

provisions of this section as the same relates to the duties, responsibilities and requirements of persons, copartnerships or corporations engaged in the business, either exclusively or in addition to other occupations, of selling motor vehicles or mobile homes.

Approved May 21, 1971.

CHAPTER 445—H.F.No.2721

An act relating to taxes on and measured by net income; single returns for certain married taxpayers; amending Minnesota Statutes 1969, Sections 290.38 and 290.39.

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

Section 1. Minnesota Statutes 1969, Section 290.38, is amended to read:

290.38 TAXATION; INCOME TAX; SINGLE RETURNS OF MARRIED TAXPAYERS. A husband and wife may make a single return jointly even though one of the spouses has neither gross income nor deductions. If a joint return is made the tax shall be computed on the aggregate income and the liability with respect to the tax shall be joint and several. If both husband and wife have gross income they may elect to either file a single return jointly or may file separate returns pursuant to this section or as provided in section 290.39, subdivision 2. This election to file a joint or separate returns may be changed within the period provided for the assessment of additional taxes on said return or returns. This election shall be applicable only for taxable years beginning after December 31, 1957.

No joint return shall be made if the husband and wife have different taxable years; except that if such taxable years begin on the same day and end on different days because of the death of either or of both, then the joint return may be made with respect to the taxable year of each. The above exception shall not apply if the surviving spouse remarries before the close of his taxable year or if the taxable year of either spouse is a fractional part of a year under section 290.32.

In the case of the death of one spouse or both spouses the joint return with respect to the decedent may be made only by the executor or administrator of his estate; except that in the case of the

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death of one spouse the joint return may be made by the surviving spouse with respect to both himself and the decedent if (a) no return for the taxable year has been made by the decedent, (b) no executor or administrator has been appointed, and (c) no executor or administrator is appointed before the last day prescribed by law for filing the return of the surviving spouse. If an executor or administrator of the estate of the decedent is appointed after the joint return has been filed by the surviving spouse, the executor or administrator may disaffirm such joint return by filing, within one year after the last day prescribed by law for filing the return of the surviving spouse, a separate return for the taxable year of the decedent with respect to which the joint return was made, in which case the return made by the survivor shall constitute his separate return.

If husband and wife determine their federal income tax on a joint return but determine their Minnesota income taxes separately, they shall determine their Minnesota gross income separately as if their federal adjusted gross incomes had been determined separately.

Sec. 2. Minnesota Statutes 1969, Section 290.39, is amended to read:

290.39 RETURN; FORM AND FILING. Subdivision 1. Every return shall specifically set forth the items of gross income, deductions, credits against net income, credits against the tax, and any other data necessary for computing the amount of any item required for determining the amount of the net income tax liability. The return shall be in such form as the commissioner of taxation may prescribe. The filing of a return required under this section shall be deemed an assessment subject to revision of the tax shown due on the basis of such return.

Subd. 2. SINGLE FORM FOR SEPARATE RETURNS. Notwithstanding the provisions of section 290.61, a husband and wife may elect to file separate Minnesota income tax returns on a single form in which event:

(a) if the sum of the payments by either spouse, including withheld and estimated taxes, exceeds the amount of tax for which such spouse is separately liable, the excess may be applied by the commissioner to the credit of the other spouse if the sum of the payments by such other spouse, including withheld and estimated taxes, is less than the amount of the tax for which such other spouse is separately liable;

(b) if the sum of the payments made by both spouses with respect to the taxes for which they are separately liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of the excess may be made payable to both spouses or may be credited against any liability in respect of Minnesota income tax on the part of either spouse;

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(c) if the standard deduction provided for by section 290.09, subdivision 15, is not utilized, then the total of the Minnesota itemized deductions of a husband and wife may be taken by either or divided between them as they elect.

If either spouse is a nonresident, this subdivision shall not be applicable.

Sec. 3. The provisions of this act shall be applicable to taxable years beginning after December 31, 1970.

Approved May 21, 1971.

CHAPTER 446—H.F.No.2921

An act relating to sales and use tax; providing for the issuance of refunds in certain cases; amending Minnesota Statutes 1969, Section 297A.35, Subdivision 1.

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

Section 1. Minnesota Statutes 1969, Section 297A.35, Subdivision 1, is amended to read:

297A.35 TAXATION; SALES TAX; REFUNDS. Subdivision 1. ~~A person who has paid, voluntarily or otherwise, or from whom there has been collected (other than by the methods provided for in subdivisions 1 and 5 of section 297A.33), pursuant to the provisions of this chapter, paid to the commissioner an amount of tax for any period in excess of the amount legally due for that period, may file with the commissioner a claim for a refund of such excess. No such claim shall be entertained unless filed within two years after such tax was paid or collected, or within three years from the filing of the return, whichever period is the longer. The commissioner shall examine the claim and make and file written findings thereon denying or allowing the claim in whole or in part and shall mail a notice thereof by registered mail to such person at the address stated upon the return claim. Any allowance shall include interest on the excess determined at a rate of four percent per annum from the date such excess was paid or collected until the date it is refunded or credited. If such claim is allowed in whole or in part, the commissioner shall credit the amount of the allowance against any taxes under sections 297A.01 to 297A.44 due from the claimant and for the balance of said allowance, if any, the commissioner shall issue his~~

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