

## Gross Earnings Taxes

## CHAPTER 294

## GENERAL PROVISIONS

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**294.01 GROSS EARNINGS TAX.** Subdivision 1. Every company, joint stock association, copartnership, corporation, or individual required by law to pay taxes to the state on a gross earnings basis shall file a return with the commissioner of taxation, in such form as he shall prescribe, containing a true and just report of the gross earnings for and during the year ending December thirty-first preceding. Such return and payment of the tax due therewith shall be submitted on or before the date provided in chapter 295, for such company, joint stock association, copartnership, corporation, or individual. The gross earnings and the tax due thereon shall be computed in accordance with the method prescribed by law.

Subd. 2. [Repealed, 1969 c 1147 s 22]

[1913 c 487 s 1; 1927 c 308; 1967 c 821 s 1; 1969 c 1147 s 1] (2233)

**294.02 EXAMINATION OF RETURNS; ASSESSMENTS, REFUND.** The commissioner of taxation shall, as soon as practicable after the return is filed, examine the same and make any investigation or examination of the taxpayer's records and accounts that he may deem necessary for determining the correctness of the return. The tax computed by him on the basis of such examination and investigation shall be the tax to be paid by such taxpayer. If the tax found due shall be greater than the amount reported as due on the taxpayer's return, the commissioner shall assess a tax in the amount of such excess and the whole amount of such excess shall be paid to the commissioner within 30 days after notice of the amount and demand for its payment shall have been mailed to the taxpayer by the commissioner. If the understatement of the tax on the return was false or fraudulent with intent to evade the tax, the installments of the tax shown by the taxpayer on his return which have not yet been paid shall be paid to the commissioner within 30 days after notice of the amount thereof and demand for payment shall have been mailed to the taxpayer by the commissioner. If the amount of tax found due by the commissioner shall be less than that reported as due on the taxpayer's return, the excess shall be refunded to the taxpayer in the manner provided in section 294.09 (except that no demand therefor shall be necessary), if he has already paid the whole of such tax, or credited against any unpaid installment thereof; provided, that no refundment shall be made except as provided in section 294.09, after the expiration of three and one-half years after the filing of the return.

If the commissioner examines returns of a taxpayer for more than one year, he may issue one order covering the several years under consideration reflecting the aggregate refund or additional tax due.

The notices and demands provided for by sections 294.02 and 294.021 shall be in such form as the commissioner may determine (including a statement) and shall contain a brief explanation of the computation of the tax and shall be sent by mail to the taxpayer at the address given in his return, if any, and if no such address is given, then to his last known address.

In cases where there has been an overpayment of a self-assessed liability as shown on the return filed by the taxpayer, the commissioner may refund such overpayment to the taxpayer and no demand therefor shall be necessary.

[1913 c 487 s 2; 1967 c 821 s 2; 1969 c 1147 s 2] (2234)

**294.021 ASSESSMENT; FAILURE TO FILE RETURN, FALSE OR FRAUDULENT RETURN FILED.** If any company, joint stock association, copartnership, corporation, or individual required by this chapter to file any return shall fail to do so within the time prescribed by this chapter or by regulations under the authority thereof, or shall make, wilfully or otherwise, an incorrect, false, or fraudulent return, he shall, on the written demand of the commissioner of taxation, file such return, or corrected return, within 30 days after the mailing of such written demand and at the same time pay the whole tax, or additional tax, due on the basis thereof. If such taxpayer shall fail within that time to file such return, or corrected return, the commissioner shall make for him a return, or corrected return, from his own knowledge and from such information as he can obtain through testimony, or otherwise, and assess a tax on the basis thereof, which tax (less any payments theretofore made on account of the tax for the taxable year covered by such return) shall be paid within ten days after the commissioner has mailed to such taxpayer a written notice of the amount thereof and demand for its payment. Any such return or assessment made by the commissioner on account of the failure of the taxpayer to make a return, or a corrected return, shall be prima facie correct and valid, and the taxpayer shall have the burden of establishing its incorrectness or invalidity in any action or proceeding thereto.

[1969 c 1147 s 3]

**294.03 FAILURE TO PAY TAX; PENALTIES, INTEREST.** Subdivision 1. If any company, joint stock association, copartnership, corporation, or individual required by law to pay taxes to the state on a gross earnings basis shall fail to pay such tax or gross earnings percentage within the time specified by law for the payment thereof, or within 30 days after final determination of an appeal to the Minnesota tax court relating thereto, there shall be added a specific penalty equal to five percent of the amount so remaining unpaid. Such penalty shall be collected as part of said tax, and the amount of said tax not timely paid, together with said penalty, shall bear interest at the rate of six percent per annum from the time such tax should have been paid until paid.

Subd. 2. In case of any failure to make and file a return as required by this chapter within the time prescribed by law or prescribed by the commissioner in pursuance of law, unless it is shown that such failure is not due to wilful neglect, there shall be added to the tax in lieu of the five percent specific penalty provided in subdivision 1: five percent if the failure is for not more than 30 days with an additional five percent for each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate. The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax, and the amount of said tax together with the amount so added shall bear interest at the rate of six percent per annum from the time such tax should have been paid until paid unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax.

For purposes of this subdivision, the amount of any taxes required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return.

Subd. 3. Where any such company, joint stock association, copartnership, corporation or individual, with intent to evade the tax, shall fail to file any return required or shall with such intent file a false or fraudulent return, there shall also be imposed upon such company, joint stock association, copartnership, corporation or individual an additional penalty equal to fifty percent of any tax (less any amount paid on the basis of such false or fraudulent return) found due for the period to which such return related. The penalty imposed by this subdivision shall be collected as part of the tax and shall be in addition to any other penalties provided by law.

[1913 c 487 s 3; 1967 c 821 s 3; 1969 c 1147 s 4] (2235)

**294.04** [Repealed, 1969 c 1147 s 22]

**294.05** [Repealed, 1969 c 1147 s 22]

**294.06 DELINQUENT TAXES; COLLECTION.** Such delinquent and unpaid gross earnings tax, penalties and interest, assessed and certified by the commissioner of taxation, as provided in section 294.03 by law, shall be a lien upon all the property, estate and effects of any such company, joint stock association, co-

partnership, corporation or individual, and shall take precedence of all demands and judgments against the same; and said lien shall relate back to and be effective from the date when such tax was originally due and payable; and the certificate of the commissioner of taxation that said tax, penalties and interest are due and unpaid, and/or the unpaid draft of the state auditor issued in pursuance of tax on gross earnings received by such company, joint stock association, copartnership, corporation, or individual on or prior to December 31, 1968, or by telephone companies on or prior to December 31, 1966, shall be sufficient warrant for the attorney general to institute proceedings for the collection of said tax, penalties and interest by sale of such property or otherwise.

[1913 c 487 s 5; 1943 c 120; 1967 c 821 s 5; 1969 c 1147 s 5; 1971 c 24 s 30] (2238)

**294.07 UNIFORM SYSTEM OF ACCOUNTING.** The commissioner of taxation shall have authority and power to prescribe for such companies, joint stock associations, copartnerships, corporations, or individuals a system of gross earnings accounts that shall be uniform for each class of companies; and he shall supervise the method of keeping such accounts; provided, that such system shall conform, as nearly as practicable, with that prescribed for such companies by the United States government.

[1913 c 487 s 6; 1969 c 1147 s 6] (2239)

**294.08 EVASIONS; VIOLATIONS.** Subdivision 1. **Assessment, generally.** Except as otherwise provided in this chapter, the amount of gross earnings taxes shall be assessed within three and one-half years after the return prescribed by section 294.01 is filed. Such taxes shall be deemed to have been assessed within the meaning of this section whenever the commissioner of taxation shall have determined the gross earnings subject to tax and computed and recorded the amount of tax with respect thereto, and if the amount is found to be in excess of that originally declared on the return, whenever the commissioner shall have prepared a notice of tax assessment and mailed same to the taxpayer. The notice of tax assessment shall be sent by mail to the post office address given in the return and the record of such mailing shall be presumptive evidence of the giving of such notice, and such records shall be preserved by the commissioner.

Subd. 2. **Computation of time.** For the purposes of this section and section 294.09, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

Subd. 3. **False or fraudulent return and no return.** When a company, joint stock association, copartnership, corporation, or individual required to file a return under this chapter files a false or fraudulent return or fails to file a return, the tax may be assessed and the attorney general may begin proceedings in accordance with section 294.06 at any time.

Subd. 4. **Consent to extend time.** Where before the expiration of the time prescribed in subdivision 1 for the assessment of the tax, the commissioner of taxation and the company, joint stock association, copartnership, corporation, or individual filing the return consent in writing to an extension of time for the assessment of the tax, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Subd. 5. **Omission in excess of 25 percent.** If the taxpayer omits from gross earnings an amount properly includible therein which is in excess of 25 percent of the amount of gross earnings stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun at any time within six years after the return was filed.

[1913 c 487 s 7; 1969 c 1147 s 7] (2240)

**294.09 OVERPAYMENTS; CLAIMS FOR REFUND.** Subdivision 1. **Procedures; time limit.** A company, joint stock association, copartnership, corporation, or individual who has paid, voluntarily or otherwise, or from whom there has been collected (other than by proceedings instituted by the attorney general under sections 294.06 and 294.08, subdivision 3) an amount of gross earnings tax for any year in excess of the amount legally due for that year, may file with the commissioner of taxation a claim for a refund of such excess. Except as provided in subdivision 4, no such claim shall be entertained unless filed within two years after such tax was paid or collected, or within three and one-half years from the filing of the return, whichever period is the longer. Upon the filing of a claim the commis-

sioner shall examine the same and shall make and file written findings thereon denying or allowing the claim in whole or in part and shall mail a notice thereof to such company, joint stock association, copartnership, corporation, or individual at the address stated upon the return. If such claim is allowed in whole or in part, the commissioner shall credit the amount of the allowance against any tax due the state from the claimant and for the balance of said allowance, if any, the commissioner shall issue his certificate for the refundment of the excess paid. The state auditor shall cause such refund to be paid out of the proceeds of the gross earnings taxes imposed by Minnesota Statutes 1967, Chapters 294 and 295 as other state moneys are expended. So much of the proceeds as may be necessary are hereby appropriated for that purpose. Any allowance so made by the commissioner shall include interest at the rate of six percent computed from the date of payment or collection of the tax until the date the refund is paid to the claimant.

**Subd. 2. Denial of claim, court proceedings.** If the claim is denied in whole or in part, the taxpayer may commence an action against the commissioner to recover any overpayments of taxes claimed to be refundable but for which the commissioner has issued no certificate of refundment. Such action may be brought in the district court of the district in which lies the county of his residence or principal place of business or in the district court of Ramsey county. Such action may be commenced after the expiration of six months after the claim is filed if the commissioner has not then taken final action thereon, and shall be commenced within 18 months after the notice of the order denying the claim.

**Subd. 3. Denial of claim, appeal.** Either party to said action may appeal to the supreme court as in other cases.

**Subd. 4. Consent to extend time.** If the commissioner and the taxpayer have within the periods prescribed in subdivision 1 consented in writing to any extension of time for the assessment of the tax under the provisions of section 294.08, subdivision 4, the period within which a claim for refund may be filed, or a refund may be made or allowed, if no claim is filed, shall be the period within which the commissioner and the taxpayer have consented to an extension for the assessment of the tax and six months thereafter, provided, however, that the period within which a claim for refund may be filed shall not expire prior to two years after the tax was paid.

[1913 c 487 s 8; 1969 c 1147 s 8] (2241)

#### **294.10 RECORDS AND FILES KEPT FOR SIX YEARS BY COMPANIES.**

Every person, company, joint stock association, copartnership, or corporation required by law to pay taxes to the state upon a gross earnings basis, shall keep, as a permanent file and in such a manner as to make them easily accessible at all times for inspection by a properly accredited representative of the commissioner of taxation, all books, records, documents, papers, and statistics relating to such gross earnings for at least six years subsequent to the date that such gross earnings tax returns have been rendered to the state.

[1909 c 258 s 1; 1969 c 1147 s 9] (2243)

**294.11 DESTRUCTION OF CERTAIN PAPERS.** Any detached papers subordinate to statements of gross earnings, or reports compiled in the accounting department, the full details of which are included in other statements or reports on file in as perfect a form, and which have been passed upon in a general examination by the special examiners or representatives of the state, but which have not reached the time limit prescribed in section 294.10, may, upon the recommendations of such special examiner or representative and the written approval of the commissioner of taxation, be destroyed.

If in the opinion of the commissioner of taxation, gross earnings may be adequately verified without reference to certain of such subordinate detached papers, he may authorize destruction of such detached papers without examination.

[1909 c 258 s 2; 1965 c 137 s 1; 1969 c 1147 s 10] (2244)

**294.12 VIOLATION, A GROSS MISDEMEANOR.** Any person who shall willfully violate the provisions of sections 294.10 and 294.11 shall be deemed guilty of a gross misdemeanor.

[1909 c. 258 s. 3] (2245)

**294.21 TACONITE RAILROAD COMPANY; DEFINITION.** For the purposes of sections 294.21 to 294.28 a taconite railroad company is any company owning or operating, other than as a common carrier, a railway principally used for the transportation of taconite concentrates from the plant at which such taconite

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concentrates are produced in shipping form to a point of consumption or port for shipment beyond the state.

[1955 c 730 s 1]

**294.22 GROSS EARNINGS TAX; COMPUTATION.** Every company owning or operating any taconite railroad shall pay annually into the state treasury a sum of money equal to five percent of the gross earnings derived from the operation of such taconite railway within the state. The gross earnings of such a taconite railroad company from the transportation of taconite concentrates from the Mesabi Range to ports on Lake Superior, for all purposes hereof, shall be a sum of money equal to the amount which would be charged under established tariffs of common carriers for the transportation of an equal tonnage of iron ore from Mesabi Range points to ports at the head of Lake Superior, including the established charges for loading such ore on boats. For all purposes of Minnesota Statutes, Chapter 298 the amount of the gross earnings as so calculated shall be treated as the cost of transportation of such concentrates between such points. If such a taconite railroad company transports coal or any other commodity, except taconite concentrates, its gross earnings shall include an amount equal to the established tariffs of common carriers for the transportation of the same quantities of similar commodities for corresponding distances, not, however, including any such charges for any such commodities used or intended to be used in the construction, operation or maintenance of such railroad.

[1955 c 730 s 2]

**294.23 COMPANIES LIABLE FOR TAX.** If a company producing concentrates from taconite shall transport the taconite in the course of the concentrating process and before such concentrating process is completed to a concentrating plant located within the state over a railroad which is not a common carrier and shall not use a common carrier or taconite railroad company as defined in section 294.21 for the movement of the concentrate to a point of consumption or port for shipment beyond the state, then such company nevertheless shall pay annually into the state treasury a tax equal to five percent of the amount which would be charged for the transportation of such concentrates produced by such taconite company as if such concentrates were transported by a common carrier under established tariffs of common carriers from the Mesabi Range or other iron range point nearest to the mine at which such taconite is quarried to ports at the head of Lake Superior, including established charges for loading such ore on boats. For the purposes of sections 294.24 to 294.28, such a company shall be considered a taconite railroad company.

[1955 c 730 s 3]

**294.24 TAX IS IN LIEU OF OTHER TAXES.** The taxes imposed by sections 294.22 and 294.23 shall be in lieu of all taxes upon all property within the state owned or operated for such railway purposes by such taconite railroad companies, including all equipment, appurtenances, appendages and franchises thereof, and including all docks, dock storage and loading or unloading facilities, and harbors, harbor facilities and equipment owned and operated by such company in connection therewith.

[1955 c 730 s 4]

**294.25 REPORTS, PAYMENT OF TAXES.** Taconite railroad companies shall file reports and make payment of such taxes at the same times and in the same manner as required of railroad companies under Minnesota Statutes, Sections 294.01 to 294.12, and Sections 295.02 to 295.05, all the provisions of which, except as otherwise herein specifically provided, shall be applicable to such companies, and such companies shall be subject to the penalties provided by such statutes for violation of any of the requirements thereof.

[1955 c 730 s 5]

**294.26 DIVISION OF PROCEEDS OF TAX.** The proceeds of the taxes collected under sections 294.21 to 294.28 shall be distributed by the state treasurer, upon certificate of the commissioner of taxation, to the general fund of the state and to the various taxing districts in which such railway operations are conducted, in the following proportions: 22 percent thereof to the city, village or town; 50 percent thereof to the school district; 22 percent thereof to the county; six percent thereof to the state. If such railroad operation, or different steps therein, are carried on in more than one taxing district, the commissioner shall apportion equitably the proceeds of the part of the tax going to cities, villages or towns among

such subdivisions, and the part going to school districts among such districts, and the part going to counties among such counties, upon the basis of attributing 40 percent of the proceeds of the tax to the terminal facilities at each end of the railway line of a taconite railroad company, and the remaining 20 percent thereof to the railway trackage connecting such terminals, and with respect to each such portion giving due consideration to the relative extent of such portion of the operation performed in each such taxing district. If any part of such facilities are located outside the limits of any organized city, village or town, 70 percent of the portion of the tax which would be distributed to any such governmental unit, if it existed and the facilities were located therein, shall be added to the portion distributed to the school district, and 30 percent thereof shall be added to the portion distributed to the county in which such facilities are located; also, if the amount otherwise distributable to any city, village or town hereunder would exceed \$75 per capita of the population thereof, the amount of such excess shall be added to the portions distributed to the school district and county in which such facilities are located in the proportions above set forth. The commissioner's order making such apportionment shall be subject to review by the tax court at the instance of any of the interested taxing districts, in the same manner as other orders of the commissioner. The amount so distributed shall be divided among the various funds of the taxing district in the same proportion as the general ad valorem property tax thereof.

There is hereby appropriated to such persons, city, village, town, school district, or county as are entitled to such payment, from the fund or account in the state treasury to which the money was credited, an amount sufficient to make the payment authorized herein.

[1955 c 760 s 6; 1959 c 158 s 22; 1959 c 676 s 2; 1965 c 698 s 1]

**294.27 FILING OF REPORTS.** Each taconite railroad company, at the time it reports its gross earnings, shall file with the commissioner of taxation a report showing:

(a) The names of the taxing districts of each class in which its terminal facilities or any part thereof are located, indicating such districts separately for such terminal facilities at each end of its railway line; if such terminal facilities at either end of said railway line are located in more than one taxing district of the same class, such report shall set forth the relative extent of the terminal operations performed in each such taxing district.

(b) The names of taxing districts of each class in which any portion of its railway line (other than terminal facilities) is located; if any portions of said railway lines are located in more than one taxing district of the same class, such report shall indicate the main line track mileage in each such district.

(c) Such additional information as the commissioner may deem necessary to make proper allocation of the taxes paid.

[1955 c 730 s 7]

**294.28 DEDUCTIONS FROM PERMISSIBLE LEVIES.** The amount distributed to any city or village and one-third of the amount distributed to any school district in 1971 and that portion not deducted from state aids in section 124.212, subdivision 8, thereafter under the provisions hereof shall be included in computing the permissible levies of such city, village or school district under sections 275.11 or 275.125, provided, in computing the deduction from permissible levies of cities or villages by reason hereof effect shall be given to the cost of living adjustment allowed by section 275.11, subdivision 2, regardless of whether or not more than 50 percent of the assessed valuation consists of iron ore. On or before October 10 of each calendar year each taconite railroad company shall file with the commissioner of taxation, county auditor of each county in which it operates, and with the chief clerical officer of each school district, city or village which is entitled to participate in the distribution of the tax, an estimate of the amount of tax which would be payable in the next ensuing calendar year on the gross earnings of such taconite railroad company in excess of any credit allowable as hereinafter provided. Such estimate shall list the taxing districts entitled to participate in the distribution of such tax and the amount of the estimated tax which would be distributable to each such district in said next ensuing calendar year on the basis of the last percentage distribution certified by the commissioner of taxation; if there be no such prior certification, the company shall set forth its estimate of the proper distribution of such tax under the law, which estimate may be corrected by the

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commissioner if he deems it improper, notice of such correction being given by him to the company, and the public officers receiving such estimate. The officers with whom such report is so filed shall use the amounts indicated as being distributable to each taxing district except in the case of school districts one-third in 1971 and that portion not deducted from state aids in section 124.212, subdivision 8, thereafter of the indicated amount to be used in computing, pursuant to sections 275.11 or 275.125, the permissible tax levies of such city, village or school district in the year in which such estimate is made and payable in the next ensuing calendar year. Such taconite railroad company shall then pay at the times payments are required to be made under section 294.25, as the amount of tax payable under section 294.22 the greater of (a) the amounts shown by such estimate or (b) the amount due on its gross earnings as finally determined. If the amount payable under clause (a) is greater than the amount which would be payable under clause (b) the payment of the excess shall be made at the time of making the semi-annual payment covering the earnings for the six months ending on June 30 of said year. If, as a result of the making of an estimate and the payment of the amount of such estimate as hereinabove provided, the taconite railroad company has paid in any calendar year an amount of tax in excess of the amount due in such year under section 294.22, less credit for any excess payments in previous years, all as determined by the commissioner of taxation, the taxpayer shall be given credit for such excess amount against any taxes which may become due on gross earnings from said taconite railroad in subsequent periods. In any calendar year in which a general property tax levy subject to sections 275.11 or 275.125 has been made, if the taxes distributable to any such city, village or school district are greater than the amount estimated to be paid to any such city, village or school district in such year, the excess of such distribution shall be held in the special fund by the city, village or school district and shall not be expended until the succeeding year, and shall be included in computing the permissible levies under sections 275.11 or 275.125 of such city, village or school district payable in such year. If the amounts distributable to any such city, village or school district, after final determination by the commissioner of taxation under section 294.26, are less than the amounts indicated by such estimates, such city, village or school district may issue certificates of indebtedness in the amount of the shortage, and may include in its next tax levy, in excess of the limitations of sections 275.11 or 275.125, an amount sufficient to pay such certificates of indebtedness and interest thereon, or, if no certificates were issued, an amount equal to such shortage.

[1955 c 730 s 8; 1959 c 676 s 1; Ex1971 c 31 art 35 s 1]