. Furthermore, for purposes of determining the priority of any levy made under this section, the levy shall be treated as if it were an execution made pursuant to chapter 550.

Sec. 10. Minnesota Statutes 1982, section 290.49, subdivision 6, is amended to read:

Subd. 6. **NO RETURN OR FALSE OR FRAUDULENT RETURN.** When a taxpayer files a false or fraudulent return with intent to evade tax or when a taxpayer fails to file a return the tax may be assessed, ~~and a proceeding in court for the collection of such tax may be begun at any time, and a proceeding in court for the collection of the tax must be begun within five years after the assessment.~~

Sec. 11. Minnesota Statutes 1982, section 290.58, is amended to read:

290.58 EXAMINERS, POWERS OF.

Such income tax examiners, whether appointed by the commissioner or by the legislative auditor, shall have all the rights and powers with reference to the examining of books, records, papers, or memoranda, and with reference to the

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subpoenaing of witnesses, administering of oaths and affirmations, and taking of testimony conferred upon the commissioner by this chapter. The clerk of any court of record, ~~or any justice of the peace,~~ upon demand of any such examiner, shall issue a subpoena for the attendance of any witness or the production of any books, papers, records, or memoranda before such examiner. The commissioner may also issue such subpoenas for the appearance of witnesses before him or before such examiners. The commissioner may appoint such referees as he deems necessary to review, singly or as a board of review, the reports of the income tax examiners and petitions or complaints of taxpayers, and report thereon to the commissioner. Disobedience of subpoenas issued under this chapter shall be punished by the district court of the district in which the subpoena is issued, or in the case of a subpoena issued by the commissioner, by the district court of the district in which the party served with the subpoena is located, as for a contempt of the district court.

Sec. 12. Minnesota Statutes 1982, section 290.92, subdivision 6, is amended to read:

Subd. 6. **RETURNS, DEPOSITS.** (1) (a) **RETURNS.** Every employer who is required to deduct and withhold tax under subdivision 2a or 3 shall file a return with the commissioner for each quarterly period, on or before the last day of the month following the close of each quarterly period, unless otherwise prescribed by the commissioner. Any tax required to be deducted and withheld during the quarterly period shall be paid with the return unless an earlier time for payment is provided herein. However, any such return may be filed on or before the tenth day of the second calendar month following such period if such return shows timely deposits in full payment of such taxes due for such period. For the purpose of the preceding sentence, a deposit which is not required to be made within such return period, may be made on or before the last day of the first calendar month following the close of such period. Every employer, in preparing said quarterly return, shall take credit for monthly deposits previously made in accordance with this subdivision.

The return shall be in the form and contain the information prescribed by the commissioner. The commissioner may grant a reasonable extension of time for filing the return and paying the tax, but no extension shall be granted for more than six months.

(b) **ADVANCE DEPOSITS REQUIRED IN CERTAIN CASES.** (i) Unless clause (ii) is applicable, if during any calendar month, other than the last month of the calendar quarter, the aggregate amount of the tax withheld during that quarter under subdivision 2a or 3 exceeds \$200, or beginning January 1, 1982, \$500, the employer shall deposit the aggregate amount with the commissioner within 15 days after the close of the calendar month. (ii) If at the close of any eighth-monthly period the aggregate amount of undeposited taxes is \$3,000 or more, the employer shall deposit the undeposited taxes with the commissioner

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within three banking days after the close of the eighth-monthly period. For purposes of this subparagraph, the term "eighth-monthly period" means the first three days of a calendar month, the fourth day through the seventh day of a calendar month, the eighth day through the 11th day of a calendar month, the 12th day through the 15th day of a calendar month, the 16th day through the 19th day of a calendar month, the 20th day through the 22nd day of a calendar month, the 23rd day through the 25th day of a calendar month, or the portion of a calendar month following the 25th day of such month.

(c) **OTHER METHODS.** The commissioner shall have the power by rule to prescribe other return periods or deposit requirements. In prescribing the reporting period, the commissioner may classify employers according to the amount of their tax liability and may adopt an appropriate reporting period for each class which he deems to be consistent with efficient tax collection. In no event shall the duration of the reporting period be more than one year, provided that for employers with annual withholding tax liabilities of less than \$1,200 the reporting period shall be no more frequent than quarterly.

(2) If less than the correct amount of such tax is paid to the commissioner, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as the commissioner may prescribe. If such underpayment cannot be so adjusted the amount of the underpayment shall be assessed and collected in such manner and at such times as the commissioner may prescribe.

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

(4) If the commissioner, in any case, has reason to believe that the collection of the tax provided for in paragraph (1) of this subdivision, and any added penalties and interest, if any, will be jeopardized by delay, he may immediately assess such tax, whether or not the time otherwise prescribed by law for making and filing the return and paying such tax has expired.

(5) Any assessment under this subdivision shall be made by recording the liability of the employer in the office of the commissioner in accordance with regulations prescribed by the commissioner. Upon request of the employer, the commissioner shall furnish the employer a copy of the record of assessment.

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(6) Any assessment of tax under this subdivision shall be made within three and one-half years after the due date of the return required by paragraph (1), or the date the return was filed, whichever is later; except that in the case of a false or fraudulent return or failure to file a return, the tax may be assessed at any time.

(7) (a) Except as provided in (b) of this paragraph, every employer who fails to pay to or deposit with the commissioner any sum or sums required by this section to be deducted, withheld and paid, shall be personally and individually liable to the state of Minnesota for such sum or sums (and any added penalties and interest); and any sum or sums deducted and withheld in accordance with the provisions of subdivision 2a or subdivision 3 shall be held to be a special fund in trust for the state of Minnesota.

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

(8) Upon the failure of any employer to pay to or deposit with the commissioner within the time provided by paragraphs (1), (2) or (3) of this subdivision any tax required to be withheld in accordance with the provisions of subdivision 2a or subdivision 3, or if the commissioner has assessed a tax pursuant to paragraph (4), such tax shall become immediately due and payable, and the commissioner may deliver to the attorney general a certified statement of the tax, penalties and interest due from such employer. The statement shall also give the address of the employer owing such tax, the period for which the tax is due, the date of the delinquency, and such other information as may be required by the attorney general. It shall be the duty of the attorney general to institute legal action in the name of the state to recover the amount of such tax, penalties, interest and costs. The commissioner's certified statement to the attorney general shall for all purposes and in all courts be prima facie evidence of the facts therein stated and that the amount shown therein is due from the employer named in the statement. In event action is instituted as herein provided, the court shall, upon application of the attorney general, appoint a receiver of the property and business of the delinquent employer for the purpose of impounding the same as security for any judgment which has been or may be recovered. Any such action shall be brought within four ~~five~~ years and ~~three~~ five months after the due date of the return or deposit required by paragraph (1), or the date the return was filed, or deposit made whichever is later; except that in the case of failure to make and file such return or if such return is false or fraudulent, or such deposit is not made such action may be brought at any time.

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(8a) The period of time during which a tax must be assessed or collection proceedings commenced under this subdivision shall be suspended during the period from the date of filing of a petition in bankruptcy until 30 days after the commissioner of revenue receives notice that the bankruptcy proceedings have been closed or dismissed or the automatic stay has been terminated or has expired.

The suspension of the statute of limitations under this subdivision shall apply to the person against whom the petition in bankruptcy is filed and all other persons who may also be wholly or partially liable for the tax under this chapter.

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

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

Sec. 13. Minnesota Statutes 1982, section 290.92, subdivision 6a, is amended to read:

Subd. 6a. FAILURE TO COMPLY WITH WITHHOLDING PROVISIONS. (a) Whenever any person who is required to deduct, withhold, pay over, or deposit any tax imposed by this chapter, at the time and in the manner prescribed by law or regulations fails to deduct, withhold, or pay over such tax, or fails to make deposits or payments of such tax and is notified of any such failure by notice served upon him in the manner prescribed for service of a summons in civil actions, then all the requirements of paragraph (b) of this subdivision shall be complied with. In the case of a corporation, partnership or trust, notice served upon an officer, partner or trustee shall, for purposes of this subdivision, be deemed to be notice served upon such corporation, partnership or trust and all officers, partners or trustees thereof.

(b) Any person who is required to deduct, withhold, pay over, or deposit any tax imposed by this chapter, if notice has been served upon such person in accordance with paragraph (a) of this subdivision, shall thereafter deduct, withhold and collect such taxes and shall (not later than the end of the second banking day after any amount of such taxes is deducted, withheld or collected) deposit such taxes in a separate account in a bank, savings bank or savings and loan association and shall keep the amount of such taxes in such account until payment over to the state of Minnesota. Any such account shall constitute and be designated as a special fund in trust for the state of Minnesota payable to the state of Minnesota by such person as trustee. It shall be the duty of such person upon whom such notice is served to notify the commissioner of revenue in writing of the name and address of the bank, savings bank or savings and loan association wherein such account is kept, together with such other information as the commissioner may require. In lieu of the trust fund account, the commissioner

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may, when necessary in order to secure the withholding of the tax imposed by this chapter, require an employer to file with the department of revenue a bond in an amount determined by the commissioner, or in lieu thereof, security in a form and in an amount as he determines, not to exceed twice the estimated average liability for future monthly withholding tax periods.

(c) Whenever the commissioner of revenue is satisfied with respect to any notification made under paragraph (a) of this subdivision that all requirements of law and regulations with respect to the taxes imposed by this chapter have been and will henceforth be complied with, he may cancel such notification. Such cancellation shall take effect at such time as is specified in the notice of such cancellation. All notices authorized or required under this subdivision shall be in such form as the commissioner may determine.

(d) Any person who fails to comply with any provisions of this subdivision shall, in addition to any other penalties provided by law, be guilty of a gross misdemeanor, except that the provisions of this paragraph shall not apply

(1) to any person if such person shows that there was reasonable doubt as to (a) whether the law required deduction, withholding or payment of tax or (b) what person was required by law to deduct, withhold or pay; or

(2) to any person, if such person shows that the failure to comply with the provisions of paragraph (b) of this subdivision is due to circumstances beyond his control. A lack of funds existing immediately after the payment of wages (whether or not created by such payment) shall not be considered to be circumstances beyond the control of a person.

Sec. 14. Minnesota Statutes 1982, section 290.97, is amended to read:

290.97 CONTRACTS WITH STATE; WITHHOLDING.

No department of the state of Minnesota, nor any political or governmental subdivision of the state shall make final settlement with any contractor under a contract requiring the employment of employees for wages by said contractor and by subcontractors whose business location is outside of the state of Minnesota, until satisfactory showing is made that said contractor or out-of-state subcontractor has complied with the provisions of section 290.92. A certificate by the commissioner of revenue shall satisfy this requirement with respect to the contractor or out-of-state subcontractor. If, at the time of final settlement, there are any unpaid withholding taxes, penalties, or interest arising from the government contract, the department shall issue a certification to the contractor or out-of-state subcontractor upon payment, with certified funds, of any unpaid withholding taxes, penalties, and interest. Payment is received by the department upon delivery of the certified funds to the central office located in St. Paul, or any district or subdistrict office located throughout the state.

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

Sec. 15. Minnesota Statutes 1982, section 297A.34, subdivision 4, is amended to read:

Subd. 4. In the case of a false or fraudulent return with intent to evade tax or of failure with the same intent to file a return, the tax may be assessed, ~~or a proceeding in court for the collection of such tax may be begun at any time,~~ and a proceeding in court for the collection of the tax must be begun within five years after the assessment.

Sec. 16. Minnesota Statutes 1982, section 297A.34, subdivision 5, is amended to read:

Subd. 5. Where the assessment of any tax is hereafter made within the period of limitation properly applicable thereto, such tax may be collected by a proceeding in court, but only if begun:

(a) Not later than ~~nine~~ 24 months after the expiration of the period for the assessment of the tax;

(b) Not later than ~~nine~~ 24 months after final disposition of any appeal from the order of assessment.

Sec. 17. Minnesota Statutes 1982, section 297A.34, is amended by adding a subdivision to read:

Subd. 7. SUSPENSION OF TIME; BANKRUPTCY PROCEEDINGS. The period of time during which a tax must be assessed or collection proceedings commenced under this chapter shall be suspended during the period from the date of a filing of a petition in bankruptcy until 30 days after notice to the commissioner of revenue that the bankruptcy proceedings have been closed or dismissed, or that the automatic stay has been terminated or has expired.

The suspension of the statute of limitations under this subdivision shall apply to the person against whom the petition in bankruptcy is filed, and to all other persons who may be wholly or partially liable for the tax under this chapter.

Sec. 18. Minnesota Statutes 1982, section 297A.42, subdivision 2, is amended to read:

Subd. 2. Such examiners shall have all the rights and powers conferred upon the commissioner by section 297A.41. The clerk of any court of record, ~~or any justice of the peace,~~ upon demand of the commissioner or any such examiner, shall issue a subpoena for the attendance of any witness or the production of any books, papers, records or memoranda before such person. The commissioner may also issue such subpoenas. Disobedience of subpoenas issued under this chapter shall be punished by the district court of the district in which the subpoena is issued, or in the case of a subpoena issued by the commissioner, by

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the district court of the district in which the party served with the subpoena is located, as for a contempt of the district court.

Sec. 19. Minnesota Statutes 1982, section 524.3-805, is amended to read:

524.3-805 **CLASSIFICATION OF CLAIMS.**

(a) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

(1) costs and expenses of administration;

(2) reasonable funeral expenses;

(3) debts and taxes with preference under federal law;

(4) reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him and including a claim filed pursuant to section 256B.15;

(5) ~~debts and taxes~~ with preference under other laws of this state, and state taxes;

(6) all other claims.

(b) No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due, except that if claims for expenses of the last illness involve only claims filed under section 246.53 for costs of state hospital care and claims filed under section 256B.15, claims filed under section 246.53 have preference over claims filed under section 256B.15.

Sec. 20. **EFFECTIVE DATE.**

Sections 1, 3, 16, 18, and 19 are effective July 1, 1983. Section 2 is effective for taxes due on or after July 1, 1983. Section 17 is effective for bankruptcy proceedings filed on or after October 1, 1979. This act shall not apply to any tax, the collection of which is barred by statute of limitations on July 1, 1983.

Approved May 19, 1983

CHAPTER 181 — H.F.No. 259

An act relating to watercraft safety; requirement for rear view mirrors while towing skiers; amending Minnesota Statutes 1982, section 361.09, subdivision 1.

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