

# CHAPTER 8093

## DEPARTMENT OF REVENUE

### INCOME AND FRANCHISE TAXES

#### ESTIMATED TAX

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#### **8093.0100 DECLARATION OF ESTIMATED INCOME TAX BY INDIVIDUALS.**

**Subpart 1. General.** A declaration of estimated income tax by an individual is not required if the estimated tax (as defined in Minnesota Statutes, section 290.93, subdivision 3) can reasonably be expected to be less than \$20.

**Subp. 2. Wages not subject to withholding.** Any taxpayer whose only source of income is wages upon which a tax has been deducted and withheld under Minnesota Statutes, section 290.92, subdivision 2 or 3 is not required to file a declaration of estimated tax. However, if a taxpayer's only source of income is wages which are not subject to withholding, under the provisions of Minnesota Statutes, section 290.92, such a taxpayer must file a declaration of estimated tax.

**Example.** A taxpayer, a legal resident of the state of Minnesota, and making a home in Stillwater, Minnesota, who is employed in the state of Wisconsin.

**Subp. 3. Amount of wages for requirement of declaration.** A declaration is required from a single individual whose gross income is in excess of \$750 and from a married couple where their combined gross income is in excess of \$1,500 if such gross income includes more than \$200 from sources other than wages subject to withholding under Minnesota Statutes, section 290.92.

**Subp. 4. Child's income.** A parent in estimating gross income for the taxable year should not take into account the income of the parent's minor child. Such income is not includible in the gross income of the parent. See Minnesota Statutes, section 290.076.

**Statutory Authority:** *MS s 290.52*

**History:** *17 SR 1279*

**NOTE:** Minnesota Statutes, section 290.076, was repealed by Laws of Minnesota 1981, chapter 178, section 119.

#### **8093.0200 JOINT DECLARATION BY HUSBAND AND WIFE.**

**Subpart 1. In general.** A husband and wife may make a joint declaration of estimated tax even though they are not living together. However, a joint declaration may not be made if they are separated under a decree of divorce or separate maintenance. A joint declaration may not be made if the taxpayer's spouse is not a Minnesota resident, or if the spouse has a different taxable year. If the combined gross income of the married couple meets the requirements of Minnesota Statutes, section 290.93, subdivision 1, either a joint declaration must be made or a separate declaration must be made by each. If a joint declaration is made by husband and wife, the liability with respect to the estimated tax shall be joint and several.

**Subp. 2. Application to separate returns.** The fact that a joint declaration of estimated tax is made by them will not preclude a husband and wife from filing separate returns. In case a joint declaration is made but a joint return is not made for the same taxable year, the payments made on account of the estimated tax for such year may be treated as payments on account of the tax liability of either spouse for the taxable year or may be divided between them in such manner as they may agree. In the event the husband and wife fail to agree to a division, such payments shall be allocated between them in accordance with the following rule. The

portion of such payments to be allocated to a spouse shall be that portion of the aggregate of all such payments as the amount of tax shown on the separate return of the taxpayer bears to the sum of the taxes shown on the separate returns of the taxpayer and the spouse.

**Subp. 3. Death of spouse.** A joint declaration may not be made after the death of either spouse. However, if it is reasonable for a surviving spouse to assume that there will be filed a joint return for the surviving spouse and the deceased spouse for the taxable year and the last taxable year of the deceased spouse, the surviving spouse may, in making a separate declaration for the taxable year which includes the period comprising such last taxable year of the deceased spouse, estimate taxable income on an aggregate basis and compute estimated tax in the same manner as though a joint declaration had been filed.

If a joint declaration is made by husband and wife and thereafter one spouse dies, no further payments of estimated tax on account of such joint declaration are required from the estate of the decedent. The surviving spouse, however, shall be liable for the payment of any subsequent installments of the joint estimated tax unless an amended declaration setting forth the separate tax for the taxable year is made by such spouse. Such separate estimated tax shall be paid at the times and in the amounts determined under the rules and prescribed in Minnesota Statutes, section 290.93, subdivision 6. For the purpose of such amended declaration by the surviving spouse, and allocating the payments made pursuant to the joint declaration between the surviving spouse and the legal representative of the decedent in the event a joint return is not filed, the payments made pursuant to the joint declaration may be divided between the decedent and the surviving spouse in such proportion as the surviving spouse and the legal representative of the decedent may agree. In the event the surviving spouse and the legal representative of the decedent fail to agree to a division, such payments shall be allocated in accordance with the following rule. The portion of such payments to be allocated to the surviving spouse shall be that portion of the aggregate amount of such payments as the amount of tax shown on the separate return of the surviving spouse bears to the sum of the taxes shown on the separate returns of the surviving spouse and of the decedent, and the balance of such payments shall be allocated to the decedent.

**Subp. 4.** [Repealed, L 1987 c 268 art 1 s 128]

**Statutory Authority:** *MS s 290.52*

**History:** 17 SR 1279

### **8093.0300 CONTENTS OF DECLARATION OF ESTIMATED TAX.**

The declaration of estimated tax by an individual shall be made on form MW-1040ES. For the purpose of making the declaration, the amount of gross income which the taxpayer can reasonably be expected to receive or accrue, depending upon the method of accounting upon which taxable income is computed, and the amount of the estimated allowable deductions and credits to be taken into account in computing the amount of estimated tax shall be determined upon the basis of the facts and circumstances existing as at the time prescribed for the filing of the declaration as well as those reasonably to be anticipated for the taxable year. If, therefore, the taxpayer is employed at the date prescribed for filing a declaration at a given wage or salary, it should, in the absence of circumstances indicating the contrary, be presumed by the taxpayer for the purpose of the declaration that such employment will continue to the end of the taxable year at the wage or salary received by the taxpayer as of such date. In the case of income other than wages and salary the regularity in the payment of income, such as dividends, interest, rents, royalties, and income arising from estates and trusts is a factor to be taken into consideration. Thus, if the taxpayer owns shares of stock in a corporation and dividends have been paid regularly for several years upon such stock, the taxpayer in the preparation of a declaration should, in the absence of information indicating a change in the dividend policy, include the prospective dividends from the corporation for the taxable year as well as those actually received in such year prior to the filing of the declaration. In the case of a taxpayer engaged in business on his or her own account, there shall be made an estimate of gross income and deductions and credits in the light of the best available information affecting the trade, business, or profession.

**Statutory Authority:** *MS s 290.52*

**History:** 17 SR 1279

**8093.0400 FISCAL YEAR OR SHORT TAXABLE YEAR.**

**Subpart 1. Fiscal year; individuals other than farmers.** In the case of an individual on the fiscal year basis, the declaration must be filed on or before the 15th day of the fourth month of the taxable year. If, however, the requirements of Minnesota Statutes, section 290.93, subdivision 1, are first met after the first day of the fourth month and before the second day of the sixth month, the declaration must be filed on or before the 15th day of the sixth month of the taxable year. If such requirements are first met after the first day of the sixth month, and before the second day of the ninth month, the declaration must be filed on or before the 15th day of the ninth month of the taxable year. If such requirements are first met after the first day of the ninth month, the declaration must be filed on or before the 15th day of the first month of the succeeding fiscal year. Thus, if an individual taxpayer has a fiscal year ending on June 30, 1963, the declaration must be filed on or before October 15, 1962, if the requirements of Minnesota Statutes, section 290.93, subdivision 1 are met on or before October 1, 1962. If, however, such requirements are not met until after October 1, 1962, and before December 2, 1962, the declaration need not be filed until December 15, 1962.

**Subp. 2. Fiscal year; farmers.** An individual on the fiscal year basis whose estimated gross income from farming is at least two-thirds of total estimated gross income from all sources for such taxable year may file the declaration on or before the 15th day of the month immediately following the close of the taxable year.

**Subp. 3. Short taxable years of individuals; requirement of declaration.** No declaration may be made for a period of more than 12 months. For purposes of Minnesota Statutes, section 290.93, subdivision 7, a taxable year of 52 or 53 weeks, in the case of a taxpayer who computes taxable income in accordance with the election permitted by Minnesota Statutes, section 290.40, clause (2), shall be deemed a period of 12 months. For the purpose of determining the effective date for the applicability of any provision of Minnesota Statutes, section 290.93 which is expressed in terms of taxable years beginning or ending with reference to the first or last day of a specified calendar month, including the time for filing returns and other documents, paying tax, or performing other acts, a 52- or 53-week taxable year is deemed to begin on the first day of the calendar month beginning nearest to the first day of the 52- or 53-week taxable year, and is deemed to end or close on the last day of the calendar month ending nearest to the last day of the 52- or 53-week taxable year, as the case may be. A separate declaration for a fractional part of a year is required where, for example, there is a change, with the approval of the commissioner, in the basis of computing taxable income from one taxable year to another taxable year. The periods to be covered by such separate declarations in the several cases are those set forth in Minnesota Statutes, section 290.40. No declaration is required if the short taxable year is:

A. a period of less than four months;

B. a period of at least four months but less than six months and the requirements of Minnesota Statutes, section 290.93, subdivision 1 are first met after the first day of the fourth month;

C. a period of at least six months but less than nine months and the requirements of Minnesota Statutes, section 290.93, subdivision 1 are first met after the first day of the sixth month; or

D. a period of nine months or more and the requirements of Minnesota Statutes, section 290.93, subdivision 1 are first met after the first day of the ninth month.

In the case of a decedent, no declaration need be filed subsequent to the date of death. As to the requirement for amended declaration, if death of one spouse occurs after filing a joint declaration, see part 8093.0200.

**Subp. 4. Short taxable year; income placed on annual basis.** For the purpose of determining whether the anticipated income for a short taxable year, resulting from a change of annual accounting period, necessitates the filing of a declaration, such income shall be placed on an annual basis in the manner prescribed in Minnesota Statutes, section 290.32. Thus, for example, a taxpayer who changes from a calendar year basis to a fiscal year basis beginning July 1, 1962, will have a short taxable year beginning January 1, 1962, and ending June 30, 1962. If the anticipated gross income for such short taxable year consists solely of wages in the amount of \$500, the total gross income and the gross income from such wages

for the purpose of determining whether a declaration is required is \$1,000, the amount obtained by placing anticipated income of \$500 upon an annual basis. Hence, assuming such taxpayer is single, the taxpayer is required to file a declaration of estimated tax for the short taxable year since the anticipated gross income from wages when placed upon an annual basis is in excess of \$750.

**Subp. 5. Short taxable year; individuals other than farmers.** In the case of short taxable years the declaration shall be filed on or before the 15th day of the fourth month of such taxable year if the requirements of Minnesota Statutes, section 290.93, subdivision 1 are met on or before the first day of the fourth month of such year. If such requirements are first met after the first day of the fourth month but before the second day of the sixth month, the declaration must be filed on or before the 15th day of the sixth month. If such requirements are first met after the first day of the sixth month but before the second day of the ninth month, the declaration must be filed on or before the 15th day of the ninth month. If, however, the period for which the declaration is filed is one of four months, or one of six months and the requirements of Minnesota Statutes, section 290.93, subdivision 1 are not met until after the first day of the fourth month, or one of nine months and such requirements are not met until after the first day of the sixth month, the declaration may be filed on or before the 15th day of the succeeding taxable year.

**Subp. 6. Short taxable year; farmers.** In the case of an individual whose estimated gross income from farming for a short taxable year is at least two-thirds of the total estimated gross income from all sources for such taxable year, the declaration may be filed on or before the 15th day of the month immediately following the close of such taxable year.

**Statutory Authority:** *MS s 290.52*

**History:** *17 SR 1279*

## **8093.0500 EXCEPTIONS TO IMPOSITION OF ADDITION TO TAX IN CASE OF INDIVIDUALS.**

**Subpart 1. In general.** The addition to the tax under Minnesota Statutes, section 290.93, subdivision 10 will not be imposed for any underpayment of any installment of estimated tax if, on or before the date prescribed for payment of the installment, the total amount of all payments of estimated tax made equals or exceeds the least of the following amounts:

A. the amount which would have been required to be paid on or before the date prescribed for payment if the estimated tax were the tax shown on the return for the preceding taxable year, provided that the preceding taxable year was a year of 12 months and a return showing a liability for tax was filed for such year;

B. the amount which would have been required to be paid on or before the date prescribed for payment if the estimated tax were an amount equal to a tax determined on the basis of the tax rates and the taxpayer's status with respect to personal credits under Minnesota Statutes, section 290.06, subdivision 3 for the taxable year, but otherwise on the basis of the facts shown on the return for the preceding taxable year and the law applicable to such year, in the case of an individual required to file a return for such preceding taxable year;

C. the amount which would have been required to be paid on or before the date prescribed for payment if the estimated tax were an amount equal to 70 percent (66-2/3 percent in the case of individuals referred to in Minnesota Statutes, section 290.93, subdivision 5, clause (2), relating to income from farming) of the tax computed by placing on an annual basis the taxable income for the calendar months in the taxable year preceding such date. The taxable income shall be placed on an annual basis by:

(1) multiplying by 12 (or the number of months in the taxable year if less than 12) the taxable income (computed without the standard deduction and without the deductions for personal exemptions), or the adjusted gross income if the standard deduction is to be used, for such calendar months;

(2) dividing the resulting amount by the number of such calendar months; and

(3) deducting from such amount the standard deduction, if applicable, and the deductions for personal exemptions (such personal exemptions being determined as of the date prescribed for payment); or

D. an amount equal to 90 percent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual taxable income for the calendar months in the taxable year preceding the date prescribed for payment.

In the case of a taxpayer whose taxable year consists of 52 or 53 weeks in accordance with Minnesota Statutes, section 290.40, clause (2), the rules prescribed by part 8093.0400, subpart 4 shall be applicable in determining for purposes of item A, whether a taxable year was a year of 12 months and, for purposes of items C and D, the number of calendar months in a taxable year preceding the date prescribed for payment of an installment of estimated tax.

**Subp. 2. Definitions.** As used in this part and part 8093.0600:

A. the term "tax" means the tax imposed by Minnesota Statutes, chapter 290, reduced by the credits against tax allowed by such chapter, other than the credit against tax provided by Minnesota Statutes, section 290.92, subdivision 12 (relating to tax withheld on wages), and without reduction for any payments of estimated tax.

B. the term "return for the preceding taxable year" means the income tax return for such year which is required by Minnesota Statutes, section 290.37.

**Subp. 3. Determination of taxable income for installment periods; in general.** In determining the applicability of the exceptions described in subpart 1, items C and D, there must be an accurate determination of the amount of income and deductions for the calendar months in the taxable year preceding the installment date as of which the determination is made, that is, for the period terminating with the last day of the third, fifth, or eighth month of the taxable year. For example, a taxpayer distributes year-end bonuses to employees but does not determine the amount of the bonuses until the last month of the taxable year. The taxpayer may not deduct any portion of such year-end bonuses in determining taxable income for any installment period other than the final installment period for the taxable year, since deductions are not allowable until paid or accrued, depending on the taxpayer's method of accounting.

If a taxpayer on an accrual method of accounting wishes to use either of the exceptions described in subpart 1, items C and D, the taxpayer must establish the amount of income and deductions for each applicable period. If the taxpayer's income is derived from a business in which the production, purchase, or sale of merchandise is an income-producing factor requiring the use of inventories, the taxpayer will be unable to determine accurately the amount of taxable income for the applicable period unless the taxpayer can establish, with reasonable accuracy, the cost of goods sold for the applicable installment period. The cost of goods sold for such period shall be considered, unless a more exact determination is available, as such part of the cost of goods sold during the entire taxable year as the gross receipts from sales for such installment period is of gross receipts from sales for the entire taxable year.

**Subp. 4. Determination of taxable income for installment period; partnerships.** The provisions of this subpart shall apply in determining the applicability of the exceptions described in subpart 1, items C and D, to an underpayment of estimated tax by a taxpayer who is a member of a partnership. There shall be taken into account:

A. the partner's distributive share of partnership items set forth under Minnesota Statutes, section 290.31, subdivision 2;

B. the amount of any guaranteed payments under Minnesota Statutes, section 290.31, subdivision 7, clause (4); and

C. gains or losses on partnership distributions which are treated as gains or losses on sales of property.

In determining a partner's taxable income for the months in the taxable year which precede the month in which the installment date falls, the partner shall take into account items set forth in Minnesota Statutes, section 290.31, subdivision 2 for any partnership taxable year ending with or within the taxable year to the extent that such items are attributable to months in such partnership taxable year which precede the month in which the installment date falls. In addition, a partner shall include in taxable income for the months in the taxable year which precede the month in which the installment date falls guaranteed payments from the partnership to the extent that such guaranteed payments are includible in taxable income for such months. See Minnesota Statutes, section 290.31, subdivisions 6, clause (1) and 7, clause (4).

**Subp. 5. Determination of taxable income for installment periods; beneficiaries of estates and trusts.** In determining the applicability of the exceptions described in subpart 1, items C and D, as of any installment date, the beneficiary of an estate or trust must take into account the beneficiary's distributable share of income from the estate or trust for the applicable period (whether or not actually distributed) if the trust or estate is required to distribute income to the beneficiary currently. If the estate or trust is not required to distribute income currently, only the amounts actually distributed to the beneficiary during such period must be taken into account. If the taxable year of the beneficiary and the taxable year of the estate or trust are different, there shall be taken into account the beneficiary's distributable share of income, or the amount actually distributed to the beneficiary as the case may be, during the months in the taxable year of the estate or trust ending within the taxable year of the beneficiary which precede the month in which the installment date falls.

**Subp. 6. Special rule; joint return to separate return.** In determining the applicability of the exceptions described in subpart 1, items A and B, to an underpayment of estimated tax, a taxpayer filing a separate return, who participated in the filing of a joint return for the preceding taxable year, shall be subject to the following rule. The tax shown on the return for the preceding taxable year, or based on the tax rates and personal credits for the taxable year but otherwise determined on the basis of the facts shown on the return for the preceding taxable year, and the law applicable to such year, shall be that portion of the tax which bears the same ratio to the whole of the tax as the amount of tax for which the taxpayer would have been liable bears to the sum of the taxes for which the taxpayer and the taxpayer's spouse would have been liable had each spouse filed a separate return for the preceding taxable year.

**Subp. 7. Special rule; separate return to joint return.** In the case of a taxpayer who participates in the filing of a joint return for the taxable year with respect to which there is an underpayment of estimated tax and who filed a separate return for the preceding taxable year:

A. the tax shown on the return for the preceding taxable year, for purposes of determining the applicability of the exception described in subpart 1, item A, shall be the sum of both the tax shown on the return of the taxpayer and tax shown on the return of the taxpayer's spouse for such preceding year; and

B. the facts shown on both the taxpayer's return and the return of a spouse for the preceding taxable year shall be taken into account for purposes of determining the applicability of the exception described in subpart 1, item B.

**Statutory Authority:** *MS s 290.52*

**History:** *17 SR 1279*

## **8093.0600 SHORT TAXABLE YEARS OF INDIVIDUALS.**

**Subpart 1. In general.** The provisions of Minnesota Statutes, section 290.93, subdivision 10, with certain modifications which are explained in subpart 2, are applicable in the case of a short taxable year for which a declaration is required to be filed. (See part 8093.0400 for requirement of declaration for short taxable year.)

**Subp. 2. Rules to apply Minnesota Statutes, section 290.93, subdivision 10, clause (4).** In any case in which the taxable year for which an underpayment of estimated tax exists is a short taxable year due to a change in annual accounting periods, in determining the tax shown on the return for the preceding taxable year (for the purposes of Minnesota Statutes, section 290.93, subdivision 10, clause (4), or based on the personal exemptions and rates for the current taxable year but otherwise on the basis of the facts shown on the return for the preceding taxable year, and the law applicable to such year (for purposes of Minnesota Statutes, section 290.92, subdivision 10, clause (4))), the tax will be reduced by multiplying it by the number of months in the short taxable year and dividing the resulting amount by 12.

If the taxable year for which an underpayment of estimated tax exists is a short taxable year due to a change in annual accounting periods, in annualizing the income for the months in the taxable year preceding an installment date for purposes of Minnesota Statutes, section 290.93, subdivision 10, clause (4), the personal exemptions allowed as deductions under Minnesota Statutes, section 290.06, subdivision 3, clauses (1), (2), and (3) shall be reduced to the same extent that they are reduced under Minnesota Statutes, section 290.06, subdivision 3, clause (6) in computing the tax for a short taxable year.

If "the preceding taxable year" referred to in Minnesota Statutes, section 290.93, subdivision 10, clause (4)(b) was a short taxable year, the tax computed on the basis of the facts shown on the return for such preceding year, for purposes of determining the applicability of the exception described in Minnesota Statutes, section 290.93, subdivision 10, clause (4), shall be the tax computed on the annual basis in the manner described in Minnesota Statutes, section 290.32. If the tax rates or the taxpayer's status with respect to personal exemptions for the taxable year with respect to which the underpayment occurs differ from such rates or status applicable to the preceding taxable year, the tax determined in accordance with the preceding sentence shall be recomputed to reflect the rates and status applicable to the year with respect to which the underpayment occurs.

**Statutory Authority:** *MS s 290.52*

### 8093.2000 CONTENTS OF DECLARATION OF ESTIMATED TAX.

Subpart 1. **In general.** The declaration of estimated tax by a corporation shall be made on form M-18, and by a bank on form M-20. For the purpose of making the declaration, the estimated tax should be based upon the amount of gross income which the taxpayer can reasonably be expected to receive or accrue as the case may be, depending upon the method of accounting upon the basis of which the taxable income is computed, and the amount of the estimated allowable deductions and credits to be taken into account. Such amounts of gross income, deductions, and credits should be determined upon the basis of facts and circumstances existing as at the time prescribed for the filing of the declaration as well as those reasonably to be anticipated for the taxable year.

Subp. 2. **Use of prescribed form.** Copies of forms M-18 and M-20 will so far as possible be furnished taxpayers. A taxpayer will not be excused from making a declaration, however, by the fact that no form has been furnished. Taxpayers not supplied with the proper form should make application therefor to the Department of Revenue in ample time to have their declarations prepared, verified, and filed with the department on or before the date prescribed for filing the declaration. If the prescribed form is not available a statement disclosing the estimated income tax after the exemption and the credits, if any, should be filed as a tentative declaration within the prescribed time, accompanied by the payment of the required installment. Such tentative declaration should be supplemented, without unnecessary delay, by a declaration made on the proper form and notice given at that time that a tentative declaration has been filed.

**Statutory Authority:** *MS s 290.52*

### 8093.2100 SHORT TAXABLE YEAR.

Subpart 1. **Requirement of declaration.** No declaration may be made for a period of more than 12 months. For purposes of this part a taxable year of 52 or 53 weeks, in the case of a corporation which computes its taxable income in accordance with the election permitted by Minnesota Statutes, section 290.40, shall be deemed a period of 12 months. A separate declaration is required where a corporation is required to submit an income tax return for a period of less than 12 months, but only if such short period begins after December 31, 1964.

Subp. 2. **Election of year consisting of 52 to 53 weeks.** Minnesota Statutes, section 290.40 provides in general that a taxpayer may elect to compute taxable income on the basis of a fiscal year which varies from 52 to 53 weeks, ends always on the same day of the week, and ends always on whatever date this same day of the week last occurs in a calendar month, or whatever date this same day of the week falls which is nearest to the last day of the calendar month.

For the purpose of determining the effective date for the applicability of any provision of Minnesota Statutes, chapter 290, which is expressed in terms of taxable years beginning or ending with reference to the first or last day of a specified calendar month, including the time for filing returns and other documents, paying tax, or performing other acts, a 52- to 53-week taxable year is deemed to begin on the first day of the calendar month beginning nearest to the first day of the 52- to 53-week taxable year, and is deemed to end or close on

the last day of the calendar month ending nearest to the last day of the 52- to 53-week taxable year, as the case may be.

**Statutory Authority:** *MS s 290.52*

**History:** *17 SR 1279*

### **8093.3000 EXTENSION OF TIME FOR FILING DECLARATIONS BY CORPORATIONS.**

**Subpart 1. In general.** The commissioner is authorized to grant a reasonable extension of time for filing a declaration or an amended declaration. An application by a corporation for an extension of time for filing such a declaration shall be addressed to the commissioner and must contain a full recital of the causes for the delay.

**Subp. 2. Addition to tax applicable.** An extension of time granted to a corporation for filing a declaration of estimated tax automatically extends the time for paying the estimated tax (without interest) for the same period. However, such extension does not relieve the corporation from the addition to the tax imposed by Minnesota Statutes, section 290.934 and the period of the underpayment will be determined under Minnesota Statutes, section 290.934, subdivision 3 without regard to such extension.

**Statutory Authority:** *MS s 290.52*

### **8093.4000 APPLICATION OF PAYMENT OF ESTIMATED TAX.**

Payments of estimated tax shall be considered payments on account of the income tax liability for the taxable year. Hence, the amount of estimated tax paid shall be entered on the income tax return and applied in payment of the tax liability shown thereon (a corporation may at its election pay any installment of its estimated tax in advance of the due date).

The commissioner, within the applicable period of limitations, may credit any overpayment of tax including interest thereon against any outstanding liability for any tax (or for any interest, additional amount, addition to the tax, or assessable penalty) owed by the taxpayer making the overpayment and the balance, if any, shall be refunded to such taxpayer by the commissioner. (See Minnesota Statutes, section 290.50 and part 8050.0100.)

An income tax return shall, at the election of the taxpayer, constitute a claim for refund or credit of an overpayment disclosed by such return. Such claim shall be considered as filed on the date on which the return is considered as filed. An election to treat the return as a claim for refund or credit shall be evidenced by a statement on the return setting forth the amount determined as an overpayment and advising whether such amount shall be refunded to the taxpayer or shall be applied as a credit against the taxpayer's estimated income tax for the taxable year immediately succeeding the taxable year for which such return is filed. If the taxpayer elects to have all or part of the overpayment shown by the return applied to estimated income tax for the succeeding taxable year, no interest shall be allowed on such portion of the overpayment credited and such amount shall be applied as a payment on account of the estimated income tax for such year or the installments thereof. In any case in which a taxpayer elects to have an overpayment refunded, the taxpayer may not thereafter change the election to have the overpayment applied as a payment on account of estimated income tax.

If any installment of tax is overpaid, the overpayment shall first be applied against any outstanding installments of such tax. If the overpayment exceeds the correct amount of tax due, the overpayment shall be credited or refunded as provided in this part.

**Statutory Authority:** *MS s 290.52*

**History:** *17 SR 1279*