

CHAPTER 297

SALES TAXES; CIGARETTES AND TOBACCO

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297.03 PAYMENT, STAMP ON PACKAGE.

[For text of subds 1 to 5a, see M.S.1992]

Subd. 6. **Tax stamping machines.** (a) The commissioner shall require any person licensed as a distributor to stamp packages with a heat-applied tax stamping machine, approved by the commissioner, which shall be provided by the distributor. The commissioner shall supervise and check the operation of the machines and shall provide for the payment of the tax on any package so stamped, subject to the discount provided in subdivision 5. The commissioner may sell heat-applied stamps on a credit basis under conditions prescribed by the commissioner. The stamps shall be sold by the commissioner at a price which includes the tax after giving effect to the discount provided in subdivision 5. The commissioner shall recover the actual costs of the stamps from the distributor. A distributor having a liability of \$120,000 or more during a fiscal year ending June 30 must remit all liabilities purchased on a credit basis in the subsequent calendar year by means of a funds transfer as defined in section 336.4A-104, paragraph (a). The funds transfer payment date, as defined in section 336.4A-401, must be 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 must be on or before the funds transfer business day next following the date the tax is due.

(b) If the commissioner finds that a stamping machine is not affixing a legible stamp on the package, the commissioner may order the distributor to immediately cease the stamping process until the machine is functioning properly.

(c) The commissioner shall annually establish the maximum amount of heat applied stamps that may be purchased each month. Notwithstanding any other provisions of this chapter, the tax due on the return will be based upon actual heat applied stamps purchased during the reporting period.

[For text of subds 7 to 11, see M.S.1992]

History: 1993 c 375 art 10 s 28

297.032 CLAIMS FOR REFUNDS.

Subdivision 1. **General right to refund.** If cigarettes upon which the tax imposed by sections 297.01 to 297.13 has been reported and paid, are shipped or transported by the distributor to consumers to be consumed outside the state, or to retailers or subjobbers outside the state to be sold by those retailers, or subjobbers outside the state, or are returned to the manufacturer by the distributor or destroyed by the distributor, refund of such tax or credit may be made to the distributor. Any overpayment of the tax imposed under section 297.02 may be made to the taxpayer. The commissioner of finance shall pay the refund out of the state treasury. The refunds are apportioned to the same accounts and funds in the state treasury to which the tax payments were deposited, except no refunds may be apportioned to the general obligation special tax bond debt service account.

An amount sufficient to pay the refunds authorized under this section is appropriated from the respective funds and accounts of the state treasury.

Subd. 2. **Time limit; generally.** Unless otherwise provided in this chapter, a claim for a refund of an overpayment of tax must be filed within 3-1/2 years from the date

prescribed for filing the return, plus any extension of time granted for filing the return, but only if filed within the extended time, or two years from the time the tax is paid in full, whichever period expires later.

History: 1993 c 375 art 2 s 35

297.07 DISTRIBUTOR TO FILE RETURNS.

Subdivision 1. Monthly return filed with commissioner. On or before the 18th day of each calendar month every distributor with a place of business in this state shall file a return with the commissioner showing the quantity of cigarettes manufactured or brought in from without the state or purchased during the preceding calendar month and the quantity of cigarettes sold or otherwise disposed of in this state and outside this state during that month. Every licensed distributor outside this state shall in like manner file a return showing the quantity of cigarettes shipped or transported into this state during the preceding calendar month. Returns shall be made upon forms furnished and prescribed by the commissioner and shall contain such other information as the commissioner may require. The return shall be accompanied by a remittance for the full unpaid tax liability shown by it. The return for the May liability and 75 percent of the estimated June liability is due on the date payment of the tax is due.

[For text of subs 2 and 3, see M.S.1992]

Subd. 4. Accelerated tax payment. Every distributor having a liability of \$120,000 or more during a fiscal year ending June 30, shall remit the June liability for the next year in the following manner:

(a) Two business days before June 30 of the year, the distributor shall remit the actual May liability and 75 percent of the estimated June liability to the commissioner and file the return on a form prescribed by the commissioner.

(b) On or before August 18 of the year, the distributor shall submit a return showing the actual June liability and paying any additional amount of tax not remitted in June. A penalty is 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) 70 percent of the actual June liability, or (b) 75 percent of the preceding May's liability.

[For text of subd 5, see M.S.1992]

History: 1993 c 375 art 10 s 29,30

297.35 DISTRIBUTORS, MONTHLY RETURNS.

Subdivision 1. On or before the 18th day of each calendar month every distributor with a place of business in this state shall file a return with the commissioner showing the quantity and wholesale sales price of each tobacco product (1) brought, or caused to be brought, into this state for sale; and (2) made, manufactured, or fabricated in this state for sale in this state, during the preceding calendar month. Every licensed distributor outside this state shall in like manner file a return showing the quantity and wholesale sales price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers, during the preceding calendar month. Returns shall be made upon forms furnished and prescribed by the commissioner and shall contain such other information as the commissioner may require. Each return shall be accompanied by a remittance for the full tax liability shown therein, less 1.5 percent of such liability as compensation to reimburse the distributor for expenses incurred in the administration of sections 297.31 to 297.39. The return for the May liability and 75 percent of the estimated June liability is due on the date payment of the tax is due.

A distributor having a liability of \$120,000 or more during a calendar year must remit all liabilities in the subsequent fiscal year ending June 30 by means of a funds transfer as defined in section 336.4A-104, paragraph (a). The funds transfer payment date, as defined in section 336.4A-401, must be 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 must be on or before the funds transfer business day next following the date the tax is due.

[For text of subds 2 and 3, see M.S.1992]

Subd. 5. Every distributor having a liability of \$120,000 or more during a fiscal year ending June 30, shall remit the June liability for the next year in the following manner:

(a) Two business days before June 30 of the year, the distributor shall remit the actual May liability and 75 percent of the estimated June liability to the commissioner and file the return on a form prescribed by the commissioner.

(b) On or before August 18 of the year, the distributor shall submit a return showing the actual June liability and paying any additional amount of tax not remitted in June. A penalty is 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 is not imposed if the amount remitted in June equals the lesser of (1) 70 percent of the actual June liability, or (2) 75 percent of the preceding May's liability.

[For text of subds 8 to 10, see M.S.1992]

History: 1993 c 375 art 10 s 31,32

297.43 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 five percent of the amount remaining unpaid if the failure is for not more than 30 days, with an additional penalty of five percent of the amount of tax remaining unpaid during each additional 30 days or fraction thereof, not exceeding 15 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 under sections 297.07, 297.23, and 297.35, there shall be added to the tax five percent of the amount of tax not paid on or before the date prescribed for payment of the tax. The amount so added to any tax under this subdivision and subdivision 1 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.

[For text of subds 3 and 4, see M.S.1992]

Subd. 4a. **Penalty for repeated failures to file returns or pay taxes.** If there is a pattern by a person of repeated failures to timely file returns or timely pay taxes, and written notice is given that a penalty will be imposed if such failures continue, a penalty of 25 percent of the amount of tax not timely paid as a result of each such subsequent failure is added to the tax. The penalty can be abated under the abatement authority in section 270.07, subdivisions 1, paragraph (e), and 6.

[For text of subds 5 to 10, see M.S.1992]

History: 1993 c 375 art 10 s 33-35