

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 34

(SENATE AUTHORS: REST)

DATE	D-PG	OFFICIAL STATUS
01/14/2013	61	Introduction and first reading
		Referred to Taxes
03/07/2013		See SF75

A bill for an act

relating to taxation; sales and use; modifying remittance schedule for certain vendors; amending Minnesota Statutes 2012, section 289A.20, subdivision 4; repealing Minnesota Statutes 2012, section 289A.60, subdivision 31.

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

Section 1. Minnesota Statutes 2012, section 289A.20, subdivision 4, is amended to read:

Subd. 4. **Sales and use tax.** (a) The taxes imposed by chapter 297A are due and payable to the commissioner monthly on or before the 20th day of the month following the month in which the taxable event occurred, or following another reporting period as the commissioner prescribes or as allowed under section 289A.18, subdivision 4, paragraph (f) or (g), except that:

(1) use taxes due on an annual use tax return as provided under section 289A.11, subdivision 1, are payable by April 15 following the close of the calendar year; and

(2) except as provided in paragraph (f), for a vendor having a liability of \$120,000 or more during a fiscal year ending June 30, 2009, and fiscal years thereafter, the taxes imposed by chapter 297A, except as provided in paragraph (b), are due and payable to the commissioner monthly in the following manner:

(i) On or before the 14th day of the month following the month in which the taxable event occurred, the vendor must remit to the commissioner 90 percent of the estimated liability for the month in which the taxable event occurred.

(ii) On or before the 20th day of the month in which the taxable event occurs, the vendor must remit to the commissioner a prepayment for the month in which the taxable event occurs equal to 67 percent of the liability for the previous month.

~~(iii) On or before the 20th day of the month following the month in which the taxable event occurred, the vendor must pay any additional amount of tax not previously remitted under either item (i) or (ii) or, if the payment made under item (i) or (ii) was greater than the vendor's liability for the month in which the taxable event occurred, the vendor may take a credit against the next month's liability in a manner prescribed by the commissioner.~~

~~(iv) Once the vendor first pays under either item (i) or (ii), the vendor is required to continue to make payments in the same manner, as long as the vendor continues having a liability of \$120,000 or more during the most recent fiscal year ending June 30.~~

~~(v) Notwithstanding items (i), (ii), and (iv), if a vendor fails to make the required payment in the first month that the vendor is required to make a payment under either item (i) or (ii), then the vendor is deemed to have elected to pay under item (ii) and must make subsequent monthly payments in the manner provided in item (ii).~~

~~(vi) For vendors making an accelerated payment under item (ii), for the first month that the vendor is required to make the accelerated payment, on the 20th of that month, the vendor will pay 100 percent of the liability for the previous month and a prepayment for the first month equal to 67 percent of the liability for the previous month.~~

~~(b) Notwithstanding paragraph (a), A vendor having a liability of \$120,000 or more during a fiscal year ending June 30 must remit the June liability for the next year in the following manner:~~

~~(1) Two business days before June 30 of the year, the vendor must remit 90 percent of the estimated June liability to the commissioner.~~

~~(2) On or before August 20 of the year, the vendor must pay any additional amount of tax not remitted in June.~~

~~(c) A vendor having a liability of:~~

~~(1) \$10,000 or more, but less than \$120,000 during a fiscal year ending June 30, 2009, and fiscal years thereafter, must remit by electronic means all liabilities on returns due for periods beginning in the subsequent calendar year on or before the 20th day of the month following the month in which the taxable event occurred, or on or before the 20th day of the month following the month in which the sale is reported under section 289A.18, subdivision 4; or~~

~~(2) \$120,000 or more, during a fiscal year ending June 30, 2009, and fiscal years thereafter, must remit by electronic means all liabilities in the manner provided in paragraph (a), clause (2), on returns due for periods beginning in the subsequent calendar year, except for 90 percent of the estimated June liability, which is due two business days before June 30. The remaining amount of the June liability is due on August 20.~~

(d) Notwithstanding paragraph (b) or (c), a person prohibited by the person's religious beliefs from paying electronically shall be allowed to remit the payment by mail. The filer must notify the commissioner of revenue of the intent to pay by mail before doing so on a form prescribed by the commissioner. No extra fee may be charged to a person making payment by mail under this paragraph. The payment must be postmarked at least two business days before the due date for making the payment in order to be considered paid on a timely basis.

~~(e) Whenever the liability is \$120,000 or more separately for: (1) the tax imposed under chapter 297A; (2) a fee that is to be reported on the same return as and paid with the chapter 297A taxes; or (3) any other tax that is to be reported on the same return as and paid with the chapter 297A taxes, then the payment of all the liabilities on the return must be accelerated as provided in this subdivision.~~

~~(f) At the start of the first calendar quarter at least 90 days after the cash flow account established in section 16A.152, subdivision 1, and the budget reserve account established in section 16A.152, subdivision 1a, reach the amounts listed in section 16A.152, subdivision 2, paragraph (a), the remittance of the accelerated payments required under paragraph (a), clause (2), must be suspended. The commissioner of management and budget shall notify the commissioner of revenue when the accounts have reached the required amounts. Beginning with the suspension of paragraph (a), clause (2), for a vendor with a liability of \$120,000 or more during a fiscal year ending June 30, 2009, and fiscal years thereafter, the taxes imposed by chapter 297A are due and payable to the commissioner on the 20th day of the month following the month in which the taxable event occurred. Payments of tax liabilities for taxable events occurring in June under paragraph (b) are not changed.~~

EFFECTIVE DATE. This section is effective for taxes due and payable after July 1, 2013.

Sec. 2. **REPEALER.**

Minnesota Statutes 2012, section 289A.60, subdivision 31, is repealed.

EFFECTIVE DATE. This section is effective for taxes due and payable after July 1, 2013.

289A.60 CIVIL PENALTIES.

Subd. 31. **Accelerated payment of monthly sales tax liability; penalty for underpayment.**
For payments made after September 1, 2010, if a vendor is required by section 289A.20, subdivision 4, paragraph (a), clause (2), item (i) or (ii), to make accelerated payments, then the penalty for underpayment is as follows:

(a) For those vendors that must remit a 90 percent payment by the 14th day of the month following the month in which the taxable event occurred, as an estimation of the monthly sales tax liability, including the liability of any fee or other tax that is to be reported on the same return as and paid with the chapter 297A taxes, for the month in which the taxable event occurred, the vendor shall pay a penalty equal to ten percent of the amount of liability that was required to be paid by the 14th day of the month, less the amount remitted by the 14th day of the month. The penalty must not be imposed, however, if the amount remitted by the 14th day of the month equals the least of: (1) 90 percent of the liability for the month preceding the month in which the taxable event occurred; (2) 90 percent of the liability for the same month in the previous calendar year as the month in which the taxable event occurred; or (3) 90 percent of the average monthly liability for the previous calendar year.

(b) For those vendors that, on or before the 20th day of the month in which the taxable event occurs, must remit to the commissioner a prepayment of the sales tax liability for the month in which the taxable event occurs equal to 67 percent of the liability for the previous month, including the liability of any fee or other tax that is to be reported on the same return as and paid with the chapter 297A taxes, for the month in which the taxable event occurred, the vendor shall pay a penalty equal to ten percent of the amount of liability that was required to be paid by the 20th of the month, less the amount remitted by the 20th of the month. The penalty must not be imposed, however, if the amount remitted by the 20th of the month equals the lesser of: (1) 67 percent of the liability of the same month in the previous calendar year as the month in which the taxable event occurred; or (2) an amount equal to the liability for the month in which the taxable event occurred.