

CHAPTER 289A

TAX ADMINISTRATION AND COMPLIANCE

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289A.02 DEFINITIONS.

[For text of subs 1 to 6, see M.S.1994]

Subd. 7. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through April 15, 1995.

History: 1995 c 264 art 1 s 4

289A.12 FILING REQUIREMENTS FOR INFORMATION RETURNS AND REPORTS.

[For text of subs 2 and 3, see M.S.1994]

Subd. 4. **Returns by persons, corporations, cooperatives, governmental entities, or school districts.** The commissioner may by notice and demand require to the extent required by section 6041 of the Internal Revenue Code, a person, corporation, or cooperative, the state of Minnesota and its political subdivisions, and a city, county, and school district in Minnesota, making payments in the regular course of a trade or business during the taxable year to any person or corporation of \$600 or more on account of rents or royalties, or of \$10 or more on account of interest, or \$10 or more on account of dividends or patronage dividends, or \$600 or more on account of either wages, salaries, commissions, fees, prizes, awards, pensions, annuities, or any other fixed or determinable gains, profits or income, not otherwise reportable under section 289A.09, subdivision 2, or on account of earnings of \$10 or more distributed to its members by savings associations or credit unions chartered under the laws of this state or the United States, (1) to file with the commissioner a return (except in cases where a valid agreement to participate in the combined federal and state information reporting system has been entered into, and the return is filed only with the commissioner of internal revenue under the applicable filing and informational reporting requirements of the Internal Revenue Code) with respect to the payments in excess of the amounts named, giving the names and addresses of the persons to whom the payments were made, the amounts paid to each, and (2) to make a return with respect to the total number of payments and total amount of payments, for each category of income named, which were in excess of the amounts named. This subdivision does not apply to the payment of interest or dividends to a person who was a non-resident of Minnesota for the entire year.

A person, corporation, or cooperative required to file returns under this subdivision must file the returns on magnetic media if magnetic media was used to satisfy the federal reporting requirement under section 6011(e) of the Internal Revenue Code, unless the person establishes to the satisfaction of the commissioner that compliance with this requirement would be an undue hardship.

[For text of subs 5 to 14, see M.S.1994]

History: 1995 c 202 art 1 s 25

289A.18 DUE DATES FOR FILING OF RETURNS.

[For text of subd 1, see M.S.1994]

Subd. 2. Withholding returns, entertainer withholding returns, returns for withholding from payments to out-of-state contractors, and withholding returns from partnerships and S corporations. Withholding returns are due on or before the last day of the month following the close of the quarterly period. However, if the return shows timely deposits in full payment of the taxes due for that period, the returns for the first, second, and third quarters may be filed on or before the tenth day of the second calendar month following the period and the return for the fourth quarter may be filed on or before the 28th day of the second calendar month following the period. An employer, in preparing a quarterly return, may take credit for monthly deposits previously made for that quarter. Entertainer withholding tax returns are due within 30 days after each performance. Returns for withholding from payments to out-of-state contractors are due within 30 days after the payment to the contractor. Returns for withholding by partnerships are due on or before the due date specified for filing partnership returns. Returns for withholding by S corporations are due on or before the due date specified for filing corporate franchise tax returns.

[For text of subd 3, see M.S.1994]

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

(b) Except for the return for the June reporting period, which is due on the following August 25, returns filed by retailers required to remit liabilities by means of funds transfer under section 289A.20, subdivision 4, paragraph (d), are due on or before the 25th day of the month following the close of the preceding reporting period.

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

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

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

[For text of subd 5, see M.S.1994]

History: 1995 c 264 art 10 s 1; art 17 s 1

289A.20 DUE DATES FOR MAKING PAYMENTS OF TAX.

[For text of subd 1, see M.S.1994]

Subd. 2. Withholding from wages, entertainer withholding, withholding from payments to out-of-state contractors, and withholding by partnerships and small business corporations. (a) A tax required to be deducted and withheld during the quarterly period must be paid on or before the last day of the month following the close of the quarterly period, unless an earlier time for payment is provided. A tax required to be deducted and withheld

from compensation of an entertainer and from a payment to an out-of-state contractor must be paid on or before the date the return for such tax must be filed under section 289A.18, subdivision 2. Taxes required to be deducted and withheld by partnerships and S corporations must be paid on or before the date the return must be filed under section 289A.18, subdivision 2.

(b) An employer who, during the previous quarter, withheld more than \$1,500 of tax under section 290.92, subdivision 2a or 3, or 290.923, subdivision 2, must deposit tax withheld under those sections with the commissioner within the time allowed to deposit the employer's federal withheld employment taxes under Treasury Regulation, section 31.6302-1, without regard to the safe harbor or de minimus rules in subparagraph (f) or the one-day rule in subsection (c), clause (3). Taxpayers must submit a copy of their federal notice of deposit status to the commissioner upon request by the commissioner.

(c) The commissioner may prescribe by rule other return periods or deposit requirements. In prescribing the reporting period, the commissioner may classify payors according to the amount of their tax liability and may adopt an appropriate reporting period for the class that the commissioner judges to be consistent with efficient tax collection. In no event will the duration of the reporting period be more than one year.

(d) If less than the correct amount of tax is paid to the commissioner, proper adjustments with respect to both the tax and the amount to be deducted must be made, without interest, in the manner and at the times the commissioner prescribes. If the underpayment cannot be adjusted, the amount of the underpayment will be assessed and collected in the manner and at the times the commissioner prescribes.

(e) If the aggregate amount of the tax withheld during a fiscal year ending June 30 under section 290.92, subdivision 2a or 3, is equal to or exceeds \$50,000, the employer must remit each required deposit in the subsequent calendar year 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, must be on or before the date the deposit is due. If the date the deposit is due is not a funds transfer business day, as defined in section 336.4A-105, paragraph (a), clause (4), the payment date must be on or before the funds transfer business day next following the date the deposit is due.

(f) Providers of payroll services who remit withholding deposits on behalf of 50 or more employers, or on behalf of any employer with aggregate amounts over the threshold in paragraph (e), must remit all deposits by means of a funds transfer as provided in paragraph (e), regardless of the aggregate amount of tax withheld during a fiscal year for all of the employers.

[For text of subs 3 to 5, see M.S.1994]

History: 1995 c 264 art 10 s 2

289A.26 PAYMENT OF ESTIMATED TAX BY CORPORATIONS.

[For text of subs 1 and 2, see M.S.1994]

Subd. 2a. **Electronic funds transfer payments.** If the aggregate amount of estimated tax payments made during a calendar year is equal to or exceeds \$20,000, all estimated tax payments in the subsequent calendar year must be paid 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, must be on or before the date the estimated tax payment is due. If the date the estimated tax payment is due is not a funds transfer business day, as defined in section 336.4A-105, paragraph (a), clause (4), the payment date must be on or before the funds transfer business day next following the date the estimated tax payment is due.

[For text of subs 3 to 11, see M.S.1994]

History: 1995 c 264 art 13 s 10

289A.38 LIMITATIONS ON TIME FOR ASSESSMENT OF TAX.

[For text of subs 1 to 6, see M.S.1994]

Subd. 7. Federal tax changes. If the amount of income, items of tax preference, deductions, or credits for any year of a taxpayer as reported to the Internal Revenue Service is changed or corrected by the commissioner of Internal Revenue or other officer of the United States or other competent authority, or where a renegotiation of a contract or subcontract with the United States results in a change in income, items of tax preference, deductions, or credits, or, in the case of estate tax, where there are adjustments to the taxable estate resulting in a change to the credit for state death taxes, the taxpayer shall report the change or correction or renegotiation results in writing to the commissioner. The report must be submitted within 180 days after the final determination and must be in the form of either an amended Minnesota return conceding the accuracy of the federal determination or a letter detailing how the federal determination is incorrect or does not change the Minnesota tax. A taxpayer filing an amended federal tax return must also file a copy of the amended return with the commissioner of revenue within 180 days after filing the amended return.

[For text of subs 8 to 14, see M.S.1994]

History: 1995 c 264 art 10 s 3

289A.40 LIMITATIONS ON CLAIMS FOR REFUND.

Subdivision 1. Time limit; generally. Unless otherwise provided in this chapter, a claim for a refund of an overpayment of state tax must be filed within 3-1/2 years from the date prescribed for filing the return, plus any extension of time granted for filing the return, but only if filed within the extended time, or one year from the date of an order assessing tax under section 289A.37, subdivision 1, upon payment in full of the tax, penalties, and interest shown on the order, whichever period expires later. Claims for refund filed after the 3-1/2 year period but within the one-year period are limited to the amount of the tax, penalties, and interest on the order and to issues determined by the order.

[For text of subs 1a to 3, see M.S.1994]

History: 1995 c 264 art 13 s 11

NOTE: The amendments to subdivision 1 by Laws 1995, chapter 264, article 13, section 11, are effective for claims for refund which have not been filed as of June 2, 1995, and in which the time period for filing the claim has not expired under the provisions in effect prior to June 2, 1995. The time period for filing such claims is the time period prescribed in subdivision 1, or one year after June 2, 1995, whichever is greater. See Laws 1995, chapter 264, article 13, section 24.

289A.43 PROHIBITION OF SUITS TO RESTRAIN ASSESSMENT OR COLLECTION.

Except for the express procedures in this chapter, chapters 270 and 271, and any other tax statutes for contesting the assessment or collection of taxes, penalties, or interest administered by the commissioner of revenue, and except for an action challenging the constitutionality of a tax statute on its face, if it is demonstrated to the court by clear and convincing evidence that under no circumstances would the commissioner ultimately prevail and that the taxpayer will suffer irreparable harm if the relief sought is not granted, no suit to restrain assessment or collection, including a declaratory judgment action, can be maintained in any court by any person.

History: 1995 c 264 art 14 s 1

289A.50 CLAIMS FOR REFUNDS.

Subdivision 1. General right to refund. (a) Subject to the requirements of this section and section 289A.40, a taxpayer who has paid a tax in excess of the taxes lawfully due and who files a written claim for refund will be refunded or credited the overpayment of the tax determined by the commissioner to be erroneously paid.

(b) The claim must specify the name of the taxpayer, the date when and the period for which the tax was paid, the kind of tax paid, the amount of the tax that the taxpayer claims was erroneously paid, the grounds on which a refund is claimed, and other information relative to the payment and in the form required by the commissioner. An income tax, estate tax, or corporate franchise tax return, or amended return claiming an overpayment constitutes a claim for refund.

(c) When, in the course of an examination, and within the time for requesting a refund, the commissioner determines that there has been an overpayment of tax, the commissioner shall refund or credit the overpayment to the taxpayer and no demand is necessary. If the overpayment exceeds \$1, the amount of the overpayment must be refunded to the taxpayer. If the amount of the overpayment is less than \$1, the commissioner is not required to refund. In these situations, the commissioner does not have to make written findings or serve notice by mail to the taxpayer.

(d) If the amount allowable as a credit for withholding, estimated taxes, or dependent care exceeds the tax against which the credit is allowable, the amount of the excess is considered an overpayment. The refund allowed by section 290.06, subdivision 23, is also considered an overpayment. The requirements of section 270.10, subdivision 1, do not apply to the refunding of such an overpayment shown on the original return filed by a taxpayer.

(e) If the entertainment tax withheld at the source exceeds by \$1 or more the taxes, penalties, and interest reported in the return of the entertainment entity or imposed by section 290.9201, the excess must be refunded to the entertainment entity. If the excess is less than \$1, the commissioner need not refund that amount.

(f) If the surety deposit required for a construction contract exceeds the liability of the out-of-state contractor, the commissioner shall refund the difference to the contractor.

(g) An action of the commissioner in refunding the amount of the overpayment does not constitute a determination of the correctness of the return of the taxpayer.

(h) There is appropriated from the general fund to the commissioner of revenue the amount necessary to pay refunds allowed under this section.

[For text of subs 2 to 9, see M.S.1994]

Subd. 10. Limitation on refund. If an addition to federal taxable income under section 290.01, subdivision 19a, clause (1), is judicially determined to discriminate against interstate commerce, the legislature intends that the discrimination be remedied by adding interest on obligations of Minnesota governmental units and Indian tribes to federal taxable income. This subdivision applies beginning with the taxable years that begin during the calendar year in which the court's decision is final. Other remedies apply for previous taxable years.

History: 1995 c 264 art 1 s 1; art 19 s 5

289A.55 INTEREST PAYABLE TO COMMISSIONER.

[For text of subs 1 to 6, see M.S.1994]

Subd. 7. Installment payments; estate tax. Interest must be paid on unpaid installment payments of the tax authorized under section 289A.30, subdivision 2, beginning on the date the tax was due without regard to extensions allowed or extensions elected, at the rate given in section 270.75.

[For text of subs 8 and 9, see M.S.1994]

History: 1995 c 264 art 10 s 4

289A.60 CIVIL PENALTIES.

[For text of subd 1, see M.S.1994]

Subd. 2. Penalty for failure to make and file return. If a taxpayer fails to make and file a return other than an income tax return of an individual, a withholding return, or sales or use tax return, within the time prescribed or an extension, a penalty is added to the tax. The penalty is three percent of the amount of tax not paid on or before the date prescribed for payment of the tax including any extensions if the failure is for not more than 30 days, with an additional five percent of the amount of tax remaining unpaid during each additional 30 days or fraction of 30 days, during which the failure continues, not exceeding 23 percent in the aggregate.

If a taxpayer fails to file an individual income tax return within six months after the date prescribed for filing of the return, a penalty of ten percent of the amount of tax not paid by the end of that six-month period is added to the tax.

If a taxpayer fails to file a withholding or sales or use tax return within the time prescribed, including an extension, a penalty of five percent of the amount of tax not timely paid is added to the tax.

[For text of subs 3 to 11, see M.S.1994]

Subd. 12. Penalties relating to property tax refunds. (a) If the commissioner determines that a property tax refund claim is or was excessive and was filed with fraudulent intent, the claim must be disallowed in full. If the claim has been paid, the amount disallowed may be recovered by assessment and collection.

(b) If it is determined that a property tax refund claim is excessive and was negligently prepared, ten percent of the corrected claim must be disallowed. If the claim has been paid, the amount disallowed must be recovered by assessment and collection.

(c) An owner who without reasonable cause fails to give a certificate of rent constituting property tax to a renter, as required by section 290A.19, paragraph (a), is liable to the commissioner for a penalty of \$100 for each failure.

(d) If the owner or managing agent knowingly gives rent certificates that report total rent constituting property taxes in excess of the amount of actual rent constituting property taxes paid on the rented part of a property, the owner or managing agent is liable for a penalty equal to the greater of (1) \$100 or (2) 50 percent of the excess that is reported. An overstatement of rent constituting property taxes is presumed to be knowingly made if it exceeds by ten percent or more the actual rent constituting property taxes.

(e) No claim is allowed if the initial claim is filed more than one year after the original due date for filing the claim.

[For text of subs 13 to 23, see M.S.1994]

Subd. 24. Penalty for failure to notify of federal change. If a person fails to report to the commissioner a change or correction of the person's federal return in the manner and time prescribed in section 289A.38, subdivision 7, there must be added to the tax an amount equal to ten percent of the amount of any underpayment of Minnesota tax attributable to the federal change.

History: 1995 c 264 art 10 s 5; art 11 s 8; art 13 s 12

NOTE: Subdivision 12 was amended by Laws 1995, chapter 264, article 4, section 9, effective for property tax refunds payable as deductions on property tax statements in 1998 and thereafter. See Laws 1995, chapter 264, article 4, section 20. When effective, the subdivision will read as follows:

"Subd. 12. **Penalties relating to property tax refunds.** (a) If the commissioner determines that a property tax refund claim is or was excessive and was filed with fraudulent intent, the claim must be disallowed in full. If the claim has been paid, the amount disallowed may be recovered by assessment and collection.

(b) If it is determined that a property tax refund claim is excessive and was negligently prepared, ten percent of the corrected claim must be disallowed. If the claim has been paid, the amount disallowed must be recovered by assessment and collection.

(c) An owner who without reasonable cause fails to give a certificate of rent constituting property tax to a renter, as required by section 290A.19, paragraph (a), is liable to the commissioner for a penalty of \$100 for each failure.

(d) If the owner or managing agent knowingly gives rent certificates that report total rent constituting property taxes in excess of the amount of actual rent constituting property taxes paid on the rented part of a property, the owner or managing agent is liable for a penalty equal to the greater of (1) \$100 or (2) 50 percent of the excess that is reported. An overstatement of rent constituting property taxes is presumed to be knowingly made if it exceeds by ten percent or more the actual rent constituting property taxes.

(e) No property tax refund claim based on rent paid, or on property taxes payable in the case of a manufactured home assessed under section 273.125, subdivision 8, paragraph (c), is allowed if the initial claim is filed more than one year after the original due date for filing the claim.

(f) Except as provided in paragraph (e), no property tax refund claim based on property taxes payable filed after the original due date for filing the claim may be paid. No extensions of time for filing may be granted."