

## CHAPTER 270A

### REVENUE RECAPTURE

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#### 270A.01 CITATION.

Sections 270A.01 to 270A.12 may be cited as the "Revenue Recapture Act."

**History:** 1980 c 607 art 12 s 1

#### 270A.02 [Repealed, 1987 c 261 s 5]

#### 270A.03 DEFINITIONS.

Subdivision 1. **Applicability.** For purposes of sections 270A.01 to 270A.12, the terms defined in this section have the meanings given them.

Subd. 2. **Claimant agency.** "Claimant agency" means any state agency, as defined by section 14.02, subdivision 2, the regents of the University of Minnesota, any district court of the state, any county, any statutory or home rule charter city, including a city that is presenting a claim for a municipal hospital or a public library or a municipal ambulance service, a hospital district, a private nonprofit hospital that leases its building from the county or city in which it is located, any ambulance service licensed under chapter 144E, any public agency responsible for child support enforcement, any public agency responsible for the collection of court-ordered restitution, and any public agency established by general or special law that is responsible for the administration of a low-income housing program, and the Minnesota collection enterprise as defined in section 16D.02, subdivision 8, for the purpose of collecting the costs imposed under section 16D.11.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of revenue.

Subd. 4. **Debtor.** "Debtor" means a natural person obligated on a debt to a claimant agency or having a delinquent account with a public agency responsible for child support enforcement.

Subd. 5. **Debt.** (a) "Debt" means a legal obligation of a natural person to pay a fixed and certain amount of money, which equals or exceeds \$25 and which is due and payable to a claimant agency. The term includes criminal fines imposed under section 609.10 or 609.125, fines imposed for petty misdemeanors as defined in section 609.02, subdivision 4a, and restitution. A debt may arise under a contractual or statutory obligation, a court order, or other legal obligation, but need not have been reduced to judgment.

A debt includes any legal obligation of a current recipient of assistance which is based on overpayment of an assistance grant where that payment is based on a client waiver or an administrative or judicial finding of an intentional program violation; or where the debt is owed to a program wherein the debtor is not a client at the time notification is provided to initiate recovery under this chapter and the debtor is not a current recipient of food support, transitional child care, or transitional medical assistance.

(b) A debt does not include any legal obligation to pay a claimant agency for medical care, including hospitalization if the income of the debtor at the time when the medical care was rendered does not exceed the following amount:

- (1) for an unmarried debtor, an income of \$8,800 or less;
- (2) for a debtor with one dependent, an income of \$11,270 or less;
- (3) for a debtor with two dependents, an income of \$13,330 or less;
- (4) for a debtor with three dependents, an income of \$15,120 or less;
- (5) for a debtor with four dependents, an income of \$15,950 or less; and
- (6) for a debtor with five or more dependents, an income of \$16,630 or less.

(c) The commissioner shall adjust the income amounts in paragraph (b) by the percentage determined pursuant to the provisions of section 1(f) of the Internal Revenue Code, except that in section 1(f)(3)(B) the word "1999" shall be substituted for the word "1992." For 2001, the commissioner shall then determine the percent change from the 12 months ending on August 31, 1999, to the 12 months ending on August 31, 2000, and in each subsequent year, from the 12 months ending on August 31, 1999, to the 12 months ending on August 31 of the year preceding the taxable year. The determination of the commissioner pursuant to this subdivision shall not be considered a "rule" and shall not be subject to the Administrative Procedure Act contained in chapter 14. The income amount as adjusted must be rounded to the nearest \$10 amount. If the amount ends in \$5, the amount is rounded up to the nearest \$10 amount.

(d) Debt also includes an agreement to pay a MinnesotaCare premium, regardless of the dollar amount of the premium authorized under section 256L.15, subdivision 1a.

Subd. 6. **Department.** "Department" means the Department of Revenue.

Subd. 7. **Refund.** "Refund" means an individual income tax refund or political contribution refund, pursuant to chapter 290, or a property tax credit or refund, pursuant to chapter 290A, or a sustainable forest payment to a claimant under chapter 290C.

For purposes of this chapter, lottery prizes, as set forth in section 349A.08, subdivision 8, and amounts granted to persons by the legislature on the recommendation of the joint senate-house of representatives Subcommittee on Claims shall be treated as refunds.

In the case of a joint property tax refund payable to spouses under chapter 290A, the refund shall be considered as belonging to each spouse in the proportion of the total refund that equals each spouse's proportion of the total income determined under section 290A.03, subdivision 3. In the case of a joint income tax refund under chapter 289A, the refund shall be considered as belonging to each spouse in the proportion of the total refund that equals each spouse's proportion of the total taxable income determined under section 290.01, subdivision 29. The commissioner shall remit the entire refund to the claimant agency, which shall, upon the request of the spouse who does not owe the debt, determine the amount of the refund belonging to that spouse and refund the amount to that spouse. For court fines, fees, and surcharges and court-ordered restitution under section 611A.04, subdivision 2, the notice provided by the commissioner of revenue under section 270A.07, subdivision 2, paragraph (b), serves as the appropriate legal notice to the spouse who does not owe the debt.

Subd. 8. **Restitution.** "Restitution" means money due to the victim of a crime or a juvenile offense under an order of restitution issued by a court under section 609.10, or 609.125 as part

of a sentence or as a condition of probation, or under an order entered by a court under section 260B.198, subdivision 1, clause (5), following a finding of delinquency.

**History:** 1980 c 607 art 12 s 3; 1Sp1981 c 2 s 20,21; 1982 c 424 s 130; 1984 c 502 art 14 s 3; 1985 c 235 s 2; 1Sp1986 c 1 art 8 s 7; 1987 c 261 s 1-3; 1988 c 638 s 1,2; 1988 c 668 s 5; 1990 c 480 art 10 s 2-4; 1991 c 291 art 6 s 6; 1992 c 571 art 17 s 1; 1993 c 375 art 17 s 8; 1994 c 614 s 2; 1995 c 264 art 4 s 1; 1996 c 471 art 3 s 52; art 13 s 10,11; 1997 c 17 s 4; 1997 c 85 art 5 s 24; 1997 c 231 art 2 s 70; 1998 c 407 art 5 s 41; 1999 c 139 art 4 s 2; 1999 c 243 art 16 s 8; 2000 c 490 art 13 s 7,8; 1Sp2001 c 5 art 7 s 8; art 8 s 4; 2003 c 127 art 8 s 6; 1Sp2003 c 2 art 3 s 1; 1Sp2003 c 14 art 1 s 106; 1Sp2003 c 21 art 11 s 7; 2005 c 151 art 9 s 14; 2007 c 61 s 1; 2008 c 154 art 11 s 1; art 16 s 6; 2011 c 71 s 1; 2011 c 112 art 10 s 1; art 11 s 5

#### **270A.04 AGENCY PARTICIPATION.**

Subdivision 1. **Collection remedy.** The collection remedy under this section is in addition to and not in substitution for any other remedy available by law.

Subd. 2. **Requirements for submission.** Any debt owed to a claimant agency must not be submitted by the agency for collection under the procedure established by sections 270A.01 to 270A.12 if (a) there is a written payment agreement between the debtor and the claimant agency in which revenue recapture is prohibited and the debtor is complying with the agreement, (b) the collection attempt would result in a loss of federal funds, or (c) the agency is unable to supply the department with the necessary identifying information required by subdivision 3 or rules promulgated by the commissioner, or (d) the debt is barred by section 541.05.

Subd. 3. **Information required.** For each debt submitted, the claimant agency shall provide the commissioner with the name and Social Security number of the debtor and any other identifying information required by rules promulgated by the commissioner.

Subd. 4. **Information obtained.** Whenever possible, a claimant agency shall obtain the identifying information required by subdivision 3 from any individual for whom the agency provides any service or transacts any business and who the claimant agency can foresee may become a debtor of the claimant agency.

**History:** 1980 c 607 art 12 s 4; 1984 c 502 art 14 s 4; 1990 c 480 art 10 s 5; 1991 c 292 art 5 s 71; 1992 c 511 art 7 s 3

#### **270A.05 MINIMUM SUM COLLECTIBLE.**

The minimum sum which a claimant agency may collect through use of the setoff procedure is \$15.

**History:** 1980 c 607 art 12 s 5; 1992 c 511 art 7 s 4

#### **270A.06 COLLECTION OF DEBTS THROUGH SETOFF.**

Subject to the limitations of sections 270A.01 to 270A.12, the department shall, upon request by a claimant agency, render assistance in the collection of any debt owing to the agency. This assistance shall be provided by use of a procedure in which the sum of the refund due the debtor is applied to the amount due and owing from the debtor to the claimant agency.

**History:** 1980 c 607 art 12 s 6

**270A.07 PROCEDURE FOR SETOFF COLLECTION.**

Subdivision 1. **Notification requirement.** (a) Any claimant agency, seeking collection of a debt through setoff against a refund due, shall submit to the commissioner information indicating the amount of each debt and information identifying the debtor, as required by section 270A.04, subdivision 3.

(b) For each setoff of a debt against a refund due, the commissioner shall charge a fee of \$15. The proceeds of fees shall be allocated by depositing \$4 of each \$15 fee collected into a Department of Revenue recapture revolving fund and depositing the remaining balance into the general fund. The sums deposited into the revolving fund are appropriated to the commissioner for the purpose of administering the Revenue Recapture Act.

(c) The claimant agency shall notify the commissioner when a debt has been satisfied or reduced by at least \$200 within 30 days after satisfaction or reduction.

Subd. 2. **Setoff procedures.** (a) The commissioner, upon receipt of notification, shall initiate procedures to detect any refunds otherwise payable to the debtor. When the commissioner determines that a refund is due to a debtor whose debt was submitted by a claimant agency, the commissioner shall first deduct the fee in subdivision 1, paragraph (b), and then remit the refund or the amount claimed, whichever is less, to the agency. In transferring or remitting moneys to the claimant agency, the commissioner shall provide information indicating the amount applied against each debtor's obligation and the debtor's address listed on the tax return.

(b) The commissioner shall remit to the debtor the amount of any refund due in excess of the debt submitted for setoff by the claimant agency. Notice of the amount set off and address of the claimant agency shall accompany any disbursement to the debtor of the balance of a refund, or shall be sent to the debtor at the time of setoff if the entire refund is set off. The notice shall also advise the debtor of the right to contest the validity of the claim, other than a claim based upon child support under chapter 518A or 518C at a hearing, subject to the restrictions in this paragraph. The debtor must assert this right by written request to the claimant agency, which request the claimant agency must receive within 45 days of the date of the notice. This right does not apply to (1) issues relating to the validity of the claim that have been previously raised at a hearing under this section or section 270A.09; (2) issues relating to the validity of the claim that were not timely raised by the debtor under section 270A.08, subdivision 2; (3) issues relating to the validity of the claim that have been previously raised at a hearing conducted under rules promulgated by the United States Department of Housing and Urban Development or any public agency that is responsible for the administration of a low-income housing program, or that were not timely raised by the debtor under those rules; or (4) issues relating to the validity of the claim for which a hearing is discretionary under section 270A.09. The notice shall include an explanation of the right of the spouse who does not owe the debt to request the claimant agency to repay the spouse's portion of a joint refund.

Subd. 3. **Deposit of funds.** Any amounts remitted or transferred to state agencies shall be deposited as provided in section 16A.72.

Subd. 4. **Effect of transfer or payment.** Transfer or remittance of funds to a claimant agency pursuant to this section constitutes payment of the department's obligation to refund the sums as overpayments of taxes or property tax credits or refunds. Any action for the setoff funds shall be made against the claimant agency pursuant to section 270A.09.

Subd. 5. **Refunds wrongly applied.** Any refund wrongfully or incorrectly applied to a debt and transferred to a claimant agency shall be paid by the agency to the debtor. The sum

wrongfully or incorrectly withheld shall bear interest at the rate specified in section 270C.405, computed from the date when the refund would begin to bear interest under section 289A.56, subdivision 2, regardless of whether the refund is payable under chapter 290 or 290A. If the claimant agency is a state agency, the payment shall be made out of the agency's appropriation.

**History:** 1980 c 607 art 12 s 7; 1Sp1985 c 13 s 308; 1Sp1985 c 14 art 15 s 4; 1987 c 268 art 17 s 9; 1990 c 480 art 1 s 46; 1992 c 511 art 7 s 5,6; 1995 c 264 art 9 s 6; 1999 c 243 art 16 s 9; 2000 c 490 art 13 s 9,10; 1Sp2001 c 10 art 2 s 72; 1Sp2003 c 1 art 2 s 80; 1Sp2003 c 21 art 11 s 8,9; 2005 c 151 art 2 s 17; 2005 c 164 s 29; 1Sp2005 c 7 s 28; 2006 c 280 s 46; 2011 c 71 s 2; 2011 c 112 art 11 s 6

### **270A.08 NOTICE AND HEARING REQUIRED.**

Subdivision 1. **Notice to debtor.** (a) Not later than five days after the claimant agency has sent notification to the department pursuant to section 270A.07, subdivision 1, the claimant agency shall send a written notification to the debtor asserting the right of the claimant agency to the refund or any part thereof. If the notice is returned to the claimant agency as undeliverable, or the claimant agency has reason to believe the debtor did not receive the notice, the claimant agency shall obtain the last known address of the debtor from the commissioner and resend the corrected notice.

(b) If a debt has been referred to the commissioner for collection under chapter 16D, and the referring agency meets the definition of claimant agency under this chapter, the commissioner must notify the debtor prior to using revenue recapture under this chapter for collection of the debt. The notice must be sent by United States mail or personal delivery to the last known address of the debtor.

Subd. 2. **Requirements of notice.** (a) This written notice shall clearly and with specificity set forth the basis for the claim to the refund including the name of the benefit program involved if the debt arises from a public assistance grant and the dates on which the debt was incurred and, further, shall advise the debtor of the claimant agency's intention to request setoff of the refund against the debt.

(b) Except as provided in paragraph (c), the notice will also advise the debtor that the debt can be set off against a refund unless the time period allowed by law for collecting the debt has expired, and will advise the debtor of the right to contest the validity of the claim at a hearing. The debtor must assert this right by written request to the claimant agency, which request the agency must receive within 45 days of the mailing date of the original notice or of the corrected notice, as required by subdivision 1. If the debtor has not received the notice, the 45 days shall not commence until the debtor has received actual notice. The debtor shall have the burden of showing no notice and shall be entitled to a hearing on the issue of notice as well as on the merits.

(c) If the claimant agency is a public agency that is responsible for the administration of a low-income housing program, the notice will also advise the debtor that the debt can be set off against a refund unless the time period allowed by law for collecting the debt has expired. If the public agency has provided the debtor with the opportunity to contest the issues relating to the validity of the claim at a hearing under rules promulgated by the United States Department of Housing and Urban Development or the public agency, the notice will advise the debtor of that

fact and advise the debtor that no further hearing may be requested by the debtor to contest the validity of the claim.

**History:** 1980 c 607 art 12 s 8; 1984 c 502 art 14 s 5,6; 1986 c 444; 1990 c 480 art 10 s 6; 1991 c 292 art 5 s 72; 1992 c 511 art 7 s 7; 1999 c 243 art 16 s 10; 2008 c 366 art 16 s 4

### **270A.09 CONTESTED CLAIMS PROCEDURE.**

Subdivision 1. **Hearing.** If a claimant agency receives written notice of a debtor's intention to contest at hearing the claim upon which the intended setoff is based, it shall initiate a hearing according to contested case procedures established in the state Administrative Procedure Act not later than 30 days after receipt of the debtor's request for a hearing.

Subd. 1a. **Employment and economic development claims.** Notwithstanding subdivision 1, any debtor contesting a setoff claim by the Department of Employment and Economic Development shall have a hearing conducted in the same manner as an appeal under section 268.105.

Subd. 1b. **Department of Human Services claims.** Notwithstanding subdivision 1, any debtor contesting a setoff claim by the Department of Human Services or a county agency whose claim relates to a debt resulting from receipt of public assistance, medical care, or the federal Food Stamp Act shall have a hearing conducted in the same manner as an appeal under sections 256.045 and 256.0451.

Subd. 2. **Issues raised.** No issue may be raised at the hearing which has been previously litigated. If a debt is based on a court judgment or court order, the hearing required by subdivision 1 need not, but may be granted at the sole discretion of the commissioner of the claimant agency.

Subd. 3. **Contested case; final decision.** The report of the administrative law judge shall contain a decision and order, which constitute the final decision in the contested case. A copy of the decision and order shall be served by first class mail upon each party, the commissioner of revenue, and the attorney general. Fees and expenses may be awarded as provided in sections 15.471 to 15.474. The provisions for judicial review under sections 14.63 to 14.68 apply to decisions of the administrative law judge under this subdivision.

**History:** 1980 c 607 art 12 s 9; 1980 c 615 s 64; 1987 c 385 s 48; 1994 c 483 s 1; 1995 c 54 s 25; 1995 c 264 art 9 s 7; 1997 c 7 art 2 s 70; 2004 c 206 s 52; 2009 c 79 art 2 s 34

### **270A.10 PRIORITY OF CLAIMS.**

If two or more debts, in a total amount exceeding the debtor's refund, are submitted for setoff, the priority of payment shall be as follows:

- (1) delinquent tax obligations of the debtor which are owed to the department;
- (2) debts for child support based on the order in time in which the commissioner received the debts;
- (3) payment of restitution obligations;
- (4) claims brought for a hospital or an ambulance service;
- (5) the remaining debts based on the order in time in which the commissioner received the debts.

**History:** 1980 c 607 art 12 s 10; 1987 c 261 s 4; 1993 c 375 art 17 s 9; 2008 c 154 art 16 s 7

**270A.11 DATA PRIVACY.**

Private and confidential data on individuals may be exchanged among the department, the taxpayer's rights advocate, the attorney general, the claimant agency, and the debtor as necessary to accomplish and effectuate the intent of sections 270A.01 to 270A.12, as provided by section 13.05, subdivision 4, clause (b). The department may disclose to the claimant agency only the debtor's name, address, Social Security number and the amount of the refund, and in the case of a joint return, the name of the debtor's spouse. Any person employed by, or formerly employed by, a claimant agency who discloses any such information for any other purpose, shall be subject to the civil and criminal penalties of section 270B.18. Data collected by the department from claimant agencies relating to claims filed under this chapter are private data on individuals.

**History:** 1980 c 607 art 12 s 11; 1981 c 311 s 39; 1982 c 545 s 24; 1989 c 184 art 2 s 16; 1992 c 511 art 7 s 8; 1995 c 264 art 9 s 8; 1Sp2001 c 5 art 7 s 9

**270A.12 RULES.**

The commissioner is authorized to develop and to require the use of any necessary forms. The commissioner or a claimant agency is authorized to make any rules necessary to effectuate the purposes of sections 270A.01 to 270A.12.

**History:** 1980 c 607 art 12 s 12; 1982 c 424 s 130; 1984 c 640 s 32; 1996 c 305 art 2 s 57