

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

Section 1. Minnesota Statutes 1967, Section 101.42, Subdivision 19, is amended to read:

Subd. 19. **Game and fish; dragging anchor or weight through aquatic vegetation.** It is unlawful to drag boat anchors or other weights with a motor propelled boat through aquatic vegetation for the purpose of searing or flushing fish from the vegetation so as to permit an angler to more easily take the fish, *except as authorized by law or by the commissioner's order.*

Approved March 28, 1969.

CHAPTER 97—S. F. No. 710

An act relating to approval of the attorney general and the commissioner of taxation of tax orders abating, reducing, or refunding of taxes and penalties; amending Minnesota Statutes 1967, Sections 270.07, Subdivision 1; 270.10, Subdivision 1; 287.28; 290.53, Subdivision 6; 290.92, Subdivision 15; 297.35, Subdivisions 5 and 6; 297A.39, Subdivision 6.

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

Section 1. Minnesota Statutes 1967, Section 270.07, Subdivision 1, is amended to read:

270.07 **Taxation; reductions; approval.** Subdivision 1. The commissioner of taxation shall prescribe the form of all blanks and books required under this chapter. He shall hear and determine all matters of grievance relating to taxation. Except as otherwise provided by law, he shall have power to grant such reduction or abatement of assessed valuations or taxes and of any costs, penalties or interest thereon as he may deem just and equitable, and to order the refundment, in whole or in part, of any taxes, costs, penalties or interest thereon which have been erroneously or unjustly paid. Application therefor shall be submitted with a statement of facts in the case and the favorable recommendation of the county board or of the board of abatement of any city where any such board exists, and the county auditor of the county wherein such tax was levied or paid. In the case of gross earnings taxes the application may be made directly to the commissioner without the favorable action of the county board and county auditor, and the commissioner shall direct that any gross

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earnings taxes which may have been erroneously or unjustly paid shall be applied against unpaid taxes due from the applicant for such refundment. No reduction, abatement, or refundment of any special assessments made or levied by any municipality for local improvements shall be made unless it is also approved by the board of review or similar taxing authority of such municipality. The commissioner may refer any question that may arise in reference to the true construction of this chapter to the attorney general, and his decision thereon shall be in force and effect until annulled by the judgment of a court of competent jurisdiction. The commissioner shall forward to the county auditor a copy of the order by him made in all cases in which the approval of the county board is required. The commissioner may by written order abate, reduce, or refund any penalty imposed by any law relating to taxation, if in his opinion the enforcement of such a penalty would be unjust and inequitable. Such order shall, in the case of real and personal property taxes, be made only on application and approval as provided in this section; in the case of all other taxes, such order shall be made on application of the taxpayer to the commissioner and, *if the order is for an abatement, reduction or refund of over \$500, it shall be valid only if approved in writing by the attorney general.*

Sec. 2. Minnesota Statutes 1967, Section 270.10, Subdivision 1, is amended to read:

270.10 Orders, decisions, reports. Subdivision 1. **In writing; approval by attorney general.** All orders and decisions of the commissioner of taxation, or any of his subordinates, respecting any tax, assessment, or other obligation, shall be in writing, filed in the offices of the department. No order or decision increasing or decreasing any tax, assessment, or other obligation by a sum exceeding ~~\$100~~ \$300 on real or personal property, or the assessed valuation thereof, or other obligation relating thereto, the result of which is to increase or decrease the total amount payable including penalties and interest, by a sum exceeding ~~\$300~~ \$500, and no order or decision increasing or decreasing any other tax by a sum exceeding ~~\$100~~ \$300 exclusive of penalties and interest, shall be made without the written approval of the commissioner or his deputy in each case. Written notice of every order granting a reduction, abatement, or refundment exceeding ~~\$100~~ \$500 of any tax ~~on real or personal property or the assessed valuation thereof, or other obligation relating thereto, the result of which is to decrease the total amount payable including penalties and interest by a sum exceeding \$300,~~ and of every order ~~reducing, abating or refunding any other tax by a sum exceeding \$100~~ exclusive of penalties and interest, shall be given within five days to the attorney general. The attorney general shall forthwith examine such

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order, and if he deems the same proper and legal he shall approve the same in writing, and may waive the right of appeal therefrom in behalf of the state; otherwise he shall take an appeal from the order in behalf of the state as herein provided; but written approval of the commissioner or his deputy and written notice to the attorney general, shall not be required with respect to the following orders: (1) orders reducing assessed valuation of property by reason of its classification as a homestead; (2) orders involving property of the Department of Rural Credits; (3) orders not involving refunds which have the effect only of correcting income and franchise tax assessments to conform to the amounts shown on final returns filed as provided by section 290.42, clause (5); (4) original orders for the refundment of gasoline and special fuel taxes.

Sec. 3. Minnesota Statutes 1967, Section 287.28, is amended to read:

287.28 Refundments or redemption. The commissioner of taxation may order the refundment in whole or in part of any tax which has been erroneously or unjustly paid and may allow for or redeem such of the stamps, issued under the authority of sections 287.21 to 287.36 as may have been spoiled, destroyed, or rendered useless or unfit for the purpose intended or for which the owner may have no use or which through mistake may have been improperly or unnecessarily used. Such order shall be made only upon written application of the taxpayer and shall, *if the refundment exceeds \$500*, be valid only if approved by the attorney general. Refunds therefor shall be paid out of the general revenue fund of the state and moneys therefor are hereby annually appropriated from the general revenue fund for such purpose.

Sec. 4. Minnesota Statutes 1967, Section 290.53, Subdivision 6, is amended to read:

Subd. 6. Abatement. The commissioner shall have power to abate penalties when in his opinion their enforcement would be unjust and inequitable. The exercise of this power shall be subject to the approval of the attorney general *if the abatement exceeds \$500*.

Sec. 5. Minnesota Statutes 1967, Section 290.92, Subdivision 15, is amended to read:

Subd. 15. Penalties. (1) If any tax required to be deducted and withheld under subdivision 2 or subdivision 3, or any portion thereof, is not paid to or deposited with the commissioner within the time specified in subdivision 6 for the payment thereof, there shall be added thereto a penalty equal to five percent of the amount so re-

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maining unpaid. Such penalty shall be collected as part of said tax, and the amount of said tax not timely paid, together with said penalty, shall bear interest at the rate of four percent per annum from the time such tax should have been paid or deposited until paid. Where ~~an~~ extension of time for payment has been granted under the provisions of subdivision 6, interest shall be paid at the rate of four percent per annum from the date when such payment or deposit should have been made if no extension had been granted, until such tax is paid. If payment is not made at the expiration of the extended period the penalties provided in this subdivision shall apply.

(2) In the case of any failure to withhold a tax on wages, make and file quarterly returns or make payments to or deposits with the commissioner of amounts withheld, as required by this section, within the time prescribed by law, unless it is shown that such failure is not due to wilful neglect, there shall be added to the tax in lieu of the five percent penalty provided in paragraph (1) a penalty equal to 25 percent of the amount of tax that should have been properly withheld and paid over to or deposited with the commissioner. The amount so added to the tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

(3) If any employer required to withhold a tax on wages, make deposits, make and file quarterly returns and make payments to the commissioner of amounts withheld, as required by sections 290.92 to 290.97, wilfully fails to withhold such a tax or make such deposits; files a false or fraudulent return, wilfully fails to make such a payment or deposit, or wilfully attempts in any manner to evade or defeat any such tax or the payment or deposit thereof, there shall also be imposed on such employer as a penalty an amount equal to 50 percent of the amount of tax (less any amount paid or deposited by such employer on the basis of such false or fraudulent return or deposit) that should have been properly withheld and paid over or deposited with the commissioner. The penalty imposed by this paragraph shall be collected as a part of the tax, and shall be in addition to any other penalties civil and criminal, prescribed by this subdivision.

(4) If any person required under the provisions of subdivision 7 to furnish a statement to an employee and a duplicate statement to the commissioner, wilfully furnishes a false or fraudulent statement to an employee or a false or fraudulent duplicate statement to the commissioner, or wilfully fails to furnish a statement in the manner, at the time, and showing the information required by the

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provisions of subdivision 7, or regulations prescribed by the commissioner thereunder, there shall be imposed on such a person a penalty of \$10 for each such act or failure to act. The penalty imposed by this paragraph shall become due and payable within ten days after the mailing of a written demand therefor, and may be collected in the manner prescribed in subdivision 6(8).

(5) In addition to the penalties hereinbefore prescribed, any person required to withhold a tax on wages, make and file quarterly returns and make payments or deposits to the commissioner of amounts withheld, as required by this section, who wilfully fails to withhold such a tax or truthfully make and file such a quarterly return or make such a payment or deposit, shall be guilty of a gross misdemeanor.

(6) In lieu of any other penalty provided by law (except the penalty provided by paragraph (4)), any person required under the provisions of subdivision 7 to furnish a statement to an employee and a duplicate statement to the commissioner, who wilfully furnishes a false or fraudulent statement to an employee or a false or fraudulent duplicate statement to the commissioner, or who wilfully fails to furnish a statement in the manner, at the time, and showing the information required by the provisions of subdivision 7, or regulations prescribed by the commissioner thereunder, shall be guilty of a gross misdemeanor.

(7) Any employee required to supply information to his employer under the provisions of subdivision 5, who wilfully fails to supply information thereunder which would require an increase in the tax to be deducted and withheld under subdivision 2 or subdivision 3, shall be guilty of a misdemeanor.

(8) The term "person," as used in this section, includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(9) All payments received shall be credited first to penalties, next to interest, and then to the tax due.

(10) The commissioner shall have power to abate any civil penalties prescribed in this subdivision when in his opinion their enforcement would be unjust and inequitable. The exercise of this power shall be subject to the approval of the attorney general *if the abatement exceeds \$500.*

Sec. 6. Minnesota Statutes 1967, Section 297.35, Subdivision 5, is amended to read:

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Subd. 5. All taxes shall be due and payable not later than the twentieth day of the month following the calendar month in which they were incurred, and thereafter shall bear interest at the rate of one percent per month.

Where, under the provisions of subdivisions 2 and 3 of this section, the amount of tax due for a given period is assessed without allocating it to any particular month or months, the interest shall commence to run from the date of such assessment.

The commissioner shall have power to reduce or abate interest when in his opinion the facts warrant such reduction or abatement. The exercise of this power shall be subject to the approval of the attorney general *if the reduction or abatement exceeds \$500.*

Sec. 7. Minnesota Statutes 1967, Section 297.35, Subdivision 6, is amended to read:

Subd. 6. The commissioner in issuing his final assessment pursuant to subdivision 3 shall add to the amount of tax found due and unpaid a penalty of ten percent thereof, except that, if he finds that the taxpayer has made a false and fraudulent return with intent to evade the tax imposed by sections 297.31 to 297.39, the penalty shall be 25 percent of the entire tax as shown by the return as corrected. The commissioner in assessing a tax on the basis of a return made pursuant to subdivision 4 shall add to the amount of tax found due and unpaid a penalty of 25 percent thereof.

The commissioner shall have power to abate penalties, when in his opinion their enforcement would be unjust and inequitable. The exercise of this power shall be subject to the approval of the attorney general *if the abatement exceeds \$500.*

Sec. 8. Minnesota Statutes 1967, Section 297A.39, Subdivision 6, is amended to read:

Subd. 6. The commissioner shall have power to abate penalties when in his opinion their enforcement would be unjust and inequitable. The exercise of this power shall be subject to the approval of the attorney general *if the abatement exceeds \$500.*

Approved March 28, 1969.

CHAPTER 98—H. F. No. 970

[Not Coded]

An act relating to the city of Winona and the port authority of Winona; amending Laws 1967, Chapter 541.

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