

CHAPTER 297I

INSURANCE TAXES

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2971.05 TAX IMPOSED.

[For text of subs 1 to 4, see M.S.2000]

Subd. 5. **Health maintenance organizations, nonprofit health service plan corporations, and community integrated service networks.** (a) Health maintenance organizations, community integrated service networks, and nonprofit health care service plan corporations are exempt from the tax imposed under this section for premiums received in calendar years 2001 to 2003.

(b) For calendar years after 2003, a tax is imposed on health maintenance organizations, community integrated service networks, and nonprofit health care service plan corporations. The rate of tax is equal to one percent of gross premiums less return premiums received in the calendar year.

(c) In approving the premium rates as required in sections 62L.08, subdivision 8, and 62A.65, subdivision 3, the commissioners of health and commerce shall ensure that any exemption from tax as described in paragraph (a) is reflected in the premium rate.

(d) The commissioner shall deposit all revenues, including penalties and interest, collected under this chapter from health maintenance organizations, community integrated service networks, and nonprofit health service plan corporations in the health care access fund. Refunds of overpayments of tax imposed by this subdivision must be paid from the health care access fund. There is annually appropriated from the health care access fund to the commissioner the amount necessary to make any refunds of the tax imposed under this subdivision.

[For text of subs 6 and 7, see M.S.2000]

Subd. 8. [Repealed, 1Sp2001 c 5 art 13 s 15]

[For text of subs 9 to 13, see M.S.2000]

History: 1Sp2001 c 5 art 14 s 8

2971.20 GUARANTY ASSOCIATION ASSESSMENT OFFSET.

(a) An insurance company may offset against its premium tax liability to this state any amount paid for assessments made for insolvencies which occur after July 31, 1994, under sections 60C.01 to 60C.22; and any amount paid for assessments made after July 31, 1994, under Minnesota Statutes 1992, sections 61B.01 to 61B.16, or under sections 61B.18 to 61B.32 as follows:

(1) Each such assessment shall give rise to an amount of offset equal to 20 percent of the amount of the assessment for each of the five calendar years following the year in which the assessment was paid.

(2) The amount of offset initially determined for each taxable year is the sum of the amounts determined under clause (1) for that taxable year.

(b)(1) Each year the commissioner shall compare total guaranty association assessments levied over the preceding five calendar years to the sum of all premium tax and corporate franchise tax revenues collected from insurance companies, without reduction for any guaranty association assessment offset in the preceding calendar year, referred to in this subdivision as "preceding year insurance tax revenues."

(2) If total guaranty association assessments levied over the preceding five years exceed the preceding year insurance tax revenues, insurance companies must be

allowed only a proportionate part of the premium tax offset calculated under paragraph (a) for the current calendar year.

(3) The proportionate part of the premium tax offset allowed in the current calendar year is determined by multiplying the amount calculated under paragraph (a) by a fraction. The numerator of the fraction equals the preceding year insurance tax revenues, and its denominator equals total guaranty association assessments levied over the preceding five-year period.

(4) The proportionate part of the premium tax offset that is not allowed must be carried forward to subsequent tax years and added to the amount of premium tax offset calculated under paragraph (a) prior to application of the limitation imposed by this paragraph.

(5) Any amount carried forward from prior years must be allowed before allowance of the offset for the current year calculated under paragraph (a).

(6) The premium tax offset limitation must be calculated separately for (i) insurance companies subject to assessment under sections 60C.01 to 60C.22, and (ii) insurance companies subject to assessment under Minnesota Statutes 1992, sections 61B.01 to 61B.16, or 61B.18 to 61B.32.

(7) When the premium tax offset is limited by this provision, the commissioner shall notify affected insurance companies on a timely basis for purposes of completing premium and corporate franchise tax returns.

(8) The guaranty associations created under sections 60C.01 to 60C.22, Minnesota Statutes 1992, sections 61B.01 to 61B.16, and 61B.18 to 61B.32, shall provide the commissioner with the necessary information on guaranty association assessments.

(c)(1) If the offset determined by the application of paragraphs (a) and (b) exceeds the insurance company's premium tax liability under this section prior to allowance of the credit for premium taxes, then the insurance company may carry forward the excess, referred to in this subdivision as the "carryforward credit" to subsequent taxable years.

(2) The carryforward credit is allowed as an offset against premium tax liability for the first succeeding year to the extent that the premium tax liability for that year exceeds the amount of the allowable offset for the year determined under paragraphs (a) and (b).

(3) The carryforward credit must be reduced, but not below zero, by the amount of the carryforward credit allowed as an offset against the premium tax under this paragraph. The remainder, if any, of the carryforward credit must be carried forward to succeeding taxable years until the entire carryforward credit has been credited against the insurance company's liability for premium tax under this chapter if applicable for that taxable year.

(d) When an insurer has offset against taxes its payment of an assessment of the Minnesota life and health guaranty association, and the association pays the insurer a refund with respect to the assessment under Minnesota Statutes 1992, section 61B.07, subdivision 6, or 61B.24, subdivision 6, then the refund reduces the insurer's carryforward credit under paragraph (c). If the refund exceeds the amount of the carryforward credit, the excess amount must be repaid to the state by the insurers to the extent of the offset in the manner the commissioner requires.

History: 1Sp2001 c 5 art 9 s 25

2971.30 DUE DATES FOR FILING RETURNS.

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

Subd. 3. [Repealed, 1Sp2001 c 5 art 13 s 15]

[For text of subs 4 to 7, see M.S.2000]

2971.35 PAYMENT OF TAX.

[For text of subd 1, see M.S.2000]

Subd. 2. **Electronic payments.** If the aggregate amount of tax and surcharges due under this chapter during a calendar year is equal to or exceeds \$120,000, or if the

taxpayer is required to make payment of any other tax to the commissioner by electronic means, then all tax and surcharge payments in the subsequent calendar year must be paid by electronic means.

History: 1Sp2001 c 5 art 17 s 19

2971.40 ESTIMATED TAX.

Subdivision 1. **Requirement to pay.** On or before March 15, June 15, September 15, and December 15 of the current year, every taxpayer subject to tax under section 2971.05, subdivisions 1 to 6, and 12, paragraphs (a), clauses (1) to (5), (b), and (e), must pay to the commissioner an installment equal to one-fourth of the insurer's total estimated tax for the current year.

Subd. 2. **Amount of required installment.** The amount of any required installment is one-fourth of the lesser of

- (1) 80 percent of the tax imposed for the current year, or
- (2) 100 percent of the tax paid for the previous year.

[For text of subs 3 to 6, see M.S.2000]

Subd. 7. **March estimated payment.** A taxpayer who claims a refund of an overpayment on an original return may elect to have all or any portion of the overpayment applied as a credit to the March 15 estimated tax payment for the year following the year of the return. The credit is considered applied on March 15. Notwithstanding section 2971.80, the amount credited does not bear interest.

History: 1Sp2001 c 5 art 13 s 10-12

2971.60 CLAIMS FOR REFUND.

[For text of subd 1, see M.S.2000]

Subd. 2. **Remedies.** (a) If the taxpayer is notified that the refund claim is denied in whole or in part, the taxpayer may contest the denial by:

- (1) filing an administrative appeal with the commissioner under section 2971.95;
- (2) filing an appeal in tax court within 60 days of the date of the notice of denial;

or

- (3) filing an action in the district court to recover the refund.

(b) An action in the district court must be brought within 18 months following the date of the notice of denial. An action for refund of tax or surcharge must be brought in the district court of the district in which lies the taxpayer's principal place of business or in the district court for Ramsey county. 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.

History: 2001 c 7 s 61

2971.85 CIVIL PENALTIES.

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

Subd. 7. **Penalty for failure to pay electronically.** In addition to other applicable penalties imposed by this section, if the commissioner notifies the taxpayer that payments are required to be made by electronic means, and the payments are made by some other means, a penalty is imposed. The amount of the penalty is equal to five percent of each payment that should have been paid 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 may be abated under the abatement procedures prescribed in section 270.07, subdivision 6, if the failure to pay electronically is due to reasonable cause.

History: 1Sp2001 c 5 art 17 s 20