

## Gross Earnings Taxes

### CHAPTER 294

## GROSS EARNINGS TAXES GENERAL PROVISIONS

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#### 294.01 GROSS EARNINGS TAX.

Subdivision 1. Every company, joint stock association, copartnership, corporation, or individual required by law to pay taxes to the state on a gross earnings basis shall file a return with the commissioner of revenue, in such form as the commissioner shall prescribe, containing a true and just report of the gross earnings for and during the year ending December thirty-first preceding. Such return and payment of the tax due therewith shall be submitted on or before the date provided in chapter 295, for such company, joint stock association, copartnership, corporation, or individual. The gross earnings and the tax due thereon shall be computed in accordance with the method prescribed by law.

Subd. 2. [Repealed, 1969 c 1147 s 22]

**History:** (2233) 1913 c 487 s 1; 1927 c 308; 1967 c 821 s 1; 1969 c 1147 s 1; 1973 c 582 s 3; 1986 c 444

#### 294.02 EXAMINATION OF RETURNS; ASSESSMENTS, REFUND.

The commissioner of revenue shall, as soon as practicable after the return is filed, examine the same and make any investigation or examination of the taxpayer's records and accounts that the commissioner may deem necessary for determining the correctness of the return. The tax computed by the commissioner on the basis of such examination and investigation shall be the tax to be paid by such taxpayer. If the tax found due shall be greater than the amount reported as due on the taxpayer's return, the commissioner shall assess a tax in the amount of such excess and the whole amount of such excess shall be paid to the commissioner within 60 days after notice of the amount and demand for its payment shall have been mailed to the taxpayer by the commissioner. If the understatement of the tax on the return was false or fraudulent with intent to evade the tax, the installments of the tax shown by the taxpayer on the taxpayer's return which have not yet been paid shall be paid to the commissioner within 60 days after notice of the amount thereof and demand for payment shall have been mailed to the taxpayer by the commissioner. If the amount of tax found due by the commissioner shall be less than that reported as due on the taxpayer's return, the excess shall be refunded to the taxpayer in the manner provided in section 294.09 (except that no demand therefor shall be necessary), if the taxpayer has already paid the whole of such tax, or credited against any unpaid installment thereof; provided, that no refundment shall be made except as provided in section 294.09, after the expiration of three and one-half years after the filing of the return.

The commissioner, on examining returns of a taxpayer for more than one year, may issue one order covering the several years under consideration reflecting the aggregate refund or additional tax due.

The notices and demands provided for by sections 294.02 and 294.021 shall be in such form as the commissioner may determine (including a statement) and shall contain a brief explanation of the computation of the tax and shall be sent by mail to

the taxpayer at the address given in the return, if any, and if no such address is given, then to the taxpayer's last known address.

In cases where there has been an overpayment of a self-assessed liability as shown on the return filed by the taxpayer, the commissioner may refund such overpayment to the taxpayer and no demand therefor shall be necessary.

**History:** (2234) 1913 c 487 s 2; 1967 c 821 s 2; 1969 c 1147 s 2; 1973 c 582 s 3; 1978 c 767 s 27; 1986 c 444

#### **294.021 ASSESSMENT; FAILURE TO FILE RETURN, FALSE OR FRAUDULENT RETURN FILED.**

If any company, joint stock association, copartnership, corporation, or individual required by this chapter to file any return shall fail to do so within the time prescribed by this chapter or by rules under the authority thereof, or shall make, willfully or otherwise, an incorrect, false, or fraudulent return, it shall, on the written demand of the commissioner of revenue, file such return, or corrected return, within 30 days after the mailing of such written demand and at the same time pay the whole tax, or additional tax, due on the basis thereof. If such taxpayer shall fail within that time to file such return, or corrected return, the commissioner shall make for the taxpayer a return, or corrected return, from the commissioner's own knowledge and from such information as the commissioner can obtain through testimony, or otherwise, and assess a tax on the basis thereof, which tax (less any payments theretofore made on account of the tax for the taxable year covered by such return) shall be paid within 60 days after the commissioner has mailed to such taxpayer a written notice of the amount thereof and demand for its payment. Any such return or assessment made by the commissioner on account of the failure of the taxpayer to make a return, or a corrected return, shall be prima facie correct and valid, and the taxpayer shall have the burden of establishing its incorrectness or invalidity in any action or proceeding thereto.

**History:** 1969 c 1147 s 3; 1973 c 582 s 3; 1978 c 767 s 28; 1985 c 248 s 70; 1986 c 444

#### **294.03 FAILURE TO PAY TAX; PENALTIES, INTEREST.**

Subdivision 1. If any company, joint stock association, copartnership, corporation, or individual required by law to pay taxes to the state on a gross earnings basis shall fail to pay such tax or gross earnings percentage within the time specified by law for the payment thereof, or within 30 days after final determination of an appeal to the Minnesota tax court relating thereto, there shall be added a specific penalty equal to five percent of the amount so 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 of 30 days during which the failure continues, not exceeding 15 percent in the aggregate. Such penalty shall be collected as part of said tax, and the amount of said tax not timely paid, together with said penalty, shall bear interest at the rate specified in section 270.75 from the time such tax should have been paid until paid.

Subd. 2. In case of any failure to make and file a return as required by this chapter within the time prescribed by law or prescribed by the commissioner in pursuance of law, a penalty is imposed of five percent of the amount of tax not timely paid. The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax, and the amount of said tax together with the amount so added shall bear interest at the rate specified in section 270.75 from the time such tax should have been paid until paid unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax.

For purposes of this subdivision, the amount of any taxes required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return.

Subd. 3. Where any such company, joint stock association, copartnership, corporation or individual, with intent to evade the tax, shall fail to file any return required or shall with such intent file a false or fraudulent return, there shall also be imposed upon such company, joint stock association, copartnership, corporation or individual an additional penalty equal to 50 percent of any tax (less any amount paid on the basis of such false or fraudulent return) found due for the period to which such return related. The penalty imposed by this subdivision shall be collected as part of the tax and shall be in addition to any other penalties provided by law.

Subd. 4. 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.

**History:** (2235) 1913 c 487 s 3; 1967 c 821 s 3; 1969 c 1147 s 4; 1975 c 377 s 30,31; 1976 c 134 s 78; 1977 c 307 s 29; 1993 c 375 art 10 s 24-26; 1995 c 186 s 58

**294.04** [Repealed, 1969 c 1147 s 22]

**294.05** [Repealed, 1969 c 1147 s 22]

#### **294.06 DELINQUENT TAXES; COLLECTION.**

Such delinquent and unpaid gross earnings tax, penalties and interest, assessed and certified by the commissioner of revenue, as provided in section 294.03 by law, shall be a lien upon all the property, estate and effects of any such company, joint stock association, copartnership, corporation or individual, and shall take precedence of all demands and judgments against the same; and said lien shall relate back to and be effective from the date when such tax was originally due and payable; and the certificate of the commissioner of revenue that said tax, penalties and interest are due and unpaid, and/or the unpaid draft of the commissioner of finance issued in pursuance of tax on gross earnings received by such company, joint stock association, copartnership, corporation, or individual on or prior to December 31, 1968, or by telephone companies on or prior to December 31, 1966, shall be sufficient warrant for the attorney general to institute proceedings for the collection of said tax, penalties and interest by sale of such property or otherwise.

**History:** (2238) 1913 c 487 s 5; 1943 c 120; 1967 c 821 s 5; 1969 c 1147 s 5; 1971 c 24 s 30; 1973 c 492 s 14; 1973 c 582 s 3

#### **294.07 UNIFORM SYSTEM OF ACCOUNTING.**

The commissioner of revenue shall have authority and power to prescribe for such companies, joint stock associations, copartnerships, corporations, or individuals a system of gross earnings accounts that shall be uniform for each class of companies and shall supervise the method of keeping such accounts; provided, that such system shall conform, as nearly as practicable, with that prescribed for such companies by the United States government.

**History:** (2239) 1913 c 487 s 6; 1969 c 1147 s 6; 1973 c 582 s 3; 1986 c 444

#### **294.08 EVASIONS; VIOLATIONS.**

Subdivision 1. **Assessment, generally.** Except as otherwise provided in this chapter, the amount of gross earnings taxes shall be assessed within three and one-half years after the return prescribed by section 294.01 is filed. Such taxes shall be deemed to have been assessed within the meaning of this section whenever the commissioner of revenue shall have determined the gross earnings subject to tax and computed and recorded the amount of tax with respect thereto, and if the amount is found to be in excess of that originally declared on the return, whenever the commissioner shall have prepared a notice of tax assessment and mailed same 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 such mailing shall be presumptive evidence of the giving of such notice, and such records shall be preserved by the commissioner.

**Subd. 2. Computation of time.** For the purposes of this section and section 294.09, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such 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 in accordance with section 294.06 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 from gross earnings an amount properly includable therein which is in excess of 25 percent of the amount of gross earnings stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun at any time within six years after the return was filed.

**History:** (2240) 1913 c 487 s 7; 1969 c 1147 s 7; 1973 c 582 s 3

#### **294.09 OVERPAYMENTS; CLAIMS FOR REFUND.**

**Subdivision 1. Procedures; time limit.** A company, joint stock association, copartnership, corporation, or individual who has paid, voluntarily or otherwise, or from whom there has been collected (other than by proceedings instituted by the attorney general under sections 294.06 and 294.08, subdivision 3) an amount of gross earnings tax for any year in excess of the amount legally due for that year, may file with the commissioner of revenue a claim for a refund of such excess. Except as provided in subdivision 4, no such claim shall be entertained unless filed within the period prescribed in section 289A.40, subdivision 1. Upon the filing of a claim the commissioner shall examine the same and shall make and file written findings thereon denying or allowing the claim in whole or in part and shall mail a notice thereof to such company, joint stock association, copartnership, corporation, or individual at the address stated upon the return. If such claim is allowed in whole or in part, the commissioner shall credit the amount of the allowance against any tax due the state from the claimant and for the balance of said allowance, if any, the commissioner shall issue a certificate for the refundment of the excess paid. The commissioner of finance shall cause such refund to be paid out of the proceeds of the gross earnings taxes imposed by Minnesota Statutes 1967, chapters 294 and 295 as other state moneys are expended. So much of the proceeds as may be necessary are hereby appropriated for that purpose. Any allowance so made by the commissioner shall include interest at the rate specified in section 270.76 computed from the date of payment or collection of the tax until the date the refund is paid to the claimant.

**Subd. 2. Denial of claim, court proceedings.** If the claim is denied in whole or in part, the taxpayer may commence an action against the commissioner to recover any overpayments of taxes claimed to be refundable but for which the commissioner has issued no certificate of refundment. Such action may be brought in the district court of the district in which lies the county of the taxpayer's residence or principal place of business or in the district court of Ramsey county. Such action may be commenced after the expiration of six months after the claim is filed if the commissioner has not then taken final action thereon, and shall be commenced within 18 months after the notice of the order denying the claim.

Subd. 3. **Denial of claim, appeal.** Either party to the civil action may appeal to the court of appeals as in other civil cases.

Subd. 4. **Consent to extend time.** If the commissioner and the taxpayer have within the periods prescribed in subdivision 1 consented in writing to any extension of time for the assessment of the tax under the provisions of section 294.08, subdivision 4, the period within which a claim for refund may be filed, or a refund may be made or allowed, if no claim is filed, shall be the period within which the commissioner and the taxpayer have consented to an extension for the assessment of the tax and six months thereafter.

**History:** (2241) 1913 c 487 s 8; 1969 c 1147 s 8; 1973 c 492 s 14; 1973 c 582 s 3; 1983 c 247 s 124; 1Sp1985 c 14 art 15 s 13; 1986 c 444; 1995 c 264 art 13 s 14,15

#### 294.10 RECORDS AND FILES KEPT FOR SIX YEARS BY COMPANIES.

Every person, company, joint stock association, copartnership, or corporation required by law to pay taxes to the state upon a gross earnings basis, shall keep, as a permanent file and in such a manner as to make them easily accessible at all times for inspection by a properly accredited representative of the commissioner of revenue, all books, records, documents, papers, and statistics relating to such gross earnings for at least six years subsequent to the date that such gross earnings tax returns have been rendered to the state.

**History:** (2243) 1909 c 258 s 1; 1969 c 1147 s 9; 1973 c 582 s 3

#### 294.11 DESTRUCTION OF CERTAIN PAPERS.

Any detached papers subordinate to statements of gross earnings, or reports compiled in the accounting department, the full details of which are included in other statements or reports on file in as perfect a form, and which have been passed upon in a general examination by the special examiners or representatives of the state, but which have not reached the time limit prescribed in section 294.10, may, upon the recommendations of such special examiner or representative and the written approval of the commissioner of revenue, be destroyed.

If in the opinion of the commissioner of revenue, gross earnings may be adequately verified without reference to certain of such subordinate detached papers, the commissioner may authorize destruction of such detached papers without examination.

**History:** (2244) 1909 c 258 s 2; 1965 c 137 s 1; 1969 c 1147 s 10; 1973 c 582 s 3; 1986 c 444

#### 294.12 VIOLATION, A GROSS MISDEMEANOR.

Any person who shall willfully violate the provisions of sections 294.10 and 294.11 shall be deemed guilty of a gross misdemeanor.

**History:** (2245) 1909 c 258 s 3

**294.21** [Repealed, 1987 c 268 art 9 s 44]

**294.22** [Repealed, 1987 c 268 art 9 s 44]

**294.23** [Repealed, 1987 c 268 art 9 s 44]

**294.24** [Repealed, 1987 c 268 art 9 s 44]

**294.25** [Repealed, 1987 c 268 art 9 s 44]

**294.26** [Repealed, 1987 c 268 art 9 s 44]

**294.27** [Repealed, 1977 c 423 art 10 s 30]

**294.28** [Repealed, 1977 c 423 art 10 s 30]