

## CHAPTER 289A

## TAX ADMINISTRATION AND COMPLIANCE

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**289A.01 APPLICATION OF CHAPTER.**

This chapter applies to laws administered by the commissioner under chapters 290, 290A, 291, and 297A, and sections 298.01 and 298.015.

**History:** 1997 c 31 art 1 s 2

**289A.02 DEFINITIONS.**

*[For text of subs 1 to 6, see M.S.1996]*

Subd. 7. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 1996, and includes the provisions of section 1(a) and (b) of Public Law Number 104-117.

**History:** 1997 c 231 art 6 s 1

**289A.08 FILING REQUIREMENTS FOR INDIVIDUAL INCOME, FIDUCIARY INCOME, CORPORATE FRANCHISE, MINING COMPANY, AND ENTERTAINMENT TAXES.**

*[For text of subs 1 and 2, see M.S.1996]*

Subd. 3. **Corporations.** A corporation that is subject to the state's jurisdiction to tax under section 290.014, subdivision 5, must file a return, except that a foreign operating corporation as defined in section 290.01, subdivision 6b, is not required to file a return. The commissioner shall adopt rules for the filing of one return on behalf of the members of an affiliated group of corporations that are required to file a combined report. All members of an affiliated group that are required to file a combined report must file one return on behalf of the members of the group under rules adopted by the commissioner.

*[For text of subs 4 to 10, see M.S.1996]*

Subd. 11. **Information included in income tax return.** The return must state the name of the taxpayer, or taxpayers, if the return is a joint return, and the address of the taxpayer in the same name or names and same address as the taxpayer has used in making the taxpayer's income tax return to the United States, and must state the social security number of the taxpayer, or taxpayers, if a social security number has been issued by the United States with respect to the taxpayers, and must state the amount of the taxable income of the taxpayer as it appears on the federal return for the taxable year to which the Minnesota state return applies. The taxpayer must attach to the taxpayer's Minnesota state income tax return a copy of the federal income tax return that the taxpayer has filed or is about to file for the period, unless the taxpayer is eligible to telefile the federal return and does file the Minnesota return by telefiling.

[For text of subs 13 to 15, see M.S.1996]

**History:** 1997 c 31 art 1 s 3; 1997 c 84 art 2 s 1

**289A.09 FILING REQUIREMENTS FOR TAXES WITHHELD FROM WAGES, FROM COMPENSATION OF ENTERTAINERS, AND FROM PAYMENTS TO OUT-OF-STATE CONTRACTORS; AND TAXES WITHHELD BY PARTNERSHIPS AND SMALL BUSINESS CORPORATIONS.**

[For text of subd 1, see M.S.1996]

**Subd. 2. Withholding statement to employee or payee and to commissioner.** (a) A person required to deduct and withhold from an employee a tax under section 290.92, subdivision 2a or 3, or 290.923, subdivision 2, or who would have been required to deduct and withhold a tax under section 290.92, subdivision 2a or 3, or persons required to withhold tax under section 290.923, subdivision 2, determined without regard to section 290.92, subdivision 19, if the employee or payee had claimed no more than one withholding exemption, or who paid wages or made payments not subject to withholding under section 290.92, subdivision 2a or 3, or 290.923, subdivision 2, to an employee or person receiving royalty payments in excess of \$600, or who has entered into a voluntary withholding agreement with a payee under section 290.92, subdivision 20, must give every employee or person receiving royalty payments in respect to the remuneration paid by the person to the employee or person receiving royalty payments during the calendar year, on or before January 31 of the succeeding year, or, if employment is terminated before the close of the calendar year, within 30 days after the date of receipt of a written request from the employee if the 30-day period ends before January 31, a written statement showing the following:

- (1) name of the person;
  - (2) the name of the employee or payee and the employee's or payee's social security account number;
  - (3) the total amount of wages as that term is defined in section 290.92, subdivision 1, paragraph (1); the total amount of remuneration subject to withholding under section 290.92, subdivision 20; the amount of sick pay as required under section 6051(f) of the Internal Revenue Code; and the amount of royalties subject to withholding under section 290.923, subdivision 2; and
  - (4) the total amount deducted and withheld as tax under section 290.92, subdivision 2a or 3, or 290.923, subdivision 2.
- (b) The statement required to be furnished by this paragraph with respect to any remuneration must be furnished at those times, must contain the information required, and must be in the form the commissioner prescribes.
- (c) The commissioner may prescribe rules providing for reasonable extensions of time, not in excess of 30 days, to employers or payers required to give the statements to their employees or payees under this subdivision.
- (d) A duplicate of any statement made under this subdivision and in accordance with rules prescribed by the commissioner, along with a reconciliation in the form the commissioner prescribes of the statements for the calendar year, including a reconciliation of the quarterly returns required to be filed under subdivision 1, must be filed with the commissioner on or before February 28 of the year after the payments were made.
- (e) If an employer cancels the employer's Minnesota withholding account number required by section 290.92, subdivision 24, the information required by paragraph (d), must be filed with the commissioner within 30 days of the end of the quarter in which the employer cancels its account number.

(f) The employer must submit the statements required to be sent to the commissioner on magnetic media, if the magnetic media was required to satisfy the federal reporting requirements of section 6011(e) of the Internal Revenue Code and the regulations issued under it.

(g) A "provider of payroll services" as defined in section 289A.20, subdivision 2, paragraph (f), must submit the returns required by this subdivision and subdivision 1, paragraph (a), with the commissioner by electronic means.

*[For text of subd 3, see M.S.1996]*

**History:** 1997 c 31 art 1 s 4; 1997 c 84 art 6 s 19

### **289A.10 FILING REQUIREMENTS FOR ESTATE TAX RETURNS.**

Subdivision 1. **Return required.** In the case of a decedent who has an interest in property with a situs in Minnesota, the personal representative must submit a Minnesota estate tax return to the commissioner, on a form prescribed by the commissioner, in instances in which a federal estate tax return is required to be filed.

The return must contain a computation of the Minnesota estate tax due. The return must be signed by the personal representative.

*[For text of subs 2 and 3, see M.S.1996]*

**History:** 1997 c 31 art 1 s 5

### **289A.11 FILING REQUIREMENTS FOR SALES AND USE TAX RETURNS.**

Subdivision 1. **Return required.** Except as provided in section 289A.18, subdivision 4, for the month in which taxes imposed by chapter 297A are payable, or for which a return is due, a return for the preceding reporting period must be filed with the commissioner in the form and manner the commissioner prescribes. A person making sales at retail at two or more places of business may file a consolidated return subject to rules prescribed by the commissioner. In computing the dollar amount of items on the return, the amounts are rounded off to the nearest whole dollar, disregarding amounts less than 50 cents and increasing amounts of 50 cents to 99 cents to the next highest dollar.

Notwithstanding this subdivision, a person who is not required to hold a sales tax permit under chapter 297A and who makes annual purchases of less than \$18,500 that are subject to the use tax imposed by section 297A.14, may file an annual use tax return on a form prescribed by the commissioner. If a person who qualifies for an annual use tax reporting period is required to obtain a sales tax permit or makes use tax purchases in excess of \$18,500 during the calendar year, the reporting period must be considered ended at the end of the month in which the permit is applied for or the purchase in excess of \$18,500 is made and a return must be filed for the preceding reporting period.

*[For text of subs 2 and 3, see M.S.1996]*

**History:** 1997 c 31 art 2 s 4

### **289A.18 DUE DATES FOR FILING OF RETURNS.**

*[For text of subd 1, see M.S.1996]*

Subd. 2. **Withholding returns, entertainer withholding returns, returns for withholding from payments to out-of-state contractors, and withholding returns from partnerships and S corporations.** Withholding returns for the first, second, and third quarters are due on or before the last day of the month following the close of the quarterly period. However, if the return shows timely deposits in full payment of the taxes due for that period, the returns for the first, second, and third quarters may be filed on or before the tenth day of the second calendar month following the period. The return for the fourth quarter must be filed on or before the 28th day of the second calendar month following the period. An employer, in preparing a quarterly return, may take credit for deposits previously made for that quarter. Entertainer withholding tax returns are due within 30 days after each performance. Returns for withholding from payments to out-of-state contractors are due within 30 days after the payment to the contractor. Returns for withholding by partnerships are due on or before the due date specified for filing partnership returns. Returns for withholding by S corporations are due on or before the due date specified for filing corporate franchise tax returns.

*[For text of subs 3 to 5, see M.S.1996]*

**History:** 1997 c 31 art 1 s 6

**289A.19 EXTENSIONS FOR FILING RETURNS.**

Subdivision 1. **Fiduciary income, entertainment tax, and information returns.** When, in the commissioner's judgment, good cause exists, the commissioner may extend the time for filing entertainment tax returns for not more than six months. If an extension to file the federal fiduciary income tax return or information return has been granted under section 6081 of the Internal Revenue Code, the time for filing the state return is extended for that period. The commissioner may require the taxpayer to file a tentative return when the regularly required return is due, and to pay a tax on the basis of the tentative return at the times required for the payment of taxes on the basis of the regularly required return from the taxpayer.

Subd. 2. **Corporate franchise and mining company taxes.** Corporations or mining companies shall receive an extension of seven months for filing the return of a corporation subject to tax under chapter 290 or for filing the return of a mining company subject to tax under sections 298.01 and 298.015 if:

(1) the corporation or mining company pays at least 90 percent of the amount of tax on or before the regular due date of the return;

(2) the balance due shown on the regularly required return is paid on or before the extended due date of the return; and

(3) interest on any balance due is paid at the rate specified in section 270.75 from the regular due date of the return until the tax is paid.

Subd. 3. **Withholding returns.** The commissioner shall grant an automatic extension of 60 days to file a withholding tax return with the commissioner provided all the withholding taxes have been paid by the date prescribed by section 289A.20, subdivision 2. In any case where good cause exists, the commissioner may grant an extension of time of not more than 60 days for filing a withholding return.

Subd. 4. **Estate tax returns.** When an extension to file the federal estate tax return has been granted under section 6081 of the Internal Revenue Code, the time for filing the estate tax return is extended for that period.

*[For text of subd 5, see M.S.1996]*

**History:** 1997 c 31 art 1 s 7-10

**289A.20 DUE DATES FOR MAKING PAYMENTS OF TAX.**

Subdivision 1. **Individual income, fiduciary income, mining company, corporate franchise, and entertainment taxes.** (a) Individual income, fiduciary, mining company, and corporate franchise taxes must be paid to the commissioner on or before the date the return must be filed under section 289A.18, subdivision 1, or the extended due date as provided in section 289A.19, unless an earlier date for payment is provided.

Notwithstanding any other law, a taxpayer whose unpaid liability for income or corporate franchise taxes, as reflected upon the return, is \$1 or less need not pay the tax.

(b) Entertainment taxes must be paid on or before the date the return must be filed under section 289A.18, subdivision 1.

(c) If a fiduciary administers 100 or more trusts, fiduciary income taxes for all trusts administered by the fiduciary must be paid by 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 payment is due. If the date the payment 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 payment is due.

Subd. 2. **Withholding from wages, entertainer withholding, withholding from payments to out-of-state contractors, and withholding by partnerships and small business corporations.** (a) A tax required to be deducted and withheld during the quarterly period must be paid on or before the last day of the month following the close of the quarterly period, unless an earlier time for payment is provided. A tax required to be deducted and withheld from compensation of an entertainer and from a payment to an out-of-state contractor must

be paid on or before the date the return for such tax must be filed under section 289A.18, subdivision 2. Taxes required to be deducted and withheld by partnerships and S corporations must be paid on or before the date the return must be filed under section 289A.18, subdivision 2.

(b) An employer who, during the previous quarter, withheld more than \$1,500 of tax under section 290.92, subdivision 2a or 3, or 290.923, subdivision 2, must deposit tax withheld under those sections with the commissioner within the time allowed to deposit the employer's federal withheld employment taxes under Treasury Regulation, section 31.6302-1, without regard to the safe harbor or de minimis rules in subparagraph (f) or the one-day rule in subsection (c), clause (3). Taxpayers must submit a copy of their federal notice of deposit status to the commissioner upon request by the commissioner.

(c) The commissioner may prescribe by rule other return periods or deposit requirements. In prescribing the reporting period, the commissioner may classify payors according to the amount of their tax liability and may adopt an appropriate reporting period for the class that the commissioner judges to be consistent with efficient tax collection. In no event will the duration of the reporting period be more than one year.

(d) If less than the correct amount of tax is paid to the commissioner, proper adjustments with respect to both the tax and the amount to be deducted must be made, without interest, in the manner and at the times the commissioner prescribes. If the underpayment cannot be adjusted, the amount of the underpayment will be assessed and collected in the manner and at the times the commissioner prescribes.

(e) If the aggregate amount of the tax withheld during a fiscal year ending June 30 under section 290.92, subdivision 2a or 3, is equal to or exceeds the amounts established for remitting federal withheld taxes pursuant to the regulations promulgated under section 6302(h) of the Internal Revenue Code, the employer must remit each required deposit 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 deposit is due. If the date the deposit 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 deposit is due.

(f) Providers of payroll services who remit withholding deposits must remit all deposits by means of a funds transfer as provided in paragraph (e), regardless of the aggregate amount of tax withheld during a fiscal year for all of the employers. For the purposes of this paragraph, "providers of payroll services" means persons who have custody of or control over another employer's funds for the purpose of paying on behalf of the other employer's Minnesota withholding taxes.

*[For text of subs 3 to 5, see M.S.1996]*

**History:** 1997 c 84 art 6 s 20,21

## **289A.31 LIABILITY FOR PAYMENT OF TAX.**

**Subdivision 1. Individual income, fiduciary income, mining company, corporate franchise, and entertainment taxes.** (a) Individual income, fiduciary income, mining company, and corporate franchise taxes, and interest and penalties, must be paid by the taxpayer upon whom the tax is imposed, except in the following cases:

(1) The tax due from a decedent for that part of the taxable year in which the decedent died during which the decedent was alive and the taxes, interest, and penalty due for the prior years must be paid by the decedent's personal representative, if any. If there is no personal representative, the taxes, interest, and penalty must be paid by the transferees, as defined in section 289A.38, subdivision 13, to the extent they receive property from the decedent;

(2) The tax due from an infant or other incompetent person must be paid by the person's guardian or other person authorized or permitted by law to act for the person;

(3) The tax due from the estate of a decedent must be paid by the estate's personal representative;

(4) The tax due from a trust, including those within the definition of a corporation, as defined in section 290.01, subdivision 4, must be paid by a trustee; and

(5) The tax due from a taxpayer whose business or property is in charge of a receiver, trustee in bankruptcy, assignee, or other conservator, must be paid by the person in charge of the business or property so far as the tax is due to the income from the business or property.

(b) Entertainment taxes are the joint and several liability of the entertainer and the entertainment entity. The payor is liable to the state for the payment of the tax required to be deducted and withheld under section 290.9201, subdivision 7, and is not liable to the entertainer for the amount of the payment.

(c) The tax imposed under section 290.0922 on partnerships is the joint and several liability of the partnership and the general partners.

*[For text of subs 2 to 7, see M.S.1996]*

**History:** 1997 c 84 art 6 s 22

### 289A.35 ASSESSMENTS.

The commissioner shall make determinations, corrections, and assessments with respect to state taxes, including interest, additions to taxes, and assessable penalties. The commissioner may audit and adjust the taxpayer's computation of federal taxable income, items of federal tax preferences, or federal credit amounts to make them conform with the provisions of chapter 290 or section 298.01. If a taxpayer fails to file a required return, the commissioner, from information in the commissioner's possession or obtainable by the commissioner, may make a return for the taxpayer. The return will be prima facie correct and valid. If a return has been filed, the commissioner shall examine the return and make any audit or investigation that is considered necessary. The commissioner may use statistical or other sampling techniques consistent with generally accepted auditing standards in examining returns or records and making assessments.

**History:** 1997 c 31 art 2 s 5

### 289A.36 EXAMINATIONS; AUDITS AND COLLECTIONS.

*[For text of subs 1 to 3, see M.S.1996]*

**Subd. 4. Third party subpoena where taxpayer's identity is known.** An investigation may extend to a person that the commissioner determines has access to information that may be relevant to the examination or investigation. When a subpoena requiring the production of records as described in subdivision 2 is served on a third-party recordkeeper, written notice of the subpoena must be mailed to the taxpayer and to any other person who is identified in the subpoena. The notices must be given within three days of the day on which the subpoena is served. Notice to the taxpayer required by this section is sufficient if it is mailed to the last address on record with the commissioner.

The provisions of this subdivision relating to notice to the taxpayer or other parties identified in the subpoena do not apply if there is reasonable cause to believe that the giving of notice may lead to attempts to conceal, destroy, or alter records or assets relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.

*[For text of subs 5 to 8, see M.S.1996]*

**History:** 1997 c 84 art 5 s 9

### 289A.37 ORDER OF ASSESSMENT.

**Subdivision 1. Order of assessment; notice and demand to taxpayer.** (a) When a return has been filed and the commissioner determines that the tax disclosed by the return is different than the tax determined by the examination, the commissioner shall send an order of assessment to the taxpayer. When no return has been filed, the commissioner may make a return for the taxpayer under section 289A.35 or may send an order of assessment under this subdivision. The order must explain the basis for the assessment and must explain the tax-

payer's appeal rights. An order of assessment is final when made but may be reconsidered by the commissioner under section 289A.65.

(b) No collection action can be taken, including the filing of liens under section 270.69, and the penalty under section 289A.60, subdivision 1, is not imposed when a return has been filed for the tax type and period upon which the order is based, if the amount shown on the order is paid to the commissioner: (1) within 60 days after the order has been mailed to the taxpayer by the commissioner; or (2) if an administrative appeal is filed under section 289A.65 or a tax court appeal is filed under chapter 271, within 60 days following final determination of the appeal if the appeal is based upon a constitutional challenge to the tax, and if not, when the decision of the tax court is made.

*[For text of subs 2 to 6, see M.S.1996]*

**History:** 1997 c 84 art 6 s 23

**289A.38 LIMITATIONS ON TIME FOR ASSESSMENT OF TAX.**

*[For text of subs 1 to 6, see M.S.1996]*

**Subd. 7. Federal tax changes.** If the amount of income, items of tax preference, deductions, or credits for any year of a taxpayer as reported to the Internal Revenue Service is changed or corrected by the commissioner of Internal Revenue or other officer of the United States or other competent authority, or where a renegotiation of a contract or subcontract with the United States results in a change in income, items of tax preference, deductions, credits, or withholding tax, or, in the case of estate tax, where there are adjustments to the taxable estate resulting in a change to the credit for state death taxes, the taxpayer shall report the change or correction or renegotiation results in writing to the commissioner. The report must be submitted within 180 days after the final determination and must be in the form of either an amended Minnesota return conceding the accuracy of the federal determination or a letter detailing how the federal determination is incorrect or does not change the Minnesota tax. A taxpayer filing an amended federal tax return must also file a copy of the amended return with the commissioner of revenue within 180 days after filing the amended return.

*[For text of subs 8 to 14, see M.S.1996]*

**History:** 1997 c 31 art 1 s 11

**289A.40 LIMITATIONS ON CLAIMS FOR REFUND.**

**Subdivision 1. Time limit; generally.** Unless otherwise provided in this chapter, a claim for a refund of an overpayment of state 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 one year from the date of an order assessing tax under section 289A.37, subdivision 1, or one year from the date of a return made by the commissioner under section 289A.35, upon payment in full of the tax, penalties, and interest shown on the order or return made by the commissioner, whichever period expires later. Claims for refund, except for taxes under chapter 297A, filed after the 3-1/2 year period but within the one-year period are limited to the amount of the tax, penalties, and interest on the order or return made by the commissioner and to issues determined by the order or return made by the commissioner.

In the case of assessments under section 289A.38, subdivision 5 or 6, claims for refund under chapter 297A filed after the 3-1/2 year period but within the one-year period are limited to the amount of the tax, penalties, and interest on the order or return made by the commissioner that are due for the period before the 3-1/2 year period.

*[For text of subd 1a, see M.S.1996]*

**Subd. 2. Bad debt loss.** If a claim relates to an overpayment because of a failure to deduct a loss due to a bad debt or to a security becoming worthless, the claim is considered timely if filed within seven years from the date prescribed for the filing of the return. A claim

relating to an overpayment of taxes under chapter 297A must be filed within 3-1/2 years from the date prescribed for filing the return, plus any extensions granted for filing the return, but only if filed within the extended time, or within one year from the date the taxpayer's federal income tax return is timely filed claiming the bad debt deduction, whichever period expires later. The refund or credit is limited to the amount of overpayment attributable to the loss.

*[For text of subd 3, see M.S.1996]*

**History:** 1997 c 84 art 3 s 1; art 6 s 24

#### **289A.56 INTEREST ON OVERPAYMENTS.**

*[For text of subs 1 to 3, see M.S.1996]*

**Subd. 4. Capital equipment refunds; refunds to purchasers.** Notwithstanding subdivision 3, for refunds payable under section 297A.15, subdivision 5, interest is computed from the date the refund claim is filed with the commissioner. For refunds payable under section 289A.50, subdivision 2a, interest is computed from the 20th day of the month following the month of the invoice date for the purchase which is the subject of the refund.

*[For text of subs 5 and 6, see M.S.1996]*

**History:** 1997 c 231 art 7 s 1

#### **289A.60 CIVIL PENALTIES.**

*[For text of subs 1 to 14, see M.S.1996]*

**Subd. 15. Accelerated payment of June sales tax liability; penalty for underpayment.** If a vendor is required by law to submit an estimation of June sales tax liabilities and 75 percent payment by a certain date, the vendor shall pay a penalty equal to ten percent of the amount of actual June liability required to be paid in June less the amount remitted in June. The penalty must not be imposed, however, if the amount remitted in June equals the lesser of 75 percent of the preceding May's liability or 75 percent of the average monthly liability for the previous calendar year.

*[For text of subs 16 to 24, see M.S.1996]*

**History:** 1997 c 84 art 3 s 2

#### **289A.65 ADMINISTRATIVE REVIEW.**

**Subdivision 1. Taxpayer right to reconsideration.** A taxpayer may obtain reconsideration by the commissioner of an order assessing tax, a denial of a request for abatement of penalty or interest, or a denial of a claim for refund by filing an administrative appeal under subdivision 4. A taxpayer cannot obtain reconsideration under this section if the action taken by the commissioner is the outcome of an administrative appeal.

*[For text of subs 2 to 10, see M.S.1996]*

**History:** 1997 c 31 art 1 s 12