

CHAPTER 297C

LIQUOR TAXATION

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297C.01 DEFINITIONS.

Subdivision 1. **Terms.** For purposes of this chapter the following terms have the meaning given them unless the language or context clearly indicates that a different meaning is intended.

Subd. 2. **Liquor act.** For purposes of this chapter the terms defined in section 340A. 101, have the meanings given them in that section except as provided in this section.

Subd. 3. **Commissioner.** "Commissioner" is the commissioner of revenue.

Subd. 4. **Collector.** "Collector" is a person who collects commemorative bottles for their use and enjoyment as collectors items and not for the consumption of the beverage contained therein and does not include licensed wholesalers or retailers of alcoholic beverages.

Subd. 5. **Commemorative bottles.** "Commemorative bottles" are ceramic commemorative bottles or other specially designed decanters which have value as collectors items and which have unbroken federal tax stamps thereon.

History: 1985 c 305 art 2 s 1

297C.02 TAX IMPOSED.

Subdivision 1. **Distilled spirits and wine.** There is imposed on all distilled spirits and wine manufactured, imported, sold, or possessed in this state the following excise tax:

	Standard	Metric
(a) Distilled spirits, liqueurs, cordials, and specialties regardless of alcohol content (excluding ethyl alcohol)	\$5.03 per gallon	\$1.33 per liter
(b) Wine containing 14 percent or less alcohol by volume	\$.30 per gallon	\$.08 per liter
(c) Wine containing more than 14 percent but not more than 21 percent alcohol by volume	\$.95 per gallon	\$.25 per liter
(d) Wine containing more than 21 percent but not more than 24 percent alcohol by volume	\$1.82 per gallon	\$.48 per liter

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| (e) Wine containing more than 24 percent alcohol by volume | \$3.52 per gallon | \$.93 per liter |
| (f) Natural and artificial sparkling wines containing alcohol | \$1.82 per gallon | \$.48 per liter |

The metric tax is imposed on all products taxable under this subdivision when the net contents are stated in metric units of measure.

In computing the tax on a package of distilled spirits or wine a proportional tax at a like rate on all fractional parts of a gallon or liter must be paid, except that the tax on a fractional part of a gallon less than 1/16 of a gallon is the same as for 1/16 of a gallon.

The tax on miniatures of two fluid ounces or less or 50 milliliters or less is 14 cents.

The commissioner of revenue may establish by rule a date and procedure for the conversion of excise tax computation and reporting from rates expressed in gallons to rates expressed in metric volumes. The official conversion factor is one liter equals 0.264172 United States gallons.

Subd. 2. Fermented malt beverages. There is imposed on the direct or indirect sale of fermented malt beverages the following excise tax:

- (1) On fermented malt beverages containing not more than 3.2 percent alcohol by weight, \$2.40 per barrel of 31 gallons;
- (2) On fermented malt beverages containing more than 3.2 percent alcohol by weight, \$4.60 per barrel of 31 gallons.

The tax is at a proportional rate for fractions of a barrel of 31 gallons.

Subd. 3. Tax credit. A qualified brewer producing fermented malt beverages is entitled to a tax credit of \$4.60 per barrel on 25,000 barrels sold in any fiscal year beginning July 1, regardless of the alcohol content of the product. Qualified brewers may take the credit on the 18th day of each month, but the total credit allowed may not exceed in any fiscal year the lesser of (a) the liability for tax or (b) \$115,000.

For purposes of this subdivision, a "qualified brewer" means a brewer, whether or not located in this state, manufacturing less than 100,000 barrels of fermented malt beverages in the calendar year immediately preceding the calendar year for which the credit under this subdivision is claimed. In determining the number of barrels, all brands or labels of a brewer must be combined. All facilities for the manufacture of fermented malt beverages owned or controlled by the same person, corporation, or other entity must be treated as a single brewer.

Subd. 4. Bottle tax. A tax of one cent is imposed on each bottle or container of distilled spirits and wine. The wholesaler is responsible for the payment of this tax when the bottles of distilled spirits and wine are removed from inventory for sale, delivery, or shipment.

The following are exempt from the tax:

- (1) miniatures of distilled spirits and wines;
- (2) containers of fermented malt beverage;
- (3) containers of intoxicating liquor or wine holding less than 200 milliliters;
- (4) containers of wine intended exclusively for sacramental purposes;
- (5) containers of alcoholic beverages sold to qualified, approved military clubs;
- (6) containers of alcoholic beverages sold to common carriers engaged in interstate commerce;
- (7) containers of alcoholic beverages sold to authorized food processors or pharmaceutical firms for use exclusively in the manufacturing of food products or medicines;
- (8) containers of alcoholic beverages sold and shipped to dealers, wineries, or distillers in other states; and

(9) containers of alcoholic beverages sold to other Minnesota wholesalers.

History: 1985 c 305 art 2 s 2; 1Sp1985 c 14 art 2 s 14; 1Sp1986 c 1 art 8 s 13; 1987 c 268 art 12 s 1,2; 1988 c 719 art 11 s 17,18

297C.03 PAYMENT OF TAX; WINE AND DISTILLED SPIRITS.

Subdivision 1. Manner and time of payment; penalties; deposit of tax proceeds. The tax on wines and distilled spirits on which the excise tax has not been previously paid must be paid to the commissioner by persons liable for the tax on or before the 18th day of the month following the month in which the first sale is made in this state by a licensed manufacturer or wholesaler. Every person liable for the tax on wines or distilled spirits imposed by section 297C.02 must file with the commissioner on or before the 18th day of the month following first sale in this state by a licensed manufacturer or wholesaler a return in the form prescribed by the commissioner, and must keep records and render reports required by the commissioner. The commissioner may certify to the commissioner of public safety any failure to pay taxes when due as a violation of a statute relating to the sale of intoxicating liquor for possible revocation or suspension of license.

Subd. 2. [Repealed, 1987 c 268 art 12 s 11]

Subd. 3. [Repealed, 1987 c 268 art 12 s 11]

Subd. 4. [Repealed, 1989 c 277 art 3 s 17]

Subd. 4a. [Repealed, 1989 c 277 art 3 s 17]

Subd. 5. [Repealed, 1988 c 719 art 11 s 23]

Subd. 6. Informational returns. Manufacturers, wholesalers, and importers licensed to ship distilled spirits or wine into Minnesota shall file with the commissioner a monthly informational report on a form prescribed by the commissioner. No payment of any tax is required to be remitted with this report. The report must be filed on or before the tenth day following the end of each calendar month, regardless of whether or not any shipments were made into Minnesota during the previous month. A person failing to file this monthly report is subject to the provisions of section 297C.14, subdivision 8.

History: 1985 c 305 art 2 s 3; 1Sp1986 c 1 art 7 s 32; 1Sp1986 c 3 art 1 s 34; 1987 c 268 art 12 s 3,4; 1988 c 719 art 11 s 19; 1989 c 277 art 3 s 15

297C.04 PAYMENT OF TAX; MALT LIQUOR.

The commissioner may by rule provide a reporting method for paying and collecting the excise tax on fermented malt beverages. The tax is imposed upon the first sale or importation made in this state by a licensed brewer or importer. The rules must require reports to be filed with and the excise tax to be paid to the commissioner on or before the 18th day of the month following the month in which the importation into or the first sale is made in this state, whichever first occurs. The rules must also require payments in June of 1987 and subsequent years according to the provisions of section 297C.05, subdivision 2.

A distributor who has title to or possession of fermented malt beverages upon which the excise tax has not been paid and who knows that the tax has not been paid, shall file a return with the commissioner on or before the 18th day of the month following the month in which the distributor obtains title or possession of the fermented malt beverages. The return must be made on a form furnished and prescribed by the commissioner, and must contain all information that the commissioner requires. The return must be accompanied by a remittance for the full unpaid liability shown on it.

History: 1985 c 305 art 2 s 4; 1Sp1986 c 1 art 7 s 33; 1987 c 268 art 12 s 5; 1988 c 719 art 11 s 20

297C.045 SALES TO INDIAN TRIBES.

Subdivision 1. Wholesalers. A wholesaler may set aside the part of the wholesaler's

stock necessary to make sales to the established governing body of an Indian tribe recognized by the United States Department of the Interior, without paying the tax required by this chapter. When shipping or delivering untaxed stock to an Indian tribal organization, the wholesaler shall make a true duplicate invoice. The invoice must show the complete details of the sale or delivery. The wholesaler must send the duplicate to the commissioner not later than the 18th day of the following calendar month. If a wholesaler fails to comply with the requirements of this section, the commissioner shall revoke the permission granted to the wholesaler to keep a stock of untaxed goods.

Subd. 2. Retailers. Retailers who are Indian tribal organizations may keep untaxed stock intended for sale to qualified purchasers.

Subd. 3. Qualified purchasers. A qualified purchaser of untaxed liquor means only an enrolled member of the Indian tribe that is offering the liquor for sale.

Subd. 4. Sales to nonqualified buyers. A retailer who sells or otherwise disposes of untaxed liquor other than to a qualified purchaser shall collect from the buyer or transferee the tax imposed by this chapter and remit the tax to the department of revenue at the same time and manner as required by this chapter. If the retailer fails to collect the tax from the buyer or transferee, or fails to remit the tax, the retailer is personally responsible for the tax and the commissioner may seize any liquor destined to be delivered to the retailer. The procedures outlined in section 297C.12 apply to the seized liquor. The proceeds of the sale of the liquor may be applied to any tax liability owed by the retailer after deducting all costs and expenses.

This section does not relieve the buyer or possessor of untaxed liquor from personal liability for the tax.

History: 1989 c 277 art 1 s 24

297C.05 RETURNS.

Subdivision 1. Commissioner to examine and correct return; collection of deficiency. As soon as practicable after any return is filed as directed by this chapter, the commissioner shall examine the return and correct it, if necessary, according to the commissioner's best judgment and information. The return, together with the commissioner's corrections, if any, shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown therein. If the commissioner finds that any amount of tax is due and unpaid, the commissioner shall notify the taxpayer of the deficiency, stating that the taxpayer will be assessed the amount due together with interest and penalties as hereinafter provided. If a deficiency disclosed by the commissioner's examination cannot be allocated to a particular month or months, the commissioner shall notify the taxpayer of the deficiency, assessing the amount due for a given period without allocating it to any particular month or months, together with the penalty provided in the case of other corrected returns. If any taxpayer making any return shall die or shall become incompetent at any time before the commissioner issues a notice that an amount is due, that notice shall be issued to the administrator, executor, or other legal representative, as such, of that distributor.

Subd. 2. Accelerated tax payment. Every person liable for tax under this chapter having a liability of \$1,500 or more in May 1987 or in May of each subsequent year, shall remit the June liability in the manner required by this section.

On or before June 18, 1987, or June 18 of each subsequent year, the taxpayer shall remit the actual May liability and one-half of the estimated June liability to the commissioner and file the return on a form prescribed by the commissioner.

On or before August 18, 1987, or August 18 of each subsequent year, the taxpayer shall submit a return showing the actual June liability and paying any additional amount of tax not remitted in June. A penalty is hereby imposed equal to ten percent of the amount of June liability required to be paid in June less the amount remitted in June. However, the penalty shall not be imposed if the amount remitted in June equals the lesser of (a) 45 percent of the actual June liability, or (b) 50 percent of the preceding May's liability.

Subd. 3. **Recovery by commissioner.** The commissioner may recover the amount of any tax due and unpaid, interest, and any penalty in a civil action. The collection of a tax, interest, or penalty shall not bar any prosecution under this chapter.

Subd. 4. [Repealed, 1987 c 268 art 12 s 11]

History: 1985 c 305 art 2 s 5; 1Sp1986 c 1 art 7 s 34; 1987 c 268 art 12 s 6

297C.06 REFUNDS.

Subdivision 1. **Products destroyed.** The commissioner may refund to a taxpayer the amount of tax paid under this chapter on intoxicating liquor or malt liquor which becomes unfit for human consumption and is destroyed under an order by a federal, state, or local agency while being held for sale by a licensed retailer. Any destruction must meet the requirements of the environmental laws of this state.

Subd. 2. **Bad debts.** The commissioner may adopt rules providing a refund of the tax paid under this chapter on intoxicating liquor or wine if the tax paid qualifies as a bad debt under section 166(a) of the Internal Revenue Code of 1986, as amended through December 31, 1988.

Subd. 3. **Proof of loss.** Refunds shall be made only if satisfactory proof is presented to the commissioner by the taxpayer and the licensed retailer that the retailer was not indemnified by insurance for the tax. The commissioner may prescribe the method of proof required for obtaining the refund.

The commissioner may refund to a taxpayer the amount of tax paid under this chapter for the breakage of inventory not subject to reimbursement from any insurance proceeds. The method of proof for obtaining the refund will be prescribed by the commissioner.

The commissioner may refund any overpayment of tax imposed under section 297C.02 provided that the claim for refund is filed within three years from the due date of the return for which the refund is claimed. The refund of tax shall be paid out of the general fund and amounts necessary to pay the refunds are appropriated out of the general fund.

Subd. 4. **Credit against tax.** The commissioner may credit the amount determined under this section against taxes otherwise payable under this chapter by the taxpayer.

Subd. 5. **Claims; time limit.** Claims for refund must be filed with the commissioner (1) for refunds under subdivision 1 within one year from the date of the breakage or the destruction order; and (2) for refunds under subdivision 2, within one year of the filing date of the taxpayer's federal income tax return containing the bad debt deduction that is being claimed. Claimants under this section are subject to the notice requirements of section 290.56, subdivision 2.

Subd. 6. **Annual appropriation.** There is appropriated annually from the general fund to the commissioner the sums necessary to make the refunds provided by this section.

History: 1985 c 305 art 2 s 6; 1987 c 268 art 12 s 7; 1989 c 110 s 1,2

297C.07 EXCEPTIONS.

The following are not subject to the excise tax:

(1) Sales by a manufacturer, brewer, or wholesaler for shipment outside the state in interstate commerce.

(2) Sales of wine for sacramental purposes under section 340A.316.

(3) Fruit juices naturally fermented or beer naturally brewed in the home for family use.

(4) Malt beverages served by a brewery for on-premise consumption at no charge, or distributed to brewery employees for on-premise consumption under a labor contract.

(5) Alcoholic beverages sold to authorized manufacturers of food products or pharmaceutical firms. The alcoholic beverage must be used exclusively in the manufac-

ture of food products or medicines. For purposes of this part, "manufacturer" means a manufacturer of food products intended for sale to wholesalers or retailers for ultimate sale to the consumer.

(6) Sales to common carriers engaged in interstate transportation of passengers and qualified approved military clubs, except as provided in section 297C.17.

(7) Alcoholic beverages sold or transferred between Minnesota wholesalers.

(8) Sales to a federal agency, that the state of Minnesota is prohibited from taxing under the constitution or laws of the United States or under the constitution of Minnesota.

History: 1985 c 305 art 2 s 7; 1988 c 719 art 11 s 21

297C.08 DEPOSIT OF RECEIPTS.

All tax revenues and other receipts payable to the state under this chapter must be paid into the state treasury and credited to the general fund.

History: 1985 c 305 art 2 s 8

297C.09 IMPORTATION BY INDIVIDUALS.

A person, other than a person under the age of 21 years, entering Minnesota from another state may have in possession one liter of intoxicating liquor or 288 ounces of malt liquor and a person entering Minnesota from a foreign country may have in possession four liters of intoxicating liquor or ten quarts (320 ounces) of malt liquor without the required payment of the Minnesota excise tax. A collector of commemorative bottles, other than a person under the age of 21 years, entering Minnesota from another state may have in possession 12 or fewer commemorative bottles without the required payment of the Minnesota excise tax. A person who imports or has in possession untaxed intoxicating liquor or malt liquor in excess of the quantities provided for in this section is guilty of a misdemeanor. This section does not apply to the consignments of alcoholic beverages shipped into this state by holders of Minnesota import licenses or Minnesota manufacturers and wholesalers when licensed by the commissioner of public safety or to common carriers with licenses to sell intoxicating liquor in more than one state. A peace officer, the commissioner, or their authorized agents, may seize untaxed liquor.

History: 1985 c 305 art 2 s 9; 1987 c 268 art 12 s 8; 1987 c 310 s 1; 1989 c 277 art 3 s 16

297C.10 ENFORCEMENT.

Subdivision 1. **Enforcement responsibility.** The commissioners of public safety and revenue shall enforce and administer the provisions of this chapter.

Subd. 2. **Inspection.** The commissioner of public safety or the commissioner of revenue, or their duly authorized employees, may, at all reasonable hours, enter in and upon a licensed premises, and examine the books, papers, and records of a brewer, manufacturer, wholesaler, or retailer for the purpose of determining whether the excise tax has been paid, and may inspect any premises where fermented malt beverages are manufactured, sold, offered for sale, possessed, or stored for the purpose of determining whether the provisions of this chapter are being complied with.

History: 1985 c 305 art 2 s 10

297C.11 EVASIONS.

Subdivision 1. **Assessment, generally.** Except as otherwise provided in this chapter, the amount of any tax due shall be assessed within 3-1/2 years after the return is filed. The taxes are deemed to have been assessed within the meaning of this section whenever the commissioner of revenue has determined the tax and computed and recorded the amount of tax due. If the amount is found to be in excess of that originally declared on the return, the taxes are deemed to have been assessed whenever the commissioner

has prepared a notice of tax assessment and mailed it to the taxpayer. The notice of tax assessment shall be sent by mail to the post office address given in the return and the record of mailing shall be presumptive evidence of the giving of notice, and such records shall be preserved by the commissioner.

Subd. 2. Computation of time. For the purposes of this section, a return filed before the last day prescribed by law for filing is considered as filed on the last day.

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

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

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

History: 1985 c 305 art 2 s 11

297C.12 UNTAXED LIQUOR; SEIZURE.

Subdivision 1. Possession. No person may without authority possess distilled spirits and wine on which no tax has been paid to a state or to a foreign government. No person may without authority possess, with intent to resell, malt liquor on which no tax has been paid to a state or to a foreign government. The commissioner of public safety or the commissioner of revenue, or their designated employees may seize in the name of the state untaxed liquor possessed, held, sold, or transported in violation of this subdivision, and any apparatus, material, vehicle, or conveyance used in the manufacture, possession, sale, storage, or transportation of illegal untaxed liquor.

Subd. 2. Seizure of conveyances. The commissioner of public safety and employees designated by the commissioner may seize all vehicles and conveyances used in the manufacture, sale, possession, storage, or transportation of liquor in violation of this chapter, and hold them subject to the order of the district court of the county in which they are seized. The forfeiture of a vehicle or conveyance seized is complete on compliance with the following procedure:

The commissioner of public safety and inspectors and employees designated by the commissioner shall file with the court a separate complaint against the vehicle or conveyance, describing it and charging its use in the specified violation, and specifying substantially the time and place of the unlawful use. A copy of the complaint must be served on the defendant or person in charge of the vehicle or conveyance at the time of seizure, if any. The court shall issue an order directed to any person known or believed to have a right, title or interest in, or lien on the vehicle or conveyance, and to persons unknown claiming a right, title, interest, or lien:

(1) describing the vehicle or conveyance and stating that it was seized and that a complaint against it, charging the specified violation, has been filed with the court;

(2) requiring such persons to file with the court administrator of the court their answer to the complaint, setting forth any claim they may have to a right or title to, interest in, or lien on the vehicle or conveyance, within ten days after the service of the order;

(3) notifying them in substance that if they fail to file their answer within that time the vehicle or conveyance will be ordered sold by the commissioner.

The court shall cause the order to be served on:

- (1) the registered owner;
- (2) any person who has duly filed a conditional sales contract, mortgage, or other lien instrument covering the property unless it has been released or satisfied;
- (3) any other person known or believed to have a right, title, interest in, or lien upon, the vehicle or conveyance as in the case of a summons in a civil action; and
- (4) on unknown persons by publication, as provided for service of summons in a civil action.

If no answer is filed within the time prescribed, the court shall, on affidavit by the court administrator of the court, setting forth such fact, order the vehicle or conveyance sold by the commissioner or the commissioner's agents, and the proceeds of the sale, after deducting the expense of keeping the vehicle or conveyance and fees and costs of sale, paid into the state treasury. If an answer is filed within the time provided, the court shall fix a time for hearing, which shall be not less than ten nor more than 30 days after the time for filing the answer expires. At the hearing the matter must be heard and determined by the court, without a jury, as in other civil actions. If the court finds that the vehicle or conveyance, or any part thereof, was used in a violation as specified in the complaint, it shall order the vehicle or conveyance sold, as provided in this section, unless the owner shows to the satisfaction of the court that the vehicle was being used without the owner's consent or that at the time of giving the consent the owner had no notice or knowledge or reason to believe that the vehicle or conveyance was intended to be used in a violation.

After deducting the expense of keeping the vehicle or conveyance, the fee for seizure, and the costs of the sale, the officer making the sale shall pay, according to their priority, all liens established at the hearing as being bona fide and existing without the lienor having any notice or knowledge at the time the lien was created that the vehicle or conveyance was being used or was intended to be used in connection with any violation as specified in the order of the court, and shall pay the balance of the proceeds into the state treasury. A sale under the provisions of this section frees the vehicle or conveyance sold from all liens, and appeal from order of the district court lies to the supreme court as in other civil actions. At any time after seizure and before the hearing the vehicle or conveyance must be returned to the owner or person having a legal right to its possession on execution by that person of a valid bond to the state of Minnesota, with corporate surety, in the sum of not less than \$100 and not more than double the value of the vehicle or conveyance seized, to be approved by the court in which the case is triable, or a judge thereof, conditioned on obeying any order and the judgment of the court, and to pay the full value of the vehicle or conveyance at the time of seizure.

History: 1985 c 305 art 2 s 12; 1Sp1986 c 3 art 1 s 82

297C.13 VIOLATIONS.

Subdivision 1. Felonies. It is a felony for a holder of an alcoholic beverage license to:

- (1) evade or attempt to evade the excise tax on intoxicating liquor and nonintoxicating malt liquor;
- (2) fraudulently neglect or fail to keep complete accounts in book or books of account, or to make true and exact entries in them as required by the rules of the commissioner of public safety and the commissioner of revenue, or by law;
- (3) conspire to violate a provision of this chapter;
- (4) fail to do or cause to be done anything required by law;
- (5) refill or cause to be refilled a bottle or other container of intoxicating liquor in order to evade tax; or
- (6) sell intoxicating liquor or nonintoxicating malt liquor on which the excise tax has not been paid and thereby evade the tax.

Subd. 2. Gross misdemeanors. Any other violation of this chapter is a gross misdemeanor except where a different penalty is specified.

History: 1985 c 305 art 2 s 13

297C.14 PENALTIES.

Subdivision 1. Penalty on unpaid tax. If a tax imposed by this chapter, or any part of it, is not paid within the time required for the payment, or an extension of time, or within 30 days after final determination of an appeal to the tax court relating to it, there shall be added to the tax a penalty equal to three percent of the amount remaining unpaid if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax unpaid during each additional 30 days or fraction thereof, not exceeding 24 percent in the aggregate.

Subd. 2. Penalty for failure to file. If a person fails to make and file a return within the time required by this chapter or an extension of time, there shall be added to the tax three percent of the amount of tax not paid on or before the date prescribed for payment of the tax if the failure is for not more than 30 days, with an additional five percent of the amount of tax remaining unpaid for each additional 30 days or fraction thereof during which such failure continues, not exceeding 23 percent in the aggregate. The amount so added to any tax under subdivisions 1 and 2 shall be collected at the same time and in the same manner and as a part of the tax and shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid, unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

In the case of a failure to file a return within 60 days of the date prescribed for filing of the return (determined with regard to any extension of time for filing), the addition to tax under this subdivision shall not be less than the lesser of (i) \$200; or (ii) the greater of (a) 25 percent of the amount required to be shown as tax on the return without reduction for any payments made or refundable credits allowable against the tax; or (b) \$50.

Subd. 3. Combined penalties. Where penalties are imposed under subdivisions 1 and 2, the penalties imposed under both subdivisions combined, other than the minimum penalty under subdivision 2, shall not exceed 38 percent in the aggregate.

Subd. 4. Willful failure; fraud. If a person willfully fails to file a return or make a payment required by this chapter, or willfully files a false or fraudulent return, or willfully attempts in any manner to evade or defeat the tax or payment of it, there shall also be imposed a penalty in an amount equal to 50 percent of the tax (less any amounts paid on the basis of such false or fraudulent return) found due for the period to which the return related. The penalty imposed by this subdivision shall be collected as part of the tax and is in addition to any other penalties, civil and criminal, provided by this section.

Subd. 5. Order payments credited. All payments received may, in the discretion of the commissioner of revenue, be credited first to the oldest liability not secured by a judgment or lien, but in all cases shall be credited first to penalties, next to interest, and then to the tax due.

Subd. 6. Interest. The amount of tax not timely paid, together with any penalty imposed by this chapter, shall bear interest at the rate specified in section 270.75 from the time such tax should have been paid until paid. Any interest and penalty shall be added to the tax and collected as a part of it.

Subd. 7. Negligence; intentional disregard of law or rules. If any part of any additional assessment is due to negligence or intentional disregard of the provisions of this chapter or rules of the commissioner of revenue (but without intent to defraud), there shall be added to the tax an amount equal to ten percent of the additional assessment. The amount of tax together with this penalty shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid.

Subd. 8. Failure to file informational returns. Any person required to file informational returns or reports that fails to do so by the time period established by law, will be assessed a \$25 penalty for each month the return remains unfiled.

History: 1987 c 268 art 12 s 9; 1989 c 324 s 28

297C.16 PERSONAL DEBT.

The tax imposed by this chapter, and interest and penalties imposed with respect to it, shall be a personal debt of the person required to file a return from the time the liability for it arises, irrespective of when the time for payment of the liability occurs. The debt shall, in the case of the executor or administrator of the estate of a decedent and in the case of any fiduciary, be that of the person in the person's official or fiduciary capacity only, unless the person has voluntarily distributed the assets held in that capacity without reserving sufficient assets to pay the tax, interest, and penalties. Then the person shall be personally liable for the deficiency.

History: 1987 c 268 art 12 s 10

297C.17 COMMON CARRIERS.

Common carriers engaged in interstate transportation of passengers must file monthly reports together with the tax payment on the sale of alcoholic beverages sold within the state of Minnesota. The report and payment must be filed by the 18th day of the month following the month in which the sale took place. A common carrier is permitted to use a formula for the allocation of the total sales of alcoholic beverages among states on the basis of passenger miles in each state or some other method of allocation if written approval is received from the commissioner.

History: 1988 c 719 art 11 s 22