

CHAPTER 270

DEPARTMENT OF REVENUE

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270.052 AGREEMENT WITH INTERNAL REVENUE SERVICE.

Notwithstanding sections 290.61 and 290A.17, the commissioner may enter into an agreement with the Internal Revenue Service to identify taxpayers who have refunds due from the department of revenue and liabilities owing to the Internal Revenue Service, if the Internal Revenue Service agrees to identify taxpayers who have refunds due from the Internal Revenue Service and liabilities owing to the department of revenue. In accordance with the procedures established in the agreement, the Internal Revenue Service may levy against the refunds to be paid by the department of revenue, and the department of revenue may levy against refunds to be paid by the Internal Revenue Service.

History: 1987 c 268 art 17 s 1

270.058 AUTHORITY TO PAY LOCAL TAXES; APPROPRIATION.

The commissioner may pay to any local government unit, any locally imposed sales taxes that may be assessed against the department of revenue. There is appropriated to the commissioner of revenue from the general fund the amount needed to make the payments.

History: 1987 c 268 art 14 s 7

270.066 COMMISSIONER TO REQUIRE SOCIAL SECURITY OR IDENTIFYING NUMBERS ON FORMS.

Notwithstanding the provisions of any other law, the commissioner of revenue may require that a form required to be filed with the commissioner include the social security number, federal employer identification number, or Minnesota taxpayer identification number of the taxpayer or applicant.

History: 1987 c 268 art 17 s 2

270.071 DEFINITIONS.

[For text of subs 1 to 8, see M.S.1986]

Subd. 9. "Small or medium sized community" means a home rule charter or statutory city or town in Minnesota with a population of 100,000 or fewer that is not located in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington counties.

History: 1987 c 268 art 14 s 8

270.074 VALUATION OF FLIGHT PROPERTY; METHODS OF APPORTIONMENT; RATIO OF TAX.

[For text of subs 1 and 2, see M.S.1986]

Subd. 3. (a) The flight property of every airline company shall be assessed at 70 percent of the value thereof apportioned to this state under subdivision 1, except that quiet aircraft shall be assessed at 40 percent of the value determined under subdivision 1. Quiet aircraft shall include turboprops and aircraft defined as stage III by the Federal Aeronautics Administration. If, in the opinion of the commissioner, other aircraft may be qualified as quiet aircraft, the commissioner may adopt rules providing additional qualifications.

(b) The flight property of an airline company that owns or leases aircraft the majority of which are turboprops, and which provides, during six months or more of the year that taxes are levied, scheduled passenger service to three or more airports inside or outside of this state that serve small or medium sized communities, shall be assessed at 50 percent of the assessment percentage otherwise set by paragraph (a).

History: 1987 c 268 art 14 s 9

270.075 TAX LEVY.

Subdivision 1. The commissioner shall determine the rate of tax to be levied and collected against the assessed valuation as determined pursuant to section 270.074, subdivision 2, to generate revenues of \$7,500,000 from taxes levied in assessment year 1987 and payable in 1988 and revenues of \$7,900,000 from taxes levied in 1988 and payable in 1989. Thereafter the legislature shall annually establish the amount of revenue to be generated from a tax on airflight property.

[For text of subs 2 to 4, see M.S.1986]

History: 1987 c 268 art 14 s 10; 1987 c 384 art 3 s 9

270.10 ORDERS, DECISIONS, REPORTS.

Subdivision 1. **In writing; approval by attorney general.** All orders and decisions of the commissioner of revenue, or any subordinates, respecting any tax, assessment, or other obligation, shall be in writing, filed in the offices of the department. Any order or decision increasing or decreasing any tax, assessment, or other obligation by a sum exceeding \$1,000 on real or personal property, or the assessed valuation thereof, or other obligation relating thereto, the result of which is to increase or decrease the total amount payable including penalties and interest, by a sum exceeding \$1,000, and any order or decision increasing or decreasing any other tax by a sum exceeding \$1,000 exclusive of penalties and interest, must bear the written signature or facsimile signature of the commissioner or the commissioner's delegate. Written notice of every order granting a reduction, abatement, or refundment exceeding \$5,000 of any tax exclusive of penalties and interest, shall be given within five days to the attorney general. The attorney general shall forthwith examine the order, and if proper and legal, approve it in writing. The attorney general may waive the right of appeal from the order on behalf of the state or may appeal from the order on behalf of the state as herein provided. Written approval of the commissioner or a delegate and written notice to the attorney general shall not be required with respect to the following orders: (1) orders reducing assessed valuation of property by reason of its classification as a homestead; (2) orders not involving refunds which have the effect only of correcting income and franchise tax assessments to conform to the amounts shown on final returns filed as provided by section 290.42, clause (6); and (3) original orders for the refundment of gasoline and special fuel taxes.

[For text of subs 2 and 3, see M.S.1986]

Subd. 4. **Orders assessing personal liability.** The commissioner may, based upon information available to the commissioner and within the prescribed period of limitations for assessing the underlying tax, assess personal liability against any officer, director, or employee of a corporation, or a member or employee of a partnership, who as an officer, director, employee, or member, falls within the personal liability provisions of section 290.92, chapter 296, 297, 297A, 297C, or sections 349.212 and

349.2121, for taxes arising thereunder which are due and owing by that corporation or partnership. An order assessing personal liability under this subdivision shall be appealable to the tax court without payment of the tax, penalty, or interest in the manner provided by law, but an appeal shall not preclude the commissioner from exercising any collection action the commissioner deems necessary to preserve the interests of the state while the matter is pending.

History: 1987 c 268 art 14 s 11; art 17 s 3

270.11 POWERS; MEETINGS.

Subdivision 1. To act as state board of equalization. The commissioner of revenue shall have and exercise all the rights, powers and authority by law vested in the state board of equalization, which board of equalization is hereby continued, with full power and authority to review, modify, and revise all of the acts and proceedings of the commissioner in so far as they relate to the equalization and valuation of property assessed for taxation, as prescribed by section 270.12.

Subd. 2. County assessor's reports of assessment filed with commissioner. Each county assessor shall file by June 15 with the commissioner of revenue a copy of the abstract that will be acted upon by the county board of review. The abstract must list the real and personal property in the county, as equalized by the local board of review or equalization, itemized by assessment districts. A printed or typewritten copy of the proceedings of the local board of review or equalization must also be filed with the commissioner. The assessor of each county in the state shall file with the commissioner, within five working days following final action of the county board of equalization, any changes made by the county board of equalization. The information must be filed in the manner prescribed by the commissioner. It must be accompanied by a printed or typewritten copy of the proceedings of the county board of equalization.

The final abstract of assessments after adjustments by the state board of equalization and inclusion of any omitted property shall be submitted to the commissioner of revenue on or before November 15 of each calendar year.

[For text of subs 3 to 7, see M.S.1986]

History: 1987 c 268 art 7 s 18,19

NOTE: Subdivisions 1 and 2, as amended by Laws 1987, chapter 268, article 7, sections 18 and 19, are effective for the 1988 assessment and thereafter, and taxes payable in 1989 and thereafter. See Laws 1987, chapter 268, article 7, section 56.

270.12 STATE BOARD OF EQUALIZATION; DUTIES.

[For text of subd 1, see M.S.1986]

Subd. 2. The board shall meet annually between July 15 and October 1 at the office of the commissioner of revenue and examine and compare the returns of the assessment of the property in the several counties, and equalize the same so that all the taxable property in the state shall be assessed at its market value, subject to the following rules:

- (1) The board shall add to the aggregate valuation of the real property of every county, which the board believes to be valued below its market value in money, such percent as will bring the same to its market value in money;
- (2) The board shall deduct from the aggregate valuation of the real property of every county, which the board believes to be valued above its market value in money, such percent as will reduce the same to its market value in money;
- (3) If the board believes the valuation of the real property of any town or district in any county, or the valuation of the real property of any county not in towns or cities, should be raised or reduced, without raising or reducing the other real property of such county, or without raising or reducing it in the same ratio, the board may add to, or take from, the valuation of any one or more of such towns or cities, or of the property not in towns or cities, such percent as the board believes will raise or reduce the same to its market value in money;

(4) The board shall add to the aggregate valuation of any class of personal property of any county, town, or city, which the board believes to be valued below the market value thereof, such percent as will raise the same to its market value in money;

(5) The board shall take from the aggregate valuation of any class of personal property in any county, town or city, which the board believes to be valued above the market value thereof, such percent as will reduce the same to its market value in money;

(6) The board shall not reduce the aggregate valuation of all the property of the state, as returned by the several county auditors, more than one percent on the whole valuation thereof;

(7) When it would be of assistance in equalizing values the board may require any county auditor to furnish statements showing assessments of real and personal property of any individuals, firms, or corporations within the county. The board shall consider and equalize such assessments and may increase the assessment of individuals, firms, or corporations above the amount returned by the county board of equalization when it shall appear to be undervalued, first giving notice to such persons of the intention of the board so to do, which notice shall fix a time and place of hearing. The board shall not decrease any such assessment below the valuation placed by the county board of equalization; and

(8) In equalizing values pursuant to this section, the board shall utilize a 12-month assessment/sales ratio study conducted by the department of revenue containing only sales that occurred between October 1 of the year immediately preceding the previous year to September 30 of the previous year. The sales prices used in the study must be discounted for terms of financing. The board shall use the median ratio as the statistical measure of the level of assessment for any particular category of property.

Subd. 3. 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 commissioner 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 commissioner 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 July 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 October 1.

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: 1987 c 268 art 7 s 20,21

NOTE: The amendments to subdivisions 2 and 3 by Laws 1987, chapter 268, article 7, sections 20 and 21, are effective for the 1988 assessment and thereafter, and taxes payable in 1989 and thereafter, except the changes in references in subdivision 3 from the equalization aid review committee to the commissioner are effective May 29, 1987. See Laws 1987, chapter 268, article 7, section 56.

270.13 RECORD OF PROCEEDINGS CHANGING ASSESSED VALUATION; DUTIES OF COUNTY AUDITOR.

A record of all proceedings of the commissioner of revenue affecting any change in the assessed valuation of any property, as revised by the state board of equalization, shall be kept by the commissioner of revenue and a copy thereof, duly certified, shall be mailed each year to the auditor of each county wherein such property is situated, on or before October 1 or 30 days after submission of the abstract required by section 270.11, subdivision 2, whichever is later. This record shall specify the amounts or amount, or both, added to or deducted from the valuation of the real property of each of the several towns and cities, and of the real property not in towns or cities, also the percent or amount of both, added to or deducted from the several classes of personal property in each of the towns and cities, and also the amount added to or deducted from the assessments of individuals, copartnerships, associations, or corporations. The county auditor shall add to or deduct from such tract or lot, or portion thereof, of any real property in the county the required percent or amount, or both, on the valuation thereof as it stood after equalized by the county board, adding in each case a fractional sum of 50 cents or more, and deducting in each case any fractional sum of less than 50 cents, so that no valuation of any separate tract or lot shall contain any fraction of a dollar; and add to, or deduct from, the several classes of personal property in the county the required percent or amount, or both, on the valuation thereof as it stood after equalized by the county board, adding or deducting in manner aforesaid any fractional sum so that no valuation of any separate class of personal property shall contain a fraction of a dollar, and add to or deduct from assessments of individuals, copartnerships, associations, or corporations, as they stood after equalization by the county board, the required amounts to agree with the assessments as returned by the commissioner of revenue.

History: 1987 c 268 art 7 s 22

NOTE: This section, as amended by Laws 1987, chapter 268, article 7, section 22, is effective for the 1988 assessment and thereafter, and taxes payable in 1989 and thereafter. See Laws 1987, chapter 268, article 7, section 56.

270.271 TIMELY MAILING TREATED AS TIMELY FILING AND PAYING.

Subdivision 1. Date of delivery. When a document, including a return, claim, or statement, is required to be filed, or a payment is required to be made to the commissioner within a prescribed period, or on or before a prescribed date, and if the document or payment is delivered by United States mail after the period or the date to the place prescribed for filing or payment, then the date of the United States postmark stamped on the cover in which the document or payment is mailed shall be considered the date of delivery or of payment, as the case may be.

Subd. 2. Mailing requirements. Subdivision 1 applies only if:

(1) the postmark date falls within the prescribed period or on or before the prescribed date,

(i) for filing (including any extension granted for the filing) of the document, or

(ii) for making the payment (including any extension granted for making the payment); and

(2) the document or payment was within the time prescribed in clause (1), deposited in the mail in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the office of the department of revenue with which the document is required to be filed or to which payment is required to be made.

Subd. 3. United States postal service postmark. Only the postmark of the United States Postal Service, rather than those of private postage meters, qualifies as proof of timely mailing under this section. If the document or payment is sent by United States registered mail, the date of registration shall be treated as the postmark date. If the document or payment is sent by United States certified mail and the sender's receipt is postmarked by the postal employee to whom the envelope containing such document or payment is presented, the date of the United States postmark on the receipt shall be treated as the postmark date of the document or payment.

Subd. 4. Receipt date otherwise governs. In any case in which the document or payment is not treated as timely filed or paid under this section, the date of receipt by the commissioner, and not the postmark date, shall govern for purposes of determining the amount of any penalties for late filing or payment.

History: 1987 c 268 art 17 s 4

270.485 SENIOR ACCREDITATION.

The legislature finds that the property tax system would be enhanced by requiring that every county assessor and senior appraiser in the department of revenue's property tax review division obtain senior accreditation from the state board of assessors. By January 1, 1989, every county assessor and senior appraiser, including the department's regional representatives, must obtain senior accreditation from the state board of assessors. The board shall provide the necessary courses or training. If a department senior appraiser or regional representative fails to obtain senior accreditation by January 1, 1989, the failure shall be grounds for dismissal, disciplinary action, or corrective action. After December 30, 1988, the commissioner must not approve the appointment of a county assessor who is not senior accredited by the state board of assessors. No employee hired by the commissioner as a senior appraiser or regional representative after June 30, 1987, shall attain permanent status until the employee obtains senior accreditation.

History: 1987 c 268 art 7 s 23

270.651 ERRONEOUS REFUND.

An erroneous refund shall be considered an underpayment of tax on the date made. An assessment of a deficiency arising out of an erroneous refund may be made at any time within two years from the making of the refund. If any part of the refund was induced by fraud or misrepresentation of a material fact, the assessment may be made at any time. If the erroneous refund results from a mistake of the department, no interest or penalty will be imposed, unless the deficiency assessment is not satisfied within 60 days of the order.

History: 1987 c 268 art 17 s 5

270.72 TAX CLEARANCE; ISSUANCE OF LICENSES.

Subdivision 1. Tax clearance required. The state or a political subdivision of the state may not issue, transfer, or renew a license for the conduct of a profession, occupation, trade, or business, if the commissioner notifies the licensing authority that the applicant owes the state delinquent taxes, penalties, or interest. The commissioner may not notify the licensing authority unless the applicant taxpayer owes \$500 or more in delinquent taxes. A licensing authority that has received a notice from the commissioner may issue, transfer, or renew the applicant's license only if (a) the commissioner issues a tax clearance certificate and (b) the commissioner or the applicant forwards a copy of the clearance to the authority. The commissioner may issue a clearance certificate only if the applicant does not owe the state any uncontested delinquent taxes, penalties, or interest.

Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings given.

(a) "Taxes" are all taxes payable to the commissioner including penalties and interest due on the taxes.

(b) "Delinquent taxes" do not include a tax liability if (i) an administrative or court action which contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the tax liability has not expired, or (iii) the applicant has entered into a payment agreement and is current with the payments.

(c) "Applicant" means an individual if the license is issued to or in the name of an individual or the corporation or partnership if the license is issued to or in the name of a corporation or partnership. "Applicant" also means an officer of a corporation, a member of a partnership, or an individual who is liable for delinquent taxes, either for the entity for which the license is at issue or for another entity for which the liability was incurred, or personally as a licensee. In the case of a license transfer, "applicant" also means both the transferor and the transferee of the license.

[For text of subs 3 and 4, see M.S.1986]

History: 1987 c 268 art 17 s 6,7

270.75 INTEREST PAYABLE TO COMMISSIONER.

[For text of subs 1 to 6, see M.S.1986]

Subd. 8. [Repealed, 1987 c 268 art 17 s 42]

270.77 SUBSTANTIAL UNDERSTATEMENT OF LIABILITY.

The commissioner of revenue shall impose a penalty for substantial understatement of any tax payable to the commissioner.

There must be added to the tax an amount equal to 25 percent of the amount of any underpayment attributable to the understatement. There is a substantial understatement of tax for the period if the amount of the understatement for the period exceeds the greater of: (1) ten percent of the tax required to be shown on the return for the period; or (2)(a) \$10,000 in the case of a corporation other than an S corporation as defined in section 290.9725 when the tax is imposed by chapter 290, or (b) \$5,000 in the case of any other taxpayer, and in the case of a corporation any tax not imposed by chapter 290. The term "understatement" means the excess of the amount of the tax required to be shown on the return for the period, over the amount of the tax imposed which is shown on the return. The amount of the understatement shall be reduced by that portion of the understatement which is attributable to the tax treatment of any item by the taxpayer if there is or was substantial authority for the treatment, or any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return. The special rules in cases involving tax shelters provided in section 6661(b)(2)(C) of the Internal Revenue Code of 1954, as amended through December 31, 1985, shall apply and shall apply to a tax shelter the principal purpose of which is the avoidance or evasion of state taxes. The commissioner may abate all or any part of the addition to the tax provided by this section on a showing by the taxpayer that there was reasonable cause for the understatement, or part of it, and that the taxpayer acted in good faith. The additional tax and penalty shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid.

History: 1987 c 268 art 17 s 8

270.80 DEFINITIONS.

[For text of subd 1, see M.S.1986]

Subd. 2. "Railroad company" means:

(1) any company which as a common carrier operates a railroad or a line or lines of railway situated within or partly within Minnesota; or

(2) any company owning or operating, other than as a common carrier, a railway principally used for transportation of taconite concentrates from the plant at which the taconite concentrates are produced in shipping form to a point of consumption or port for shipment beyond the state; or

(3) any company that produces concentrates from taconite and transports that taconite in the course of the concentrating process and before the concentrating process is completed to a concentrating plant located within the state over a railroad that is not a common carrier and shall not use a common carrier or taconite railroad company as defined in clause (2) for the movement of the concentrate to a point of consumption or port for shipment beyond the state.

[For text of subs 3 to 5, see M.S.1986]

History: 1987 c 268 art 9 s 6

NOTE: The amendment to subdivision 2 by Laws 1987, chapter 268, article 9, section 6, takes effect for taxes assessed in 1989 and thereafter. See Laws 1987, chapter 268, article 9, section 44.

270.87 CERTIFICATION TO COUNTY ASSESSORS.

After making an annual determination of the equalized fair market value of the operating property of each company in each of the respective counties, and in the taxing districts therein, the commissioner shall certify the equalized fair market value to the county assessor on or before October 1, which shall constitute the equalized fair market value of the operating property of the railroad company in such county and the taxing districts therein upon which taxes shall be levied and collected in the same manner as on the commercial and industrial property of such county and the taxing districts therein.

History: 1987 c 268 art 7 s 24

NOTE: This section, as amended by Laws 1987, chapter 268, article 7, section 24, is effective for the 1988 assessment and thereafter, and taxes payable in 1989 and thereafter. See Laws 1987, chapter 268, article 7, section 56.

270.89 [Repealed, 1987 c 268 art 4 s 25]