

A bill for an act
relating to taxation; modifying the permitted time to file certain claims for
refunds; amending Minnesota Statutes 2008, sections 270C.56, subdivision 3;
289A.40, subdivision 1.

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

Section 1. Minnesota Statutes 2008, section 270C.56, subdivision 3, is amended to read:

Subd. 3. **Procedure for assessment; claims for refunds.** (a) The commissioner
may assess liability for the taxes described in subdivision 1 against a person liable
under this section. The assessment may be based upon information available to the
commissioner. It must be made within the prescribed period of limitations for assessing
the underlying tax, or within one year after the date of an order assessing underlying tax,
whichever period expires later. An order assessing personal liability under this section is
reviewable under section 270C.35 and is appealable to Tax Court.

(b) If the time for appealing the order has expired and a payment is made of any
portion of the liability shown on the order, a claim for refund may be made, but only if
filed within 120 days after a payment on the liability by the person making the payment.
This paragraph does not apply to an assessment which has previously been the subject of
an appeal to Tax Court or a denied claim for refund. The taxpayer may contest denial of
the refund as provided under the procedures governing claims for refunds under section
289A.50, subdivision 7.

(c) If a person has been assessed under this section for an amount for a given period
and the time for appeal has expired, regardless of whether an action contesting denial of a
claim for refund has been filed under paragraph (b), or there has been a final determination
that the person is liable, collection action is not stayed pursuant to section 270C.33,

subdivision 5, for that assessment or for subsequent assessments of additional amounts for the same person for the same period and tax type.

EFFECTIVE DATE. The right to file a claim for refund under this section is effective the day following final enactment and applies to refund claims filed after the date of final enactment.

Sec. 2. Minnesota Statutes 2008, section 289A.40, subdivision 1, is amended to read:

Subdivision 1. **Time limit; generally.** Unless otherwise provided in this chapter, a claim for a refund of an overpayment of state tax must be filed within the latest of the following time periods that apply:

(1) 3-1/2 years from the date prescribed for filing the return, plus any extension of time granted for filing the return, but only if filed within the extended time; or

(2) one year from the date of an order assessing tax under section 270C.33 or an order determining an appeal under section 270C.35, subdivision 8, or one year from the date of a return made by the commissioner under section 270C.33, subdivision 3, upon payment in full of the tax, penalties, and interest shown on the order or return made by the commissioner, ~~whichever period expires later.~~ Claims for refund, except for taxes under chapter 297A, filed after the 3-1/2 year period but within the one-year period are limited to the amount of the tax, penalties, and interest on the order or return made by the commissioner and to issues determined by the order or return made by the commissioner. In the case of assessments under section 289A.38, subdivision 5 or 6, claims for refund under chapter 297A filed after the 3-1/2 year period but within the one-year period are limited to the amount of the tax, penalties, and interest on the order or return made by the commissioner that are due for the period before the 3-1/2 year period; or

(3) 120 days after the payment of any portion of the liability shown on a return made by the commissioner under section 270C.33, subdivision 3, or shown on an order of assessment where no return has been filed under section 270C.33, subdivision 4, paragraph (a), clause (2). Claims for refund filed after the 3-1/2 year period and the one-year period but within the 120-day period are limited to the amount paid during the 120-day period. This clause does not apply to returns or orders which have previously been the subject of a denied claim for refund or an appeal to Tax Court.

EFFECTIVE DATE. The right to file a claim for refund under this section is effective the day following final enactment and applies to refund claims filed after the date of final enactment.