

## CHAPTER 297

## SALES TAXES; CIGARETTES AND TOBACCO

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**297.01 DEFINITIONS.**

*[For text of subs 1 to 16, see M.S.1994]*

Subd. 17. **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

**297.08 CONTRABAND.**

Subdivision 1. **Contraband defined.** The following are declared to be contraband:

(1) All packages which do not have stamps affixed to them as provided in sections 297.01 to 297.13, including but not limited to (i) packages with illegible stamps and packages with stamps that are not complete or whole even if the stamps are legible, and (ii) all devices for the vending of cigarettes in which packages as defined in item (i) are found, including all contents contained within the devices.

(2) Any device for the vending of cigarettes and all packages of cigarettes contained therein, where the device does not afford at least partial visibility of contents. Where any package exposed to view does not carry the stamp required by sections 297.01 to 297.13, it shall be presumed that all packages contained in the device are unstamped and contraband.

(3) Any device for the vending of cigarettes to which the commissioner or authorized agents have been denied access for the inspection of contents. In lieu of seizure, the commissioner or an agent may seal the device to prevent its use until inspection of contents is permitted.

(4) Any device for the vending of cigarettes which does not carry the name and address of the owner, plainly marked and visible from the front of the machine.

(5) Any device including, but not limited to, motor vehicles, trailers, snowmobiles, airplanes, and boats used with the knowledge of the owner or of a person operating with the consent of the owner for the storage or transportation of more than 5,000 cigarettes which are contraband under this subdivision. When cigarettes are being transported in the course of interstate commerce, or are in movement from either a public warehouse to a distributor upon orders from a manufacturer or distributor, or from one distributor to another, the cigarettes are not contraband, notwithstanding the provisions of clause (1).

(6) All packages obtained in violation of section 297.11, subdivision 6.

(7) All packages offered for sale or held as inventory in violation of section 297.11, subdivision 7.

*[For text of subd 2, see M.S.1994]*

**Subd. 3. Inventory; judicial determination; appeal; disposition of seized property.**

Within two days after the seizure of any alleged contraband, the person making the seizure shall deliver an inventory of the property seized to the person from whom the seizure was made, if known, and file a copy with the commissioner. Within ten days after the date of service of the inventory, the person from whom the property was seized or any person claiming an ownership or security interest in the property may file with the commissioner a demand for a judicial determination of the question as to whether the property was lawfully subject to seizure and forfeiture. The commissioner, within 30 days, shall institute an action in the district court of the county where the seizure was made to determine the issue of forfeiture. The only issue to be decided by the court is whether the alleged contraband is contraband, as defined in subdivision 1. The action shall be brought in the name of the state and shall be prose-

cuted by the county attorney or by the attorney general. The court shall hear the action without a jury and shall try and determine the issues of fact and law involved. Whenever a judgment of forfeiture is entered, the commissioner may, unless the judgment is stayed pending an appeal, either (1) deliver the forfeited property to the commissioner of human services for use by patients in state institutions; (2) cause it to be destroyed; or (3) cause it to be sold at public auction as provided by law. If a demand for judicial determination is made and no action is commenced as provided in this subdivision, the property shall be released by the commissioner and redelivered to the person entitled to it. If no demand is made, the property seized shall be deemed forfeited to the state by operation of law and may be disposed of by the commissioner as provided where there has been a judgment of forfeiture.

*[For text of subd 4, see M.S.1994]*

**History:** 1995 c 264 art 12 s 1,2

### **297.35 DISTRIBUTORS, MONTHLY RETURNS.**

Subdivision 1. On or before the 18th day of each calendar month every distributor with a place of business in this state shall file a return with the commissioner showing the quantity and wholesale sales price of each tobacco product (1) brought, or caused to be brought, into this state for sale; and (2) made, manufactured, or fabricated in this state for sale in this state, during the preceding calendar month. Every licensed distributor outside this state shall in like manner file a return showing the quantity and wholesale sales price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers, during the preceding calendar month. Returns shall be made upon forms furnished and prescribed by the commissioner and shall contain such other information as the commissioner may require. Each return shall be accompanied by a remittance for the full tax liability shown therein, less 1.5 percent of such liability as compensation to reimburse the distributor for expenses incurred in the administration of sections 297.31 to 297.39. The return for the May liability and 75 percent of the estimated June liability is due on the date payment of the tax is due.

A distributor having a liability of \$120,000 or more during a fiscal year ending June 30 must remit all liabilities 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 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 must be on or before the funds transfer business day next following the date the tax is due.

*[For text of subs 2 to 10, see M.S.1994]*

**History:** 1995 c 264 art 13 s 16

### **297.43 PENALTIES.**

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

Subd. 2. **Penalty for failure to file.** If a person fails to make and file a return within the time required under sections 297.07, 297.23, and 297.35, there shall be added to the tax five percent of the amount of tax not paid on or before the date prescribed for payment of the tax. The amount so added to any tax under this subdivision and subdivision 1 shall be collected at the same time and in the same manner and as a part of the tax and shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid, unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

*[For text of subs 3 to 10, see M.S.1994]*

**History:** 1995 c 264 art 13 s 17