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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 1486

02/21/2019 Authored by Davids
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; partnership audits; providing requirements for reporting federal
1.3 audit adjustments; making technical changes; amending Minnesota Statutes 2018,
1.4 sections 270C.445, subdivision 6; 289A.31, subdivision 1; 289A.37, subdivision
1.5 2; 289A.38, subdivision 10; 289A.42; 297F.17, subdivision 6; 297G.16, subdivision
1.6 7; 469.319, subdivision 4; Minnesota Statutes 2019 Supplement, sections 289A.60,
1.7 subdivision 24; 290.31, subdivision 1; proposing coding for new law in Minnesota
1.8 Statutes, chapter 289A; repealing Minnesota Statutes 2018, section 289A.38,
1.9 subdivisions 7, 8, 9.

1.10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.11 ARTICLE 1
1.12 PARTNERSHIP TAX; POLICY CHANGES

1.13 Section 1. 289A.381 DEFINITIONS; PARTNERSHIPS; FEDERAL
1.14 ADJUSTMENTS.

1.15 Subdivision 1. Definitions relating to federal adjustments. Unless otherwise specified,
1.16 the definitions in this section apply for the purposes of sections 289A.381 to 289A.385.

1.17 Subd. 2. Administrative adjustment request. "Administrative adjustment request"
1.18 means an administrative adjustment request filed by a partnership under section 6227 of
1.19 the Internal Revenue Code.

1.20 Subd. 3. Audited partnership. "Audited partnership" means a partnership subject to a
1.21 federal adjustment resulting from a partnership-level audit.

1.22 Subd. 4. Corporate partner. "Corporate partner" means a partner that is subject to tax
1.23 under section 290.02.

2.1 Subd. 5. **Direct partner.** "Direct partner" means a partner that holds an immediate legal  
2.2 ownership interest in a partnership or pass-through entity.

2.3 Subd. 6. **Exempt partner.** "Exempt partner" means a partner that is exempt from taxes  
2.4 on its net income under section 290.05, subdivision 1.

2.5 Subd. 7. **Federal adjustment.** "Federal adjustment" means any change in an amount  
2.6 calculated under the Internal Revenue Code, whether to income, gross estate, a credit, an  
2.7 item of preference, or any other item that is used by a taxpayer to compute a tax administered  
2.8 under this chapter for the reviewed year whether that change results from action by the  
2.9 Internal Revenue Service or other competent authority, including a partnership-level audit,  
2.10 or the filing of an amended federal return, federal refund claim, or an administrative  
2.11 adjustment request by the taxpayer.

2.12 Subd. 8. **Federal adjustments report.** "Federal adjustments report" includes a method  
2.13 or form prescribed by the commissioner for use by a taxpayer to report federal adjustments,  
2.14 including an amended Minnesota tax return or a uniform multistate report.

2.15 Subd. 9. **Federal partnership representative.** "Federal partnership representative"  
2.16 means the person the partnership designates for the taxable year as the partnership's  
2.17 representative, or the person the Internal Revenue Service has appointed to act as the  
2.18 partnership representative, pursuant to section 6223(a) of the Internal Revenue Code.

2.19 Subd. 10. **Final determination date.** "Final determination date" means:

2.20 (1) for a federal adjustment arising from an audit by the Internal Revenue Service or  
2.21 other competent authority, the first day on which no federal adjustment arising from that  
2.22 audit remains to be finally determined, whether by agreement, or, if appealed or contested,  
2.23 by a final decision with respect to which all rights of appeal have been waived or exhausted;

2.24 (2) for a federal adjustment arising from the filing of an amended federal return, a federal  
2.25 refund claim, or the filing by a partnership of an administrative adjustment request, the day  
2.26 which the amended return, refund claim, or administrative adjustment request was filed; or

2.27 (3) for agreements required to be signed by the Internal Revenue Service and the taxpayer,  
2.28 the date on which the last party signed the agreement.

2.29 Subd. 11. **Final federal adjustment.** "Final federal adjustment" means a federal  
2.30 adjustment for which the final determination date for that federal adjustment has passed.

2.31 Subd. 12. **Indirect partner.** "Indirect partner" means either:

3.1 (1) a partner in a partnership or pass-through entity that itself holds an immediate legal  
3.2 ownership interest in another partnership or pass-through entity; or

3.3 (2) a partner in a partnership or pass-through entity that holds an indirect interest in  
3.4 another partnership or pass-through entity through another indirect partner.

3.5 Subd. 13. **Partner.** "Partner" means a person that holds an interest directly or indirectly  
3.6 in a partnership or other pass-through entity.

3.7 Subd. 14. **Partnership.** The term "partnership" has the meaning provided under section  
3.8 7701(a)(2) of the Internal Revenue Code.

3.9 Subd. 15. **Partnership-level audit.** "Partnership-level audit" means an examination by  
3.10 the Internal Revenue Service at the partnership level pursuant to subtitle F, chapter 63,  
3.11 subchapter C, of the Internal Revenue Code, which results in federal adjustments including  
3.12 reallocation adjustments and adjustments to partnership-related items.

3.13 Subd. 16. **Pass-through entity.** "Pass-through entity" means an entity, other than a  
3.14 partnership, that is not subject to the tax imposed under section 290.02. The term pass-through  
3.15 entity includes but is not limited to S corporations, estates, and trusts other than grantor  
3.16 trusts.

3.17 Subd. 17. **Reallocation adjustment.** "Reallocation adjustment" means a federal  
3.18 adjustment, or final federal adjustment, that changes the shares of items of partnership  
3.19 income, gain, loss, expense, or credit allocated to direct partners. The term positive  
3.20 reallocation adjustment means reallocation adjustments that would increase state taxable  
3.21 income for direct partners, and the term negative reallocation adjustment means reallocation  
3.22 adjustments that would decrease state taxable income for direct partners.

3.23 Subd. 18. **Resident partner.** "Resident partner" means an individual direct partner or  
3.24 individual indirect partner who is a resident of Minnesota under section 290.01, subdivision  
3.25 7.

3.26 Subd. 19. **Reviewed year.** "Reviewed year" means the taxable year of a partnership that  
3.27 is subject to a partnership-level audit from which federal adjustments arise.

3.28 Subd. 20. **Tiered partner.** "Tiered partner" means any partner that is a partnership or  
3.29 pass-through entity.

3.30 Subd. 21. **Unrelated business taxable income.** "Unrelated business taxable income"  
3.31 has the same meaning as defined in section 512 of the Internal Revenue Code.

4.1 **EFFECTIVE DATE.** This section is effective for federal adjustments that have a final  
 4.2 determination date after June 30, 2019.

4.3 **Sec. 2. [289A.382] REPORTING FEDERAL ADJUSTMENTS; GENERAL RULE.**

4.4 (a) Within 180 days of a final determination date, a taxpayer must file a federal adjustment  
 4.5 report with the commissioner reporting all final federal adjustments by the Internal Revenue  
 4.6 Service or other competent authority.

4.7 (b) Within 180 days of a final determination date, a taxpayer must file a federal adjustment  
 4.8 report with the commissioner reporting any federal adjustments reported by the taxpayer  
 4.9 to the Internal Revenue Service, including but not limited to:

4.10 (1) federal refund claims;

4.11 (2) a change reported on a timely filed amended federal income tax return; and

4.12 (3) a change reported on an amended return filed pursuant to section 6225(c) of the  
 4.13 Internal Revenue Code.

4.14 (c) In the case of a final federal adjustment arising from a partnership-level audit or an  
 4.15 administrative adjustment request filed by a partnership under section 6227 of the Internal  
 4.16 Revenue Code, a taxpayer must report adjustments as provided for under section 289A.383,  
 4.17 and not this section.

4.18 **EFFECTIVE DATE.** This section is effective for federal adjustments that have a final  
 4.19 determination date after June 30, 2019.

4.20 **Sec. 3. [289A.383] REPORTING AND PAYMENT REQUIREMENTS.**

4.21 Subdivision 1. **State partnership representative.** (a) With respect to an action required  
 4.22 or permitted to be taken by a partnership under this section, or in a proceeding under section  
 4.23 270C.35 or 271.06, the state partnership representative for the reviewed year has the sole  
 4.24 authority to act on behalf of the partnership, and its direct partners and indirect partners are  
 4.25 bound by those actions.

4.26 (b) The state partnership representative for the reviewed year is the partnership's federal  
 4.27 partnership representative unless the partnership, in a form and manner prescribed by the  
 4.28 commissioner, designates another person as its state partnership representative.

4.29 Subd. 2. **Reporting and payment requirements for partnerships and tiered**  
 4.30 **partners.** (a) Unless an audited partnership makes the election in subdivision 3, then, for  
 4.31 all final federal adjustments the audited partnership must comply with paragraph (b) and

5.1 each direct partner of the audited partnership, other than a tiered partner, must comply with  
5.2 paragraph (c).

5.3 (b) No later than 90 days after the final determination date, the audited partnership must:

5.4 (1) file a completed federal adjustment report, including all partner-level information  
5.5 required under section 289A.12, subdivision 3, with the commissioner;

5.6 (2) notify each of its direct partners of their distributive share of the adjustments;

5.7 (3) file an amended composite report for all direct partners who were included in a  
5.8 composite return under section 289A.08, subdivision 7, in the reviewed year, and pay the  
5.9 additional amount that would have been due had the federal adjustments been reported  
5.10 properly as required; and

5.11 (4) file amended withholding reports for all direct partners who were or should have  
5.12 been subject to nonresident withholding under section 290.92, subdivision 4b, in the reviewed  
5.13 year, and pay the additional amount that would have been due had the federal adjustments  
5.14 been reported properly as required.

5.15 (c) No later than 180 days after the final determination date, each direct partner, other  
5.16 than a tiered partner, that is subject to a tax administered under this chapter, other than the  
5.17 sales tax, must:

5.18 (1) file a federal adjustment report reporting their distributive share of the adjustments  
5.19 reported to them under paragraph (b), clause (2); and

5.20 (2) pay any additional amount of tax due as if the final federal adjustment had been  
5.21 properly reported, plus any penalty and interest due under this chapter, and less any credit  
5.22 for related amounts paid or withheld and remitted on behalf of the direct partner under  
5.23 paragraph (b), clauses (3) and (4).

5.24 Subd. 3. **Election; partnership or tiered partners pay.** (a) An audited partnership may  
5.25 make an election under this subdivision to pay its assessment at the entity level. If an audited  
5.26 partnership makes an election to pay its assessment at the entity level it must:

5.27 (1) no later than 90 days after the final determination date, file a completed federal  
5.28 adjustment report, including the residency information for all individual direct partners, and  
5.29 information pertaining to all other direct partners as prescribed by the commissioner, and  
5.30 notify the commissioner that it is making the election under this subdivision; and

5.31 (2) no later than 180 days after the final determination date, pay an amount, determined  
5.32 as follows, in lieu of taxes on partners:

6.1 (i) exclude from final federal adjustments and any positive reallocation adjustments the  
6.2 distributive share of these adjustments made to a direct exempt partner that is not unrelated  
6.3 business taxable income;

6.4 (ii) exclude from final federal adjustments and any positive reallocation adjustments the  
6.5 distributive share of these adjustments made to a direct partner that has filed a federal  
6.6 adjustment report and paid the applicable tax, as required under subdivision 2, for the  
6.7 distributive share of adjustments reported on a federal return under section 6225(c) of the  
6.8 Internal Revenue Code;

6.9 (iii) allocate and apportion at the partnership level using sections 290.17 to 290.20 the  
6.10 total distributive share of the remaining final federal adjustments plus positive reallocation  
6.11 adjustments for the reviewed year attributed to direct corporate partners and direct exempt  
6.12 partners, multiply the total by the highest tax rate in section 290.06, subdivision 1, for the  
6.13 reviewed year, and calculate interest and penalties as applicable under this chapter;

6.14 (iv) allocate at the partnership level using section 290.17, subdivision 1, the total  
6.15 distributive share of all final federal adjustments plus positive reallocation adjustments  
6.16 attributable to resident direct partners, multiply the total by the highest tax rate in section  
6.17 290.06, subdivision 2c, for the reviewed year, and calculate interest and penalties as  
6.18 applicable under this chapter;

6.19 (v) allocate and apportion at the partnership level using sections 290.17 to 290.20 the  
6.20 total distributive share of the remaining final federal adjustments plus positive reallocation  
6.21 adjustments attributable to nonresident individual direct partners and direct partners who  
6.22 are an estate or a trust, and multiply the total by the highest tax rate in section 290.06,  
6.23 subdivision 2c, for the reviewed year, and calculate interest and penalties as applicable  
6.24 under this chapter;

6.25 (vi) for the total distributive share of the remaining final federal adjustments plus positive  
6.26 reallocation adjustments attributable to tiered partners:

6.27 (A) determine the amount of the adjustments which would be apportioned using sections  
6.28 290.17 to 290.20, and then determine the portion of this amount which would be apportioned  
6.29 to this state;

6.30 (B) determine the amount of the adjustments which are of a type which are fully sourced  
6.31 to the taxpayer's state of residency under section 290.17, subdivision 2;

7.1 (C) determine the portion of the amount determined in subitem (B) that can be established,  
7.2 under rules or procedures issued by the commissioner, to be properly allocable to nonresident  
7.3 indirect partners or other partners not subject to tax on the adjustments; and

7.4 (D) multiply the total of the amounts determined in subitems (A) and (B) reduced by  
7.5 the amount determined in subitem (C) by the highest tax rate in section 290.06, subdivision  
7.6 2c, for the reviewed year, and calculate interest and penalties as applicable under this chapter;  
7.7 and

7.8 (vii) add the amounts determined in items (iii) to (vi), and pay all applicable taxes,  
7.9 penalties, and interest to the commissioner.

7.10 (b) An audited partnership may not make an election under this subdivision to report:

7.11 (1) a federal adjustment, including a positive reallocation adjustment, that results in  
7.12 unitary business income to a corporate partner required to file as a member of a combined  
7.13 report under section 290.17, subdivision 4; or

7.14 (2) any final federal adjustments resulting from an administrative adjustment request.

7.15 Subd. 4. **Tiered partners and indirect partners.** The direct and indirect partners of an  
7.16 audited partnership that are tiered partners, and all of the partners of those tiered partners  
7.17 that are subject to tax under chapter 290 are subject to the reporting and payment  
7.18 requirements contained in subdivision 2 and the tiered partners are entitled to make the  
7.19 election provided in subdivision 3. The tiered partners or their partners shall make required  
7.20 reports and payments no later than 90 days after the time for filing and furnishing of  
7.21 statements to tiered partners and their partners as established by the Internal Revenue Service  
7.22 under section 6226 of the Internal Revenue Code. The commissioner may promulgate rules  
7.23 to establish procedures for the reports and payments required by tiered partners and their  
7.24 partners and for making elections under this section.

7.25 Subd. 5. **Effects of election by partnership or tiered partner and payment of amount**  
7.26 **due.** (a) Unless the commissioner determines otherwise, the election under subdivision 3  
7.27 is irrevocable.

7.28 (b) If an audited partnership or tiered partner properly reports and pays an amount  
7.29 determined in subdivision 3, the amount will be treated as paid in lieu of taxes owed by the  
7.30 partnership's direct partners and indirect partners on the same final federal adjustments. The  
7.31 direct partners and indirect partners of the partnership who are not resident partners may  
7.32 not take any deduction or credit for this amount or claim a refund of the amount in this state.

8.1 (c) Nothing in this subdivision precludes resident partners from claiming a credit against  
8.2 taxes paid under section 290.06, on any amounts paid by the audited partnership or tiered  
8.3 partners on the resident partner's behalf to another state or local tax jurisdiction.

8.4 Subd. 6. **Failure of partnership or tiered partner to report or pay.** Nothing in this  
8.5 section prevents the commissioner from assessing direct partners or indirect partners for  
8.6 taxes they owe in the event that, for any reason, a partnership or tiered partner fails to timely  
8.7 make any report or payment required by this section.

8.8 Subd. 7. **Modified reporting and payment method.** The commissioner shall adopt  
8.9 procedures for an audited partnership or tiered partner to enter into an agreement with the  
8.10 commissioner to use an alternative reporting and payment method, including applicable  
8.11 time requirements or any other provision of this section. The audited partnership or tiered  
8.12 partner must demonstrate that the requested method will reasonably provide for the reporting  
8.13 and payment of taxes, penalties, and interest due under the provisions of this section.  
8.14 Application for approval of an alternative reporting and payment method must be made by  
8.15 the audited partnership or tiered partner within the time for making an election as provided  
8.16 in subdivision 3 or 4, as appropriate.

8.17 Subd. 8. **De minimis exception.** The commissioner may adopt rules under chapter 14  
8.18 to establish a de minimis amount upon which a taxpayer shall not be required to comply  
8.19 with sections 289A.382 and 289A.383.

8.20 **EFFECTIVE DATE.** This section is effective for federal adjustments that have a final  
8.21 determination date after June 30, 2019.

8.22 Sec. 4. **[289A.384] ASSESSMENT OF TAX, INTEREST, PENALTIES, AND**  
8.23 **ADDITIONAL AMOUNTS.**

8.24 Subdivision 1. **Assessment of additional tax, interest, and penalties.** The commissioner  
8.25 may assess, in accordance with subdivisions 2 and 3, additional tax, interest, and penalties  
8.26 following a final federal adjustment:

8.27 (1) arising from an audit by the Internal Revenue Service, including a partnership-level  
8.28 audit;

8.29 (2) reported by the taxpayer on an amended federal tax return; or

8.30 (3) as part of an administrative adjustment request on or before the dates provided in  
8.31 this section.

9.1 Subd. 2. **Timely and untimely reported federal adjustments.** If a taxpayer files a  
 9.2 federal adjustment report, within or after the periods prescribed in section 289A.382 or  
 9.3 289A.383, the commissioner may only assess additional Minnesota amounts related to the  
 9.4 federal adjustments including in-lieu-of amounts, taxes, interest, and penalties at the later  
 9.5 of:

9.6 (1) the expiration of the period of limitations in section 289A.38; or

9.7 (2) the expiration of the one-year period following the date of the filing with the  
 9.8 commissioner of the federal adjustments report.

9.9 Subd. 3. **Unreported reported federal adjustments.** If the taxpayer fails to file a federal  
 9.10 adjustments report, the commissioner may only assess additional amounts related to the  
 9.11 federal adjustments including in-lieu-of amounts, taxes, penalties, and interest, at the later  
 9.12 of:

9.13 (1) the expiration of the period of limitations in section 289A.38; or

9.14 (2) the expiration of the six-year period following the final determination date.

9.15 Subd. 4. **Estimated tax payments during the course of a federal audit.** The  
 9.16 commissioner shall prescribe a process for a taxpayer to make estimated payments to the  
 9.17 commissioner of the tax expected to result from a pending audit by the Internal Revenue  
 9.18 Service. The taxpayer may make estimated payments prior to the due date of the federal  
 9.19 adjustment report and without the taxpayer having to file the report with the commissioner.  
 9.20 The commissioner must credit the estimated tax payments against any tax liability of the  
 9.21 taxpayer ultimately found to be due to the commissioner. The estimated payments limit the  
 9.22 accrual of further statutory interest on that amount. If the estimated tax payments exceed  
 9.23 the final tax liability and statutory interest ultimately determined to be due, the taxpayer is  
 9.24 entitled to a refund or credit for the excess, provided the taxpayer files a federal adjustment  
 9.25 report or claim for refund or credit of tax pursuant to section 289A.385.

9.26 **EFFECTIVE DATE.** This section is effective for federal adjustments that have a final  
 9.27 determination date after June 30, 2019.

9.28 Sec. 5. **[289A.385] CLAIMS FOR REFUND OR CREDITS OF STATE TAX**  
 9.29 **ARISING FROM FINAL FEDERAL ADJUSTMENTS MADE BY THE INTERNAL**  
 9.30 **REVENUE SERVICE.**

9.31 Notwithstanding the general period of limitations on claims for refund in section 289A.40,  
 9.32 taxpayers subject to the reporting requirements of sections 289A.382 and 289A.383 may

10.1 file claims for refund related to federal adjustments made by the Internal Revenue Service  
 10.2 on or before the last day for the assessment of tax under section 289A.384.

10.3 **EFFECTIVE DATE.** This section is effective for federal adjustments that have a final  
 10.4 determination date after June 30, 2019.

10.5 Sec. 6. Minnesota Statutes 2018, section 289A.42, is amended to read:

10.6 **289A.42 CONSENT TO EXTEND STATUTE.**

10.7 Subdivision 1. **Extension agreement.** If before the expiration of time prescribed in  
 10.8 sections 289A.38 to 289A.384 and 289A.40 for the assessment of tax or the filing of a claim  
 10.9 for refund, both the commissioner and the taxpayer have consented in writing to the  
 10.10 assessment or filing of a claim for refund after that time, the tax may be assessed or the  
 10.11 claim for refund filed at any time before the expiration of the agreed-upon period. The  
 10.12 period may be extended by later agreements in writing before the expiration of the period  
 10.13 previously agreed upon. The taxpayer and the commissioner may also agree to extend the  
 10.14 period for collection of the tax. The time periods provided in sections 289A.382 and  
 10.15 289A.383 may be extended automatically, upon written notice to the commissioner, by 60  
 10.16 days for an audited partnership or tiered partner which has 10,000 or more direct partners.

10.17 Subd. 2. **Federal extensions.** When a taxpayer consents to an extension of time for the  
 10.18 assessment of federal withholding or income taxes, the period in which the commissioner  
 10.19 may recompute the tax is also extended, notwithstanding any period of limitations to the  
 10.20 contrary, ~~as follows:~~

10.21 ~~(1) for the periods adjustments provided in section 289A.38, subdivisions 8 and 9;~~  
 10.22 289A.384, subdivisions 2 and 3.

10.23 ~~(2) for six months following the expiration of the extended federal period of limitations~~  
 10.24 ~~when no change is made by the federal authority. If no change is made by the federal~~  
 10.25 ~~authority, and, but for this subdivision, the commissioner's time period to adjust the tax has~~  
 10.26 ~~expired, and if the commissioner has completed a field audit of the taxpayer, no additional~~  
 10.27 ~~changes resulting in additional tax due or a refund may be made. For purposes of this~~  
 10.28 ~~subdivision, "field audit" has the meaning given it in section 289A.38, subdivision 9.~~

10.29 **EFFECTIVE DATE.** This section is effective for federal adjustments that have a final  
 10.30 determination date after June 30, 2019.

10.31 Sec. 7. **REPEALER.**

10.32 Minnesota Statutes 2018, section 289A.38, subdivisions 7, 8, and 9, are repealed.

11.1 **EFFECTIVE DATE.** This section is effective for federal adjustments that have a final  
 11.2 determination date after June 30, 2019.

## 11.3 **ARTICLE 2**

### 11.4 **PARTNERSHIP TAX; TECHNICAL CHANGES**

11.5 Section 1. Minnesota Statutes 2018, section 270C.445, subdivision 6, is amended to read:

11.6 **Subd. 6. Enforcement; administrative order; penalties; cease and desist.** (a) The  
 11.7 commissioner may impose an administrative penalty of not more than \$1,000 per violation  
 11.8 of subdivision 3 or 5, or section 270C.4451, provided that a penalty may not be imposed  
 11.9 for any conduct for which a tax preparer penalty is imposed under section 289A.60,  
 11.10 subdivision 13. The commissioner may terminate a tax preparer's authority to transmit  
 11.11 returns electronically to the state, if the commissioner determines the tax preparer engaged  
 11.12 in a pattern and practice of violating this section. Imposition of a penalty under this paragraph  
 11.13 is subject to the contested case procedure under chapter 14. The commissioner shall collect  
 11.14 the penalty in the same manner as the income tax. There is no right to make a claim for  
 11.15 refund under section 289A.50 of the penalty imposed under this paragraph. Penalties imposed  
 11.16 under this paragraph are public data.

11.17 (b) In addition to the penalty under paragraph (a), if the commissioner determines that  
 11.18 a tax preparer has violated subdivision 3 or 5, or section 270C.4451, the commissioner may  
 11.19 issue an administrative order to the tax preparer requiring the tax preparer to cease and  
 11.20 desist from committing the violation. The administrative order may include an administrative  
 11.21 penalty provided in paragraph (a).

11.22 (c) If the commissioner issues an administrative order under paragraph (b), the  
 11.23 commissioner must send the order to the tax preparer addressed to the last known address  
 11.24 of the tax preparer.

11.25 (d) A cease and desist order under paragraph (b) must:

11.26 (1) describe the act, conduct, or practice committed and include a reference to the law  
 11.27 that the act, conduct, or practice violates; and

11.28 (2) provide notice that the tax preparer may request a hearing as provided in this  
 11.29 subdivision.

11.30 (e) Within 30 days after the commissioner issues an administrative order under paragraph  
 11.31 (b), the tax preparer may request a hearing to review the commissioner's action. The request  
 11.32 for hearing must be made in writing and must be served on the commissioner at the address

12.1 specified in the order. The hearing request must specifically state the reasons for seeking  
12.2 review of the order. The date on which a request for hearing is served by mail is the postmark  
12.3 date on the envelope in which the request for hearing is mailed.

12.4 (f) If a tax preparer does not timely request a hearing regarding an administrative order  
12.5 issued under paragraph (b), the order becomes a final order of the commissioner and is not  
12.6 subject to review by any court or agency.

12.7 (g) If a tax preparer timely requests a hearing regarding an administrative order issued  
12.8 under paragraph (b), the hearing must be commenced within ten days after the commissioner  
12.9 receives the request for a hearing.

12.10 (h) A hearing timely requested under paragraph (e) is subject to the contested case  
12.11 procedure under chapter 14, as modified by this subdivision. The administrative law judge  
12.12 must issue a report containing findings of fact, conclusions of law, and a recommended  
12.13 order within ten days after the completion of the hearing, the receipt of late-filed exhibits,  
12.14 or the submission of written arguments, whichever is later.

12.15 (i) Within five days of the date of the administrative law judge's report issued under  
12.16 paragraph (h), any party aggrieved by the administrative law judge's report may submit  
12.17 written exceptions and arguments to the commissioner. Within 15 days after receiving the  
12.18 administrative law judge's report, the commissioner must issue an order vacating, modifying,  
12.19 or making final the administrative order.

12.20 (j) The commissioner and the tax preparer requesting a hearing may by agreement  
12.21 lengthen any time periods prescribed in paragraphs (g) to (i).

12.22 (k) An administrative order issued under paragraph (b) is in effect until it is modified  
12.23 or vacated by the commissioner or an appellate court. The administrative hearing provided  
12.24 by paragraphs (e) to (i) and any appellate judicial review as provided in chapter 14 constitute  
12.25 the exclusive remedy for a tax preparer aggrieved by the order.

12.26 (l) The commissioner may impose an administrative penalty, in addition to the penalty  
12.27 under paragraph (a), up to \$5,000 per violation of a cease and desist order issued under  
12.28 paragraph (b). Imposition of a penalty under this paragraph is subject to the contested case  
12.29 procedure under chapter 14. Within 30 days after the commissioner imposes a penalty under  
12.30 this paragraph, the tax preparer assessed the penalty may request a hearing to review the  
12.31 penalty order. The request for hearing must be made in writing and must be served on the  
12.32 commissioner at the address specified in the order. The hearing request must specifically  
12.33 state the reasons for seeking review of the order. The cease and desist order issued under  
12.34 paragraph (b) is not subject to review in a proceeding to challenge the penalty order under

13.1 this paragraph. The date on which a request for hearing is served by mail is the postmark  
 13.2 date on the envelope in which the request for hearing is mailed. If the tax preparer does not  
 13.3 timely request a hearing, the penalty order becomes a final order of the commissioner and  
 13.4 is not subject to review by any court or agency. A penalty imposed by the commissioner  
 13.5 under this paragraph may be collected and enforced by the commissioner as an income tax  
 13.6 liability. There is no right to make a claim for refund under section 289A.50 of the penalty  
 13.7 imposed under this paragraph. A penalty imposed under this paragraph is public data.

13.8 (m) If a tax preparer violates a cease and desist order issued under paragraph (b), the  
 13.9 commissioner may terminate the tax preparer's authority to transmit returns electronically  
 13.10 to the state. Termination under this paragraph is public data.

13.11 (n) A cease and desist order issued under paragraph (b) is public data when it is a final  
 13.12 order.

13.13 (o) Notwithstanding any other law, the commissioner may impose a penalty or take other  
 13.14 action under this subdivision against a tax preparer, with respect to a return, within the  
 13.15 period to assess tax on that return as provided by ~~section~~ sections 289A.38 to 289A.384.

13.16 (p) Notwithstanding any other law, the imposition of a penalty or any other action against  
 13.17 a tax preparer under this subdivision, other than with respect to a return, must be taken by  
 13.18 the commissioner within five years of the violation of statute.

13.19 **EFFECTIVE DATE.** This section is effective for federal adjustments that have a final  
 13.20 determination date after June 30, 2019.

13.21 Sec. 2. Minnesota Statutes 2018, section 289A.31, subdivision 1, is amended to read:

13.22 Subdivision 1. **Individual income, fiduciary income, mining company, corporate**  
 13.23 **franchise, and entertainment taxes.** (a) Individual income, fiduciary income, mining  
 13.24 company, and corporate franchise taxes, and interest and penalties, must be paid by the  
 13.25 taxpayer upon whom the tax is imposed, except in the following cases:

13.26 (1) the tax due from a decedent for that part of the taxable year in which the decedent  
 13.27 died during which the decedent was alive and the taxes, interest, and penalty due for the  
 13.28 prior years must be paid by the decedent's personal representative, if any. If there is no  
 13.29 personal representative, the taxes, interest, and penalty must be paid by the transferees, as  
 13.30 defined in section 270C.58, subdivision 3, to the extent they receive property from the  
 13.31 decedent;

13.32 (2) the tax due from an infant or other incompetent person must be paid by the person's  
 13.33 guardian or other person authorized or permitted by law to act for the person;

14.1 (3) the tax due from the estate of a decedent must be paid by the estate's personal  
14.2 representative;

14.3 (4) the tax due from a trust, including those within the definition of a corporation, as  
14.4 defined in section 290.01, subdivision 4, must be paid by a trustee; and

14.5 (5) the tax due from a taxpayer whose business or property is in charge of a receiver,  
14.6 trustee in bankruptcy, assignee, or other conservator, must be paid by the person in charge  
14.7 of the business or property so far as the tax is due to the income from the business or property.

14.8 (b) Entertainment taxes are the joint and several liability of the entertainer and the  
14.9 entertainment entity. The payor is liable to the state for the payment of the tax required to  
14.10 be deducted and withheld under section 290.9201, subdivision 7, and is not liable to the  
14.11 entertainer for the amount of the payment.

14.12 (c) The taxes imposed under sections 289A.35, paragraph (b), 289A.383, subdivision  
14.13 3, and 290.0922 on partnerships are the joint and several liability of the partnership and the  
14.14 general partners.

14.15 **EFFECTIVE DATE.** This section is effective for federal adjustments that have a final  
14.16 determination date after June 30, 2019.

14.17 Sec. 3. Minnesota Statutes 2018, section 289A.37, subdivision 2, is amended to read:

14.18 Subd. 2. **Erroneous refunds.** (a) Except as provided in paragraph (b), an erroneous  
14.19 refund occurs when the commissioner issues a payment to a person that exceeds the amount  
14.20 the person is entitled to receive under law. An erroneous refund is considered an  
14.21 underpayment of tax on the date issued.

14.22 (b) To the extent that the amount paid does not exceed the amount claimed by the  
14.23 taxpayer, an erroneous refund does not include the following:

14.24 (1) any amount of a refund or credit paid pursuant to a claim for refund filed by a  
14.25 taxpayer, including but not limited to refunds of claims made under section 290.06,  
14.26 subdivision 23; 290.067; 290.0671; 290.0672; 290.0674; 290.0675; 290.0677; 290.068;  
14.27 290.0681; or 290.0692; or chapter 290A; or

14.28 (2) any amount paid pursuant to a claim for refund of an overpayment of tax filed by a  
14.29 taxpayer.

14.30 (c) The commissioner may make an assessment to recover an erroneous refund at any  
14.31 time within two years from the issuance of the erroneous refund. If all or part of the erroneous

15.1 refund was induced by fraud or misrepresentation of a material fact, the assessment may  
15.2 be made at any time.

15.3 (d) Assessments of amounts that are not erroneous refunds under paragraph (b) must be  
15.4 conducted under ~~section~~ sections 289A.38 to 289A.384.

15.5 **EFFECTIVE DATE.** This section is effective for federal adjustments that have a final  
15.6 determination date after June 30, 2019.

15.7 Sec. 4. Minnesota Statutes 2018, section 289A.38, subdivision 10, is amended to read:

15.8 Subd. 10. **Incorrect determination of federal adjusted gross income.** Notwithstanding  
15.9 any other provision of this chapter, if a taxpayer whose net income is determined under  
15.10 section 290.01, subdivision 19, omits from income an amount that will under the Internal  
15.11 Revenue Code extend the statute of limitations for the assessment of federal income taxes,  
15.12 or otherwise incorrectly determines the taxpayer's federal adjusted gross income resulting  
15.13 in adjustments by the Internal Revenue Service, then the period of assessment and  
15.14 determination of tax will be that under the Internal Revenue Code. When a change is made  
15.15 to federal income during the extended time provided under this subdivision, the provisions  
15.16 under ~~subdivisions 7 to 9~~ sections 289A.381 to 289A.384 regarding additional extensions  
15.17 apply.

15.18 **EFFECTIVE DATE.** This section is effective for federal adjustments that have a final  
15.19 determination date after June 30, 2019.

15.20 Sec. 5. Minnesota Statutes 2018, section 289A.60, subdivision 24, is amended to read:

15.21 Subd. 24. **Penalty for failure to notify of federal change.** If a person fails to report to  
15.22 the commissioner a change or correction of the person's federal return in the manner and  
15.23 time prescribed in ~~section 289A.38, subdivision 7~~ sections 289A.382 and 289A.383, there  
15.24 must be added to the tax an amount equal to ten percent of the amount of any underpayment  
15.25 of Minnesota tax attributable to the federal change.

15.26 **EFFECTIVE DATE.** This section is effective for federal adjustments that have a final  
15.27 determination date after June 30, 2019.

15.28 Sec. 6. Minnesota Statutes 2018, section 290.31, subdivision 1, is amended to read:

15.29 Subdivision 1. **Partners, not partnership, subject to tax.** Except as provided under  
15.30 ~~section~~ sections 289A.35, paragraph (b), and 289A.383, subdivision 3, a partnership as such  
15.31 shall not be subject to the income tax imposed by this chapter, but is subject to the tax

16.1 imposed under section 290.0922. Persons carrying on business as partners shall be liable  
 16.2 for income tax only in their separate or individual capacities.

16.3 **EFFECTIVE DATE.** This section is effective for federal adjustments that have a final  
 16.4 determination date after June 30, 2019.

16.5 Sec. 7. Minnesota Statutes 2018, section 297F.17, subdivision 6, is amended to read:

16.6 Subd. 6. **Time limit for bad debt refund.** Claims for refund must be filed with the  
 16.7 commissioner during the one-year period beginning with the timely filing of the taxpayer's  
 16.8 federal income tax return containing the bad debt deduction that is being claimed. Claimants  
 16.9 under this subdivision are subject to the notice requirements of ~~section 289A.38, subdivision~~  
 16.10 ~~7~~ sections 289A.382 and 289A.383.

16.11 **EFFECTIVE DATE.** This section is effective for federal adjustments that have a final  
 16.12 determination date after June 30, 2019.

16.13 Sec. 8. Minnesota Statutes 2018, section 297G.16, subdivision 7, is amended to read:

16.14 Subd. 7. **Time limit for a bad debt deduction.** Claims for refund must be filed with  
 16.15 the commissioner within one year of the filing of the taxpayer's income tax return containing  
 16.16 the bad debt deduction that is being claimed. Claimants under this subdivision are subject  
 16.17 to the notice requirements of ~~section 289A.38, subdivision 7~~ sections 289A.38 to 289A.384.

16.18 **EFFECTIVE DATE.** This section is effective for federal adjustments that have a final  
 16.19 determination date after June 30, 2019.

16.20 Sec. 9. Minnesota Statutes 2018, section 469.319, subdivision 4, is amended to read:

16.21 Subd. 4. **Repayment procedures.** (a) For the repayment of taxes imposed under chapter  
 16.22 290 or 297A or local taxes collected pursuant to section 297A.99, a business must file an  
 16.23 amended return with the commissioner of revenue and pay any taxes required to be repaid  
 16.24 within 30 days after becoming subject to repayment under this section. The amount required  
 16.25 to be repaid is determined by calculating the tax for the period or periods for which repayment  
 16.26 is required without regard to the exemptions and credits allowed under section 469.315.

16.27 (b) For the repayment of taxes imposed under chapter 297B, a business must pay any  
 16.28 taxes required to be repaid to the motor vehicle registrar, as agent for the commissioner of  
 16.29 revenue, within 30 days after becoming subject to repayment under this section.

16.30 (c) For the repayment of property taxes, the county auditor shall prepare a tax statement  
 16.31 for the business, applying the applicable tax extension rates for each payable year and

17.1 provide a copy to the business and to the taxpayer of record. The business must pay the  
17.2 taxes to the county treasurer within 30 days after receipt of the tax statement. The business  
17.3 or the taxpayer of record may appeal the valuation and determination of the property tax to  
17.4 the Tax Court within 30 days after receipt of the tax statement.

17.5 (d) The provisions of chapters 270C and 289A relating to the commissioner's authority  
17.6 to audit, assess, and collect the tax and to hear appeals are applicable to the repayment  
17.7 required under paragraphs (a) and (b). The commissioner may impose civil penalties as  
17.8 provided in chapter 289A, and the additional tax and penalties are subject to interest at the  
17.9 rate provided in section 270C.40. The additional tax shall bear interest from 30 days after  
17.10 becoming subject to repayment under this section until the date the tax is paid. Any penalty  
17.11 imposed pursuant to this section shall bear interest from the date provided in section 270C.40,  
17.12 subdivision 3, to the date of payment of the penalty.

17.13 (e) If a property tax is not repaid under paragraph (c), the county treasurer shall add the  
17.14 amount required to be repaid to the property taxes assessed against the property for payment  
17.15 in the year following the year in which the auditor provided the statement under paragraph  
17.16 (c).

17.17 (f) For determining the tax required to be repaid, a reduction of a state or local sales or  
17.18 use tax is deemed to have been received on the date that the good or service was purchased  
17.19 or first put to a taxable use. In the case of an income tax or franchise tax, including the credit  
17.20 payable under section 469.318, a reduction of tax is deemed to have been received for the  
17.21 two most recent tax years that have ended prior to the date that the business became subject  
17.22 to repayment under this section. In the case of a property tax, a reduction of tax is deemed  
17.23 to have been received for the taxes payable in the year that the business became subject to  
17.24 repayment under this section and for the taxes payable in the prior year.

17.25 (g) The commissioner may assess the repayment of taxes under paragraph (d) any time  
17.26 within two years after the business becomes subject to repayment under subdivision 1, or  
17.27 within any period of limitations for the assessment of tax under ~~section 289A.38~~ sections  
17.28 289A.38 to 289A.384, whichever period is later. The county auditor may send the statement  
17.29 under paragraph (c) any time within three years after the business becomes subject to  
17.30 repayment under subdivision 1.

17.31 (h) A business is not entitled to any income tax or franchise tax benefits, including  
17.32 refundable credits, for any part of the year in which the business becomes subject to  
17.33 repayment under this section nor for any year thereafter. Property is not exempt from tax  
17.34 under section 272.02, subdivision 64, for any taxes payable in the year following the year

18.1 in which the property became subject to repayment under this section nor for any year  
18.2 thereafter. A business is not eligible for any sales tax benefits beginning with goods or  
18.3 services purchased or first put to a taxable use on the day that the business becomes subject  
18.4 to repayment under this section.

18.5 **EFFECTIVE DATE.** This section is effective for federal adjustments that have a final  
18.6 determination date after June 30, 2019.

**289A.38 LIMITATIONS ON TIME FOR ASSESSMENT OF TAX.**

Subd. 7. **Federal tax changes.** If the amount of income, items of tax preference, deductions, or credits for any year of a taxpayer, or the wages paid by a taxpayer for any period, as reported to the Internal Revenue Service is changed or corrected by the commissioner of Internal Revenue or other officer of the United States or other competent authority, or where a renegotiation of a contract or subcontract with the United States results in a change in income, items of tax preference, deductions, credits, or withholding tax, or, in the case of estate tax, where there are adjustments to the taxable estate, the taxpayer shall report the change or correction or renegotiation results in writing to the commissioner. The report must be submitted within 180 days after the final determination and must be in the form of either an amended Minnesota estate, withholding tax, corporate franchise tax, or income tax return conceding the accuracy of the federal determination or a letter detailing how the federal determination is incorrect or does not change the Minnesota tax. An amended Minnesota income tax return must be accompanied by an amended property tax refund return, if necessary. A taxpayer filing an amended federal tax return must also file a copy of the amended return with the commissioner of revenue within 180 days after filing the amended return.

Subd. 8. **Failure to report change or correction of federal return.** If a taxpayer fails to make a report as required by subdivision 7, the commissioner may recompute the tax, including a refund, based on information available to the commissioner. The tax may be recomputed within six years after the report should have been filed, notwithstanding any period of limitations to the contrary.

Subd. 9. **Report made of change or correction of federal return.** If a taxpayer is required to make a report under subdivision 7, and does report the change or files a copy of the amended return, the commissioner may recompute and reassess the tax due, including a refund (1) within one year after the report or amended return is filed with the commissioner, notwithstanding any period of limitations to the contrary, or (2) within any other applicable period stated in this section, whichever period is longer. The period provided for the carryback of any amount of loss or credit is also extended as provided in this subdivision, notwithstanding any law to the contrary. If the commissioner has completed a field audit of the taxpayer, and, but for this subdivision, the commissioner's time period to adjust the tax has expired, the additional tax due or refund is limited to only those changes that are required to be made to the return which relate to the changes made on the federal return. This subdivision does not apply to sales and use tax.

For purposes of this subdivision and section 289A.42, subdivision 2, a "field audit" is the physical presence of examiners in the taxpayer's or taxpayer's representative's office conducting an examination of the taxpayer with the intention of issuing an assessment or notice of change in tax or which results in the issuing of an assessment or notice of change in tax. The examination may include inspecting a taxpayer's place of business, tangible personal property, equipment, computer systems and facilities, pertinent books, records, papers, vouchers, computer printouts, accounts, and documents.