

status until otherwise determined pursuant to the provisions of this act.

Approved May 13, 1963.

CHAPTER 663—S. F. No. 864

An act relating to education; authorizing school districts to enter into contracts for furnishing transportation for pupils and to purchase gasoline and furnish same to contract carriers; amending Minnesota Statutes 1961, Sections 123.18, Subdivision 2, and 123.39, Subdivision 2.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1961, Section 123.18, Subdivision 2, is amended to read:

Subd. 2. **School districts; purchase of gasoline for contract carrier.** The board may enter *into* a contract for the purpose of providing transportation, *and may purchase gasoline and furnish same to a contract carrier for use in the performance of a contract with the school district for transportation of school children to and from school.*

Sec. 2. Minnesota Statutes 1961, Section 123.39, Subdivision 2, is amended to read:

Subd. 2. The board may contract for the furnishing of authorized transportation under rules established by the commissioner of education, *and may purchase gasoline and furnish same to a contract carrier for use in the performance of a contract with the school district for transportation of school children to and from school.*

Approved May 13, 1963.

CHAPTER 664—S. F. No. 901

[Coded in Part]

An act relating to gift taxes; amending Minnesota Statutes 1961, Sections 292.08, 292.09, 292.11, Subdivisions 1, 3, and 4, 292.12, Subdivision 1; and amending Chapter 292 by adding a new section; and repealing Minnesota Statutes 1961, Section 292.10.

Changes or additions indicated by italics, deletions by strikeout.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1961, Section 292.08 is amended to read:

292.08. **Taxation; gift taxes; returns, requisites or return by donor.** Subdivision 1. Every person making any gifts other than those exempted by section 292.04 (6) during that part of the calendar year 1937 subsequent to the effective date of Ex. Laws 1937, Chapter 70, or during any subsequent calendar year, shall make a return thereof ~~in duplicate~~ to the commissioner of taxation. *Such return shall be made on the form prescribed by the commissioner and shall contain a computation of the tax due under the provisions of this chapter. Every return shall specifically set forth the property transferred by gift; the date of the gift; the value at the date of the gift of every item of property transferred by gift; the name and residence of each donee and the relationship of the donee to the donor; and, in the case of property transferred for less than an adequate consideration in money or money's worth, the character and value of the consideration received by the donor. The commissioner of taxation may require such other information to be given on such return as may be necessary for the effective enforcement of this chapter. The return shall be in such form as he may prescribe as necessary to compute the tax imposed by this chapter; and shall be under oath of the person making the return. In the case of a donor dying without filing a required return the return shall be made on his behalf by his executor or administrator, if no representative is appointed in probate proceedings the return shall be filed by the donee; that of a person for whom or whose property a guardian has been appointed shall be made by the guardian of his person or his property or both; and that of a person employing any device to make gifts indirectly shall be made by him and by those in charge or in control of the agency or instrumentality through which such person is making gifts indirectly.*

Subd. 2. **Time for filing and payment of tax.** The *returns return* required to be made under subdivision 1 of this section shall be filed with the commissioner of taxation on or before the fifteenth day of April of the calendar year immediately succeeding that for which the return is made, *along with a remittance of the tax shown due on such return.*

Subd. 3. **Time extended.** The commissioner of taxation may, whenever in his opinion good cause exists therefor, extend the time for filing any return required hereunder for not to exceed *three six* months.

Changes or additions indicated by italics, deletions by strikeout.

Subd. 4. Assessment on failure to make return or on filing of incorrect or false return. *If any person required by this chapter to file a gift tax return shall fail to do so within the time prescribed by this chapter or by regulations under the authority thereof, or shall make, willfully or otherwise, an incorrect, false or fraudulent return, he shall on the written demand of the commissioner, file such return, or corrected return, within 30 days after the mailing of such written demand and at the same time pay the whole tax, or additional tax, due on the basis thereof, plus the penalty and interest as provided. If such person shall fail within that time to file such return, or corrected return, the commissioner shall make for him a return, or corrected return, from the commissioner's own knowledge and from such information as he can obtain through testimony or otherwise and assess a tax, penalty and interest on the basis thereof, which tax, penalty and interest shall be paid within 20 days after the commissioner has mailed to such person a written notice of the amount thereof and demand for its payment. Any such return or assessment made by the commissioner on account of the failure of such person to make a return, or a corrected return, shall be prima facie correct and valid, and the taxpayer shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.*

Subd. 4 5. Return by donee. The commissioner of taxation may, whenever necessary in his opinion to the effective enforcement of this chapter, require donees to file a return of gifts received by them, and such return may require such donees to report such information as is necessary to the effective enforcement of this chapter. Returns required hereunder shall be filed with the commissioner of taxation within 30 days after he has mailed notice and demand therefor to the last known address of the donee required to make such return.

Subd. 5 6. Time effective. Except as otherwise expressly provided by chapter 292, the amount of any tax ~~imposed~~ *assessed* by that chapter ~~shall be assessed within three years~~ *shall be deemed to be the amount of tax as computed on the return filed unless within a period not later than three and one-half years after the return was filed (whether or not such return was filed on or after the date prescribed) and no proceeding in court, without assessment for the collection of such tax as herein required, shall be begun after the expiration of such period. the commissioner shall have prepared a notice of tax assessment and mailed same to the taxpayer. Notice of assessment shall be deemed to have been made within the meaning of this subdivision when a letter containing such notice has been mailed to the last known address of the person upon whom*

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the assessment is made. If a return of tax imposed by this chapter is filed before the last day prescribed by law for the filing thereof, the return shall be considered as having been filed on such last day for the purposes of this subdivision.

Subd. 6 7. Evasion, omissions, extensions and corrections.

(a) In the case of a false or fraudulent return, with the intent to evade tax, or in case of an unlawful attempt in any manner to defeat or evade a tax imposed by this chapter, or in case of failure to file a return, the tax may be assessed or a proceeding in court for the collection of such tax may be begun without assessment at any time.

(b) **Omissions**—in the case where there is omitted from the return items subject to tax under chapter ~~294~~ 292, the tax on such omitted items may be assessed at any time.

In determining the items omitted, there shall not be taken into account any item which is omitted from the gift subject to tax, if such item is disclosed in the return or in a statement attached to the return in a manner adequate to apprise the commissioner of taxation of the nature and amount of such item.

(c) Where before the expiration of the time prescribed in subdivisions ~~5 6~~ and 6 7 (a) for the assessment of the tax, the commissioner of taxation and the taxpayer shall consent in writing to the extension of time for the assessment of the tax, the tax may be assessed at any time prior to the expiration agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(d) ~~If;~~ ~~p~~Prior to the expiration of the period of limitations prescribed in subdivision ~~5;~~ 6 with respect to gifts subject to the tax imposed by this chapter, (1) where the value of the gift returnable to the United States treasury department under present federal law ~~is has been~~ changed or corrected by the commissioner of internal revenue, the taxpayer or a proper representative of the taxpayer shall report such changed or corrected ~~estate value to the commissioner of taxation~~ and shall concede the accuracy of such determination or state wherein it is erroneous; (2) ~~Any~~ where a taxpayer ~~filing~~ has filed an amended gift tax return with the United States treasury department ~~the taxpayer~~ shall also file within 90 days thereafter a copy of such amended return with the commissioner of taxation; or (3) where the taxpayer and the United States treasury department have consented in writing to assessment of the tax after such time, the taxpayer shall notify the commissioner of taxation in writing to the extension of time so agreed upon.

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(c) Failure to report such changed or corrected federal gift tax return or to file a copy of such amended gift tax return as set forth in (d) above and within the time stated, shall suspend the running of the period of limitations until such report or copy has been furnished to the commissioner of taxation.

(e) Notwithstanding other provisions of this chapter, the statute of limitations for the assessment of tax under this chapter shall not terminate prior to 90 days after the taxpayer, whenever required to do so, has complied with the provisions of (d) of this subdivision in the manner prescribed therein.

(f) In any case where a gift tax return has been filed prior to the effective date of Laws 1961, Chapter 492, and on or subsequent to January 1, 1956, such return shall be deemed to have been filed on the effective date of Laws 1961, Chapter 492.

Sec. 2. Minnesota Statutes 1961, Section 292.09 is amended to read:

292.09 **Assessment.** Subdivision 1. ~~To whom assessed.~~ The commissioner of taxation shall determine and assess all taxes imposed by this chapter. The tax shall be assessed upon the donor, and shall be paid by him to the commissioner of taxation within 60 days after notice of such assessment shall have been served upon him. The tax in the case of a donor who has died prior to its assessment shall be assessed upon his executor or administrator, and be paid by such executor or administrator within 60 days after notice of such assessments shall have been served upon him. The tax in the case of indirect gifts may, in the discretion of the commissioner of taxation, be assessed upon the donor, or the person or persons in charge or in control of the agency or instrumentality through which such donor is making indirect gifts, or upon both, and shall be paid by the person upon whom it is assessed within 60 days after notice of such assessment shall have been served upon him (but one tax only shall be collected in such case). Notice of assessment shall be deemed to have been made within the meaning of this subdivision when a letter containing such notice has been mailed to the last known address of the person upon whom the assessment is made.

Subd. 2 1. **Liability under assessment; collection; suit against resident or non-resident.** The tax shall become a personal liability of the person upon whom it is assessed, if such person is a resident of this state, from the date of its assessment, shall remain such until such tax is paid, and may be collected by an action at law, in the name of this state, which may be brought in the district

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court of the judicial district in which such person resides or has his principal place of business, or in the district court for Ramsey county. The foregoing provisions shall also apply where such person is a non-resident of this state, so far as that is permissible under the provisions of the constitutions of the United States and this state.

Subd. 3 2. Personal liability; filing lien; certificate of release. If the tax is not paid when due, the donee of any gift shall be personally liable for such tax to the extent of the value of such gift. At any time after any transfer taxable hereunder is made which includes any real property, the commissioner of taxation may file with the register of deeds of the county in which such real property is located a claim of lien for the estimated amount of the tax due hereunder describing the real property against which such lien is claimed, and may supplement or amend such claim after the amount of tax has been determined. From the time of the filing of the lien until it is satisfied by the commissioner of taxation, the tax imposed hereunder shall be a lien upon such real property. If the commissioner of taxation is satisfied that the tax liability has been duly discharged or provided for, he may, under regulations prescribed by him, issue a certificate releasing any or all of such real property from the lien herein imposed.

Subd. 4 3. Collection from donee. If the donor shall fail to pay the tax within the time provided in ~~subdivision 1 of this section;~~ *this chapter*, the commissioner of taxation may serve a notice upon the donee stating the amount of the tax and the date when it became due. If the tax is not paid within 30 days after the mailing of the notice to the donee at the address given in the return or the last known address of the donee, the tax may be collected from such donee in the same manner as provided with respect to donors in subdivision 2 of this section; ~~and the donee shall thereafter be liable to the penalties provided in section 292.11; or in an ordinary action at law.~~

Sec. 3. Minnesota Statutes 1961, Section 292.11, Subdivision 1 is amended to read:

292.11 Penalties; interest; criminal liability; evasion. Subdivision 1. If any person shall, without intent to evade the tax or to postpone its payment, fail to make any return required to be made by him under this chapter at the time required therein, there shall be imposed on him a specific penalty of five percent of the tax as finally assessed. If any person shall, with intent to evade the tax or to postpone its payment, either fail to make a return when required or make a false or fraudulent return, there shall be im-

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posed upon him a specific penalty of 20 percent of the taxes finally assessed, and such person shall also be guilty of a gross misdemeanor. *If the return is not filed at the end of the extended period allowed by the commissioner of taxation under this chapter, the penalties provided in this section shall apply.*

Sec. 4. Minnesota Statutes 1961, Section 292.11, Subdivision 3 is amended to read:

Subd. 3. **Extension of time of payment.** The commissioner of taxation may, upon the filing of an affidavit by or on behalf of any person referred to in subdivision 2 of this section, if in his opinion good cause exists therefor, extend the time for payment of the tax and penalty for not to exceed ~~three~~ *six* months.

Sec. 5. Minnesota Statutes 1961, Section 292.11, Subdivision 4 is amended to read:

Subd. 4. **Interest.** If any tax imposed by this chapter, or any portion of such tax, is not paid when first due and payable thereunder, there shall be added thereto interest at the rate of six percent per annum ~~from the time above specified~~ *until paid.*

Sec. 6. Minnesota Statutes 1961, Section 292.12, Subdivision 1 is amended to read:

292.12. **Refundment.** Subdivision, 1. The commissioner of taxation shall determine the amount of any taxes paid by, or collected from, any person in excess of the amount of tax legally due from him under the provisions of this chapter if claim therefor is filed with the commissioner of taxation within two years after such tax was paid or collected *or three and one-half years after the return was filed, whichever is later.* Upon the filing of such claim *in the manner prescribed by him the commissioner shall make a written order thereon denying or allowing the claim in whole or in part and shall mail a copy of such order to the claimant at the address stated on the claim.* He shall cause to be refunded in the same manner provided by law the amount of tax paid or collected in excess of the amount legally due, plus interest thereon at the rate of ~~six~~ *four* percent per annum from the date of the payment or collection of the tax until the date the refund is paid. The amount necessary to pay such refunds is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, and the state treasurer shall pay warrants therefor out of any funds in the state treasury not otherwise appropriated. No refund shall be denied merely because the tax was voluntarily paid or no protest made to its payment. Refund shall not be made of taxes collected by the

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methods provided in Minnesota Statutes 1945, Section 292.09, Subdivision 2; 1, or Section 271.06.

Sec. 7. Minnesota Statutes 1961, Chapter 292, is amended by adding a new section to read:

292.15 **Powers of commissioner of taxation.** *The commissioner shall administer and enforce the assessment and collection of the taxes imposed by this chapter. He may, from time to time, make, publish, and distribute rules and regulations in enforcing its provisions. In his discretion he may make a charge for copies distributed upon request. He shall cause to be prepared blank forms for the returns required by this chapter, but failure to receive or secure them shall not relieve any person from the obligation of making any return required of him under the provisions of this chapter.*

Sec. 8. Minnesota Statutes 1961, Section 292.10 is repealed.

Sec. 9. **Time effective.** *The provisions of this act shall become effective on January 1, 1964.*

Approved May 13, 1963.

CHAPTER 665—S. F. No. 1097

[Coded in Part]

An act relating to the repair, restoration, and preservation of regimental battle flags, standards, and guidons of military organizations of the state of Minnesota and the United States of America; authorizing the adjutant general to contract therefor or to employ persons therefor, notwithstanding the provisions of Minnesota Statutes 1961, Chapter 16 and 43, and appropriating moneys therefor.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **[190.095] Battle flags; repair; declaration.**
Subdivision 1. The state of Minnesota has in its capitol a large collection of regimental battle flags, standards, and guidons from the civil war and other wars of the United States of America, representing regiments composed of Union and other soldiers from every part of the state and whereas these flags were in a sense a sacred symbol of the regiment, indicating its advance or retreat in battle and on many occasions several of the bearers thereof having been killed or wounded in a single battle, and whereas a recent inspection has disclosed that many of these flags are even now beyond

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