

CHAPTER 8030
DEPARTMENT OF REVENUE
INCOME AND FRANCHISE TAXES
FIDUCIARIES

8030.0100 DUTIES OF FIDUCIARIES.

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As soon as the commissioner receives notice that a person is acting in a fiduciary capacity, such fiduciary must, except as otherwise specifically provided, assume the powers, rights, duties, and privileges of the taxpayer with respect to income tax imposed by Minnesota Statutes, section 290.03, clauses (3) and (4). If the person is acting as a fiduciary for a transferee or other person subject to the liability specified in Minnesota Statutes, section 290.29, such fiduciary is required to assume the powers, rights, duties, and privileges of the transferee or other person under that section. The amount of the tax or liability is ordinarily not collectible from the personal estate of the fiduciary but is collectible from the estate of the taxpayer or from the estate of the transferee or other person subject to the liability specified in Minnesota Statutes, section 290.29. The notice to the commissioner provided for in Minnesota Statutes, section 290.30 shall be written notice signed by the fiduciary and filed with the commissioner. The notice must state the name and address of the person for whom the fiduciary is acting, and the nature of the liability of such person; that is, whether it is a liability for tax, and, if so, the year or years involved, or a liability at law or in equity of a transferee of property of a taxpayer, or a liability of a fiduciary in respect of the payment of any tax from the estate of the taxpayer. Any such written notice which has been filed with the commissioner shall be considered as sufficient notice to the commissioner within the meaning of Minnesota Statutes, section 290.30. Unless there is already on file with the commissioner satisfactory evidence of the authority of the fiduciary to act for such person in a fiduciary capacity, such evidence must be filed with and made a part of the notice. If the fiduciary capacity exists by order of court, a certified copy of the order may be regarded as such satisfactory evidence. When the fiduciary capacity has terminated, the fiduciary in order to be relieved of any further duty or liability as such, must file with the commissioner written notice that the fiduciary capacity has terminated, accompanied by satisfactory evidence of the termination of the fiduciary capacity. The notice of termination should state the name and address of the person, if any, who has been substituted as fiduciary.

If the notice of the fiduciary capacity described in the preceding paragraph is not filed with the commissioner prior to the sending of notice of a deficiency by registered mail to the last known address of the taxpayer, or the last known address of the transferee or other person subject to liability (see Minnesota Statutes, section 290.29), no notice of the deficiency will be sent to the fiduciary. In such a case the sending of the notice to the last known address of the taxpayer, transferee, or other person, as the case may be, will be sufficient compliance with the requirements of the act, even though such taxpayer, transferee, or other person is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence. This constitutes formal assessment of the tax and recourse from such order is to take an appeal directly to the Tax Court of Appeals in accordance with the provisions of Minnesota Statutes, section 271.06. The term "fiduciary" is defined to mean a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

This part, relating to the provisions of Minnesota Statutes, section 290.30, shall not be taken to abridge in any way the powers and duties of fiduciaries provided for in other sections of the act.

Statutory Authority: *MS s 290.52*

History: *17 SR 1279*