

CHAPTER 270A

REVENUE RECAPTURE ACT

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270A.01 CITATION.

Sections 270A.01 to 270A.12 may be cited as the "revenue recapture act."

History: 1980 c 607 art 12 s 1

270A.02 PURPOSE.

The purpose of this chapter is to establish a system of collecting debts owed to state government, the University of Minnesota, or to certain local governmental units by applying any of the debtor's tax refunds to the amount of the debt. To further this purpose a policy of cooperation is established between the department of revenue and claimant agencies in identifying individuals who both owe a claimant agency money and qualify for a tax refund.

History: 1980 c 607 art 12 s 2; 1Sp1981 c 2 s 19; 1985 c 235 s 1; 1986 c 444

270A.03 DEFINITIONS.

Subdivision 1. For purposes of sections 270A.01 to 270A.12, the terms defined in this section have the meanings given them.

Subd. 2. "Claimant agency" means any state agency, as defined by section 14.02, subdivision 2, the regents of the University of Minnesota, any district court of the state, any county, and any public agency responsible for child support enforcement.

Subd. 3. "Commissioner" means the commissioner of revenue.

Subd. 4. "Debtor" means a natural person obligated on a debt to a claimant agency.

Subd. 5. "Debt" means a legal obligation of a natural person to pay a fixed and certain amount of money, which equals or exceeds \$25 and which is due and payable to a claimant agency. The term includes criminal fines imposed under section 609.10. A debt may arise under a contractual or statutory obligation, a court order, or other legal obligation, but need not have been reduced to judgment. A debt does not include (1) any legal obligation of a current recipient of assistance which is based on overpayment of an assistance grant, or (2) any legal obligation to pay a claimant agency for medical care, including hospitalization if the debtor would have qualified for a low income credit equal to tax liability pursuant to Minnesota Statutes 1984, section 290.06, subdivision 3d, clause (1), at the time when the medical care was rendered, provided that, for purposes of this subdivision, the income amounts in that section shall be adjusted for inflation for debts incurred in calendar years 1987 and thereafter. The dollar amount of each income level that applied to debts incurred in the prior year shall be increased in the same manner as provided in section 290.06, subdivision 2d, for the expansion of the tax rate brackets.

Subd. 6. "Department" means the department of revenue.

Subd. 7. "Refund" means an individual income tax refund, pursuant to chapter 290, or a property tax credit or refund, pursuant to chapter 290A.

History: 1980 c 607 art 12 s 3; 1Sp1981 c 2 s 20,21; 1982 c 424 s 130; 1984 c 502 art 14 s 3; 1985 c 235 s 2; 1Sp1986 c 1 art 8 s 7

270A.04 AGENCY PARTICIPATION.

Subdivision 1. The collection remedy under this section is in addition to and not in substitution for any other remedy available by law.

Subd. 2. Any debt owed to a claimant agency shall be submitted by the agency for collection under the procedure established by sections 270A.01 to 270A.12 unless (a) an alternative means of collection is pending and believed to be adequate, (b) the collection attempt would result in a loss of federal funds, or (c) the agency is unable to supply the department with the necessary identifying information required by subdivision 3 or rules promulgated by the commissioner, or (d) the debt is barred by section 541.05.

Subd. 3. For each debt submitted, the claimant agency shall provide the commissioner with the name and social security number of the debtor and any other identifying information required by rules promulgated by the commissioner.

Subd. 4. Whenever possible, a claimant agency shall obtain the identifying information required by subdivision 3 from any individual for whom the agency provides any service or transacts any business and who the claimant agency can foresee may become a debtor of the claimant agency.

History: 1980 c 607 art 12 s 4; 1984 c 502 art 14 s 4

270A.05 MINIMUM SUM COLLECTIBLE.

The minimum sum which a claimant agency may collect through use of the set-off procedure is \$25.

History: 1980 c 607 art 12 s 5

270A.06 COLLECTION OF DEBTS THROUGH SET-OFF.

Subject to the limitations of sections 270A.01 to 270A.12, the department shall, upon request by a claimant agency, render assistance in the collection of any debt owing to the agency. This assistance shall be provided by use of a procedure in which the sum of the refund due the debtor is applied to the amount due and owing from the debtor to the claimant agency.

History: 1980 c 607 art 12 s 6

270A.07 PROCEDURE FOR SET-OFF COLLECTION.

Subdivision 1. **Notification requirement.** On or before December 15 any claimant agency, seeking collection of a debt through set-off against a refund due in the succeeding year, shall submit to the commissioner information indicating the amount of each debt and information identifying the debtor, as required by section 270A.04, subdivision 3. Subject to the notification deadline specified above, the notification shall be effective only to initiate set-off for claims against refunds that would be made in the calendar year subsequent to the year in which notification is made to the commissioner.

The claimant agency shall submit to the commissioner the amount of \$3 per certification. The payment must accompany the certification. The claimant agency shall increase the amount of each debt certified by \$3 and this total amount is subject to recapture. If the total debt is not recaptured by the commissioner, the \$3 addition to the debt may be collected by the claimant agency from the debtor and must be considered an obligation of the debtor. The \$3 will not be refunded if the recapture is not accomplished.

Subd. 2. **Set-off procedures.** (a) The commissioner, upon receipt of notification, shall initiate procedures to detect any refunds otherwise payable to the debtor. When the commissioner determines that a refund is due to a debtor whose debt was submitted by a claimant agency, the commissioner shall remit the refund or the amount claimed, whichever is less, to the agency. In transferring or remitting moneys to the claimant agency, the commissioner shall provide information indicating the amount applied against each debtor's obligation and the debtor's address listed on the tax return.

(b) The commissioner shall remit to the debtor the amount of any refund due in excess of the debt submitted for set-off by the claimant agency. Notice of the amount set-off and address of the claimant agency shall accompany any disbursement to the debtor of the balance of a refund.

Subd. 3. **Deposit of funds.** Any amounts remitted or transferred to state agencies shall be deposited as provided in section 16A.72.

Subd. 4. **Effect of transfer or payment.** Transfer or remittance of funds to a claimant agency pursuant to this section constitutes payment of the department's obligation to refund the sums as overpayments of taxes or property tax credits or refunds. Any action for the set-off funds shall be made against the claimant agency pursuant to section 270A.09.

Subd. 5. **Interest on refunds.** Any refund wrongfully or incorrectly applied to a debt and transferred to a claimant agency shall be paid by the agency to the debtor. The sum wrongfully or incorrectly withheld shall bear interest at the rate specified in section 270.76, computed from the date when the refund would begin to bear interest under section 290.92, subdivision 13, clause (1), regardless of whether the refund is payable under chapter 290 or 290A. If the claimant agency is a state agency, the payment shall be made out of the agency's appropriation.

History: 1980 c 607 art 12 s 7; 1Sp1985 c 13 s 308; 1Sp1985 c 14 art 15 s 4

270A.08 NOTICE AND HEARING REQUIRED.

Subdivision 1. Not later than five days after the claimant agency has sent notification to the department pursuant to section 270A.07, subdivision 1, the claimant agency shall send a written notification to the debtor asserting the right of the claimant agency to the refund or any part thereof. If the notice is returned to the claimant agency as undeliverable, or the claimant agency has reason to believe the debtor did not receive the notice, the claimant agency shall obtain the current address of the debtor from the commissioner and resend the corrected notice.

Subd. 2. (a) This written notice shall clearly and with specificity set forth the basis for the claim to the refund including the name of the benefit program involved if the debt arises from a public assistance grant and the dates on which the debt was incurred and, further, shall advise the debtor of the claimant agency's intention to request set-off of the refund against the debt.

(b) The notice will also advise the debtor of the right to contest the validity of the claim at a hearing. The debtor must assert this right by written request to the claimant agency, which request the agency must receive within 45 days of the mailing date of the original notice or of the corrected notice, as required by subdivision 1. If the debtor has not received the notice, the 45 days shall not commence until the debtor has received actual notice. The debtor shall have the burden of showing no notice and shall be entitled to a hearing on the issue of notice as well as on the merits.

History: 1980 c 607 art 12 s 8; 1984 c 502 art 14 s 5,6; 1986 c 444

270A.09 CONTESTED CLAIMS PROCEDURE.

Subdivision 1. If a claimant agency receives written notice of a debtor's intention to contest at hearing the claim upon which the intended set-off is based, it shall initiate a hearing according to contested case procedures established in the state administrative procedure act not later than 30 days after receipt of the debtor's request for a hearing.

Subd. 2. No issue may be raised at the hearing which has been previously litigated. If a debt is based on a court judgment or court order, the hearing required by subdivision 1 need not, but may be granted at the sole discretion of the commissioner of the claimant agency.

History: 1980 c 607 art 12 s 9; 1980 c 615 s 64

270A.10 PRIORITY OF CLAIMS.

If two or more debts, in a total amount exceeding the debtor's refund, are submitted for set-off, the priority of payment shall be as follows: First, any delinquent tax obligations of the debtor which are owed to the department shall be satisfied. Secondly, the refund shall be applied to the remaining debts based on the order in time in which the commissioner received the debts.

History: 1980 c 607 art 12 s 10

270A.11 DATA PRIVACY.

Notwithstanding sections 290.61 and 290A.17, private and confidential data on individuals may be exchanged among the department, the claimant agency, and the debtor as necessary to accomplish and effectuate the intent of sections 270A.01 to 270A.12, as provided by section 13.05, subdivision 4, clause (b). The department may disclose to the claimant agency only the debtor's name, address, social security number and the amount of the refund. Any person employed by, or formerly employed by, a claimant agency who discloses any such information for any other purpose, shall be subject to the civil and criminal penalties of sections 13.09 and 290.61.

History: 1980 c 607 art 12 s 11; 1981 c 311 s 39; 1982 c 545 s 24

270A.12 RULES.

The commissioner is authorized to develop and to require the use of any necessary forms. The commissioner or a claimant agency is authorized to make any rules necessary to effectuate the purposes of sections 270A.01 to 270A.12. Pursuant to this authority, emergency rules may be adopted pursuant to sections 14.29 to 14.36.

History: 1980 c 607 art 12 s 12; 1982 c 424 s 130; 1984 c 640 s 32