

CHAPTER 8165
DEPARTMENT OF REVENUE
REVENUE RECAPTURE

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8165.0100 REVENUE RECAPTURE; IDENTIFYING INFORMATION.

In addition to the name and social security number of the debtor as required by Minnesota Statutes, section 270A.04, subdivision 3, the commissioner of revenue may require an agency making a revenue recapture claim to furnish any of the following information in order for the commissioner to correctly identify the debtor:

- A. the address of the debtor;
- B. a former address of the debtor;
- C. the name and social security number of the debtor's spouse;
- D. the name and social security number of the debtor's ex-spouse;
- E. the name and address of the debtor's employer or a former employer; and
- F. the names of dependents of the debtor.

Statutory Authority: *MS s 270A.04*

History: *17 SR 1229*

8165.0200 SUSPENSION OF CLAIMANT AGENCY STATUS.

Subpart 1. **Commissioner's power to suspend.** A claimant agency defined under Minnesota Statutes, section 270A.03, subdivision 2, shall be suspended from participation in the Revenue Recapture Act for a violation of the act after due notice and an opportunity for hearing.

For purposes of this part, the terms used have the same meaning as in Minnesota Statutes, chapter 270A. The specified proceedings shall be governed by the procedure for contested case proceedings as provided in Minnesota Statutes, chapter 14.

Subp. 2. **Reasons for suspension.** A claimant agency shall be suspended from filing new claims or receiving offsets on existing claims, if the agency has done one of the following:

- A. failed to remit to a spouse who does not owe the debt the spouse's properly allocated share of a joint tax refund which has been recaptured to satisfy a debt of the liable spouse;
- B. filed claims on debts for which the time period allowed by law for collecting the debt has expired;
- C. failed to notify the commissioner to remove from revenue recapture satisfied debts or debts for which the time period allowed by law for collecting the debt has expired;
- D. failed to notify debtors of the basis and validity of the agency's claim, whether the debtor might be exempt, or of the debtor's right to a contested case hearing; or
- E. violated any other provisions of Minnesota Statutes, chapter 270A.

Subp. 3. **Warning.** Whenever a claimant agency has violated a provision of the Revenue Recapture Act, the commissioner shall notify the claimant agency in writing of the specific violation committed. The notification must contain a warning to the claimant agency that if the violation continues, the commissioner shall commence a proceeding for suspension from participation in the Revenue Recapture Act. The

claimant agency must mail its reply to the notice within 30 days after the notice is mailed and when necessary, correct any deficiencies.

Subp. 4. Proceeding.

A. If a claimant agency fails to comply with the warning in subpart 3, the commissioner shall send a written notice to the claimant agency, providing the following information:

(1) the nature of the violations of the Revenue Recapture Act that the agency has committed;

(2) the commissioner's intent to suspend the agency from filing new claims or receiving offsets on existing claims;

(3) the right of the claimant agency to appeal the suspension by submitting a written request for a contested case hearing to the commissioner within 30 days after the notice is mailed; and

(4) the right of the claimant agency to petition for reinstatement as provided in subpart 6.

B. If the commissioner receives written notice of a claimant agency's request for a contested case hearing, the commissioner must schedule a hearing within 30 days after the request is mailed. The claimant agency must be billed for and pay one-half of the costs of the hearing.

Subp. 5. Disciplinary actions. If the claimant agency fails to timely request a hearing, or if upon completion of the contested case proceedings the commissioner makes a determination to suspend the claimant agency, the commissioner shall send written notice of the suspension to the claimant agency. The suspension begins as of the date of the notice. The commissioner's determination must explain the basis for the disciplinary action being taken.

Subp. 6. Petition for reinstatement. Beginning 90 days after suspension, a suspended claimant agency may petition the commissioner for reinstatement to participate in the Revenue Recapture Act. The petition must be supported with documentation that the claimant agency has corrected the prior violations and has taken steps to ensure that the prior violations will not be repeated. The commissioner shall review the petition and make a determination within 30 days as to whether the claimant agency may be reinstated to participate in the Revenue Recapture Act. If the petition is denied by the commissioner, the claimant agency may request the commissioner in writing for a contested case hearing within 30 days after the notice of denial is mailed. If the commissioner receives written notice of a claimant agency's request for a contested case hearing, the commissioner must schedule a hearing within 30 days after the request is mailed. The claimant agency must be billed for and pay one-half of the costs of the hearing. Upon completion of the contested case proceedings, the commissioner shall send the claimant agency written notice of the commissioner's decision.

Statutory Authority: *MS s 270.06*

History: 26 SR 771

8165.0300 DEBTS TO CLAIMANT AGENCIES.

Subpart 1. Notice to debtor. Under Minnesota Statutes, section 270A.08, subdivision 1, a claimant agency is required to send notice to a debtor asserting its right to a refund or a part of a refund. The agency must advise the debtor in that notice of the provisions of Minnesota Statutes, section 270A.03, subdivision 5, when the claims are submitted for the following types of obligations:

A. an obligation of a current recipient of assistance based on an overpayment of an assistance grant;

B. a debt that is owed to a program of which the debtor is a client as of the date of the notice and the debtor is a current recipient of food stamps or food support, transitional child care, or transitional medical assistance; or

C. an obligation to pay a claimant agency for medical care, including hospitalization.

The notice must explain that debtors receiving assistance may be exempt from revenue recapture under items A and B, and debtors with income below specified levels may be exempt under item C.

Subp. 2. Definition of debtor; disclosure to claimant agencies. In addition to the specifications provided under Minnesota Statutes, section 270A.03, subdivision 4, the term “debtor” means a taxpayer of record with the department at the time the claim is filed. The commissioner is authorized to disclose to the claimant agency that the debtor against whom the agency is attempting to file a claim under the Revenue Recapture Act is not a taxpayer of record, pursuant to Minnesota Statutes, section 270A.11.

Subp. 3. Debt for medical care. A debt is not subject to revenue recapture if it is a legal obligation to pay a claimant agency for medical care and if the debtor’s income does not exceed the amount provided in the table in Minnesota Statutes, section 270A.03, subdivision 5. For purposes of that table, the word “income” means income as defined in Minnesota Statutes, section 290.067, subdivision 2a.

Statutory Authority: *MS s 270.06*

History: 26 SR 771; L 2003 ISP14 art 1 s 106

8165.0400 NONLIABLE SPOUSE.

Subpart 1. Allocation of fee. The \$10 fee charged by the commissioner under Minnesota Statutes, section 270A.07, subdivision 1, shall not be allocated to the share of refund due to the spouse who does not owe the debt. When one or more revenue recapture claims are made against a refund and the nonliable spouse is due 100 percent of the refund, the department shall return each \$10 fee to the nonliable spouse.

Subp. 2. Time limit to request an allocation of refund. The right of a spouse who does not owe a debt to request payment from the claimant agency of that spouse’s share of the refund expires 18 months after the date of the notice sent by the department under Minnesota Statutes, section 270A.07, subdivision 2, paragraph (b).

Subp. 3. Allocation of joint income tax refund. In the case of an allocation of a joint income tax refund under Minnesota Statutes, section 270A.03, subdivision 7, if the total taxable income as determined under Minnesota Statutes, section 290.01, subdivision 29, is zero, the refund must be allocated based upon each spouse’s share of federal adjusted gross income.

Statutory Authority: *MS s 270.06*

History: 26 SR 771