

## CHAPTER 289A

## TAX ADMINISTRATION AND COMPLIANCE

289A.02	Definitions.	289A.31	Liability for payment of tax.
289A.12	Filing requirements for information returns and reports.	289A.40	Limitations on claims for refund.
289A.18	Due dates for filing of returns.	289A.50	Claims for refunds.
289A.20	Due dates for making payments of tax.	289A.55	Interest payable to commissioner.
		289A.56	Interest on overpayments.
		289A.60	Civil penalties.

**289A.02 DEFINITIONS.**

*[For text of subds 1 to 6, see M.S.1998]*

Subd. 7. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 1998.

**History:** 1999 c 243 art 3 s 1

**NOTE:** The amendment to subdivision 7 by Laws 1999, chapter 243, article 3, section 1, is effective at the same time federal changes made by the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law Number 105-206 and the Omnibus Consolidation and Emergency Supplemental Appropriations Act, 1999, Public Law Number 105-277 which are incorporated in this chapter, become effective for federal tax purposes. Laws 1999, chapter 243, article 3, section 7.

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

*[For text of subds 2 to 7, see M.S.1998]*

Subd. 8. **Returns for reemployment compensation.** The commissioner may by notice and demand require a person who makes payments of reemployment compensation totaling \$10 or more to any individual during a calendar year and who is required to make and file a return under section 6050B of the Internal Revenue Code to file a copy of the return with the commissioner.

*[For text of subds 9 to 14, see M.S.1998]*

**History:** 1999 c 107 s 66

**289A.18 DUE DATES FOR FILING OF RETURNS.**

*[For text of subds 1 to 3, see M.S.1998]*

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).

(f) A taxpayer who is a materials supplier may report gross receipts either on:

(1) the cash basis as the consideration is received; or

(2) the accrual basis as sales are made.

As used in this paragraph, "materials supplier" means a person who provides materials for the improvement of real property; who is primarily engaged in the sale of lumber and building materials—related products to owners, contractors, subcontractors, repairers, or consumers; who is authorized to file a mechanics lien upon real property and improvements under chapter 514; and who files with the commissioner an election to file sales and use tax returns on the basis of this paragraph.

*[For text of subd 5, see M.S.1998]*

**History:** 1999 c 243 art 4 s 1

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

*[For text of subds 1 to 3, see M.S.1998]*

Subd. 4. **Sales and use tax.** (a) The taxes imposed by chapter 297A are due and payable to the commissioner monthly on or before the 20th day of the month following the month in which the taxable event occurred, or following another reporting period as the commissioner prescribes or as allowed under section 289A.18, subdivision 4, paragraph (f), except that use taxes due on an annual use tax return as provided under section 289A.11, subdivision 1, are payable by April 15 following the close of the calendar year.

(b) A vendor having a liability of \$120,000 or more during a fiscal year ending June 30 must remit the June liability for the next year in the following manner:

(1) Two business days before June 30 of the year, the vendor must remit 75 percent of the estimated June liability to the commissioner.

(2) On or before August 14 of the year, the vendor must pay any additional amount of tax not remitted in June.

(c) A vendor 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 14th day of the month following the month in which the taxable event occurred, or on or before the 14th day of the month following the month in which the sale is reported under section 289A.18, subdivision 4, except for 75 percent of the estimated June liability, which is due two business days before June 30. The remaining amount of the June liability is due on August 14. 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.

(d) If the vendor required to remit by electronic funds transfer as provided in paragraph (c) is unable due to reasonable cause to determine the actual sales and use tax due on or before the due date for payment, the vendor may remit an estimate of the tax owed using one of the following options:

(1) 100 percent of the tax reported on the previous month's sales and use tax return;

(2) 100 percent of the tax reported on the sales and use tax return for the same month in the previous calendar year; or

(3) 95 percent of the actual tax due.

Any additional amount of tax that is not remitted on or before the due date for payment, must be remitted with the return. If a vendor fails to remit the actual liability or does not remit using one of the estimate options by the due date for payment, the vendor must remit actual liability as provided in paragraph (c) in all subsequent periods. This paragraph does not apply to the June sales and use tax liability.

*[For text of subd 5, see M.S.1998]*

**History:** 1999 c 243 art 4 s 2

## 289A.31 LIABILITY FOR PAYMENT OF TAX.

*[For text of subd 1, see M.S.1998]*

Subd. 2. **Joint income tax returns.** (a) If a joint income tax return is made by a husband and wife, the liability for the tax is joint and several. A spouse who qualifies for relief from a liability attributable to an underpayment under section 6015(b) of the Internal Revenue Code is relieved of the state income tax liability on the underpayment.

(b) In the case of individuals who were a husband and wife prior to the dissolution of their marriage or their legal separation, or prior to the death of one of the individuals, for tax liabilities reported on a joint or combined return, the liability of each person is limited to the proportion of the tax due on the return that equals that person's proportion of the total tax due if the husband and wife filed separate returns for the taxable year. This provision is effective only when the commissioner receives written notice of the marriage dissolution, legal separation, or death of a spouse from the husband or wife. No refund may be claimed by an ex-spouse, legally separated or widowed spouse for any taxes paid more than 60 days before receipt by the commissioner of the written notice.

*[For text of subs 3 to 7, see M.S.1998]*

**History:** 1999 c 243 art 16 s 14

**NOTE:** The amendment to subdivision 2, paragraph (a), by Laws 1999, chapter 243, article 16, section 14, is effective at the same time that section 6015(b) of the Internal Revenue Code is effective for federal tax purposes. Laws 1999, chapter 243, article 16, section 40.

## 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, or an order determining an appeal under section 289A.65, subdivision 8, or one year from the date of a return made by the commissioner under section 289A.35, upon payment in full of the tax, penalties, and interest shown on the order or return made by the commissioner, whichever period expires later. Claims for refund, except for taxes under chapter 297A, 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 or return made by the commissioner and to issues determined by the order or return made by the commissioner.

In the case of assessments under section 289A.38, subdivision 5 or 6, claims for refund under chapter 297A 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 or return made by the commissioner that are due for the period before the 3-1/2 year period.

Subd. 1a. **Individual income taxes; suspension during period of disability.** If the taxpayer meets the requirements for suspending the running of the time period to file a claim for

refund under section 6511(h) of the Internal Revenue Code, the time period in subdivision 1 for the taxpayer to file a claim for an individual income tax refund is suspended.

*[For text of subs 2 and 3, see M.S.1998]*

**History:** 1999 c 243 art 16 s 15,16

#### 289A.50 CLAIMS FOR REFUNDS.

*[For text of subd 1, see M.S.1998]*

Subd. 1a. **Refund form.** On or before January 1, 2000, the commissioner of revenue shall prepare and make available to taxpayers a form for filing claims for refund of taxes paid in excess of the amount due. If the commissioner fails to prepare a form under this subdivision by January 1, 2000, any claims for refund made after January 1, 2000, and up to ten days after the form is made available to taxpayers are deemed to be made in compliance with the requirement of the form.

*[For text of subs 2 to 5, see M.S.1998]*

Subd. 7. **Remedies.** (a) If the taxpayer is notified by the commissioner that the refund claim is denied in whole or in part, the taxpayer may:

(1) file an administrative appeal as provided in section 289A.65, or an appeal with the tax court, within 60 days after issuance of the commissioner's notice of denial; or

(2) file an action in the district court to recover the refund.

(b) An action in the district court on a denied claim for refund must be brought within 18 months of the date of the denial of the claim by the commissioner.

(c) No action in the district court or the tax court shall be brought within six months of the filing of the refund claim unless the commissioner denies the claim within that period.

(d) If a taxpayer files a claim for refund and the commissioner has not issued a denial of the claim, the taxpayer may bring an action in the district court or the tax court at any time after the expiration of six months of the time the claim was filed.

(e) The commissioner and the taxpayer may agree to extend the period for bringing an action in the district court.

(f) An action for refund of tax by the taxpayer must be brought in the district court of the district in which lies the county of the taxpayer's residence or principal place of business. In the case of an estate or trust, the action must be brought at the principal place of its administration. Any action may be brought in the district court for Ramsey county.

*[For text of subs 8 to 10, see M.S.1998]*

**History:** 1999 c 243 art 16 s 17,18

#### 289A.55 INTEREST PAYABLE TO COMMISSIONER.

*[For text of subs 1 to 8, see M.S.1998]*

Subd. 9. **Interest on penalties.** (a) A penalty imposed under section 289A.60, subdivision 1, 2, 3, 4, 5, 6, or 21 bears interest from the date the return or payment was required to be filed or paid, including any extensions, to the date of payment of the penalty.

(b) A penalty not included in paragraph (a) bears interest only if it is not paid within ten days from the date of notice. In that case interest is imposed from the date of notice to the date of payment.

**History:** 1999 c 243 art 16 s 19

#### 289A.56 INTEREST ON OVERPAYMENTS.

*[For text of subs 1 to 3, see M.S.1998]*

Subd. 4. **Capital equipment refunds; refunds to purchasers.** Notwithstanding subdivision 3, for refunds payable under section 297A.15, subdivision 5, interest is computed from the date the refund claim is filed with the commissioner. For refunds payable under section 289A.50, subdivision 2a, interest is computed from the 20th day of the month following the month of the invoice date for the purchase which is the subject of the refund, if the refund claim includes a detailed schedule of purchases made during each of the periods in the claim. If the refund claim submitted does not contain a schedule reflecting purchases made in each period, interest is computed from the date the claim was filed.

*[For text of subs 5 and 6, see M.S.1998]*

**History:** 1999 c 243 art 4 s 3

## 289A.60 CIVIL PENALTIES.

*[For text of subs 1 and 2, see M.S.1998]*

Subd. 3. **Combined penalties.** When penalties are imposed under subdivisions 1 and 2, the penalties imposed under both subdivisions combined must not exceed 38 percent.

*[For text of subs 4 to 20, see M.S.1998]*

Subd. 21. **Penalty for failure to make payment by electronic funds transfer.** In addition to other applicable penalties imposed by this section, after notification from the commissioner to the taxpayer that payments are required to be made by means of electronic funds transfer under section 289A.20, subdivision 2, paragraph (e), or 4, paragraph (d), or 289A.26, subdivision 2a, and the payments are remitted by some other means, there is a penalty in the amount of five percent of each payment that should have been remitted electronically. The penalty can be abated under the abatement procedures prescribed in section 270.07, subdivision 6, if the failure to remit the payment electronically is due to reasonable cause.

*[For text of subs 22 to 24, see M.S.1998]*

**History:** 1999 c 243 art 16 s 20,21