

CHAPTER 295

COMPANIES SUBJECT TO GROSS EARNINGS TAXES

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295.50 DEFINITIONS.

[For text of subds 1 and 2, see M.S.1992]

Subd. 3. Gross revenues. "Gross revenues" are total amounts received in money or otherwise by:

- (1) a resident hospital for patient services;
- (2) a resident surgical center for patient services;
- (3) a nonresident hospital for patient services provided to patients domiciled in Minnesota;
- (4) a nonresident surgical center for patient services provided to patients domiciled in Minnesota;
- (5) a resident health care provider, other than a staff model health carrier, for patient services;
- (6) a nonresident health care provider for patient services provided to an individual domiciled in Minnesota;
- (7) a wholesale drug distributor for sale or distribution of prescription drugs that are delivered: (i) to a Minnesota resident by a wholesale drug distributor who is a nonresident pharmacy directly, by common carrier, or by mail; or (ii) in Minnesota by the wholesale drug distributor, by common carrier, or by mail, unless the prescription drugs are delivered to another wholesale drug distributor. Prescription drugs do not include nutritional products as defined in Minnesota Rules, part 9505.0325;
- (8) a staff model health carrier as gross premiums for enrollees, copayments, deductibles, coinsurance, and fees for patient services covered under its contracts with groups and enrollees;
- (9) a resident pharmacy for medical supplies, appliances, and equipment; and
- (10) a nonresident pharmacy for medical supplies, appliances, and equipment.

Subd. 4. Health care provider. (a) "Health care provider" means:

- (1) a person furnishing any or all of the following goods or services directly to a patient or consumer: medical, surgical, optical, visual, dental, hearing, nursing services, drugs, medical supplies, medical appliances, laboratory, diagnostic or therapeutic services, or any goods and services not listed above that qualifies for reimbursement under the medical assistance program provided under chapter 256B;
- (2) a staff model health carrier; or
- (3) a licensed ambulance service.

(b) Health care provider does not include hospitals, nursing homes licensed under chapter 144A, pharmacies, and surgical centers.

Subd. 5. [Repealed, 1993 c 345 art 13 s 24]

[For text of subd 6, see M.S.1992]

Subd. 7. Hospital. "Hospital" means a hospital licensed under chapter 144, or a hospital licensed by any other state or province or territory of Canada.

[For text of subds 8 and 9, see M.S.1992]

Subd. 9a. Nonresident pharmacy. "Nonresident pharmacy" means a pharmacy that is physically located outside Minnesota.

Subd. 9b. Patient services. "Patient services" means inpatient and outpatient services and other goods and services provided by hospitals, surgical centers, or health care providers. They include the following health care goods and services provided to a patient or consumer:

- (1) bed and board;
- (2) nursing services and other related services;
- (3) use of hospitals, surgical centers, or health care provider facilities;
- (4) medical social services;
- (5) drugs, biologicals, supplies, appliances, and equipment;
- (6) other diagnostic or therapeutic items or services;
- (7) medical or surgical services;
- (8) items and services furnished to ambulatory patients not requiring emergency care;
- (9) emergency services; and
- (10) covered services listed in section 256B.0625 and in Minnesota Rules, parts 9505.0170 to 9505.0475.

Subd. 9c. Person. "Person" means an individual, partnership, limited liability company, corporation, association, governmental unit or agency, or public or private organization of any kind.

Subd. 10. [Repealed, 1993 c 345 art 13 s 24]

Subd. 10a. Pharmacy. "Pharmacy" means a pharmacy, as defined in section 151.01.

Subd. 10b. Regional treatment center. "Regional treatment center" means a regional center as defined in section 253B.02, subdivision 18, and named in sections 252.025, subdivision 1; 253.015, subdivision 1; 253.201; and 254.05.

[For text of subds 11 and 12, see M.S.1992]

Subd. 12a. Resident pharmacy. "Resident pharmacy" means a pharmacy that is physically located inside Minnesota.

Subd. 12b. Staff model health carrier. "Staff model health carrier" means a health carrier as defined in section 62L.02, subdivision 16, which employs one or more types of health care provider to deliver health care services to the health carrier's enrollees.

[For text of subd 13, see M.S.1992]

Subd. 14. Wholesale drug distributor. "Wholesale drug distributor" means a wholesale drug distributor required to be licensed under sections 151.42 to 151.51 or a nonresident pharmacy required to be registered under section 151.19.

History: 1993 c 345 art 13 s 3-10; 1Sp1993 c 6 s 19-23

295.51 MINIMUM CONTACTS REQUIRED FOR JURISDICTION TO TAX GROSS REVENUE.

Subdivision 1. Business transactions in Minnesota. A hospital, surgical center, pharmacy, or health care provider is subject to tax under sections 295.50 to 295.58 if it is "transacting business in Minnesota." A hospital, surgical center, pharmacy, or health care provider is transacting business in Minnesota only if it:

- (1) maintains an office in Minnesota used in the trade or business of providing patient services or medical supplies, appliances, or equipment;
- (2) has employees, representatives, or independent contractors conducting business in Minnesota related to the trade or business of providing patient services or medical supplies, appliances, or equipment;

(3) regularly provides patient services or medical supplies, appliances, or equipment to customers that receive the services in Minnesota;

(4) regularly solicits business from potential customers in Minnesota. A hospital, surgical center, pharmacy, or health care provider is presumed to regularly solicit business within Minnesota if it receives gross receipts for patient services or medical supplies, appliances, or equipment from 20 or more patients domiciled in Minnesota in a calendar year;

(5) regularly performs services outside Minnesota the benefits of which are consumed in Minnesota;

(6) owns or leases tangible personal or real property physically located in Minnesota and used in the trade or business of providing patient services or medical supplies, appliances, or equipment; or

(7) receives medical assistance payments from the state of Minnesota.

Subd. 2. [Repealed, 1993 c 345 art 13 s 24]

History: 1993 c 345 art 13 s 11; 1Sp1993 c 6 s 24

295.52 TAXES IMPOSED.

[For text of subd 1, see M.S.1992]

Subd. 1a. **Surgical center tax.** A tax is imposed on each surgical center equal to two percent of its gross revenues.

Subd. 1b. **Pharmacy tax.** A tax is imposed on each pharmacy equal to two percent of its gross revenues.

[For text of subds 2 to 4, see M.S.1992]

Subd. 5. **Volunteer ambulance services.** Licensed ambulance services for which all the ambulance attendants are "volunteer ambulance attendants" as defined in section 144.8091, subdivision 2, are not subject to the tax under this section.

History: 1993 c 345 art 13 s 12,13; 1Sp1993 c 6 s 25

295.53 EXEMPTIONS; SPECIAL RULES.

Subdivision 1. **Exemptions.** The following payments are excluded from the gross revenues subject to the hospital, surgical center, or health care provider taxes under sections 295.50 to 295.57:

(1) payments received for services provided under the Medicare program, including payments received from the government, and organizations governed by sections 1833 and 1876 of title XVIII of the federal Social Security Act, United States Code, title 42, section 1395, and enrollee deductibles, coinsurance, and copayments, whether paid by the individual or by insurer or other third party. Payments for services not covered by Medicare are taxable;

(2) medical assistance payments including payments received directly from the government or from a prepaid plan;

(3) payments received for home health care services;

(4) payments received from hospitals or surgical centers for goods and services on which liability for tax is imposed under section 295.52 or the source of funds for the payment is exempt under clause (1), (2), (7), (8), or (10);

(5) payments received from health care providers for goods and services on which liability for tax is imposed under sections 295.52 to 295.57 or the source of funds for the payment is exempt under clause (1), (2), (7), (8), or (10);

(6) amounts paid for prescription drugs, other than nutritional products, to a wholesale drug distributor reduced by reimbursements received for prescription drugs under clauses (1), (2), (7), and (8);

(7) payments received under the general assistance medical care program including payments received directly from the government or from a prepaid plan;

(8) payments received for providing services under the MinnesotaCare program including payments received directly from the government or from a prepaid plan and enrollee deductibles, coinsurance, and copayments;

(9) payments received by a resident health care provider or the wholly owned subsidiary of a resident health care provider for care provided outside Minnesota to a patient who is not domiciled in Minnesota;

(10) payments received from the chemical dependency fund under chapter 254B;

(11) payments received in the nature of charitable donations that are not designated for providing patient services to a specific individual or group;

(12) payments received for providing patient services if the services are incidental to conducting medical research;

(13) payments received from any governmental agency for services benefiting the public, not including payments made by the government in its capacity as an employer or insurer;

(14) payments received for services provided by community residential mental health facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690, community support programs and family community support programs approved under Minnesota Rules, parts 9535.1700 to 9535.1760, and community mental health centers as defined in section 245.62, subdivision 2; and

(15) government payments received by a regional treatment center.

Subd. 2. Deductions for staff model health carriers. In addition to the exemptions allowed under subdivision 1, a staff model health carrier may deduct from its gross revenues for the year:

(1) amounts paid to hospitals, surgical centers, and health care providers that are not employees of the staff model health carrier for services on which liability for the tax is imposed under section 295.52;

(2) amounts added to reserves, if total reserves do not exceed 200 percent of the statutory net worth requirement, the calculation of which may be determined on a consolidated basis, taking into account the amounts held in reserve by affiliated staff model health carriers;

(3) assessments for the comprehensive health insurance plan under section 62E.11; and

(4) amounts spent for administration as reported as total administration to the department of health in the statement of revenues, expenses, and net worth pursuant to section 62D.08, subdivision 3, clause (a).

Subd. 3. Restriction on itemization. A hospital, surgical center, pharmacy, or health care provider must not separately state the tax obligation under section 295.52 on bills provided to individual patients.

Subd. 4. Deduction for research. (a) In addition to the exemptions allowed under subdivision 1, a hospital or health care provider which is exempt under section 501(c)(3) of the Internal Revenue Code of 1986 or is owned and operated under authority of a governmental unit, may deduct from its gross revenues subject to the hospital or health care provider taxes under sections 295.50 to 295.57 revenues equal to expenditures for allowable research programs.

(b) For purposes of this subdivision, expenditures for allowable research programs are the direct and general program costs for activities which are part of a formal program of medical and health care research approved by the governing body of the hospital or health care provider which also includes active solicitation of research funds from government and private sources. Any allowable research on humans or animals must be subject to review by appropriate regulatory committees operating in conformity with federal regulations such as an institutional review board or an institutional animal care and use committee. Costs of clinical research activities paid directly for the benefit of an individual patient are excluded from this exemption. Basic research in fields including biochemistry, molecular biology, and physiology are also included if such programs are subject to a peer review process.

(c) No deduction shall be allowed under this subdivision for any revenue received by the hospital or health care provider in the form of a grant, gift, or otherwise, whether from a government or nongovernment source, on which the tax liability under section 295.52 is not imposed or for which the tax liability under section 295.52 has been received from a third party as provided for in section 295.582.

(d) Effective beginning with calendar year 1995, the taxpayer shall not take the deduction under this section into account in determining estimated tax payments or the payment made with the annual return under section 295.55. The total deduction allowable to all taxpayers under this section for calendar years beginning after December 31, 1994, may not exceed \$65,000,000. To implement this limit, each qualifying hospital and qualifying health care provider shall submit to the commissioner by March 15 its total expenditures qualifying for the deduction under this section for the previous calendar year. The commissioner shall sum the total expenditures of all taxpayers qualifying under this section for the calendar year. If the resulting amount exceeds \$65,000,000, the commissioner shall allocate a part of the \$65,000,000 deduction limit to each qualifying hospital and health care provider in proportion to its share of the total deductions. The commissioner shall pay a refund to each qualifying hospital or provider equal to its share of the deduction limit multiplied by two percent. The commissioner shall pay the refund no later than May 15 of the calendar year.

Subd. 5. Deductions for pharmacies. Pharmacies may deduct from their gross revenues subject to tax payments for medical supplies, appliances, and devices that are exempt under subdivision 1, except payments under subdivision 1, clauses (3), (6), (9), (11), and (14).

History: 1993 c 345 art 13 s 14-17; ISp1993 c 6 s 26,27

295.54 CREDIT FOR TAXES PAID TO ANOTHER STATE.

A resident hospital, resident surgical center, pharmacy, or resident health care provider who is liable for taxes payable to another state or province or territory of Canada measured by gross receipts and is subject to tax under section 295.52 is entitled to a credit for the tax paid to another state or province or territory of Canada to the extent of the lesser of (1) the tax actually paid to the other state or province or territory of Canada, or (2) the amount of tax imposed by Minnesota on the gross receipts subject to tax in the other taxing jurisdictions.

History: 1993 c 345 art 13 s 18; ISp1993 c 6 s 28

295.55 PAYMENT OF TAX.

[For text of subds 1 to 3, see M.S.1992]

Subd. 4. Electronic funds transfer payments. A taxpayer with an aggregate tax liability of \$30,000 or more during a calendar quarter ending the last day of March, June, September, or December of the first year the taxpayer is subject to the tax must remit all liabilities by means of a funds transfer as defined in section 336.4A-104, paragraph (a), for the remainder of the year. A taxpayer with an aggregate tax liability of \$120,000 or more during a calendar year, must remit all liabilities by means of a funds transfer as defined in section 336.4A-104, paragraph (a), in the subsequent calendar year. The funds transfer payment date, as defined in section 336.4A-401, is on or before the date the tax is due. If the date the tax is due is not a funds-transfer business day, as defined in section 336.4A-105, paragraph (a), clause (4), the payment date is on or before the first funds-transfer business day after the date the tax is due.

[For text of subds 5 and 6, see M.S.1992]

History: 1993 c 345 art 13 s 19

295.57 COLLECTION AND ENFORCEMENT; REFUNDS; RULEMAKING; APPLICATION OF OTHER CHAPTERS.

Unless specifically provided otherwise by sections 295.50 to 295.58, the enforcement, interest, and penalty provisions under chapter 294, appeal provisions in sections 289A.43 and 289A.65, criminal penalties in section 289A.63, and refunds provisions in section 289A.50, and collection and rulemaking provisions under chapter 270, apply to a liability for the taxes imposed under sections 295.50 to 295.58.

History: 1993 c 345 art 13 s 20

295.58 DEPOSIT OF REVENUES AND PAYMENT OF REFUNDS.

The commissioner shall deposit all revenues, including penalties and interest, derived from the taxes imposed by sections 295.50 to 295.57 and from the insurance premiums tax on health maintenance organizations and nonprofit health service corporations in the health care access fund in the state treasury. Refunds of overpayments must be paid from the health care access fund in the state treasury.

History: 1993 c 345 art 13 s 21

295.582 AUTHORITY.

A hospital, surgical center, pharmacy, or health care provider that is subject to a tax under section 295.52 may transfer additional expense generated by section 295.52 obligations on to all third-party contracts for the purchase of health care services on behalf of a patient or consumer. The expense must not exceed two percent of the gross revenues received under the third-party contract, including copayments and deductibles paid by the individual patient or consumer. The expense must not be generated on revenues derived from payments that are excluded from the tax under section 295.53. All third-party purchasers of health care services including, but not limited to, third-party purchasers regulated under chapter 60A, 62A, 62C, 62D, 64B, or 62H, must pay the transferred expense in addition to any payments due under existing or future contracts with the hospital, surgical center, pharmacy, or health care provider, to the extent allowed under federal law. Nothing in this subdivision limits the ability of a hospital, surgical center, pharmacy, or health care provider to recover all or part of the section 295.52 obligation by other methods, including increasing fees or charges.

History: 1993 c 345 art 13 s 22; 1Sp1993 c 6 s 29

295.59 SEVERABILITY.

If any section, subdivision, clause, or phrase of sections 295.50 to 295.582 is for any reason held to be unconstitutional or in violation of federal law, the decision shall not affect the validity of the remaining portions of sections 295.50 to 295.582. The legislature declares that it would have passed sections 295.50 to 295.582 and each section, subdivision, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subdivisions, sentences, clauses, or phrases is declared unconstitutional.

History: 1993 c 345 art 13 s 23