

## CHAPTER 295

COMPANIES SUBJECT TO GROSS EARNINGS  
TAXES

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**295.01 DEFINITIONS.**

Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of this chapter, shall be given the meanings subjoined to them.

Subd. 2. [Repealed, 1979 c 303 art 7 s 15]

Subd. 3. [Repealed, 1979 c 303 art 7 s 15]

Subd. 4. [Repealed, 1989 c 277 art 1 s 35]

Subd. 5. [Repealed, 1989 c 277 art 1 s 35]

Subd. 6. [Repealed, 1989 c 277 art 1 s 35]

Subd. 7. [Repealed, 1989 c 277 art 1 s 35]

Subd. 8. [Repealed, 1989 c 277 art 1 s 35]

Subd. 9. **Telegraph company.** Every person, company, joint stock association, or corporation, wherever organized or incorporated, owning or operating any telegraph line within this state shall be deemed a telegraph company.

Subd. 10. **Telephone company.** The term "telephone company" as used in this chapter means any person, firm, association or corporation, excluding municipal telephone companies, owning or operating any telephone line or telephone exchange for hire wholly or partly within this state, including radio and other advancements in the art of telephony and sellers of telephone services, but excluding resellers. "Resellers of telephone services" as used in this chapter means any person, firm, association, or corporation that:

(1) resells telecommunications services purchased from telephone companies as defined in this chapter;

(2) does not own, operate, manage, or control transmission facilities that have the technological capability to provide telecommunication services; and

(3) incurs costs equal to at least 50 percent of its gross revenues for the telephone services purchased from telephone companies that own, operate, manage, or control transmission facilities.

**History:** (2247, 2251, 2261, 2270, 2273, 2277, 2279, 2282) *RL s 1012, 1031; 1909 c 454 s 1; Ex1912 c 9 s 2; 1913 c 480 s 1,3; 1919 c 506 s 1,4; 1973 c 278 s 1; 1973 c 617 s 1,2; ISp1985 c 14 art 14 s 1; 1987 c 268 art 11 s 1; 1991 c 291 art 9 s 6*

**295.02** [Repealed, 1979 c 303 art 7 s 15]

**295.021** [Repealed, 1969 c 399 s 51]

**295.03** [Repealed, 1979 c 303 art 7 s 15]

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- 295.04 [Repealed, 1979 c 303 art 7 s 15]
- 295.05 [Repealed, 1979 c 303 art 7 s 15]
- 295.06 [Repealed, 1969 c 9 s 101; 1969 c 1147 s 22]
- 295.07 [Repealed, 1969 c 9 s 101; 1969 c 1147 s 22]
- 295.08 [Repealed, 1969 c 9 s 101; 1969 c 1147 s 22]
- 295.09 [Repealed, 1969 c 9 s 101; 1969 c 1147 s 22]
- 295.10 [Repealed, 1969 c 9 s 101; 1969 c 1147 s 22]
- 295.11 [Repealed, 1969 c 1147 s 22]
- 295.12 [Repealed, 1979 c 303 art 7 s 15]
- 295.13 [Repealed, 1979 c 303 art 7 s 15]
- 295.14 [Repealed, 1979 c 303 art 7 s 15]
- 295.15 [Repealed, 1989 c 277 art 1 s 35]
- 295.16 [Repealed, 1969 c 1147 s 22]
- 295.17 [Repealed, 1969 c 1147 s 22]
- 295.18 [Repealed, 1969 c 1147 s 22]
- 295.19 [Repealed, 1969 c 1147 s 22]
- 295.20 [Repealed, 1969 c 1147 s 22]
- 295.21 [Repealed, 1989 c 277 art 1 s 35]
- 295.22 [Repealed, 1969 c 1147 s 22]
- 295.23 [Repealed, 1989 c 277 art 1 s 35]
- 295.24 [Repealed, 1989 c 277 art 1 s 35]
- 295.25 [Repealed, 1989 c 277 art 1 s 35]
- 295.26 [Repealed, 1969 c 1147 s 22]
- 295.27 [Repealed, 1989 c 277 art 1 s 35]
- 295.29 [Repealed, 1989 c 277 art 1 s 35]
- 295.30 [Repealed, 1989 c 277 art 1 s 35]
- 295.31 [Repealed, 1989 c 277 art 1 s 35]
- 295.32 [Repealed, 1987 c 268 art 11 s 11 clause (b)]
- 295.33 [Repealed, 1987 c 268 art 11 s 11 clause (b)]
- 295.34 [Repealed, 1987 c 268 art 11 s 11 clause (b)]
- 295.35 [Repealed, 1969 c 1147 s 22]
- 295.36 [Repealed, 1987 c 268 art 11 s 11 clause (b)]
- 295.361 [Repealed, 1969 c 399 s 51]
- 295.365 [Repealed, 1987 c 268 art 11 s 11 clause (b)]
- 295.366 [Repealed, 1987 c 268 art 11 s 11 clause (b)]
- 295.367 [Repealed, 1992 c 511 art 8 s 38]

## TRUST COMPANIES

### 295.37 TRUST COMPANIES TO PAY GROSS EARNINGS TAX.

On or before March first, of each year, every trust company organized under the laws of this state shall pay into the treasury of the county where its principal place of business is located six percent of its gross earnings for the preceding calendar year, which amount shall be in lieu of all ad valorem taxes upon the capital stock and the personal property of such trust company; provided, however, that if any such company shall receive deposits subject to check other than trust deposits, then such company shall be assessed in the same manner as incorporated banks are assessed, and shall pay taxes in the same manner as such banks.

**History:** (2289) 1913 c 529 s 1; Ex1937 c 3 s 4; Ex1937 c 9 s 4

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**295.38** [Repealed, 1973 c 650 art 27 s 1]

## **295.39 REPORTS FILED BY TRUST COMPANIES WITH COUNTY TREASURER.**

It shall be the duty of every trust company which is required to pay a tax of six percent of its gross earnings in lieu of taxes and assessments upon its capital stock and personal property pursuant to the provisions of section 295.37, on or before the first day of February, in each year, to make and file with the county treasurer of the county in which the trust has its principal place of business a report covering the preceding calendar year, verified by the oath of an officer of such company, setting forth correctly the full amount of the gross earnings of such company during the preceding calendar year, and such other and further information as the county treasurer may require.

**History:** (2290-1) 1925 c 251 s 1; Ex1937 c 3 s 4; Ex1937 c 9 s 4; 1973 c 582 s 3; 1987 c 268 art 11 s 6

## **295.40 TAX DETERMINED.**

Upon receipt of such report the county treasurer shall determine therefrom and from such other information as the treasurer may possess or obtain the amount of tax due from such company; and, on or before the 15th day of February, the county treasurer shall certify the amount of the taxes found and determined to be due from such company.

**History:** (2290-2) 1925 c 251 s 2; 1973 c 582 s 3; 1986 c 444; 1987 c 268 art 11 s 7

## **295.41 FAILURE TO REPORT; PENALTY.**

If any company subject to sections 295.39 to 295.43 shall fail to make the report provided for in section 295.39, at the time and in the manner therein provided, there shall be added to the tax found and determined by the county treasurer to be due from such company a penalty equal to ten percent of the tax imposed, which shall be treated as a part thereof.

**History:** (2290-3) 1925 c 251 s 3; 1973 c 582 s 3; 1987 c 268 art 11 s 8

## **295.42 NONPAYMENT OF TAX; PENALTY.**

In case the tax is not paid on or before the first day of March of the year when due and payable a penalty of ten percent thereof shall immediately accrue and be charged upon all such taxes.

**History:** (2290-4) 1925 c 251 s 4

## **295.43 LIEN OF TAX.**

Gross earnings taxes imposed under and pursuant to the provisions of section 295.37, which become delinquent, shall be a lien upon all of the property of the company owning the same, and shall be collected at the same time and in the same manner that delinquent property taxes are collected.

**History:** (2290-5) 1925 c 251 s 5; 1987 c 268 art 11 s 9

## **295.44 HYDROPOWER FACILITIES; EXEMPTION; TAXATION IN LIEU OF PROPERTY TAXATION.**

Subdivision 1. **Exemption.** Notwithstanding the provisions of sections 272.01, subdivision 2, 272.02, subdivision 5, and 273.19, subdivision 1, real or personal property used or to be used primarily for the production of hydroelectric or hydromechanical power on a site owned by the state or a local governmental unit and developed and operated pursuant to section 103G.535 may be exempt from property taxation for all years during which the site is developed and operated under the terms of a lease or agreement authorized by section 103G.535.

Subd. 2. [Repealed, 1984 c 502 art 3 s 36]

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Subd. 3. [Repealed, 1984 c 502 art 3 s 36]

Subd. 4. [Repealed, 1984 c 502 art 3 s 36]

**History:** 1982 c 523 art 27 s 5; 1984 c 502 art 3 s 24; 1990 c 391 art 8 s 35

## HOSPITALS AND HEALTH CARE PROVIDERS

### 295.50 DEFINITIONS.

Subdivision 1. **Definitions.** For purposes of sections 295.50 to 295.58, the following terms have the meanings given.

Subd. 2. **Commissioner.** "Commissioner" is the commissioner of revenue.

Subd. 3. **Gross revenues.** (a) "Gross revenues" are total amounts received in money or otherwise by:

(1) a resident hospital for inpatient or outpatient services as defined in Minnesota Rules, part 4650.0102, subparts 21 and 29;

(2) a nonresident hospital for inpatient or outpatient services as defined in Minnesota Rules, part 4650.0102, subparts 21 and 29, provided to patients domiciled in Minnesota;

(3) a resident health care provider, other than a health maintenance organization, for covered services listed in section 256B.0625;

(4) a nonresident health care provider for covered services listed in section 256B.0625 provided to an individual domiciled in Minnesota;

(5) a wholesale drug distributor for sale or distribution of prescription drugs that are delivered in Minnesota by the distributor or a common carrier, unless the prescription drugs are delivered to another wholesale drug distributor; and

(6) a health maintenance organization as gross premiums for enrollees, carrier copayments, and fees for covered services listed in section 256B.0625.

(b) Gross revenues do not include governmental, foundation, or other grants or donations to a hospital or health care provider for operating or other costs.

Subd. 4. **Health care provider.** "Health care provider" is a vendor of medical care qualifying for reimbursement under the medical assistance program provided under chapter 256B, and includes health maintenance organizations but excludes hospitals and pharmacies.

Subd. 5. **Health maintenance organization.** "Health maintenance organization" is a nonprofit corporation licensed and operated as provided in chapter 62D.

Subd. 6. **Home health care services.** "Home health care services" are services:

(1) defined under the state medical assistance program as home health agency services, personal care services and supervision of personal care services, private duty nursing services, and waived services; and

(2) provided at a recipient's residence, if the recipient does not live in a hospital, nursing facility, as defined in section 62A.46, subdivision 3, or intermediate care facility for persons with mental retardation as defined in section 256B.055, subdivision 12, paragraph (d).

Subd. 7. **Hospital.** "Hospital" is a hospital licensed under chapter 144, a hospital providing inpatient or outpatient services licensed by any other state or province or territory of Canada or a surgical center.

Subd. 8. **Nonresident health care provider.** "Nonresident health care provider" means a health care provider that is not a resident health care provider.

Subd. 9. **Nonresident hospital.** "Nonresident hospital" means a hospital physically located outside Minnesota.

Subd. 10. **Pharmacy.** "Pharmacy" means a pharmacy, as defined in section 151.01, if the only goods or services the pharmacy sells that qualify for reimbursement under the medical assistance program under chapter 256B are drugs and prosthetics.

Subd. 11. **Resident health care provider.** "Resident health care provider" means a health care provider whose principal place of dispensing health care is in Minnesota.

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Subd. 12. **Resident hospital.** "Resident hospital" means a hospital physically located inside Minnesota.

Subd. 13. **Surgical center.** "Surgical center" is an outpatient surgical center as defined in Minnesota Rules, chapter 4675 or a similar facility located in any other state or province or territory of Canada.

Subd. 14. **Wholesale drug distributor.** "Wholesale drug distributor" means a wholesale drug distributor required to be licensed under sections 151.42 to 151.51.

**History:** 1992 c 549 art 9 s 5

## 295.51 MINIMUM CONTACTS REQUIRED FOR JURISDICTION TO TAX GROSS REVENUE.

Subdivision 1. **Business transactions in Minnesota.** A hospital or health care provider is subject to tax under sections 295.50 to 295.58 if it is "transacting business in Minnesota." A hospital or health care provider is transacting business in Minnesota only if it:

- (1) maintains an office in Minnesota;
- (2) has employees, representatives, or independent contractors conducting business in Minnesota;
- (3) regularly sells covered services to customers that receive the covered services in Minnesota;
- (4) regularly solicits business from potential customers in Minnesota;
- (5) regularly performs services outside Minnesota the benefits of which are consumed in Minnesota;
- (6) owns or leases tangible personal or real property physically located in Minnesota; or
- (7) receives medical assistance payments from the state of Minnesota.

Subd. 2. **Presumption.** A hospital or health care provider is presumed to regularly solicit business within Minnesota if it receives gross receipts for covered services from 20 or more patients domiciled in Minnesota in a calendar year.

**History:** 1992 c 549 art 9 s 6

## 295.52 TAXES IMPOSED.

Subdivision 1. **Hospital tax.** A tax is imposed on each hospital equal to two percent of its gross revenues.

Subd. 2. **Provider tax.** A tax is imposed on each health care provider equal to two percent of its gross revenues.

Subd. 3. **Wholesale drug distributor tax.** A tax is imposed on each wholesale drug distributor equal to two percent of its gross revenues.

Subd. 4. **Use tax; prescription drugs.** A person that receives prescription drugs for resale or use in Minnesota, other than from a wholesale drug distributor that paid the tax under subdivision 3, is subject to a tax equal to two percent of the price paid. Liability for the tax is incurred when prescription drugs are received in Minnesota by the person.

**History:** 1992 c 549 art 9 s 7

**NOTE:** Subdivisions 2 to 4 are effective for gross revenues generated by services performed and goods sold after December 31, 1993. See Laws 1992, chapter 549, article 9, section 22.

## 295.53 EXEMPTIONS; SPECIAL RULES.

Subdivision 1. **Exemptions.** The following payments are excluded from the gross revenues subject to the hospital or health care provider taxes under sections 295.50 to 295.57:

- (1) payments received from the federal government for services provided under the Medicare program, excluding enrollee deductible and coinsurance payments;

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(2) medical assistance payments;

(3) payments received for services performed by nursing homes licensed under chapter 144A, services provided in supervised living facilities and home health care services;

(4) payments received from hospitals for goods and services that are subject to tax under section 295.52;

(5) payments received from health care providers for goods and services that are subject to tax under section 295.52;

(6) amounts paid for prescription drugs to a wholesale drug distributor reduced by reimbursements received for prescription drugs under clauses (1), (2), (7), and (8);

(7) payments received under the general assistance medical care program;

(8) payments received for providing services under the health right program under Laws 1992, chapter 549, article 4; and

(9) payments received by a resident health care provider or the wholly owned subsidiary of a resident health care provider for care provided outside Minnesota to a patient who is not domiciled in Minnesota.

**Subd. 2. Deductions for health maintenance organizations.** (a) In addition to the exemptions allowed under subdivision 1, a health maintenance organization may deduct from its gross revenues for the year:

(1) amounts added to reserves, if total reserves do not exceed 25 percent of gross revenues for the prior year;

(2) assessments for the comprehensive health insurance plan under section 62E.11 paid during the year; and

(3) an allowance for administration and underwriting.

(b) The commissioner of health, in consultation with the commissioners of commerce and revenue, shall establish by rule under chapter 14 the percentage of health maintenance revenue that will be allowed as a deduction for administrative and underwriting expenses. The commissioner of health shall determine the percentage allowance based on the average expenses of health maintenance organizations that are equivalent to the claims administration and other underwriting services of third party payors. These expenses do not include the portion of health maintenance organization costs that are similar to the administrative costs of direct health care providers, rather than third party payors, and do not include costs deductible under paragraph (a), clauses (1) and (2). The commissioner of health may adopt emergency rules.

**Subd. 3. Restriction on itemization.** A hospital or health care provider must not separately state the tax obligation under section 295.52 on bills provided to individual patients.

*History: 1992 c 549 art 9 s 8*

## **295.54 CREDIT FOR TAXES PAID TO ANOTHER STATE.**

A resident hospital or resident health care provider who is liable for taxes payable to another state or province or territory of Canada measured by gross receipts and is subject to tax under section 295.52 is entitled to a credit for the tax paid to another state or province or territory of Canada to the extent of the lesser of (1) the tax actually paid to the other state or province or territory of Canada, or (2) the amount of tax imposed by Minnesota on the gross receipts subject to tax in the other taxing jurisdictions.

*History: 1992 c 549 art 9 s 9*

## **295.55 PAYMENT OF TAX.**

**Subdivision 1. Scope.** The provisions of this section apply to the taxes imposed under sections 295.50 to 295.58.

**Subd. 2. Estimated tax; hospitals.** (a) Each hospital must make estimated payments of the taxes for the calendar year in monthly installments to the commissioner within ten days after the end of the month.

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(b) Estimated tax payments are not required if the tax for the calendar year is less than \$500 or if the hospital has been allowed a grant under section 144.1484, subdivision 2, for the year.

(c) Underpayment of estimated installments bear interest at the rate specified in section 270.75, from the due date of the payment until paid or until the due date of the annual return at the rate specified in section 270.75. An underpayment of an estimated installment is the difference between the amount paid and the lesser of (1) 90 percent of one-twelfth of the tax for the calendar year or (2) the tax for the actual gross revenues received during the month.

**Subd. 3. Estimated tax; other taxpayers.** (a) Each taxpayer, other than a hospital, must make estimated payments of the taxes for the calendar year in quarterly installments to the commissioner by April 15, July 15, October 15, and January 15 of the following calendar year.

(b) Estimated tax payments are not required if the tax for the calendar year is less than \$500.

(c) Underpayment of estimated installments bear interest at the rate specified in section 270.75, from the due date of the payment until paid or until the due date of the annual return at the rate specified in section 270.75. An underpayment of an estimated installment is the difference between the amount paid and the lesser of (1) 90 percent of one-quarter of the tax for the calendar year or (2) the tax for the actual gross revenues received during the quarter.

**Subd. 4. Electronic funds transfer payments.** A taxpayer with an aggregate tax liability of \$60,000 or more during a calendar quarter ending the last day of March, June, September, or December must thereafter remit all liabilities by means of a funds transfer as defined in section 336.4A-104, paragraph (a). The funds transfer payment date, as defined in section 336.4A-401, is on or before the date the tax is due. If the date the tax is due is not a funds-transfer business day, as defined in section 336.4A-105, paragraph (a), clause (4), the payment date is on or before the first funds-transfer business day after the date the tax is due.

**Subd. 5. Annual return.** The taxpayer must file an annual return reconciling the estimated payments by March 15 of the following calendar year.

**Subd. 6. Form of returns.** The estimated payments and annual return must contain the information and be in the form prescribed by the commissioner.

*History: 1992 c 549 art 9 s 10*

## **295.57 COLLECTION AND ENFORCEMENT; RULEMAKING; APPLICATION OF OTHER CHAPTERS.**

Unless specifically provided otherwise by sections 295.50 to 295.58, the enforcement, interest, and penalty provisions under chapter 294, appeal and criminal penalty provisions under chapter 289A, and collection and rulemaking provisions under chapter 270, apply to a liability for the taxes imposed under sections 295.50 to 295.58.

*History: 1992 c 549 art 9 s 11*

## **295.58 DEPOSIT OF REVENUES.**

The commissioner shall deposit all revenues, including penalties and interest, derived from the taxes imposed by sections 295.50 to 295.57 and from the insurance premiums tax on health maintenance organizations and nonprofit health service corporations in the health care access fund in the state treasury.

*History: 1992 c 549 art 9 s 12*

## **295.59 SEVERABILITY.**

If any section, subdivision, clause, or phrase of sections 295.50 to 295.58 is for any reason held to be unconstitutional or in violation of federal law, the decision shall not affect the validity of the remaining portions of sections 295.50 to 295.58. The legisla-

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ture declares that it would have passed sections 295.50 to 295.58 and each section, subdivision, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subdivisions, sentences, clauses, or phrases is declared unconstitutional.

**History:** *1992 c 549 art 9 s 13*