

CHAPTER 270

DEPARTMENT OF REVENUE

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270.062 ACCESS TO CRIMINAL JUSTICE DATA.

The commissioner of revenue may enter into an agreement with the commissioner of public safety allowing designated employees of the revenue department to have access to the criminal justice datacommunications network provided in section 299C.46. For purposes of that section, the special investigation unit of the revenue department is considered a criminal justice agency.

History: *1Sp1985 c 14 art 16 s 1*

270.063 COLLECTION OF DELINQUENT TAXES.

For the purpose of collecting delinquent state tax liabilities from taxpayers who do not reside or are not located in Minnesota, there is appropriated to the commissioner of revenue an amount representing the cost of collection, not to exceed one-third of the amount collected by contract with collection agencies, revenue departments of other states, or attorneys to enable the commissioner to reimburse these agencies for this service. The commissioner shall report quarterly on the status of this program to the chairmen of the house tax and appropriation committees and senate tax and finance committees.

Notwithstanding section 16A.15, subdivision 3, the commissioner of revenue may authorize the prepayment of sheriff's fees, attorney fees, fees charged by revenue departments of other states, or court costs to be incurred in connection with the collection out of state of delinquent tax liabilities owed to the commissioner of revenue.

History: *1985 c 101 s 1*

270.064 REQUESTING ASSISTANCE IN CRIMINAL TAX INVESTIGATIONS.

If the commissioner of revenue has reason to believe that a criminal violation of the state tax laws has occurred, the commissioner may request the attorney general or the prosecuting authority of any county to assist in a criminal tax investigation and may disclose return information to the prosecuting authority relevant to the investigation notwithstanding the provisions of section 290.61, 291.48, 297A.43, or 297B.12.

History: *1Sp1985 c 14 art 16 s 2*

270.068 REVISION OF MINNESOTA ASSESSORS' MANUAL.

In accordance with the provisions of section 270.06, clause (14), the commissioner of revenue shall prepare a revised Minnesota assessors' manual by July 1, 1986, and thereafter shall revise the manual in a timely manner.

History: *1Sp1985 c 14 art 3 s 15*

270.076 APPEAL.*[For text of subd 1, see M.S.1984]*

Subd. 2. In case of appeal from the assessment and levy of the tax, the airline company shall currently pay when due 90 percent of the tax unless the payment is waived or otherwise adjusted by an order of the court. If the final determination of the litigation should result in sustaining the assessment and levy or in the finding that the amount paid by the airline company is insufficient, the difference between the amount paid and the amount which should have been paid shall be decreed delinquent taxes subject to interest, as hereinabove provided. If the final determination of the tax court or the supreme court shall result in increasing any assessment above that which was made final by the order of the commissioner from which the appeal is taken, then the taxes on such increased assessment shall be delinquent 30 days after notice of the amount of the increased tax shall have been given to the airline company by the commissioner.

History: 1985 c 300 s 1**270.11 POWERS; MEETINGS.***[For text of subds 1 to 6, see M.S.1984]*

Subd. 7. **Appearances before the commissioner.** A property owner, other than a public utility or mining company, for which the original assessments are determined by the commissioner of revenue, may not appear before the commissioner for the purposes provided in subdivision 5 or 6 unless a timely appearance in person, by counsel, or by written communication has been made before the county board of equalization as provided in section 274.13, to appeal the assessment of the property, or that he can establish that he did not receive notice of his market value at least five days before the local board of review meeting.

The commissioner may refuse to hear an appeal that is within the jurisdiction of the small claims division of the tax court as stated in section 271.21, subdivision 2. The property owner shall be notified by the commissioner of the right to appeal to the small claims division whenever an appeal to the commissioner is denied.

History: 1985 c 300 s 2**270.12 STATE BOARD OF EQUALIZATION; DUTIES.***[For text of subds 1 and 2, see M.S.1984]*

Subd. 3. For taxes levied in 1985 and thereafter when a taxing jurisdiction lies in two or more counties, if the sales ratio studies prepared by the department of revenue show that the average levels of assessment in the several portions of the taxing jurisdictions in the different counties differ by more than five percent, the board may order the apportionment of the levy. When the sales ratio studies prepared by the department of revenue show that the average levels of assessment in the several portions of the taxing jurisdictions in the different counties differ by more than ten percent, the board shall order the apportionment of the levy unless (a) the proportion of total adjusted assessed value in one of the counties is less than ten percent of the total adjusted assessed value in the taxing jurisdiction and the average level of assessment in that portion of the taxing jurisdiction is the level which differs by more than five percent from the assessment level in any one of the other portions of the taxing jurisdiction; (b) significant changes have been made in the level of assessment in the taxing jurisdiction which have not been reflected in the sales ratio

study, and those changes alter the assessment levels in the portions of the taxing jurisdiction so that the assessment level now differs by five percent or less; or (c) commercial, industrial, mineral, or public utility property predominates in one county within the taxing jurisdiction and another class of property predominates in another county within that same taxing jurisdiction. If one or more of these factors are present, the board may order the apportionment of the levy.

Notwithstanding any other provision, the levy for the metropolitan mosquito control district, metropolitan council, metropolitan transit district, and metropolitan transit area must be apportioned without regard to the percentage difference.

If, pursuant to this subdivision, the board apportions the levy, then that levy apportionment among the portions in the different counties shall be made in the same proportion as the adjusted assessed value as determined by the equalization aid review committee in each portion is to the total adjusted assessed value of the taxing jurisdiction.

For the purposes of this section, the average level of assessment in a taxing jurisdiction or portion thereof shall be the aggregate assessment sales ratio. Assessed values as determined by the equalization aid review committee shall be the values as determined for the year preceding the year in which the levy to be apportioned is levied.

Actions pursuant to this subdivision shall be commenced subsequent to the annual meeting on August 15 of the state board of equalization, but notice of the action shall be given to the affected jurisdiction and the appropriate county auditors by the following November 15.

Apportionment of a levy pursuant to this subdivision shall be considered as a remedy to be taken after equalization pursuant to subdivision 2, and when equalization within the jurisdiction would disturb equalization within other jurisdictions of which the several portions of the jurisdiction in question are a part.

History: 1985 c 300 s 3

270.41 BOARD OF ASSESSORS.

A board of assessors is hereby created. The board shall be for the purpose of establishing, conducting, reviewing, supervising, coordinating or approving courses in assessment practices, and establishing criteria for determining assessor's qualifications. The board shall also have authority and responsibility to consider other matters relating to assessment administration brought before it by the commissioner of revenue. The board shall consist of nine members, who shall be appointed by the commissioner of revenue, in the manner provided herein.

1. Two from the department of revenue,
2. Two county assessors,
3. Two assessors who are not county assessors, one of whom shall be a township assessor, and
4. One from the private appraisal field holding a professional appraisal designation,
5. Two public members as defined by section 214.02.

The appointment provided in 2 and 3 may be made from two lists of not less than three names each, one submitted to the commissioner of revenue by the Minnesota association of assessing officers or its successor organization containing recommendations for the appointment of appointees described in 2, and one by the Minnesota association of assessors, inc. or its successor organization containing recommendations for the appointees described in 3. The lists must be submitted 30

days before the commencement of the term. In the case of a vacancy, a new list shall be furnished to the commissioner by the respective organization immediately. In the event any member of the board shall no longer be engaged in the capacity listed above, he shall automatically be disqualified from membership in the board.

The board shall annually elect a chairman and a secretary of the board.

History: 1985 c 285 s 46

270.65 DATE OF ASSESSMENT; DEFINITION.

For purposes of chapters 270, 290, 296, and 297A, the term "date of assessment" means the date a return was filed or the date a return should have been filed, whichever is later; or, in the case of taxes determined by the commissioner, "date of assessment" means the date of the order assessing taxes; or, in the case of an amended return filed by the taxpayer, the assessment date is the date the return was filed with the commissioner.

History: 1985 c 101 s 2

270.66 RIGHT OF SETOFF.

Subdivision 1. **Certification by commissioner.** Upon certification by the commissioner of revenue to the commissioner of finance, or to any state agency described in subdivision 3 which disburses its own funds, within ten years after the date of assessment of the tax, that a taxpayer has an uncontested delinquent tax liability owed to the commissioner of revenue, the commissioner of finance or the state agency shall apply to such delinquent tax liability funds sufficient to satisfy such unpaid tax liability from funds appropriated for payment of an obligation of the state or any of its agencies that are due and owing the taxpayer, provided however, that such credit shall not be made against any funds exempt under section 550.37 or those funds owed an individual taxpayer who receives assistance under the provisions of chapter 256.

[For text of subds 2 and 3, see M.S.1984]

History: 1985 c 101 s 3

270.67 AGREEMENTS REGARDING TAX LIABILITY OR EXTENSION OF PAYMENT OF TAX.

[For text of subds 1 and 2, see M.S.1984]

Subd. 3. **Consent agreement.** A taxpayer shall have the right at any time, whether or not an order has been issued, to sign and deliver to the commissioner a written consent to a change in tax liability which waives the requirement of any additional notice and all rights of appeal to the tax court concerning the assessment and collection of any part or all of the tax liability.

History: 1985 c 210 art 1 s 6

270.68 LEGAL ACTION; CONFESSION OF JUDGMENT.

Subdivision 1. **Legal action.** In addition to all other methods authorized by law for the collection of tax, if any tax payable to the commissioner of revenue or to the department of revenue, including penalties and interest thereon, is not paid within 60 days after it is required by law to be paid, the commissioner of revenue may, within five years after the date of assessment of the tax, bring an action at law against the person liable for the payment or collection of the tax, in the name of the

state, for the recovery of the tax and interest and penalties due in respect thereof. The action shall be brought in the district court of the judicial district in which lies the county of the residence or principal place of business within this state of the taxpayer, or, in the case of an estate or trust, of the place of its principal administration, and for this purpose the place named as such in the return, if any, made by the taxpayer shall be conclusive against the taxpayer in this matter. If no place is named in the return, the action may be commenced in Ramsey county. The action shall be commenced by filing with the clerk of the court a statement showing the name and address of the taxpayer, if known, an itemized summary of the taxable periods and the type of tax, the tax due and unpaid and the interest and penalties due with respect thereto under the provisions of law applicable to the tax, and shall contain a prayer that the court adjudge the taxpayer to be indebted on account of the taxes, interest, and penalties in the amount specified in the statement; a copy of the statement shall be furnished to the clerk therewith. The clerk shall mail a copy of the statement by certified mail to the taxpayer at the address given in the return, if any; and, if no address is given, then at his last known address, within five days after the same is filed, except that, if the taxpayer's address is not known, notice to him shall be made by posting a copy of the statement for ten days in the place in the courthouse where public notices are regularly posted. The taxpayer shall, if he desires to litigate the claim, or any part thereof, file a verified answer with the clerk setting forth his objections to the claim, or any part thereof; the answer shall be filed on or before the 20th day after the date of mailing the statement; or, if notice has been given by posting, on or before the 20th day after the expiration of the period during which the notice was required to be posted. If no answer is filed within the specified time, the clerk, upon the filing of an affidavit of default, shall enter judgment for the state in the amount prayed for, plus costs of \$10. If an answer is filed, the issues raised shall stand for trial as soon as possible after the filing of the answer, and the court shall determine the issues and direct judgment accordingly; and, if the taxes, interest, or penalties are sustained to any extent over the amount rendered by the taxpayer, shall assess \$10 costs against the taxpayer. The court shall disregard all technicalities and matters of form not affecting the substantial merits. The commissioner may call upon the county attorney or the attorney general to conduct the proceedings on behalf of the state. Execution shall be issued upon the judgment at the request of the commissioner, and the execution shall, in all other respects, be governed by the laws applicable to executions issued on judgments. Only the homestead and household goods of the judgment debtor shall be exempt from seizure and sale upon the execution.

[For text of subs 2 and 3, see M.S.1984]

Subd. 4. Confession of judgment. (a) The commissioner may, within 3-1/2 years after any return or report is filed, notwithstanding section 541.09, enter judgment on any confession of judgment contained in the return or report after ten days notice served upon the taxpayer by mail at the address shown in his return or report. The judgment shall be entered by the clerk of district court upon the filing of a photocopy or similar reproduction of that part of the return or report containing the confession of judgment along with a statement of the commissioner or his agent that the tax has not been paid. The commissioner may prescribe the words for the confession of judgment statement contained on the return or report.

(b) Notwithstanding any other provision of the law to the contrary, the commissioner may, within five years after a written agreement is signed by the taxpayer and the commissioner under the provisions of section 270.67, subdivision 2, enter judgment on the confession of judgment contained within the agreement after ten days notice served upon the taxpayer at the address shown in the agreement.

Such judgment shall be entered by the clerk of district court upon the filing of the agreement or a certified copy thereof along with a statement of the commissioner or his agent that the tax has not been paid.

History: 1985 c 101 s 4,5; 1Sp1985 c 14 art 1 s 6

270.69 LIEN FOR TAXES.

Subdivision 1. Creation of lien. The tax imposed by any chapter administered by the commissioner of revenue, and interest and penalties imposed with respect thereto, including any recording fees, sheriff fees, or court costs that may accrue, shall become a lien upon all the property within this state, both real and personal, of the person liable for the payment or collection of the tax, except property exempt under subdivision 3, from and after the date of assessment of the tax.

Subd. 2. Filing of liens necessary for enforceability against certain persons. The lien imposed by subdivision 1 is not enforceable against any purchaser, mortgagee, pledgee, holder of a uniform commercial code security interest, mechanic's lienor, or judgment lien creditor, until a notice of lien has been filed by the commissioner of revenue in the office of the county recorder of the county in which the property is situated, or in the case of personal property belonging to an individual who is not a resident of this state, or which is a corporation, partnership, or other organization, in the office of the secretary of state. The indexing of liens filed pursuant to this subdivision and, notwithstanding section 386.77, the fees charged for such filing and indexing, shall be as prescribed in sections 272.483 and 272.484.

Subd. 3. Exempt property. The lien imposed on personal property by this section, even though properly filed, is not enforceable against a purchaser with respect to tangible personal property purchased at retail, or against the personal property listed as exempt in sections 550.37, 550.38, and 550.39, or against the homestead of the taxpayer as defined in chapter 510.

Subd. 4. Period of limitations. The lien imposed by this section shall, notwithstanding any other provision of law to the contrary, be enforceable from the time the lien arises and for ten years from the date of filing the notice of lien, which must be filed by the commissioner within five years after the date of assessment of the tax. A notice of lien filed in one county may be transcribed to any other county within ten years after the date of its filing, but the transcription shall not extend the period during which the lien is enforceable.

Subd. 5. [Repealed, 1985 c 101 s 17]

[For text of subs 6 to 8, see M.S.1984]

Subd. 9. Lien search fees. Upon request of any person, the filing officer shall issue a certificate showing whether there is on file, on the date and hour stated in the certificate, any notice of lien or certificate or notice affecting any lien filed after June 30, 1979, naming a particular person, and giving the date and hour of filing of each notice or certificate naming the person. The fee for a certificate shall be as provided by section 336.9-407 or 357.18, subdivision 1, clause (3). Upon request, the filing officer shall furnish a copy of any notice of state lien, or notice or certificate affecting a state lien, for a fee of 50 cents per page.

History: 1985 c 101 s 6-9; 1985 c 281 s 2

270.70 LEVY AND DISTRAINT.

Subdivision 1. Authority of commissioner. If any tax payable to the commissioner of revenue or to the department of revenue is not paid when due, such tax

may be collected by the commissioner of revenue within five years after the date of assessment of the tax, or if the tax judgment has been filed, within the statutory period of enforcement of a valid tax judgment, by a levy upon all property and rights to property of the person liable for the payment or collection of such tax (except that which is exempt from execution pursuant to section 550.37) or property on which there is a lien provided in section 270.69. For this purpose, the term "tax" shall include any penalty, interest and costs properly payable. The term "levy" includes the power of distraint and seizure by any means.

[For text of subds 2 to 12, see M.S.1984]

Subd. 13. **Levy and sale by sheriff.** If any tax payable to the commissioner of revenue or to the department of revenue is not paid as provided in subdivision 2, the commissioner may, within five years after the date of assessment of the tax, delegate the authority granted to him by subdivision 1, by means of issuing his warrant to the sheriff of any county of the state commanding him, as agent for the commissioner, to levy upon and sell the real and personal property of the person liable for the payment or collection of the tax and to levy upon the rights to property of that person within the county, or to levy upon and seize any property within the county on which there is a lien provided in section 270.69, and to return the warrant to the commissioner and pay to the commissioner the money collected by virtue thereof by a time to be therein specified not less than 60 days from the date of the warrant. The sheriff shall proceed thereunder to levy upon and seize any property of the person and to levy upon the rights to property of the person within the county (except his homestead or that property which is exempt from execution pursuant to section 550.37), or to levy upon and seize any property within the county on which there is a lien provided in section 270.69. For purposes of the preceding sentence, the term "tax" shall include any penalty, interest and costs properly payable. The sheriff shall then sell so much of the property levied upon as is required to satisfy the taxes, interest, and penalties, together with his costs; but the sales, and the time and manner of redemption therefrom, shall, to the extent not provided in sections 270.701 to 270.709, be governed by chapter 550. The proceeds of the sales, less the sheriff's costs, shall be turned over to the commissioner, who shall then apply the proceeds as provided in section 270.708.

[For text of subds 14 to 16, see M.S.1984]

History: 1985 c 101 s 10,11

270.75 INTEREST PAYABLE TO COMMISSIONER.

[For text of subds 1 to 3, see M.S.1984]

Subd. 4. There shall be added to the amount of any underpayment of estimated income tax, computed pursuant to chapter 290, an amount in lieu of interest. The amount in lieu of interest for that taxable year shall be the amount determined in subdivision 5 for January 1 on which begins the taxable year or precedes the beginning of the taxable year. The amount in lieu of interest does not bear interest after the due date of the return for that taxable year.

[For text of subds 5 and 6, see M.S.1984]

Subd. 7. [Repealed, 1Sp1985 c 14 art 13 s 14]

Subd. 8. If a tax payable to the commissioner of revenue or the department of revenue is not paid within the time specified by law, in addition to the interest

prescribed in subdivision 5, the unpaid tax bears an interest surcharge at the rate of one-half percent a year from the date it should have been paid to the date it is paid.

History: 1985 c 210 art 1 s 7; 1Sp1985 c 13 s 306

270.76 INTEREST ON REFUNDS.

When any tax payable to the commissioner of revenue or to the department of revenue is overpaid and an amount is due the taxpayer as a refund of the overpayment, the overpayment shall bear interest from the date of payment of the tax until the date the refund is paid or credit is made, unless another period for computing interest is provided by law. The interest rate per annum on overpayments shall be 80 percent of the interest rate contained in section 270.75, subdivision 5; the rate shall be adjusted annually and become effective as provided in section 270.75, subdivision 5; and the result of the adjustment in the rate shall be rounded to the nearest full percent. The determination of the commissioner pursuant to this subdivision is not a "rule" and is not subject to the administrative procedure act contained in chapter 14.

History: 1Sp1985 c 14 art 15 s 3

270.77 SUBSTANTIAL UNDERSTATEMENT OF LIABILITY.

(a) The commissioner of revenue shall impose a penalty for substantial understatement of liability of any tax payable to the commissioner. Except as otherwise provided in this section, the penalty must be determined under section 6661 of the Internal Revenue Code of 1954, as amended through December 31, 1984.

(b) The provisions of section 6661 (b)(3) of the Internal Revenue Code of 1954, as amended through December 31, 1984 do not apply.

(c) The penalty is not limited to taxes imposed by chapter 290.

(d) A substantial understatement of liability for a tax not imposed by chapter 290 is an understatement that exceeds ten percent of the tax required to be shown on the return or \$5,000, whichever is greater.

History: 1Sp1985 c 13 s 307

270.84 ANNUAL VALUATION OF OPERATING PROPERTY.

Subdivision 1. The commissioner shall annually between April 30 and July 31 make a determination of the fair market value of the operating property of every railroad company doing business in this state as of January 2 of the year in which the valuation is made. In making this determination, the commissioner shall employ generally accepted appraisal principles and practices which may include the unit method of determining value. The commissioner may promulgate emergency rules adopting valuation procedures under sections 14.29 to 14.36.

The commissioner shall give a report to the legislature in February 1985 and in February 1986 on the formula which he has used to determine the value of railroad operating property pursuant to Laws 1984, chapter 502, article 9. This report shall also contain the valuation for taxes payable 1985 and 1986 by company and the taxes payable in 1985 and 1986 by company based upon the valuation of operating property. The legislature may review the formula, the valuation, and the resulting taxes and may make changes in the formula that it deems necessary.

[For text of subd 2, see M.S.1984]

History: 1985 c 248 s 46