

297E.02 TAX IMPOSED.

Subdivision 1. **Imposition.** A tax is imposed on all lawful gambling other than (1) pull-tab deals or games; (2) tipboard deals or games; and (3) items listed in section 297E.01, subdivision 8, clauses (4) and (5), at the rate of 8.5 percent on the gross receipts as defined in section 297E.01, subdivision 8, less prizes actually paid. The tax imposed by this subdivision is in lieu of the tax imposed by section 297A.62 and all local taxes and license fees except a fee authorized under section 349.16, subdivision 8, or a tax authorized under subdivision 5.

The tax imposed under this subdivision is payable by the organization or party conducting, directly or indirectly, the gambling.

Subd. 2. **Tax-exempt gambling.** An organization's receipts from lawful gambling that are excluded or exempt from licensing under section 349.166, are not subject to the tax imposed by this section or section 297A.62. This exclusion from tax is only valid if at the time of the event giving rise to the tax the organization either has an exclusion under section 349.166, subdivision 1, or has applied for and received a valid exemption from the lawful gambling control board.

Subd. 2a. **Tax credit for certain raffles.** An organization may claim a credit equal to the tax reported under subdivision 1 resulting from a raffle the net proceeds of which have been used exclusively for the purposes of section 349.12, subdivision 25, paragraph (a), clause (2). The organization claiming the credit must do so on the monthly gambling tax return on which the raffle activity is reported under subdivision 1.

Subd. 3. **Collection; disposition.** Taxes imposed by this section other than in subdivision 4 are due and payable to the commissioner when the gambling tax return is required to be filed. Taxes imposed by subdivision 4 are due and payable to the commissioner on or before the last business day of the month following the month in which the taxable sale was made. Returns covering the taxes imposed under this section must be filed with the commissioner on or before the 20th day of the month following the close of the previous calendar month. The commissioner may require that the returns be filed via magnetic media or electronic data transfer. The proceeds, along with the revenue received from all license fees and other fees under sections 349.11 to 349.191, 349.211, and 349.213, must be paid to the commissioner of finance for deposit in the general fund.

Subd. 4. **Pull-tab and tipboard tax.** (a) A tax is imposed on the sale of each deal of pull-tabs and tipboards sold by a distributor. The rate of the tax is 1.7 percent of the ideal gross of the pull-tab or tipboard deal. The sales tax imposed by chapter 297A on the sale of the pull-tabs and tipboards by the distributor is imposed on the retail sales price less the tax imposed by this subdivision. The retail sale of pull-tabs or tipboards by the organization is exempt from

taxes imposed by chapter 297A and is exempt from all local taxes and license fees except a fee authorized under section 349.16, subdivision 8.

(b) The liability for the tax imposed by this section is incurred when the pull-tabs and tipboards are delivered by the distributor to the customer or to a common or contract carrier for delivery to the customer, or when received by the customer's authorized representative at the distributor's place of business, regardless of the distributor's method of accounting or the terms of the sale.

The tax imposed by this subdivision is imposed on all sales of pull-tabs and tipboards, except the following:

(1) sales to the governing body of an Indian tribal organization for use on an Indian reservation;

(2) sales to distributors licensed under the laws of another state or of a province of Canada, as long as all statutory and regulatory requirements are met in the other state or province;

(3) sales of promotional tickets as defined in section 349.12; and

(4) pull-tabs and tipboards sold to an organization that sells pull-tabs and tipboards under the exemption from licensing in section 349.166, subdivision 2. A distributor shall require an organization conducting exempt gambling to show proof of its exempt status before making a tax-exempt sale of pull-tabs or tipboards to the organization. A distributor shall identify, on all reports submitted to the commissioner, all sales of pull-tabs and tipboards that are exempt from tax under this subdivision.

(c) A distributor having a liability of \$120,000 or more during a fiscal year ending June 30 must remit all liabilities in the subsequent calendar year by electronic means.

(d) Any customer who purchases deals of pull-tabs or tipboards from a distributor may file an annual claim for a refund or credit of taxes paid pursuant to this subdivision for unsold pull-tab and tipboard tickets. The claim must be filed with the commissioner on a form prescribed by the commissioner by March 20 of the year following the calendar year for which the refund is claimed. The refund must be filed as part of the customer's February monthly return. The refund or credit is equal to 1.7 percent of the face value of the unsold pull-tab or tipboard tickets, provided that the refund or credit will be 1.75 percent of the face value of the unsold pull-tab or tipboard tickets for claims for a refund or credit of taxes filed on the February 2001 monthly return. The refund claimed will be applied as a credit against tax owing under this chapter on the February monthly return. If the refund claimed exceeds the tax owing on the February monthly

return, that amount will be refunded. The amount refunded will bear interest pursuant to section 270C.405 from 90 days after the claim is filed.

Subd. 5. [Renumbered 349.213, subd 3]

Subd. 6. **Combined receipts tax.** In addition to the taxes imposed under subdivisions 1 and 4, a tax is imposed on the combined receipts of the organization. As used in this section, "combined receipts" is the sum of the organization's gross receipts from lawful gambling less gross receipts directly derived from the conduct of bingo, raffles, and paddle wheels, as defined in section 297E.01, subdivision 8, for the fiscal year. The combined receipts of an organization are subject to a tax computed according to the following schedule:

If the combined receipts for the fiscal year are:	The tax is:
Not over \$500,000	zero
Over \$500,000, but not over \$700,000	1.7 percent of the amount over \$500,000, but not over \$700,000
Over \$700,000, but not over \$900,000	\$3,400 plus 3.4 percent of the amount over \$700,000, but not over \$900,000
Over \$900,000	\$10,200 plus 5.1 percent of the amount over \$900,000

Subd. 7. **Untaxed gambling product.** (a) In addition to penalties or criminal sanctions imposed by this chapter, a person, organization, or business entity possessing or selling a pull-tab or tipboard upon which the tax imposed by subdivision 4 has not been paid is liable for a tax of six percent of the ideal gross of each pull-tab or tipboard. The tax on a partial deal must be assessed as if it were a full deal.

(b) In addition to penalties and criminal sanctions imposed by this chapter, a person not licensed by the board who conducts bingo, raffles, or paddle wheel games is liable for a tax of six percent of the gross receipts from that activity.

(c) The tax must be assessed by the commissioner. An assessment must be considered a jeopardy assessment or jeopardy collection as provided in section 270C.36. The commissioner shall assess the tax based on personal knowledge or information available to the commissioner. The commissioner shall mail to the taxpayer at the taxpayer's last known address, or serve in person, a written notice of the amount of tax, demand its immediate payment, and, if payment is not immediately made, collect the tax by any method described in chapter 270C, except that

the commissioner need not await the expiration of the times specified in chapter 270C. The tax assessed by the commissioner is presumed to be valid and correctly determined and assessed. The burden is upon the taxpayer to show its incorrectness or invalidity. The tax imposed under this subdivision does not apply to gambling that is exempt from taxation under subdivision 2.

Subd. 8. **Personal debt.** The tax imposed by this section, and interest and penalties imposed with respect to it, are a personal debt of the person required to file a return from the time the liability for it arises, irrespective of when the time for payment of the liability occurs. The debt must, in the case of the executor or administrator of the estate of a decedent and in the case of a fiduciary, be that of the person in the person's official or fiduciary capacity only unless the person has voluntarily distributed the assets held in that capacity without reserving sufficient assets to pay the tax, interest, and penalties, in which event the person is personally liable for any deficiency.

Subd. 9. **Public information.** All records concerning the administration of the taxes under this chapter are classified as public information.

Subd. 10. **Refunds; appropriation.** A person who has, under this chapter, paid to the commissioner an amount of tax for a period in excess of the amount legally due for that period, may file with the commissioner a claim for a refund of the excess. The amount necessary to pay the refunds under this subdivision and subdivision 4, paragraph (d), is appropriated from the general fund to the commissioner.

Subd. 11. **Unplayed or defective pull-tabs or tipboards.** If a deal of pull-tabs or tipboards registered with the board or bar coded in accordance with this chapter and chapter 349 and upon which the tax imposed by subdivision 4 has been paid is returned unplayed to the distributor, the commissioner shall allow a refund of the tax paid.

If a defective deal registered with the board or bar coded in accordance with this chapter and chapter 349 and upon which the taxes have been paid is returned to the manufacturer, the distributor shall submit to the commissioner of revenue certification from the manufacturer that the deal was returned and in what respect it was defective. The certification must be on a form prescribed by the commissioner and must contain additional information the commissioner requires.

The commissioner may require that no refund under this subdivision be made unless the returned pull-tabs or tipboards have been set aside for inspection by the commissioner's employee.

Reductions in previously paid taxes authorized by this subdivision must be made when and in the manner prescribed by the commissioner.

History: *1994 c 633 art 2 s 2; 1995 c 264 art 17 s 3-5,11; 1996 c 471 art 13 s 12,13; 1998 c 389 art 13 s 3-5; 1999 c 243 art 7 s 5-8; 2000 c 418 art 1 s 44; 2000 c 490 art 10 s 3-6; 1Sp2001 c 5 art 17 s 16; 2003 c 112 art 2 s 50; 2005 c 151 art 2 s 17*