

MINNESOTA STATUTES 1953 ANNOTATIONS

296.38 EXCISE TAXES; GASOLINE, GASOLINE SUBSTITUTES

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475.22. There is no statutory limit on the amount of warrants to be issued under the provisions of section 296.37. OAG Aug. 9, 1948 (107-A-13).

After 25 percent of the gas apportionment money has been used by the county as provided for in section 296.37, subdivision 2, and 50 percent expended as provided for in section 296.38, the balance may be used in the construction, improvement and maintenance of county aid roads within the county, including bridges, culverts and other structures appurtenant to such county aid roads. OAG Nov. 15, 1948 (107-B-16).

296.38 COUNTY BOARD MAY APPORTION FUNDS

After 25 percent of the gas apportionment money has been used by the county as provided for in section 296.37, subdivision 2, and 50 percent expended as provided for in section 296.38, the balance may be used in the construction, improvement, and maintenance of county aid roads within the county, including bridges, culverts and other structures appurtenant to such county aid roads. OAG Nov. 15, 1948 (107-B-16).

296.40 DISTRIBUTION OF GASOLINE TAX BY COUNTY BOARDS TO TOWNS

HISTORY. Amended, 1949 c 236 s 1.

A town road may be designated by the county board for gas tax aid without the approval of the town board. OAG Jan. 31, 1952 (377-B-4).

296.421 REVENUE PROVISIONS

HISTORY. Amended, 1949 c 117 s 1.

296.43-296.45 Repealed, 1949 c 143 s 22.

296.46 FARM TRACTOR FUELS EXEMPT FROM TAX

HISTORY. Amended, 1949 c 143 s 20.

296.48 VIOLATIONS; PENALTIES

HISTORY. 1939 c 114 s 6; 1941 c 116 s 6; 1947 c 412 s 12, 13; 1949 c 143 s 21.

CHAPTER 297

SALES TAXES

CIGARETTES AND DISTRIBUTORS

297.01 DEFINITIONS

HISTORY. 1947 c 619 s 1; 1953 c 652 s 1.

Fines imposed for criminal offenses against the cigarette tax law should be remitted to the county treasurer. OAG Aug. 20, 1948 (199-B-4).

In distribution to villages or other municipalities of the proceeds of the liquor tax, under the provisions of Laws 1947, Chapter 601, or the cigarette tax, under Laws 1947, Chapter 619, the auditor must base the distribution upon the last federal census and cannot take into account increases in population of the village arising from the annexation of new territory or otherwise. The 1940 census is the basis of apportionment. OAG March 8, 1948 (218-K) (830-C).

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SALES TAXES 297.07

The duties of the commissioner of agriculture, dairy, and food, under section 17.34, are not affected by sections 297.01 to 297.14. OAG Dec. 12, 1947 (829-C-6).

The proportion of cigarette tax moneys apportioned to the county under Laws 1947, Chapter 619, Section 13, Subdivision 1, is for county general governmental purposes and is not earmarked for a special fund. OAG Feb. 20, 1948 (830-C).

Licensed Minnesota distributors may jointly or severally employ the Trade Service Institute to operate solely as an agent of each in stamping cigarette packages. The stamping agency must keep within the rules established by the commissioner of taxation and must use each distributor's meter in stamping the distributor's packages. OAG Aug. 5, 1947 (830-D).

Where the trade service institute operates solely as an agent of each distributor, keeps each distributor's unstamped cigarettes separate from other distributor's, and uses each distributor's meter to stamp that distributor's cigarettes, the operation of a central stamping agency by the institute as agent for all licensed Minnesota distributors desiring to participate, is legal and does not violate any provision of section 297.01 et seq, nor does it violate the official rules promulgated by the commissioner. OAG Aug. 5, 1947 (830-D).

297.02 TAX ON CIGARETTES

HISTORY. 1947 c 619 s 2; 1949 c 703 s 1.

Sales of cigarettes by the state to inmates of penal institutions and state hospitals are not subject to imposition of the tax. OAG June 18, 1947 (830).

The distributor pays the cigarette tax before he sells the cigarettes to the retailer. In that case the cost of the merchandise that the retailer pays is the invoice price of the goods plus the tax. The eight percent provision in section 325.52 applies thereto. In case where the distributor buys the cigarettes from the manufacturer and the distributor himself pays the tax before he sells, the distributor's cost is the amount he pays the manufacturer, plus the state tax on the cigarettes. The Fair Trade Law does not require an eight percent mark-up by the retailer. Section 325.52 is a rule of evidence. It is not a hard and fast rule. It shifts the burden of going forward with the evidence. It merely establishes a prima facie evidence rule. The real thing prohibited is selling below cost with the effect mentioned in the statute. OAG July 5, 1949 (417-E).

297.03 PAYMENT, STAMP ON PACKAGE

HISTORY. 1947 c 619 s 3; 1949 c 703 s 2; 1951 c 569 s 1.

So long as The Trade Service Institute operates solely as an agent of each distributor, keeps each distributor's unstamped cigarettes separate from those of other distributors, and uses each distributor's meter to stamp that distributor's cigarettes, the operation of said central stamping agency as agent for all licensed distributors is legal. OAG Aug. 5, 1947 (830-D).

297.04 LICENSE

HISTORY. 1947 c 619 s 4; 1953 c 652 s 2.

297.05 VIOLATIONS

HISTORY. 1947 c 619 s 5; 1951 c 569 s 2.

297.06 KEEPING OF RECORDS

HISTORY. 1947 c 619 s 6.

297.07 DISTRIBUTOR TO FILE RETURNS

HISTORY. 1947 c 619 s 7.

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297.08 SALES TAXES

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297.08 CONTRABAND

HISTORY. 1947 c 619 s 8; 1953 c 624 s 1.

Where the cigarette tax division of the department of taxation has in its possession cigarettes, which tax ceased as contraband under the provisions of Laws 1947, Chapter 619, Section 8, the commissioner of taxation must sell the forfeit of cigarettes as soon as convenient at public sale to the highest bidder and place the proceeds in the general revenue fund. They should be offered for sale F.O.B. at place of business of the successful bidder and the bidding must be restricted to licensed distributors. The State of Minnesota, the United States, agencies, and instrumentalities may be permitted to bid if they so desire. OAG April 29, 1949 (830-A).

297.11 PROHIBITIONS

HISTORY. 1947 c 619 s 11; 1951 c 569 s 3.

297.13 DISPOSITION OF REVENUE

HISTORY. 1947 c 619 s 13; 1949 c 703 s 3; 1953 c 623 s 1.

NOTE: Under Laws 1947, Chapter 601, relating to an excise tax on liquor, and Laws 1947, Chapter 601, relating to an excise tax on cigarettes, the amounts allocated to counties, cities, villages, and boroughs, from the proceeds of the liquor tax is 30 percent, while from the cigarette tax the amount allocated is 33½ percent. The allocation is made by the state auditor on Feb. 15 covering receipts to the previous Dec. 31, and on Aug. 15 covering receipts to June 30. The population basis is governed by the 1940 federal census, except as to newly incorporated municipalities, and the population in that case being the number named in the articles of incorporation. The warrants pursuant to these allocations are forwarded directly to the treasurers of the respective governmental divisions of the state. In case of the liquor excise tax the amount forwarded to the county is allocated and distributed to the towns within the county except that the county retains such portion as is allocable to unorganized territory within the county, crediting same to its general revenue fund. In the cigarette distribution, the amount allocated and sent to the county is not distributed to the towns but is retained in the county treasury, credited to the general revenue fund.

Neither section 297.13, subdivision 5, nor any other statute confers on the city of Jordan the right to appropriate public money to a boy scout organization. OAG May 21, 1948 (59-A-3).

Fines imposed under section 297.12 for criminal offenses do not come within the provisions of section 297.13. Such fines should be remitted to the county treasurer under the provisions of section 574.34. OAG Aug. 20, 1948 (199-B-4).

The share of the cigarette tax money which the county receives is credited to and becomes a part of the county general revenue fund. OAG Feb. 20, 1948 (830-C).

In distributing cigarette tax money to a village, increase in the population of the village as a result of a census cannot be considered. OAG March 8, 1948 (830-C).

All counties, cities, villages, and the borough of Belle Plaine share in the revenue derived from the cigarette tax in proportion to population based on the 1940 federal census. Population of units established since the taking of the 1940 census may be based on the incorporation census. OAG Aug. 15, 1947 (830-E).

297.14 Obsolete.

TAX UPON USE OR STORAGE BY CONSUMERS OF CIGARETTES

297.21 DEFINITIONS

HISTORY. 1949 c 553 s 1.

297.22 TAX

HISTORY. 1949 c 553 s 2; 1951 c 570 s 1.

297.23 CONSUMERS TO FILE RETURN

HISTORY. 1949 c 553 s 3.

297.24 APPLICATION OF CERTAIN LAWS

HISTORY. 1949 c 553 s 4.

297.25 REFUSAL OR NEGLECT TO FILE RETURN

HISTORY. 1949 c 553 s 5.

297.26 REVENUES, DISTRIBUTION

HISTORY. 1949 c 553 s 6; 1951 c 570 s 2.

CHAPTER 298

OCCUPATION TAXES

MINING

298.01 TAX ON PRODUCING ORES

NOTE: As a basis for property tax, the assessment of iron ore is made by the commissioner of taxation who determines the present value by estimating the future profits from the ore to be taken from the land. The occupation tax is an excise tax imposed upon the occupation by producing ores. One half of the occupation tax goes to schools and to the university trust fund, while the remainder, as does all of the royalty tax, goes to the general fund of the state.

Tax valuation of Minnesota iron ore. 34 MLR 389.

298.011 VETERANS BONUS OCCUPATION TAX

HISTORY. 1949 c 642 s 15.

298.02 LOW GRADE ORE

HISTORY. Amended, 1947 c 541 s 1; 1949 c 639 s 1; 1951 c 664 s 1; 1953 c 646 s 1.

298.03 VALUE OF ORE; HOW ASCERTAINED

Section 298.03 relates to an occupation tax. It is arrived at by taking the percentage of the valuation of the ores mined or produced. The valuation of the ores for the purpose of determining the amount of tax is ascertained by subtracting from the value of the ores certain costs, including if the ore is taken from an open pit mine, an amount for each ton of ore mined or produced during the year equal to the cost of removing the overburden divided by the number of tons of ore uncovered. In the instant case there is no evidence that the parties engaged in the occupation paid or incurred any of the costs of removing the overburden and consequently they are not entitled to deduction of the unamortized portion of the stripping expenditure. OAG April 29; 1949 (311-I).