

CHAPTER 289A

TAX ADMINISTRATION AND COMPLIANCE

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289A.02 DEFINITIONS.

[For text of subs 1 to 6, see M.S.2000]

Subd. 7. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through June 15, 2001.

Subd. 8. **Electronic means.** "Electronic means" refers to a method that is electronic, as defined in section 325L.02, paragraph (e), and that is prescribed by the commissioner.

History: 1Sp2001 c 5 art 10 s 1; art 17 s 7

289A.11 FILING REQUIREMENTS FOR SALES AND USE TAX RETURNS.

Subdivision 1. **Return required.** Except as provided in section 289A.18, subdivision 4, for the month in which taxes imposed by chapter 297A are payable, or for which a return is due, a return for the preceding reporting period must be filed with the commissioner in the form and manner the commissioner prescribes. A person making sales at retail at two or more places of business may file a consolidated return subject to rules prescribed by the commissioner. In computing the dollar amount of items on the return, the amounts are rounded off to the nearest whole dollar, disregarding amounts less than 50 cents and increasing amounts of 50 cents to 99 cents to the next highest dollar.

Notwithstanding this subdivision, a person who is not required to hold a sales tax permit under chapter 297A and who makes annual purchases of less than \$18,500 that are subject to the use tax imposed by section 297A.63, may file an annual use tax return on a form prescribed by the commissioner. If a person who qualifies for an annual use tax reporting period is required to obtain a sales tax permit or makes use tax purchases in excess of \$18,500 during the calendar year, the reporting period must be considered ended at the end of the month in which the permit is applied for or the purchase in excess of \$18,500 is made and a return must be filed for the preceding reporting period.

Subd. 2. **Liquor sales.** A person required to collect the tax imposed by section 297A.62, subdivision 2, on sales of intoxicating liquor and 3.2 percent malt liquor, shall report the total sales tax liability, including the sales tax on items other than intoxicating liquor and 3.2 percent malt liquor, on a distinct sales tax return prescribed by the commissioner.

[For text of subd 3, see M.S.2000]

History: 2000 c 418 art 1 s 44

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

[For text of subd 2, see M.S.2000]

Subd. 3. **Returns or reports by partnerships, fiduciaries, and S corporations.** (a) Partnerships must file a return with the commissioner for each taxable year. The return must conform to the requirements of section 290.311, and must include the names and

addresses of the partners entitled to a distributive share in their taxable net income, gain, loss, or credit, and the amount of the distributive share to which each is entitled. A partnership required to file a return for a partnership taxable year must furnish a copy of the information required to be shown on the return to a person who is a partner at any time during the taxable year, on or before the day on which the return for the taxable year was filed.

(b) The fiduciary of an estate or trust making the return required to be filed under section 289A.08, subdivision 2, for a taxable year must give a beneficiary who receives a distribution from the estate or trust with respect to the taxable year or to whom any item with respect to the taxable year is allocated, a statement containing the information required to be shown on the return, on or before the date on which the return was filed.

(c) An S corporation must file a return with the commissioner for a taxable year during which an election under section 290.9725 is in effect, stating specifically the names and addresses of the persons owning stock in the corporation at any time during the taxable year, the number of shares of stock owned by a shareholder at all times during the taxable year, the shareholder's pro rata share of each item of the corporation for the taxable year, and other information the commissioner requires. An S corporation required to file a return under this paragraph for any taxable year must furnish a copy of the information shown on the return to the person who is a shareholder at any time during the taxable year, on or before the day on which the return for the taxable year was filed.

(d) The partnership or S corporation return must be signed by someone designated by the partnership or S corporation.

[For text of subs 4 to 14, see M.S.2000]

History: *1Sp2001 c 5 art 7 s 32*

289A.18 DUE DATES FOR FILING OF RETURNS.

[For text of subs 1 to 3, see M.S.2000]

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) Returns for the June reporting period filed by retailers required to remit their June liability under section 289A.20, subdivision 4, paragraph (b), are due on or before August 20.

(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.2000]

History: 2001 c 7 s 56; 1Sp2001 c 5 art 17 s 8

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

Subdivision 1. Individual income, fiduciary income, mining company, corporate franchise, and entertainment taxes. (a) Individual income, fiduciary, mining company, and corporate franchise taxes must be paid to the commissioner on or before the date the return must be filed under section 289A.18, subdivision 1, or the extended due date as provided in section 289A.19, unless an earlier date for payment is provided.

Notwithstanding any other law, a taxpayer whose unpaid liability for income or corporate franchise taxes, as reflected upon the return, is \$1 or less need not pay the tax.

(b) Entertainment taxes must be paid on or before the date the return must be filed under section 289A.18, subdivision 1.

(c) If a fiduciary administers 100 or more trusts, fiduciary income taxes for all trusts administered by the fiduciary must be paid by electronic means.

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 minimis 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 the amounts established for remitting federal withheld taxes pursuant to the regulations promulgated under section 6302(h) of the Internal Revenue Code, the employer must remit each required deposit for wages paid in the subsequent calendar year by electronic means.

(f) A third-party bulk filer as defined in section 290.92, subdivision 30, paragraph (a), clause (2), who remits withholding deposits must remit all deposits by electronic means 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 subd 3, see M.S.2000]

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) For a fiscal year ending before July 1, 2002, 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 62 percent of the estimated June liability to the commissioner.

(2) On or before August 20 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 on returns due for periods beginning in the subsequent calendar year by electronic means on or before the 20th day of the month following the month in which the taxable event occurred, or on or before the 20th day of the month following the month in which the sale is reported under section 289A.18, subdivision 4, except for 62 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 20.

[For text of subd 5, see M.S.2000]

History: 1Sp2001 c 5 art 12 s 1; art 17 s 9-11

289A.26 PAYMENT OF ESTIMATED TAX BY CORPORATIONS.

[For text of subds 1 and 2, see M.S.2000]

Subd. 2a. Electronic 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 electronic means.

[For text of subds 3 to 11, see M.S.2000]

History: 1Sp2001 c 5 art 17 s 12

289A.31 LIABILITY FOR PAYMENT OF TAX.

[For text of subds 1 to 6, see M.S.2000]

Subd. 7. Sales and use tax. (a) The sales and use tax required to be collected by the retailer under chapter 297A constitutes a debt owed by the retailer to Minnesota, and the sums collected must be held as a special fund in trust for the state of Minnesota.

A retailer who does not maintain a place of business within this state as defined by section 297A.66, subdivision 1, shall not be indebted to Minnesota for amounts of tax that it was required to collect but did not collect unless the retailer knew or had been advised by the commissioner of its obligation to collect the tax.

(b) The use tax required to be paid by a purchaser is a debt owed by the purchaser to Minnesota.

(c) The tax imposed by chapter 297A, and interest and penalties, is a personal debt of the individual required to file a return from the time the liability arises, irrespective of when the time for payment of that liability occurs. The debt is, in the case of the executor or administrator of the estate of a decedent and in the case of a fiduciary, that of the individual in an official or fiduciary capacity unless the individual has voluntarily distributed the assets held in that capacity without reserving sufficient assets to pay the tax, interest, and penalties, in which case the individual is personally liable for the deficiency.

(d) Liability for payment of sales and use taxes includes any responsible person or entity described in the personal liability provisions of section 270.101.

(e) Any amounts collected, even if erroneously or illegally collected, from a purchaser under a representation that they are taxes imposed under chapter 297A are state funds from the time of collection and must be reported on a return filed with the commissioner.

(f) The tax imposed under chapter 297A on sales of tickets to the premises of or events sponsored by the state agricultural society and conducted on the state fairgrounds during the period of the annual state fair may be retained by the state agricultural society if the funds are used and matched as required under section 37.13, subdivision 2.

History: 2000 c 418 art 1 s 44; 1Sp2001 c 5 art 12 s 2

289A.40 LIMITATIONS ON CLAIMS FOR REFUND.

[For text of subds 1 to 3, see M.S.2000]

Subd. 4. **Property tax refund claims.** A property tax refund claim under chapter 290A is not allowed if the initial claim is filed more than one year after the original due date for filing the claim.

History: 2001 c 7 s 57

289A.50 CLAIMS FOR REFUNDS.

[For text of subds 1 and 1a, see M.S.2000]

Subd. 2. **Refund of sales tax to vendors; limitation.** If a vendor has collected from a purchaser and remitted to the state a tax on a transaction that is not subject to the tax imposed by chapter 297A, the tax is refundable to the vendor only if and to the extent that the tax and any interest earned on the tax is credited to amounts due to the vendor by the purchaser or returned to the purchaser by the vendor. In addition to the requirements of subdivision 1, a claim for refund under this subdivision must state in writing that the tax and interest earned on the tax has been or will be refunded or credited to the purchaser by the vendor.

Subd. 2a. **Refund of sales tax to purchasers.** If a vendor has collected from a purchaser a tax on a transaction that is not subject to the tax imposed by chapter 297A, the purchaser may apply directly to the commissioner for a refund under this section if:

(a) the purchaser is currently registered to collect and remit the sales tax or to remit the use tax; and

(b) the amount of the refund applied for exceeds \$500.

The purchaser may not file more than two applications for refund under this subdivision in a calendar year.

[For text of subs 3 to 5, see M.S.2000]

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 from 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.2000]

History: 2001 c 7 s 58; 1Sp2001 c 5 art 7 s 33; art 12 s 3

289A.55 INTEREST PAYABLE TO COMMISSIONER.

[For text of subs 1 to 8, see M.S.2000]

Subd. 9. **Interest on penalties.** (a) A penalty imposed under section 289A.60, subdivision 1, 2, 2a, 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 60 days from the date of notice. In that case interest is imposed from the date of notice to the date of payment.

History: 1Sp2001 c 5 art 11 s 1

289A.56 INTEREST ON OVERPAYMENTS.

[For text of subs 1 to 3, see M.S.2000]

Subd. 4. **Capital equipment and certain building materials refunds; refunds to purchasers.** Notwithstanding subdivision 3, for refunds payable under section 297A.75, subdivision 1, clauses (1), (2), (3), and (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.

Subd. 5. **Sales tax or sales tax on motor vehicles; retailers.** In the case of a refund allowed under section 297A.90, subdivision 3, interest is allowed only from the date on which the person has both registered as a retailer and filed a claim for refund.

[For text of subd 6, see M.S.2000]

History: 2000 c 418 art 1 s 44

289A.60 CIVIL PENALTIES:

Subdivision 1. **Penalty for failure to pay tax.** (a) If a corporate franchise, fiduciary income, mining company, estate, partnership, S corporation, or nonresident entertainer tax is not paid within the time specified for payment, a penalty of six percent is added to the unpaid tax, except that if a corporation or mining company meets the requirements of section 289A.19, subdivision 2, the penalty is not imposed.

(b) For the taxes listed in paragraph (a), in addition to the penalty in that paragraph, whether imposed or not, if a return or amended return is filed after the due date, without regard to extensions, and any tax reported as remaining due is not remitted with the return or amended return, a penalty of five percent of the tax not paid is added to the tax. If the commissioner issues an order assessing additional tax for a tax listed in paragraph (a), and the tax is not paid within 60 days after the mailing of the order or, if appealed, within 60 days after final resolution of the appeal, a penalty of five percent of the unpaid tax is added to the tax.

(c) If an individual income tax is not paid within the time specified for payment, a penalty of four percent is added to the unpaid tax. There is a presumption of reasonable cause for the late payment if the individual: (i) pays by the due date of the return at least 90 percent of the amount of tax, after credits other than withholding and estimated payments, shown owing on the return; (ii) files the return within six months after the due date; and (iii) pays the remaining balance of the reported tax when the return is filed.

(d) If the commissioner issues an order assessing additional individual income tax, and the tax is not paid within 60 days after the mailing of the order or, if appealed, within 60 days after final resolution of the appeal, a penalty of four percent of the unpaid tax is added to the tax.

(e) If a withholding or sales or use tax is not paid within the time specified for payment, a penalty must be added to the amount required to be shown as tax. The penalty is five percent of the tax not paid on or before the date specified for payment of the tax if the failure is for not more than 30 days, with an additional penalty of 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 15 percent in the aggregate.

Subd. 2. **Penalty for failure to make and file return.** If a taxpayer fails to make and file a tax return within the time prescribed, including an extension, a penalty of five percent of the amount of tax not paid by the end of that period is added to the tax.

Subd. 2a. **Penalties for extended delinquency.** (a) If an individual income tax is not paid within 180 days after the date of filing of a return or, in the case of taxes assessed by the commissioner, within 180 days after the assessment date or, if appealed, within 180 days after final resolution of the appeal, an extended delinquency penalty of five percent of the tax remaining unpaid is added to the amount due.

(b) If a corporate franchise, fiduciary income, mining company, estate, partnership, S corporation, or nonresident entertainer tax return is not filed within 30 days after written demand for the filing of a delinquent return, an extended delinquency penalty of five percent of the tax not paid prior to the demand is added to the tax, or in the case of an individual income tax return, a minimum penalty of \$100 or the five percent penalty is imposed, whichever amount is greater.

Subd. 3. [Repealed, 1Sp2001 c 5 art 11 s 8]

[For text of subs 4 to 6, see M.S.2000]

Subd. 7. **Penalty for frivolous return.** If a taxpayer files what purports to be a tax return or a claim for refund but which does not contain information on which the substantial correctness of the purported return or claim for refund may be judged or contains information that on its face shows that the purported return or claim for refund is substantially incorrect and the conduct is due to a position that is frivolous or a desire that appears on the purported return or claim for refund to delay or impede the administration of Minnesota tax laws, then the individual shall pay a penalty of

§500. In a proceeding involving the issue of whether or not a person is liable for this penalty, the burden of proof is on the commissioner.

[For text of subs 8 to 11, see M.S.2000]

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.

[For text of subs 13 to 15, see M.S.2000]

Subd. 16. **Penalty for sales after revocation.** A person who engages in the business of making retail sales after revocation of a permit under section 297A.86 is liable for a penalty of \$100 for each day the person continues to make taxable sales.

Subd. 17. **Operator of flea markets; penalty.** A person who fails to comply with the provisions of section 297A.87 is subject to a penalty of \$100 for each day of each selling event that the operator fails to obtain evidence that a seller is the holder of a valid seller's permit issued under section 297A.83.

[For text of subs 18 to 20, see M.S.2000]

Subd. 21. **Penalty for failure to make payment by electronic means.** 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 electronic means under section 289A.20, subdivision 2, paragraph (e), or 4, paragraph (c), 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. After the commissioner's initial notification to the taxpayer that payments are required to be made by electronic means, the commissioner is not required to notify the taxpayer in subsequent periods if the initial notification specified the amount of tax liability at which a taxpayer is required to remit payments by electronic means. 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.2000]

History: 2000 c 418 art 1 s 44; 2001 c 7 s 59,60; ISp2001 c 5 art 11 s 2-5; art 17 s 13

NOTE: Subdivision 15 is repealed by Laws 2001, First Special Session chapter 5, article 12, section 95, effective for liabilities after January 1, 2003.

289A.63 CRIMINAL PENALTIES.

[For text of subs 1 and 2, see M.S.2000]

Subd. 3. **Sales without permit; violations.** (a) A person who engages in the business of making retail sales in Minnesota without the permit required under chapter

297A, or a responsible officer of a corporation who so engages in business, is guilty of a gross misdemeanor.

(b) A person who engages in the business of making retail sales in Minnesota after revocation of a permit under section 297A.86, when the commissioner has not issued a new permit, is guilty of a felony.

[For text of subs 4 and 5, see M.S.2000]

Subd. 6. Collection of tax; penalty. An agent, canvasser, or employee of a retailer, who is not authorized by permit from the commissioner, may not collect the sales tax as imposed by chapter 297A, nor sell, solicit orders for, nor deliver, any tangible personal property in this state. An agent, canvasser, or employee violating the provisions of section 297A.63; 297A.66 to 297A.71; 297A.75; 297A.76, subdivision 1; 297A.77; 297A.78; 297A.80; 297A.82, subdivision 4; 297A.83; 297A.89; 297A.90; 297A.91; 297A.96; or 297A.97 is guilty of a misdemeanor.

[For text of subs 7 to 11, see M.S.2000]

History: 2000 c 418 art 1 s 44.