

CHAPTER 270B

TAX DATA, CLASSIFICATION AND DISCLOSURE

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270B.01 DEFINITIONS.

Subdivision 1. **Words, terms, and phrases.** The definitions in this section apply to this chapter.

Subd. 2. **Return.** "Return" means a tax or information return, declaration of estimated tax, or claim for refund under Minnesota tax laws that is filed with the commissioner. "Return" includes any amendment or supplement to those documents, including supporting schedules, attachments, or lists that are supplemental to, or part of, the return. "Return" also includes any report, application, or other form required to be filed with the commissioner under Minnesota tax laws.

Subd. 3. **Return information.** "Return information" means a taxpayer's identity, the nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, given to, or collected by the commissioner with respect to the determination of the existence, possible existence, or amount of liability of any person under Minnesota tax laws for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense. "Return information" includes the failure to file any return required to be filed with the commissioner under Minnesota tax laws. The term does not include data in a form that cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

Subd. 4. **Tax administration.** "Tax administration" means:

(1) the administration, management, conduct, direction, and supervision of the execution and application of Minnesota tax laws; and

(2) the development and formulation of state tax policy relating to the existing or proposed tax laws and related statutes.

"Tax administration" includes assessment, collection, enforcement, litigation, publication, and statistical gathering functions under existing or proposed tax laws and related statutes.

Subd. 5. **Taxpayer identity.** "Taxpayer identity" means the name of a person with respect to whom a return is filed, or the person's mailing address, or the person's taxpayer identifying number.

Subd. 6. **Inspected; inspection.** "Inspected" and "inspection" mean any examination of a return or return information.

Subd. 7. **Disclosure.** "Disclosure" means the making known to any person in any manner whatever a return or return information.

Subd. 8. **Minnesota tax laws.** For purposes of this chapter only, "Minnesota tax laws" means the taxes administered by or paid to the commissioner under chapters 290, 290A, 291, and 297A, and includes any laws for the assessment, collection, and enforcement of those taxes.

Subd. 9. **Commissioner.** "Commissioner" means the commissioner of revenue.

Subd. 10. **Person.** "Person" includes individuals, fiduciaries, estates, trusts, partnerships, and corporations.

Subd. 11. **Taxpayer.** "Taxpayer" means a person required to file, or who files, a return with the commissioner under Minnesota tax laws.

Subd. 12. **Department of revenue data.** "Department of revenue data" means data regarding tax administration collected, created, or maintained by the department of revenue.

History: 1989 c 184 art 1 s 1

270B.02 CLASSIFICATION OF DATA.

Subdivision 1. **General rule.** Except as otherwise provided in this chapter, returns and return information are private data on individuals or nonpublic data as defined in section 13.02, subdivisions 9 and 12. Except as authorized by this chapter, the department of revenue, the commissioner, an officer or employee or former officer or employee of the department of revenue, a person engaged or retained by the department on an independent contract basis, or a person who, under sections 270B.05 to 270B.15, is permitted to inspect returns or return information may not disclose returns or return information.

Subd. 2. **Protected nonpublic data.** The following are protected nonpublic data as defined in section 13.02, subdivision 13:

- (1) criteria for determining which computer processed returns are selected for audit;
- (2) criteria for determining which returns are selected for an in-depth audit; and
- (3) criteria for determining which accounts receivable balances below a stated amount are written off or canceled.

Subd. 3. **Confidential data on individuals; protected nonpublic data.** (a) Except as provided in paragraph (b), names of informers, informer letters, and other unsolicited data, in whatever form, given to the department of revenue by a person, other than the data subject, that inform that a specific taxpayer is not or may not be in compliance with tax laws are confidential data on individuals or protected nonpublic data as defined in section 13.02, subdivisions 3 and 13.

(b) Data under paragraph (a) may be disclosed with the consent of the informer or upon a written finding by a court that the information provided by the informer was false and that there is evidence that the information was provided in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the rules of criminal procedure.

Subd. 4. **Public data.** Information required to be filed by exempt individuals, corporations, organizations, estates, and trusts under section 290.05, subdivisions 1 and 4, is public data on individuals or public data not on individuals, as defined in section 13.02, subdivisions 14 and 15. The commissioner may publish a list of organizations exempt from taxation under section 290.05, except that the name or address of any contributor to any organization that is or was exempt, or that has applied for tax exempt status, or any other information that could not be disclosed under section 6104 of the Internal Revenue Code of 1986, as amended through December 31, 1988, is classified as private data on individuals or nonpublic data as defined in section 13.02, subdivisions 9 and 12.

Subd. 5. **Maintaining classifications.** Notwithstanding section 13.03, subdivision 7, returns and return information retain the classification designated under this chapter. Notwithstanding sections 13.03, subdivision 8, and 13.10, department of revenue data classified under this chapter as nonpublic data, protected nonpublic data, private data on individuals, or confidential data on individuals remain so classified.

History: 1989 c 184 art 1 s 2

270B.03 DISCLOSURE TO DATA SUBJECT.

Subdivision 1. Who may inspect. Returns and return information must, on written request, be made open to inspection by or disclosure to the data subject. For purposes of this chapter, the following are the data subject:

- (1) in the case of an individual return, that individual;
- (2) in the case of an income tax return filed jointly, either of the individuals with respect to whom the return is filed;
- (3) in the case of a partnership return, any person who was a member of the partnership during any part of the period covered by the return;
- (4) in the case of the return of a corporation or its subsidiary:
 - (i) any person designated by resolution of the board of directors or other similar governing body;
 - (ii) any officer or employee of the corporation upon written request signed by any officer and attested to by the secretary or another officer;
 - (iii) any bona fide shareholder of record owning one percent or more of the outstanding stock of the corporation;
 - (iv) if the corporation is a corporation that has made an election under section 1362 of the Internal Revenue Code of 1986, as amended through December 31, 1988, any person who was a shareholder during any part of the period covered by the return during which an election was in effect; or
 - (v) if the corporation has been dissolved, any person authorized by state law to act for the corporation or any person who would have been authorized if the corporation had not been dissolved;
- (5) in the case of an estate return:
 - (i) the personal representative or trustee of the estate; and
 - (ii) any heir at law, next of kin, or beneficiary of the estate, but only if the commissioner finds that the heir at law, next of kin, or beneficiary has a material interest that will be affected by information contained in the return;
- (6) in the case of a trust return:
 - (i) the trustee or trustees, jointly or separately; and
 - (ii) any beneficiary of the trust, but only if the commissioner finds that the beneficiary has a material interest that will be affected by information contained in the return; and
- (7) if liability has been assessed to a transferee under section 290.29, the transferee is the data subject with regard to the returns and return information relating to the assessed liability.

Subd. 2. Incapacitation. If an individual is legally incapacitated under sections 525.539 to 525.61, or similar laws of another state, that individual's return and return information is, upon written request, open to inspection by or disclosure to the guardian or conservator appointed for the individual or the individual's estate.

Subd. 3. Deceased individuals. Notwithstanding section 13.10, a return filed by or on behalf of a decedent is open to inspection by or disclosure to:

- (1) the personal representative of the decedent's estate or trustee appointed under section 573.02, subdivision 3, or a similar law of another state; and
- (2) any heir at law, next of kin, or beneficiary under the will of the decedent, or a donee of property, but only if the commissioner finds that the heir at law, next of kin, beneficiary, or donee has a material interest that will be affected by information contained in the return.

Subd. 4. Title 11 of the United States Code and receivership proceedings. (a) If the commissioner finds that the trustee or receiver, in that person's fiduciary capacity, has a material interest that will be affected by information contained in the return, a return is open to inspection by or disclosure to the trustee or receiver if:

- (1) there is a trustee in a title 11 (United States Bankruptcy Code) case in which the debtor is the person with respect to whom the return is filed; or

(2) substantially all of the property of the person with respect to whom the return is filed is in the hands of a receiver.

(b) In an involuntary bankruptcy case of an individual, no disclosure may be made under paragraph (a) until the order for relief has been entered by the court having jurisdiction of the case, unless the court finds that disclosure is appropriate for purposes of determining whether an order for relief should be entered.

Subd. 5. Attorney in fact. Any return or return information to which this section applies is, upon written request, open to inspection by or disclosure to the attorney in fact duly authorized in a writing signed by the data subject or to the person or persons designated by the data subject in a written request for or consent to the disclosure.

Subd. 6. Investigative data. Notwithstanding any law to the contrary, the disclosure of investigative data collected or created by the department of revenue in order to prepare a case against a person, whether known or unknown, for the commission of a crime is governed by section 13.82, subdivision 5, during an investigation. When the investigation becomes inactive, as defined in section 13.82, subdivision 5, the previous classifications become effective.

Subd. 7. Requests. The commissioner may prescribe a form to be completed by the data subject requesting or authorizing inspection or disclosure of returns and return information.

Subd. 8. Access to data. Section 13.03, subdivision 3, applies to requests for access to data under this section.

History: 1989 c 184 art 1 s 3

270B.04 STATISTICAL STUDIES.

Subdivision 1. General rule. The commissioner may compile statistical studies from information derived from returns and return information and may disclose the results of those studies. In addition, the commissioner may disclose statistical information from returns and return information to the governor, legislature, or another state agency to allow those governmental entities to conduct their own statistical studies.

Subd. 2. Protection from disclosure. Notwithstanding subdivision 1, the commissioner may not disclose the results of a study and may not disclose any statistical information if, as a result of that disclosure:

- (1) the identity of a taxpayer who filed a return would be disclosed;
- (2) the identity of a taxpayer could reasonably be associated with any of the information that was derived from the taxpayer's return; or
- (3) the ability of the commissioner to obtain information from federal tax returns would, in the commissioner's judgment, be jeopardized in any manner.

History: 1989 c 184 art 1 s 4

270B.05 DISCLOSURE IN TAX PROCEEDING.

Subdivision 1. Judicial or administrative proceeding. A return or return information may be disclosed in a judicial or administrative proceeding pertaining to or relating to tax administration as follows:

- (1) if the taxpayer is a party to the proceeding, or the proceeding arose out of, or in connection with, a determination of the taxpayer's civil or criminal liability or the collection of the taxpayer's civil liability, with respect to a tax imposed under Minnesota tax laws;
- (2) if the treatment of an item reflected on the return is directly related to the resolution of an issue in the proceeding; or
- (3) if the return or return information directly relates to a transactional relationship between the taxpayer and a person who is a party to the proceeding when that relationship directly affects the resolution of an issue in the proceeding.

Subd. 2. Government legal representatives. A return or return information may be inspected by or disclosed to the attorney general or other legal representatives of the

state, county, or municipality in a proceeding involving or relating to tax administration as follows:

(1) if the taxpayer is or may be a party to the proceeding, or the proceeding arose out of, or in connection with, the determination of the taxpayer's civil or criminal liability or the collection of the taxpayer's civil liability with respect to any tax imposed under Minnesota tax laws;

(2) if the treatment of an item reflected on the return is or may be related to the resolution of an issue in the proceeding; or

(3) if the return or return information relates or may relate to a transactional relationship between the taxpayer and a person who is or may be a party to the proceeding when that relationship affects or may affect the resolution of an issue in the proceeding.

History: 1989 c 184 art 1 s 5

270B.06 DISCLOSURE IN INVESTIGATION.

Subdivision 1. Criteria for disclosure. In connection with official duties related to tax administration, the commissioner, the attorney general, or other legal representative of the state, county, or municipality may disclose returns or return information to the extent that the disclosure is necessary in obtaining information that is not otherwise reasonably available with respect to the correct determination of tax, liability for tax, or the amount to be collected, or with respect to the enforcement of another provision of the Minnesota tax laws.

Subd. 2. Third party returns. The commissioner, the attorney general, or other legal representative of the state, county, or municipality may disclose pertinent return information of a third party to a taxpayer subject to an investigation pertaining to tax administration if the treatment of an item reflected on the third party return is or may be related to the resolution of an issue in the investigation.

Subd. 3. Disclosure to employer. The commissioner may disclose returns and return information of an employee to an employer for the purpose of and to the extent necessary to administer section 290.92, subdivision 5a.

History: 1989 c 184 art 1 s 6

270B.07 LICENSE CLEARANCE.

Subdivision 1. Disclosure to licensing authorities. The commissioner may disclose return information with respect to returns filed under Minnesota tax laws to licensing authorities of the state or political subdivisions of the state to the extent necessary to enforce the license clearance programs under sections 60A.17, 82.27, 147.091, 148.10, 150A.08, and 270.72.

Subd. 2. Disclosure to court and board of professional responsibility. The commissioner may disclose return information to the Minnesota Supreme Court and the board of professional responsibility regarding the amount of an uncontested delinquent tax due under the Minnesota tax law or the failure to file a tax return due under Minnesota tax laws by an attorney admitted to practice law in this state under chapter 481.

Subd. 3. Extent of disclosure. Data that may be disclosed under this section are limited to the name, address, amount of delinquency, and whether a return has been filed by an applicant for a license, licensee, or attorney.

Subd. 4. Disclosure to gambling control board. The commissioner may disclose return information for the purpose of and to the extent necessary to administer sections 349.161, subdivision 3, and 349.164, subdivision 3.

Subd. 5. Inquiries related to applications for liquor licenses. The commissioner may disclose and certify to a requesting county or municipality whether or not an applicant for a license to be issued under section 340A.403 or sections 340A.404 to 340A.406 is liable for state or local taxes or assessments that were not paid when they became due. The commissioner shall not disclose or certify that the license applicant is liable for unpaid state or local taxes or assessments if an administrative or court action which

questions the amount or validity of the unpaid taxes or assessments has been commenced, or if the appeal period to contest the taxes or assessments has not yet expired.

History: 1989 c 184 art 1 s 7; 1989 c 334 art 2 s 49; 1990 c 480 art 10 s 7

270B.08 SALES TAX PERMITS.

Subdivision 1. Permit information. The commissioner may disclose to any person making an inquiry regarding the issuance of a sales tax permit to a specific retailer whether a permit has been issued to the retailer, the name and address of the permit holder, the business name and location, the sales and use tax account number, and the date of issuance of the permit.

Subd. 2. Revocation. When a taxpayer's sales tax permit has been revoked under section 297A.07, the commissioner may disclose data identifying the holder of the revoked permit and the basis for the revocation.

History: 1989 c 184 art 1 s 8

270B.09 CONTRACTS WITH THE STATE; SETOFF.

The commissioner may disclose to the department of finance or any state agency making payment to a vendor as described in section 270.66 or 290.97 whether the vendor has an uncontested delinquent tax liability owed to the commissioner and the amount of any liability.

History: 1989 c 184 art 1 s 9

270B.10 INFORMATION IN PUBLIC RECORD.

A return or return information that is a matter of public record is not subject to this chapter.

History: 1989 c 184 art 1 s 10

270B.11 DISCLOSURE TO LOCATE TAXPAYERS OWED REFUND.

To locate the named payee on state warrants issued under the Minnesota tax laws and undeliverable by the United States postal service, the commissioner may publish in a newspaper of general circulation in this state, or make available to radio or television stations, a list of the name and the last known address of the payee as shown on the returns filed with the commissioner. The list must not contain any additional information set forth on a return. The commissioner may exclude the names of payees whose refunds are in an amount that is less than a minimal amount to be determined by the commissioner. The publication or announcement must include instructions on how to claim the warrants.

History: 1989 c 184 art 1 s 11

270B.12 DISCLOSURE TO STATE AND FEDERAL AUTHORITIES.

Subdivision 1. IRS; state reciprocity. Returns and return information may be open to inspection by or disclosure to the Internal Revenue Service, the Multistate Tax Commission, or to any state agency, body, or commission, or its legal representatives, that is charged under the laws of that state with the responsibility for administration of state tax laws. Inspection or disclosure is permitted to the extent that the state agency, body, or commission gives similar rights of inspection or disclosure to officials of this state. The commissioner may enter into an agreement with the Internal Revenue Service or another state agency, body, or commission outlining procedures to implement the exchange of information under this section, but an agreement may provide for the disclosure of data only to the extent allowed under this section. Inspection or disclosure is allowed only for the purpose of and to the extent necessary for the administration of tax laws.

Subd. 2. Municipalities. Sales and use tax returns and return information are open to inspection by or disclosure to the taxing officials of any municipality of the state of

Minnesota that has a local sales or use tax, for the purpose of and to the extent necessary for the administration of the local sales and use tax.

Subd. 3. Request form; named inspector. Inspections and disclosures permitted under subdivisions 1 and 2 are allowed only upon written request in a form prescribed by the commissioner and may be made only to the representatives of the agency, body, or commission named in the written request as the individuals who are to inspect or receive the returns or return information on behalf of the agency, body, or commission.

Subd. 4. Department of public safety. The commissioner may disclose return information to the department of public safety for the purpose of and to the extent necessary to administer section 270.73.

Subd. 5. Protection of returns from IRS or other states. Disclosure of returns and return information received by the commissioner from the Internal Revenue Service or another state or received by the Internal Revenue Service or another state from the commissioner is governed by the law applicable to the Internal Revenue Service or state that more stringently protects the information from disclosure.

Subd. 6. Department of revenue employees; attorney general. Returns and return information may be open to inspection by or disclosure to an employee of the department of revenue and the attorney general for the purpose of and to the extent necessary to administer tax laws.

Subd. 7. Lottery division. (a) The commissioner of revenue may disclose to the lottery the amount of delinquent state taxes, or debt as defined in section 270A.03, subdivision 5, of a winner of a lottery prize of \$1,000 or more, to the extent necessary to administer section 349A.08, subdivision 8.

(b) The commissioner of revenue may disclose to the lottery division that a retailer owes \$500 or more in delinquent taxes as defined in section 270.72, to the extent necessary to administer section 349A.06, subdivision 2.

History: 1989 c 184 art 1 s 12; 1989 c 334 art 3 s 17; 1990 c 426 art 2 s 7

270B.13 VENDORS HIRED FOR TAX ADMINISTRATION PURPOSES.

Subdivision 1. Access to data. Independent contractors and vendors performing services for the department of revenue in connection with the following activities have access to private data on individuals and nonpublic data to the extent necessary to perform that service: (1) the processing of returns and the payment of tax; (2) developing, implementing, and using computer programs or equipment; (3) microfilming returns and return information; (4) preparing tax return labels; or (5) any other authorized services connected to tax administration.

Subd. 2. Procedures to protect information. An independent contractor or a vendor performing services under subdivision 1 must establish procedures for safeguarding the information.

History: 1989 c 184 art 1 s 13

270B.14 DISCLOSURE FOR PURPOSES OTHER THAN TAX ADMINISTRATION.

Subdivision 1. Disclosure to commissioner of human services. (a) On the request of the commissioner of human services, the commissioner shall disclose return information regarding taxes imposed by chapter 290, and claims for refunds under chapter 290A, to the extent provided in paragraph (b) and for the purposes set forth in paragraph (c).

(b) Data that may be disclosed are limited to data relating to the identity, whereabouts, employment, income, and property of a person owing or alleged to be owing an obligation of child support.

(c) The commissioner of human services may request data only for the purposes of carrying out the child support enforcement program and to assist in the location of parents who have, or appear to have, deserted their children. Data received may be used only as set forth in section 256.978.

(d) The commissioner shall provide the records and information necessary to administer the supplemental housing allowance to the commissioner of human services.

Subd. 2. Disclosure to department of jobs and training. (a) Data relating to individuals are treated as follows:

(1) Return information may be disclosed to the department of jobs and training to the extent provided in clause (2) and for the purposes provided in clause (3).

(2) The data that may be disclosed is limited to the amount of gross income earned by an individual, the total amounts of earnings from each employer, and the employer's name.

(3) Data may be requested pertaining only to individuals who have claimed benefits under sections 268.03 to 268.231 and only if the individuals are the subject of investigations based on other information available to the department of jobs and training. Data received may be used only as set forth in section 268.12, subdivision 12, clause (d).

(b) Data pertaining to corporations or other employing units may be disclosed to the department of jobs and training to the extent necessary for the proper enforcement of chapter 268.

Subd. 3. Administration of enterprise zone program. The commissioner may disclose return information relating to the taxes imposed by chapters 290 and 297A to the department of trade and economic development or a municipality receiving an enterprise zone designation under section 469.169 but only as necessary to administer the funding limitations under section 469.169, subdivision 7.

Subd. 4. Revenue recapture. (a) The commissioner may disclose return information to a claimant agency as defined in section 270A.03, subdivision 2, with respect to returns filed under chapters 290 and 290A, as limited by paragraph (b) as necessary to accomplish the intent of chapter 270A.

(b) The commissioner may disclose to the claimant agency only the name, address, social security number and the amount of refund of a debtor, as defined in section 270A.03, subdivision 4.

Subd. 5. Child support debtors. The commissioner may disclose returns and return information with respect to returns filed under chapter 290, to the extent necessary to accomplish the intent of section 290.50, subdivision 6, providing for the withholding of income tax refunds from child support debtors pursuant to court order.

Subd. 6. Business activities report. The commissioner may disclose information regarding the filing of a report or a return to the extent provided in and for the purpose of section 290.371.

Subd. 7. Minnesota racing commission. The commissioner may disclose return information relating to the taxes imposed by chapter 290 to the Minnesota racing commission with respect to an applicant or a holder of a license issued by the Minnesota racing commission or an owner of a horse entered in an event licensed by the Minnesota racing commission.

Subd. 8. Exchange between departments of labor and industry and revenue. Notwithstanding any law to the contrary, the departments of labor and industry and revenue may exchange information on a reciprocal basis. Data that may be disclosed are limited to data used in determining whether a business is an employer or a contracting agent.

Subd. 9. Requests for data. Requests for data under this section must be in the form the commissioner prescribes.

Subd. 10. Procedures to protect information. A state agency or municipality receiving department of revenue data under this chapter must establish procedures for safeguarding the information.

History: 1989 c 184 art 1 s 14; 1990 c 516 s 8

270B.15 DISCLOSURE TO LEGISLATIVE AUDITOR.

Returns and return information must be disclosed to the legislative auditor to the extent necessary for the legislative auditor to carry out sections 3.97 to 3.98.

History: 1989 c 184 art 1 s 15

270B.16 DISCOVERY OF REVENUE DATA.

Notwithstanding any law to the contrary, data collected by the department of revenue are not subject to discovery in a legal action, other than an action or proceeding in connection with tax administration, unless disclosure of the data is authorized under this chapter.

History: 1989 c 184 art 1 s 16

270B.17 REMEDIES.

The civil remedies provided in section 13.08 are available to remedy violations of any provision of this chapter.

History: 1989 c 184 art 1 s 17

270B.18 CRIMINAL PENALTIES.

Subdivision 1. **Unauthorized willful disclosure.** A person willfully making a disclosure not authorized by this chapter is guilty of a gross misdemeanor.

Subd. 2. **Unauthorized computer data access.** In addition to the computer crimes provided in sections 609.87 to 609.89, a person who intentionally and without authority attempts to or does penetrate property or a computer program or programs, as defined in section 609.87, containing department of revenue data, is guilty of a gross misdemeanor.

Subd. 3. **Public employee violations.** A willful violation of this chapter by a public employee constitutes just cause for suspension without pay or dismissal of the public employee.

History: 1989 c 184 art 1 s 18

270B.19 RULES.

The commissioner may adopt rules necessary for the enforcement and administration of this chapter consistent with its provisions.

History: 1989 c 184 art 1 s 19