CHAPTER 289A

ADMINISTRATION AND COMPLIANCE

GENERAL PROVISIONS

289A.01 APPLICATION OF CHAPTER.

289A.02 DEFINITIONS.

FILING, REPORTING, REGISTRATION REQUIREMENTS

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

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.

289A.10 FILING REQUIREMENTS FOR ESTATE TAX RETURNS.

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

289A.12 FILING REQUIREMENTS FOR INFORMATION RETURNS AND REPORTS.

289A.121 TAX SHELTERS; SPECIAL RULES.

289A.14 USE OF AUTOMATED SALES SUPPRESSION DEVICES; DEFINITIONS.

DUE DATES AND FILING EXTENSIONS

289A.18 DUE DATES FOR FILING OF RETURNS.

289A.19 EXTENSIONS FOR FILING RETURNS.

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

PAYMENT OF ESTIMATED TAX

289A.25 PAYMENT OF ESTIMATED TAX BY INDIVIDUALS, TRUSTS, S CORPORATIONS, OR PARTNERSHIPS.

289A.26 PAYMENT OF ESTIMATED TAX BY CORPORATIONS.

PAYMENT EXTENSIONS AND LIABILITY

289A.30 EXTENSIONS FOR PAYING TAX.

289A.31 LIABILITY FOR PAYMENT OF TAX.

ASSESSMENTS, EXAMINATIONS, AND STATUTES OF LIMITATIONS

289A.35 ASSESSMENTS ON RETURNS.

289A.37 ASSESSMENTS; ERRONEOUS REFUNDS; JOINT INCOME TAX RETURNS.

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

289A.39 LIMITATIONS; ARMED SERVICES.

289A.40 LIMITATIONS ON CLAIMS FOR REFUND.

289A.41 BANKRUPTCY; SUSPENSION OF TIME.

289A.42 CONSENT TO EXTEND STATUTE.

REFUNDS

289A.50 CLAIMS FOR REFUNDS.

INTEREST

289A.55 INTEREST PAYABLE TO COMMISSIONER.

289A.56 INTEREST ON OVERPAYMENTS.

CIVIL PENALTIES

289A.60 CIVIL PENALTIES.

CRIMINAL PENALTIES

289A.63 CRIMINAL PENALTIES.

GENERAL PROVISIONS

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: *1990 c 480 art 1 s 1; 1991 c 291 art 11 s 1; 1997 c 31 art 1 s 2*

289A.02 DEFINITIONS.

Subdivision 1. **Applicability.** Unless the context clearly requires otherwise, the following terms used in this chapter have the following meanings.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of revenue of the state of Minnesota or a person to whom the commissioner has delegated functions.

Subd. 3. **Taxpayer.** "Taxpayer" means a person subject to, or liable for, a state tax; a person required to file a return with respect to, or to pay, or withhold or collect and remit, a state tax; or a person required to obtain a license or a permit or to keep records under a law imposing a state tax.

Subd. 4. **Person.** "Person" means an individual, partnership, corporation, association, governmental unit or agency, or public or private organization of any kind, under a duty to comply with state tax laws because of its character or position.

Subd. 5. **Other words.** Unless specifically defined in this chapter, or unless the context clearly indicates otherwise, the words used in this chapter have the same meanings as they are defined in chapters 290, 290A, 291, and 297A.

Subd. 6. **Mining company.** "Mining company" means a person engaged in the business of mining or producing ores in Minnesota subject to the taxes imposed by section 298.01 or 298.015.

Subd. 7. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 2018.

Subd. 8. **Electronic means.** "Electronic means" refers to a method that is electronic, as defined in section 325L.02, paragraph (e), and that is prescribed by the commissioner.

History: *1990 c 480 art 1 s 2; 1991 c 291 art 11 s 2; 1994 c 587 art 1 s 3; 1995 c 264 art 1 s 4; 1996 c 471 art 4 s 1; 1997 c 231 art 6 s 1; 1998 c 389 art 7 s 1; 1999 c 243 art 3 s 1; 2000 c 490 art 12 s 1; 1Sp2001 c 5 art 10 s 1; art 17 s 7; 2002 c 377 art 2 s 1; 2003 c 127 art 4 s 1; 1Sp2003 c 21 art 3 s 1; 1Sp2005 c 3 art 4 s 1; 2006 c 259 art 2 s 1; 2008 c 154 art 4 s 1; 2009 c 12 art 1 s 1; 2009 c 88 art 1 s 1; 2010 c 216 s 7; 2011 c 8 s 1; 1Sp2011 c 7 art 2 s 1; 2014 c 150 art 1 s 7; 2014 c 308 art 4 s 9; 2015 c 1 s 1; 2017 c 1 s 1; 1Sp2019 c 6 art 1 s 3*

289A.07 [Repealed, 2005 c 151 art 1 s 117]

FILING, REPORTING, REGISTRATION REQUIREMENTS

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

Subdivision 1. **Generally; individuals.** (a) A taxpayer must file a return for each taxable year the taxpayer is required to file a return under section 6012 of the Internal Revenue Code or meets the requirements under paragraph (d) to file a return, except that:

(1) an individual who is not a Minnesota resident for any part of the year is not required to file a Minnesota income tax return if the individual's gross income derived from Minnesota sources as determined under sections 290.081, paragraph (a), and 290.17, is less than the filing requirements for a single individual who is a full year resident of Minnesota;

(2) an individual who is a Minnesota resident is not required to file a Minnesota income tax return if the individual's gross income derived from Minnesota sources as determined under section 290.17, less the subtractions allowed under section 290.0132, subdivisions 12 and 15, is less than the filing requirements for a single individual who is a full-year resident of Minnesota.

(b) The decedent's final income tax return, and other income tax returns for prior years where the decedent had gross income in excess of the minimum amount at which an individual is required to file and did not file, must be filed by the decedent's personal representative, if any. If there is no personal representative,

the return or returns must be filed by the transferees, as defined in section 270C.58, subdivision 3, who receive property of the decedent.

(c) The term "gross income," as it is used in this section, has the same meaning given it in section 290.01, subdivision 20.

(d) The commissioner of revenue must annually determine the gross income levels at which individuals are required to file a return for each taxable year based on the amounts allowed as a deduction under section 290.0123.

Subd. 2. **Returns filed by fiduciaries.** (a) The trustee or other fiduciary of property held in trust must file a return with respect to the taxable net income of the trust or estate if it exceeds an amount determined by the commissioner and if the trust belongs to the class of taxable persons.

(b) The receivers, trustees in bankruptcy, or assignees operating the business or property of a taxpayer must file a return with respect to the taxable net income of the taxpayer if a return is required.

Subd. 3. **Corporations.** (a) A corporation that is subject to the state's jurisdiction to tax under section 290.014, subdivision 5, must file a return.

(b) Members of a unitary business that are required to file a combined report on one return must designate a member of the unitary business to be responsible for tax matters, including the filing of returns, the payment of taxes, additions to tax, penalties, interest, or any other payment, and for the receipt of refunds of taxes or interest paid in excess of taxes lawfully due. The designated member must be a member of the unitary business that is filing the single combined report and either:

(1) a corporation that is subject to the taxes imposed by chapter 290; or

(2) a corporation that is not subject to the taxes imposed by chapter 290:

(i) Such corporation consents by filing the return as a designated member under this clause to remit taxes, penalties, interest, or additions to tax due from the members of the unitary business subject to tax, and receive refunds or other payments on behalf of other members of the unitary business. The member designated under this clause is a "taxpayer" for the purposes of this chapter and chapter 270C, and is liable for any liability imposed on the unitary business under this chapter and chapter 290.

(ii) If the state does not otherwise have the jurisdiction to tax the member designated under this clause, consenting to be the designated member does not create the jurisdiction to impose tax on the designated member, other than as described in item (i).

(iii) The member designated under this clause must apply for a business tax account identification number.

(c) 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.

(d) If a corporation claims on a return that it has paid tax in excess of the amount of taxes lawfully due, that corporation must include on that return information necessary for payment of the tax in excess of the amount lawfully due by electronic means.

Subd. 4. **Exempt organizations; unrelated business income.** An exempt organization that is subject to tax on unrelated business income under section 290.05, subdivision 3, must file a return for each taxable year in which the organization is required to file a return under section 6012 of the Internal Revenue Code because of the receipt of unrelated business income. If an organization is required to file a return under federal law but has no federal tax liability for the taxable year, the commissioner may provide that the filing requirement under this paragraph is satisfied by filing a copy of the taxpayer's federal return.

Subd. 5. **Annual return; exceptions.** A return under this section must cover a 12-month period, except in the following cases:

(1) A return made by or for a taxpayer in existence for less than the whole of a taxable year must cover the part of the taxable year the taxpayer was in existence;

(2) A taxpayer who, in keeping books, regularly computes income on the basis of an annual period that varies from 52 to 53 weeks and ends always on the same day of the week, and ends always (i) on the date that day of the week last occurs in a calendar month or (ii) on the date that day of the week falls that is nearest to the last day of a calendar month, may compute the taxpayer's net income and taxable net income on the basis of that annual period in accordance with rules prescribed by the commissioner. If the effective date or the applicability of a provision of this chapter or chapter 290 is expressed in terms of taxable years beginning or ending with reference to a named date that is the first or last day of a month, a taxable year must be treated as beginning with the first day of the calendar month beginning nearest to the first day of that taxable year, or as ending with the last day of the calendar month ending nearest to the last day of that taxable year, as the case may be;

(3) A taxpayer who changes from one taxable year to another must make a return for the fractional parts of the year, under section 290.32.

Subd. 6. **Returns of married persons.** Individuals who are married to each other must file a joint Minnesota income tax return if they filed a joint federal income tax return. If the spouses have elected to file separate federal income tax returns, they must file separate Minnesota income tax returns. This election to file a joint or separate return must be changed if they change their election for federal purposes. In the event taxpayers desire to change their election, the change must be done in the manner and on the form prescribed by the commissioner.

The determination of whether an individual is married shall be made under the provisions of section 7703 of the Internal Revenue Code.

Subd. 7. **Composite income tax returns for nonresident partners, shareholders, and beneficiaries.** (a) The commissioner may allow a partnership with nonresident partners to file a composite return and to pay the tax on behalf of nonresident partners who have no other Minnesota source income. This composite return must include the names, addresses, Social Security numbers, income allocation, and tax liability for the nonresident partners electing to be covered by the composite return.

(b) The computation of a partner's tax liability must be determined by multiplying the income allocated to that partner by the highest rate used to determine the tax liability for individuals under section 290.06, subdivision 2c. Nonbusiness deductions, standard deductions, or personal exemptions are not allowed.

(c) The partnership must submit a request to use this composite return filing method for nonresident partners. The requesting partnership must file a composite return in the form prescribed by the commissioner of revenue. The filing of a composite return is considered a request to use the composite return filing method.

(d) The electing partner must not have any Minnesota source income other than the income from the partnership and other electing partnerships. If it is determined that the electing partner has other Minnesota source income, the inclusion of the income and tax liability for that partner under this provision will not constitute a return to satisfy the requirements of subdivision 1. The tax paid for the individual as part of the composite return is allowed as a payment of the tax by the individual on the date on which the composite return payment was made. If the electing nonresident partner has no other Minnesota source income, filing of the composite return is a return for purposes of subdivision 1.

(e) This subdivision does not negate the requirement that an individual pay estimated tax if the individual's liability would exceed the requirements set forth in section 289A.25. The individual's liability to pay estimated tax is, however, satisfied when the partnership pays composite estimated tax in the manner prescribed in section 289A.25.

(f) If an electing partner's share of the partnership's gross income from Minnesota sources is less than the filing requirements for a nonresident under this subdivision, the tax liability is zero. However, a statement showing the partner's share of gross income must be included as part of the composite return.

(g) The election provided in this subdivision is only available to a partner who has no other Minnesota source income and who is either (1) a full-year nonresident individual or (2) a trust or estate that does not claim a deduction under either section 651 or 661 of the Internal Revenue Code.

(h) A corporation defined in section 290.9725 and its nonresident shareholders may make an election under this paragraph. The provisions covering the partnership apply to the corporation and the provisions applying to the partner apply to the shareholder.

(i) Estates and trusts distributing current income only and the nonresident individual beneficiaries of the estates or trusts may make an election under this paragraph. The provisions covering the partnership apply to the estate or trust. The provisions applying to the partner apply to the beneficiary.

(j) For the purposes of this subdivision, "income" means the partner's share of federal adjusted gross income from the partnership modified by the additions provided in section 290.0131, subdivisions 8 to 10 and 16, and the subtractions provided in: (1) section 290.0132, subdivision 9, to the extent the amount is assignable or allocable to Minnesota under section 290.17; and (2) section 290.0132, subdivision 14. The subtraction allowed under section 290.0132, subdivision 9, is only allowed on the composite tax computation to the extent the electing partner would have been allowed the subtraction.

Subd. 8. **Returns of entertainment entities.** An entertainment entity subject to the tax imposed by section 290.9201 shall file an annual return for the calendar year with the commissioner.

Subd. 9. [Repealed, 1993 c 375 art 2 s 36]

Subd. 10. **Filing of proper return.** The return must specifically set forth the items of gross income, deductions, credits against the tax, and any other data necessary for computing the amount of any item required for determining the amount of the net income tax liability. The return must be filed in the form and manner the commissioner prescribes. The filing of a return required under this section is considered an assessment. The return must be signed by the taxpayer in the case of an individual's return, by both spouses in the case of a joint return, by someone designated by the corporation, partnership, entertainment entity, or mining company in the case of a corporate, composite income, entertainment, or occupation tax return, and by the trustee, receiver, or other fiduciary in the case of a fiduciary's return.

Subd. 11. **Information included in income tax return.** (a) The return must state:

(1) 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;

(2) the date or dates of birth of the taxpayer or taxpayers;

(3) 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

(4) 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.

(b) 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.

Subd. 12. [Repealed, 1993 c 375 art 2 s 36]

Subd. 13. **Long and short forms; local use tax instructions.** The commissioner shall provide a long form individual income tax return and may provide a short form individual income tax return. The returns shall be in a form that is consistent with the provisions of chapter 290, notwithstanding any other law to the contrary. The nongame wildlife checkoff provided in section 290.431 and the dependent care credit provided in section 290.067 must be included on the short form. The commissioner must provide information on local use taxes in the individual income tax instruction booklet. The commissioner must provide this information in the same section of the booklet that provides information on the state use tax.

Subd. 14. **Voter registration form.** The commissioner shall insert securely in the individual income tax return form or instruction booklet distributed for an odd-numbered year a voter registration form, returnable to the secretary of state. The form shall be designed according to rules adopted by the secretary of state. This requirement applies to forms and booklets supplied to post offices, banks, and other outlets, as well as to those mailed directly to taxpayers.

Subd. 15. **Mining companies.** A mining company must file an annual return.

Subd. 16. **Tax refund or return preparers; electronic filing; paper filing fee imposed.** (a) A "tax preparer" or "preparer," as defined in section 270C.445, subdivision 2, who is a tax return preparer for purposes of section 6011(e) of the Internal Revenue Code, and who reasonably expects to prepare more than ten Minnesota individual income, corporate franchise, S corporation, partnership, or fiduciary income tax returns for the prior year must file all Minnesota individual income, corporate franchise, S corporation, partnership, or fiduciary income tax returns prepared for that year by electronic means.

(b) Paragraph (a) does not apply to a return if the taxpayer has indicated on the return that the taxpayer did not want the return filed by electronic means.

(c) For each return that is not filed electronically by a tax preparer or preparer under this subdivision, including returns filed under paragraph (b), a paper filing fee of $5 is imposed upon the preparer. The fee is collected from the preparer in the same manner as income tax. The fee does not apply to returns that the commissioner requires to be filed in paper form.

Subd. 17. **Format.** The commissioner shall prescribe the content, format, and manner of the returns and other documents pursuant to section 270C.30. This does not authorize the commissioner to require individual income taxpayers to file individual income tax returns electronically.

History: *1990 c 480 art 1 s 3,46; art 5 s 4,5; 1990 c 604 art 10 s 23; 1991 c 291 art 6 s 46; art 11 s 3; 1992 c 511 art 6 s 19; 1993 c 375 art 2 s 3-5; art 8 s 14; 1994 c 416 art 2 s 1; 1994 c 587 art 1 s 24; 1997 c 31 art 1 s 3; 1997 c 84 art 2 s 1; 2000 c 490 art 4 s 1; 1Sp2003 c 1 art 2 s 81; 1Sp2003 c 21 art 11 s 12; 2005 c 151 art 2 s 17; art 6 s 1; art 9 s 15; 1Sp2005 c 3 art 3 s 1-3; 2008 c 154 art 11 s 2; 2008 c 277 art 1 s 61; 2009 c 86 art 1 s 53; 2009 c 88 art 7 s 1; 2010 c 215 art 12 s 29; 2010 c 389 art 3 s 1; 2011 c 112 art 1 s 2,3; 2013 c 143 art 6 s 5; 2014 c 150 art 1 s 8; 2016 c 158 art 3 s 2,3; 1Sp2017 c 1 art 13 s 1,2; art 16 s 23; 1Sp2019 c 6 art 1 s 4,5; art 24 s 6*

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.

Subdivision 1. **Returns.** (a) An employer who is required to deduct and withhold tax under section 290.92, subdivision 2a or 3, and a person required to deduct and withhold tax under section 290.923, subdivision 2, must file a return with the commissioner for each quarterly period unless otherwise prescribed by the commissioner.

(b) A person or corporation required to make deposits under section 290.9201, subdivision 8, must file an entertainer withholding tax return with the commissioner.

(c) A person required to withhold an amount under section 290.9705, subdivision 1, must file a return.

(d) A partnership required to deduct and withhold tax under section 290.92, subdivision 4b, must file a return.

(e) An S corporation required to deduct and withhold tax under section 290.92, subdivision 4c, must also file a return.

(f) The commissioner shall prescribe the content, format, and manner of the returns pursuant to section 270C.30. Every return for taxes withheld must be signed by the employer, entertainment entity, contract payor, partnership, or S corporation, or a designee.

Subd. 2. **Withholding statement.** (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 paragraph (a) 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 must be filed with the commissioner on or before January 31 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. The commissioner shall prescribe the content, format, and manner of the statement pursuant to section 270C.30.

(g) A "third-party bulk filer" as defined in section 290.92, subdivision 30, paragraph (a), clause (2), must submit the returns required by this subdivision and subdivision 1, paragraph (a), with the commissioner by electronic means.

Subd. 3. **Federal annuities; tax withholding request.** The commissioner of revenue shall participate with the United States Office of Personnel Management in a program of voluntary state income tax withholding on the federal annuities of retired federal employees. Upon the request of the taxpayer to the commissioner of revenue, and only on request of the taxpayer, the commissioner shall provide for state income tax withholding on federal annuities paid to the taxpayer.

History: *1990 c 480 art 1 s 4; 1991 c 291 art 6 s 46; 1992 c 511 art 6 s 19; 1993 c 375 art 2 s 6; art 8 s 1,14; 1994 c 587 art 1 s 24; 1997 c 31 art 1 s 4; 1997 c 84 art 6 s 19; 1998 c 300 art 1 s 1; 2008 c 154 art 11 s 3; 2010 c 389 art 3 s 2; 1Sp2017 c 1 art 13 s 3; art 16 s 24*

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, if:

(1) a federal estate tax return is required to be filed; or

(2) the sum of the federal gross estate and federal adjusted taxable gifts, as defined in section 2001(b) of the Internal Revenue Code, made within three years of the date of the decedent's death exceeds $1,200,000

for estates of decedents dying in 2014; $1,400,000 for estates of decedents dying in 2015; $1,600,000 for estates of decedents dying in 2016; $2,100,000 for estates of decedents dying in 2017; $2,400,000 for estates of decedents dying in 2018; $2,700,000 for estates of decedents dying in 2019; and $3,000,000 for estates of decedents dying in 2020 and thereafter.

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

Subd. 1a. **Recapture tax return required.** If a disposition or cessation as provided by section 291.03, subdivision 11, paragraph (a), has occurred, the qualified heir, as defined under section 291.03, subdivision 8, paragraph (c), or personal representative of the decedent's estate must submit a recapture tax return to the commissioner.

Subd. 2. **Documents required.** The commissioner may designate on the return the documents that are required to be filed together with the return to determine the computation of tax.

Subd. 3. **Definitions.** For purposes of this section, the definitions contained in section 291.005 apply.

History: *1990 c 480 art 1 s 5; 1997 c 31 art 1 s 5; 2002 c 377 art 12 s 10; 2003 c 127 art 3 s 1; 2010 c 334 s 1; 2013 c 143 art 7 s 3; art 15 s 1; 2014 c 150 art 3 s 1; 1Sp2017 c 1 art 1 s 2*

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

Subdivision 1. **Return required.** (a) 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. The commissioner shall prescribe the content, format, and manner of the returns pursuant to section 270C.30. 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.

(b) Notwithstanding this subdivision, a person who is not required to hold a sales tax permit under chapter 297A and who makes annual purchases, for use in a trade or business, of less than $18,500, or a person who is not required to hold a sales tax permit and who makes purchases for personal use, that are subject to the use tax imposed by section 297A.63, may file an annual use tax return. The commissioner shall prescribe the content, format, and manner of the return pursuant to section 270C.30. 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, for use in a trade or business, 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.

(c) Notwithstanding paragraphs (a) and (b), a person prohibited by the person's religious beliefs from using electronics shall be allowed to file by mail, without any additional fees. The filer must notify the commissioner of revenue of the intent to file by mail on a form prescribed by the commissioner. A return filed under this paragraph must be postmarked no later than the day the return is due in order to be considered filed on a timely basis.

Subd. 2. [Repealed, 2008 c 277 art 1 s 98]

Subd. 3. **Who must file return.** For purposes of the sales tax, a return must be filed by a retailer who is required to hold a permit. For the purposes of the use tax, a return must be filed by a retailer required to

collect the tax and by a person buying any items, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax to a retailer required to collect the tax. The returns must be signed by the person filing the return or by the person's agent duly authorized in writing.

History: *1990 c 480 art 1 s 6; 1991 c 249 s 31; 1991 c 291 art 8 s 3; 1992 c 511 art 8 s 2; 1993 c 375 art 2 s 7,8; 1994 c 587 art 2 s 1; 1997 c 31 art 2 s 4; 2000 c 418 art 1 s 44; 1Sp2005 c 3 art 5 s 2; 2009 c 88 art 4 s 2; 1Sp2017 c 1 art 16 s 25*

289A.12 FILING REQUIREMENTS FOR INFORMATION RETURNS AND REPORTS.

Subdivision 1. [Repealed, 1992 c 511 art 7 s 26]

Subd. 2. **Returns required of banks; common trust funds.** The commissioner may by notice and demand require a bank maintaining a common trust fund to file with the commissioner a return for a taxable year, stating specifically with respect to the fund, the items of gross income and deductions provided by section 290.281, subdivision 1. The return must include the names and addresses of the participants entitled to share the net income if distributed and the amount of the proportionate share of each participant.

Subd. 3. **Returns or reports by partnerships, fiduciaries, and S corporations.** (a) Partnerships must file a return with the commissioner for each taxable year. The return must conform to the requirements of section 290.311, and must include the names and addresses of the partners entitled to a distributive share in their taxable net income, gain, loss, or credit, and the amount of the distributive share to which each is entitled. A partnership required to file a return for a partnership taxable year must furnish a copy of the information required to be shown on the return to a person who is a partner at any time during the taxable year, on or before the day on which the return for the taxable year was filed.

(b) The fiduciary of an estate or trust making the return required to be filed under section 289A.08, subdivision 2, for a taxable year must give a beneficiary who receives a distribution from the estate or trust with respect to the taxable year or to whom any item with respect to the taxable year is allocated, a statement containing the information required to be shown on the return, on or before the date on which the return was filed.

(c) An S corporation must file a return with the commissioner for a taxable year during which an election under section 290.9725 is in effect, stating specifically the names and addresses of the persons owning stock in the corporation at any time during the taxable year, the number of shares of stock owned by a shareholder at all times during the taxable year, the shareholder's pro rata share of each item of the corporation for the taxable year, and other information the commissioner requires. An S corporation required to file a return under this paragraph for any taxable year must furnish a copy of the information shown on the return to the person who is a shareholder at any time during the taxable year, on or before the day on which the return for the taxable year was filed.

(d) The partnership or S corporation return must be signed by someone designated by the partnership or S corporation.

Subd. 4. **Returns by persons, corporations, cooperatives, governmental entities, or school districts.** (a) The commissioner may by notice and demand require to the extent required by section 6041 of the Internal Revenue Code, a person, corporation, or cooperative, the state of Minnesota and its political subdivisions, and a city, county, and school district in Minnesota, making payments in the regular course of a trade or business during the taxable year to any person or corporation of $600 or more on account of rents or royalties, or of $10 or more on account of interest, or $10 or more on account of dividends or patronage dividends, or $600 or more on account of either wages, salaries, commissions, fees, prizes, awards, pensions, annuities,

or any other fixed or determinable gains, profits or income, not otherwise reportable under section 289A.09, subdivision 2, or on account of earnings of $10 or more distributed to its members by savings associations or credit unions chartered under the laws of this state or the United States, (1) to file with the commissioner a return (except in cases where a valid agreement to participate in the combined federal and state information reporting system has been entered into, and the return is filed only with the commissioner of internal revenue under the applicable filing and informational reporting requirements of the Internal Revenue Code) with respect to the payments in excess of the amounts named, giving the names and addresses of the persons to whom the payments were made, the amounts paid to each, and (2) to make a return with respect to the total number of payments and total amount of payments, for each category of income named, which were in excess of the amounts named. This subdivision does not apply to the payment of interest or dividends to a person who was a nonresident of Minnesota for the entire year.

(b) For payments for which a return is covered by paragraph (a), regardless of whether the commissioner has required filing under paragraph (a), the payor must file a copy of the return with the commissioner if:

(1) the return is for a payment made to a Minnesota resident, to a recipient with a Minnesota address, or for activity occurring in the state of Minnesota; and

(2) the payment is for wages, salaries, or other compensation for services provided. The commissioner may require this information to be filed in electronic or another form that the commissioner determines is appropriate, notwithstanding the provisions of paragraph (c).

(c) A person, corporation, or cooperative required to file returns under this subdivision must file the returns on magnetic media if magnetic media was used to satisfy the federal reporting requirement under section 6011(e) of the Internal Revenue Code, unless the person establishes to the satisfaction of the commissioner that compliance with this requirement would be an undue hardship.

Subd. 5. **Returns by brokers.** The commissioner may, within 30 days after notice and demand, require a person doing business as a broker to give the commissioner the names and addresses of customers for whom they have transacted business, and the details regarding gross proceeds and other information concerning the transactions as will enable the commissioner to determine whether the income tax due on profits or gains of those customers has been paid. The provisions of section 6045 of the Internal Revenue Code which define terms and require that a statement be furnished to the customer apply.

Subd. 6. **Returns by agents.** The commissioner may, within 30 days after notice and demand, require a person acting as agent for another to make a return furnishing the information reasonably necessary to properly assess and collect the tax imposed by chapter 290 upon the person for whom the agent acts.

Subd. 7. **Returns for real property holdings of aliens.** The commissioner may by notice and demand require a person or corporation required to make a return under section 6039C (relating to information return on a foreign person holding a United States real property interest) of the Internal Revenue Code to make a similar return for the commissioner for foreign persons holding a Minnesota real property interest.

Subd. 8. **Returns for unemployment benefits.** The commissioner may by notice and demand require a person who makes payments of unemployment benefits totaling $10 or more to any individual during a calendar year and who is required to make and file a return under section 6050B of the Internal Revenue Code to file a copy of the return with the commissioner.

Subd. 9. **Returns for payments of remuneration for services and direct sales.** The commissioner may by notice and demand require a person who is required to make a return under section 6041A (relating to information returns regarding payments of remuneration for services and direct sales) of the Internal

Revenue Code to file a copy of the return containing the information required under that section with the commissioner. The provisions of that section govern the requirements of a statement that must be given to persons with respect to whom information is required to be given.

Subd. 10. **Returns relating to Social Security benefits.** The commissioner may by notice and demand require the appropriate federal official who is required to make a return under section 6050F (relating to Social Security benefits) of the Internal Revenue Code to file a copy of the return containing the information required under that section with the commissioner.

Subd. 11. **Returns by trustees.** The commissioner may by notice and demand require the trustee of an individual retirement account and the issuer of an endowment contract or an individual retirement annuity who is required to make a report under section 408(i) of the Internal Revenue Code to file with the commissioner a copy of that report containing the information required under that subsection. The provisions of that subsection govern when the reports are to be filed and the requirements of a statement that must be given to persons with respect to whom information must be given.

Subd. 12. **Statements to payees.** A person who can be required to file a return with the commissioner under subdivisions 4 to 10 must furnish to a person whose name is set forth in the return a written statement showing the name and address of the person making the return, and the aggregate amount of payments to the person shown on the return.

This written statement must be given to the person on or before January 31 of the year following the calendar year for which the return was made.

Subd. 13. **Supplying of Social Security number.** An individual with respect to whom a return, statement, or other document is required under this section to be made by another person must furnish to that person the individual's Social Security account number. A person required under this section to make a return, statement, or other document with respect to another person who is an individual must request from that individual and must include in the return, statement, or other document the individual's Social Security account number. A return of an estate or trust with respect to its liability for tax, and any statement or other document in its support, is considered a return, statement, or other document with respect to the individual beneficiary of the estate or trust; otherwise, a return of an individual with respect to the individual's liability for tax, or any statement or other document in its support, is not considered a return, statement, or other document with respect to another person.

Subd. 14. **Reporting exempt interest and exempt-interest dividends.** (a) A regulated investment company paying $10 or more in exempt-interest dividends to an individual who is a resident of Minnesota, or any person receiving $10 or more of exempt interest or exempt-interest dividends and paying as nominee to an individual who is a resident of Minnesota, must make a return indicating the amount of the exempt interest or exempt-interest dividends, the name, address, and Social Security number of the recipient, and any other information that the commissioner specifies. The return must be provided to the recipient by February 15 of the year following the year of the payment. The return provided to the recipient must include a clear statement, in the form prescribed by the commissioner, that the exempt interest or exempt-interest dividends must be included in the computation of Minnesota taxable income. By June 1 of each year, the payer must file a copy of the return with the commissioner.

(b) For purposes of this subdivision, the following definitions apply.

(1) "Exempt-interest dividends" mean exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, but does not include the portion of exempt-interest dividends that are not required to be added to federal adjusted gross income under section 290.0131, subdivision 2, paragraph (b).

(2) "Regulated investment company" means regulated investment company as defined in section 851(a) of the Internal Revenue Code or a fund of the regulated investment company as defined in section 851(g) of the Internal Revenue Code.

(3) "Exempt interest" means income on obligations of any state other than Minnesota, or a political or governmental subdivision, municipality, or governmental agency or instrumentality of any state other than Minnesota, and exempt from federal income taxes under the Internal Revenue Code or any other federal statute.

Subd. 15. **Report of job opportunity zone benefits; penalty for failure to file report.** (a) By October 15 of each year, every qualified business, as defined under section 469.310, subdivision 11, must file with the commissioner, on a form prescribed by the commissioner, a report listing the tax benefits under section 469.315 received by the business for the previous year.

(b) The commissioner shall send notice to each business that fails to timely submit the report required under paragraph (a). The notice shall demand that the business submit the report within 60 days. Where good cause exists, the commissioner may extend the period for submitting the report as long as a request for extension is filed by the business before the expiration of the 60-day period. The commissioner shall notify the commissioner of employment and economic development and the appropriate job opportunity subzone administrator whenever notice is sent to a business under this paragraph.

(c) A business that fails to submit the report as required under paragraph (b) is no longer a qualified business under section 469.310, subdivision 11, and is subject to the repayment provisions of section 469.319.

Subd. 16. **Qualified intermediaries.** The commissioner may by notice and demand require a qualified intermediary to file a return relating to transactions for which the intermediary acted to facilitate exchanges under section 1031 of the Internal Revenue Code. The return must include the name, address, and state or federal tax identification number or Social Security number of each of the parties to the exchange, information relating to the property subject to the exchange, and any other information required by the commissioner.

Subd. 17. **Third-party payers of sick pay benefits.** (a) A third-party payer of sick pay benefits who withholds income tax from the sick pay of an employee as agent for the employer of the employee, and who remits that withholding tax to the commissioner must file an annual report on a form prescribed by the commissioner. The report must include the name and tax identification number of each employer for whom the payer has made sick pay payments and the name, Social Security number, amount of sick pay paid, and amount of tax withheld for each employee.

(b) The report must be filed with the commissioner on or before February 28 of the year following the year in which the sick pay benefits were paid.

(c) The report required by this subdivision does not need to be filed if the third-party payer, rather than the employer, has provided to the employee the annual statement required under section 289A.09, subdivision 2, that includes the sick pay benefits paid and the tax withheld.

Subd. 18. **Returns by qualified heirs.** A qualified heir, as defined in section 291.03, subdivision 8, paragraph (c), must file two returns with the commissioner attesting that no disposition or cessation as provided by section 291.03, subdivision 11, paragraph (a), occurred. The first return must be filed no earlier than 24 months and no later than 26 months after the decedent's death. The second return must be filed no earlier than 36 months and no later than 39 months after the decedent's death.

History: *1990 c 480 art 1 s 7; 1991 c 291 art 6 s 7,46; 1992 c 511 art 6 s 19; 1993 c 375 art 2 s 9-18; art 8 s 14; 1994 c 488 s 8; 1994 c 587 art 1 s 24; 1995 c 202 art 1 s 25; 1998 c 389 art 7 s 12; 1999 c 107*

s 66; 2000 c 343 s 4; 1Sp2001 c 5 art 7 s 32; 2008 c 154 art 3 s 1; art 11 s 4; 2008 c 366 art 5 s 8; 2009 c 88 art 7 s 2; 2010 c 389 art 3 s 3; 2011 c 112 art 1 s 4; 2013 c 143 art 15 s 2,3; 2016 c 158 art 3 s 4; 1Sp2017 c 1 art 13 s 4; 1Sp2019 c 6 art 1 s 6

289A.121 TAX SHELTERS; SPECIAL RULES.

Subdivision 1. **Scope.** The provisions of this section apply to a tax shelter that:

(1) is organized in this state;

(2) is doing business in this state;

(3) is deriving income from sources in this state; or

(4) has one or more investors that are Minnesota taxpayers under chapter 290.

Subd. 2. **Definitions.** (a) For purposes of this section, the definitions under sections 6111, 6112, and 6707A of the Internal Revenue Code, including the regulations under those sections, apply.

(b) The term "tax shelter" means any reportable transaction as defined under section 6707A(c)(1) of the Internal Revenue Code.

Subd. 3. **Registration.** (a) Any material advisor required to register a tax shelter under section 6111 of the Internal Revenue Code must register the shelter with the commissioner.

(b) A material advisor subject to this subdivision must send a duplicate of the federal registration information, along with any other information the commissioner requires, to the commissioner not later than the day on which interests in that tax shelter are first offered for sale to Minnesota taxpayers.

(c) In addition to the requirements under paragraph (b), any listed transaction must be registered with the commissioner by the latest of:

(1) 60 days after entering into the transaction;

(2) 60 days after the transaction becomes a listed transaction; or

(3) October 15, 2005.

Subd. 4. **Registration number.** (a) Any person required to register under section 6111 of the Internal Revenue Code who receives a tax registration number from the Secretary of the Treasury must file, within 30 days after requested by the commissioner, a statement of the registration number with the commissioner.

(b) Any person who sells or otherwise transfers an interest in a tax shelter must, in the same time and manner required under section 6111(b) of the Internal Revenue Code, furnish to each investor who purchases or otherwise acquires an interest in the tax shelter the identification number assigned under federal law to the tax shelter.

(c) Any person claiming any deduction, credit, or other tax benefit by reason of a tax shelter must include on the return on which the deduction, credit, or other benefit is claimed the identification number assigned under federal law to the tax shelter.

Subd. 5. **Reportable transactions.** (a) For each taxable year in which a taxpayer must make a return or a statement under Code of Federal Regulations, title 26, section 1.6011-4, for a reportable transaction, including a listed transaction, in which the taxpayer participated in a taxable year for which a return is required under chapter 290, the taxpayer must file a copy of the disclosure with the commissioner.

(b) Any taxpayer that is a member of a unitary business group that includes any person that must make a disclosure statement under Code of Federal Regulations, title 26, section 1.6011-4, must file a disclosure under this subdivision.

(c) Disclosure under this subdivision is required for any transaction entered into after December 31, 2001, that the Internal Revenue Service determines is a listed transaction at any time, and must be made in the manner prescribed by the commissioner. With respect to transactions in which the taxpayer participated for taxable years ending on and after December 31, 2005, disclosure must be made in the time and manner prescribed in Code of Federal Regulations, title 26, section 1.6011-4(e).

Subd. 6. **Lists of investors.** (a) Any person required to maintain a list under section 6112 of the Internal Revenue Code with respect to any reportable transaction must furnish the list to the commissioner no later than when required under federal law. The list required under this subdivision must include the same information required with respect to a reportable transaction under section 6112 of the Internal Revenue Code, and any other information the commissioner requires.

(b) For transactions entered into on or after December 31, 2001, that become listed transactions at any time, the list must be furnished to the commissioner by the latest of:

(1) 60 days after entering into the transaction; or

(2) 60 days after the transaction becomes a listed transaction.

History: *1Sp2005 c 3 art 8 s 2; 2006 c 259 art 8 s 8; 2017 c 40 art 1 s 98,99*

289A.13 [Repealed, 2005 c 151 art 1 s 117]

289A.14 USE OF AUTOMATED SALES SUPPRESSION DEVICES; DEFINITIONS.

(a) For the purposes of sections 289A.60, subdivision 32, 289A.63, subdivision 12, and 609.5316, subdivision 3, the following terms have the meanings given.

(b) "Automated sales suppression device" or "zapper" means a software program, carried on any tangible medium, or accessed through any other means, that falsifies the electronic records of electronic cash registers and other point-of-sale systems including, but not limited to, transaction data and transaction reports.

(c) "Electronic cash register" means a device that keeps a register or supporting documents through the means of an electronic device or computer system designed to record transaction data for the purpose of computing, compiling, or processing retail sales transaction data in whatever manner.

(d) "Phantom-ware" means hidden preinstalled or later-installed programming option embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that can be used to create a virtual second electronic cash register or may eliminate or manipulate transaction records that may or may not be preserved in digital formats to represent the true or manipulated record of transactions in the electronic cash register.

(e) "Transaction data" includes items purchased by a customer, the price of each item, the taxability determination for each item, a segregated tax amount for each of the taxed items, the date and time of the purchase, the name, address, and identification number of the vendor, and the receipt or invoice number of the transaction.

(f) "Transaction report" means a report documenting, but not limited to, the sales, taxes collected, media totals, and discount voids at an electronic cash register that is printed on cash register tape at the end of a day or shift, or a report documenting every action at an electronic cash register that is stored electronically.

History: *1Sp2017 c 1 art 12 s 1*

DUE DATES AND FILING EXTENSIONS

289A.18 DUE DATES FOR FILING OF RETURNS.

Subdivision 1. **Individual income, fiduciary income, corporate franchise, and entertainment taxes; partnership and S corporation returns; information returns; mining company returns.** The returns required to be made under sections 289A.08 and 289A.12 must be filed at the following times:

(1) returns made on the basis of the calendar year must be filed on April 15 following the close of the calendar year, except that returns of corporations and partnerships must be filed on the due date for filing the federal income tax return;

(2) returns made on the basis of the fiscal year must be filed on the 15th day of the fourth month following the close of the fiscal year, except that returns of corporations and partnerships must be filed on the due date for filing the federal income tax return;

(3) returns for a fractional part of a year must be filed on the due date for filing the federal income tax return;

(4) in the case of a final return of a decedent for a fractional part of a year, the return must be filed on the 15th day of the fourth month following the close of the 12-month period that began with the first day of that fractional part of a year;

(5) in the case of the return of a cooperative association, returns must be filed on or before the 15th day of the ninth month following the close of the taxable year;

(6) if a corporation has been divested from a unitary group and files a return for a fractional part of a year in which it was a member of a unitary business that files a combined report under section 290.17, subdivision 4, the divested corporation's return must be filed on the 15th day of the third month following the close of the common accounting period that includes the fractional year;

(7) returns of entertainment entities must be filed on April 15 following the close of the calendar year;

(8) returns required to be filed under section 289A.08, subdivision 4, must be filed on the 15th day of the fifth month following the close of the taxable year;

(9) returns of mining companies must be filed on May 1 following the close of the calendar year; and

(10) returns required to be filed with the commissioner under section 289A.12, subdivision 2, 4 to 10, or 16 must be filed within 30 days after being demanded by the commissioner.

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.** (a) Withholding returns 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 may be filed on or before the tenth 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.

(b) A seasonal employer who provides notice in the form and manner prescribed by the commissioner before the end of the calendar quarter is not required to file a withholding tax return for periods of anticipated inactivity unless the employer pays wages during the period from which tax is withheld. For purposes of this paragraph, a seasonal employer is an employer that regularly, in the same one or more quarterly periods of each calendar year, pays no wages to employees.

Subd. 2a. **Annual withholding returns; eligible employers.** (a) An employer who deducts and withholds an amount required to be withheld by section 290.92 may file an annual return and make an annual payment of the amount required to be deducted and withheld for that calendar year if the employer has received a notification under paragraph (b). The ability to elect to file an annual return continues through the year following the year where an employer is required to deduct and withhold more than $500.

(b) The commissioner is authorized to determine which employers are eligible to file an annual return and to notify employers who newly qualify to file an annual return because the amount an employer is required to deduct and withhold for that calendar year is $500 or less based on the most recent period of four consecutive quarters for which the commissioner has compiled data on that employer's withholding tax for that period. At the time of notification, eligible employers may still decide to file returns and make deposits quarterly. An employer who decides to file returns and make deposits quarterly is required to make all returns and deposits required by this chapter and, notwithstanding paragraph (a), is subject to all applicable penalties for failing to do so.

(c) If, at the end of any calendar month other than the last month of the calendar year, the aggregate amount of undeposited tax withheld by an employer who has elected to file an annual return exceeds $500, the employer must deposit the aggregate amount with the commissioner within 30 days of the end of the calendar month.

(d) If an employer who has elected to file an annual return ceases to pay wages for which withholding is required, the employer must file a final return and deposit any undeposited tax within 30 days of the end of the calendar month following the month in which the employer ceased paying wages.

(e) An employer not subject to paragraph (c) or (d) who elects to file an annual return must file the return and pay the tax not previously deposited before February 1 of the year following the year in which the tax was withheld.

Subd. 3. **Estate tax returns.** An estate tax return must be filed with the commissioner within nine months after the decedent's death.

Subd. 3a. **Recapture tax return.** A recapture tax return must be filed with the commissioner within six months after the date of the disposition or cessation as provided by section 291.03, subdivision 11, paragraph (a).

Subd. 4. **Sales and use tax returns.** (a) Sales and use tax returns must be filed on or before the 20th day of the month following the close of the preceding reporting period, except that annual use tax returns provided for under section 289A.11, subdivision 1, must be filed by April 15 following the close of the

calendar year, in the case of individuals. Annual use tax returns of businesses, including sole proprietorships, and annual sales tax returns must be filed by February 5 following the close of the calendar year.

(b) Returns for the June reporting period filed by retailers required to remit their June liability under section 289A.20, subdivision 4, paragraph (b), are due on or before August 20.

(c) If a retailer has an average sales and use tax liability, including local sales and use taxes administered by the commissioner, equal to or less than $500 per month in any quarter of a calendar year, and has substantially complied with the tax laws during the preceding four calendar quarters, the retailer may request authorization to file and pay the taxes quarterly in subsequent calendar quarters. The authorization remains in effect during the period in which the retailer's quarterly returns reflect sales and use tax liabilities of less than $1,500 and there is continued compliance with state tax laws.

(d) If a retailer has an average sales and use tax liability, including local sales and use taxes administered by the commissioner, equal to or less than $100 per month during a calendar year, and has substantially complied with the tax laws during that period, the retailer may request authorization to file and pay the taxes annually in subsequent years. The authorization remains in effect during the period in which the retailer's annual returns reflect sales and use tax liabilities of less than $1,200 and there is continued compliance with state tax laws.

(e) The commissioner may also grant quarterly or annual filing and payment authorizations to retailers if the commissioner concludes that the retailers' future tax liabilities will be less than the monthly totals identified in paragraphs (c) and (d). An authorization granted under this paragraph is subject to the same conditions as an authorization granted under paragraphs (c) and (d).

(f) A taxpayer who is a materials supplier may report gross receipts either on:

(1) the cash basis as the consideration is received; or

(2) the accrual basis as sales are made.

As used in this paragraph, "materials supplier" means a person who provides materials for the improvement of real property; who is primarily engaged in the sale of lumber and building materials-related products to owners, contractors, subcontractors, repairers, or consumers; who is authorized to file a mechanics lien upon real property and improvements under chapter 514; and who files with the commissioner an election to file sales and use tax returns on the basis of this paragraph.

(g) Notwithstanding paragraphs (a) to (f), a seller that is not a Model 1, 2, or 3 seller, as those terms are used in the Streamlined Sales and Use Tax Agreement, that does not have a legal requirement to register in Minnesota, and that is registered under the agreement, must file a return by February 5 following the close of the calendar year in which the seller initially registers, and must file subsequent returns on February 5 on an annual basis in succeeding years. Additionally, a return must be submitted on or before the 20th day of the month following any month by which sellers have accumulated state and local tax funds for the state in the amount of $1,000 or more.

Subd. 5. **Property tax refund claims.** A claim for a refund based on property taxes payable must be filed with the commissioner on or before August 15 of the year in which the property taxes are due and payable. Any claim for refund based on rent paid must be filed on or before August 15 of the year following the year in which the rent was paid.

History: *1990 c 480 art 1 s 8; 1991 c 291 art 6 s 8; art 7 s 1; art 8 s 4; art 11 s 4; 1992 c 511 art 8 s 3; 1993 c 375 art 2 s 20,21; art 10 s 13; 1994 c 510 art 3 s 7; 1995 c 264 art 10 s 1; art 17 s 1; 1997 c 31*

art 1 s 6; 1999 c 243 art 4 s 1; 2001 c 7 s 56; 1Sp2001 c 5 art 17 s 8; 2003 c 127 art 1 s 3; 2005 c 151 art 6 s 2; 2008 c 154 art 11 s 5; 2008 c 366 art 12 s 1; 2009 c 88 art 7 s 3; 2010 c 389 art 3 s 4; 2011 c 112 art 2 s 1; 2013 c 143 art 15 s 4; 2014 c 150 art 3 s 2; 2014 c 308 art 11 s 3; 1Sp2017 c 1 art 13 s 5; art 16 s 26; 2019 c 50 art 1 s 89

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. The commissioner shall grant an automatic extension of six months to file a partnership, "S" corporation, or fiduciary income tax return if all of the taxes imposed on the entity for the year by chapter 290 and section 289A.08, subdivision 7, have been paid by the date prescribed by section 289A.18, subdivision 1.

Subd. 2. **Corporate franchise and mining company taxes.** Corporations or mining companies shall receive an extension of seven months or the amount of time granted by the Internal Revenue Service, whichever is longer, 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. Interest on any balance of tax not paid when the regularly required return is due must be paid at the rate specified in section 270C.40, from the date such payment should have been made if no extension was granted, until the date of payment of such tax.

If a corporation or mining company does not:

(1) pay at least 90 percent of the amount of tax shown on the return on or before the regular due date of the return, the penalty prescribed by section 289A.60, subdivision 1, shall be imposed on the unpaid balance of tax; or

(2) pay the balance due shown on the regularly required return on or before the extended due date of the return, the penalty prescribed by section 289A.60, subdivision 1, shall be imposed on the unpaid balance of tax from the original due date of the return.

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.** The time for filing an estate tax return shall be extended for either six months or the amount of time granted under section 6081 of the Internal Revenue Code to file the federal estate tax return, whichever is longer.

Subd. 5. **Sales and use tax returns.** Where good cause exists, the commissioner may extend the time for filing sales and use tax returns for not more than 60 days.

Subd. 6. [Repealed, 1991 c 291 art 6 s 47]

Subd. 7. **Federal extensions.** When an extension of time to file a partnership, fiduciary income tax, or S corporation tax return is granted by the Internal Revenue Service, the commissioner shall grant an automatic

extension to file the comparable Minnesota return for that period. An extension granted under this subdivision does not affect the due date for making payments of tax.

History: *1990 c 480 art 1 s 9; 1991 c 291 art 6 s 9,46; art 11 s 5; 1992 c 511 art 6 s 19; 1993 c 375 art 8 s 14; 1994 c 587 art 1 s 24; 1997 c 31 art 1 s 7-10; 1998 c 389 art 6 s 1; 2002 c 377 art 9 s 6; 2003 c 127 art 3 s 2; 2005 c 151 art 2 s 17; art 6 s 3; 2008 c 366 art 4 s 1,2; 2009 c 88 art 7 s 4; 1Sp2017 c 1 art 1 s 3*

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 electronic means.

Subd. 2. **Withholding from wages, entertainer withholding, withholding from payments to out-of-state contractors, and withholding by partnerships, small business corporations, trusts.** (a) Except as provided in section 289A.18, subdivision 2a, 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, S corporations, and trusts must be paid on a quarterly basis as estimated taxes under section 289A.25 for partnerships and trusts and under section 289A.26 for S corporations.

(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 Code of Federal Regulations, title 26, section 31.6302-1, as amended through December 31, 2001, without regard to the safe harbor or de minimis rules in paragraph (f) or the one-day rule in paragraph (c)(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 is $10,000 or more in a fiscal year ending June 30, the employer must remit each required deposit for wages paid in all subsequent calendar years by electronic means.

(f) A third-party bulk filer as defined in section 290.92, subdivision 30, paragraph (a), clause (2), who remits withholding deposits must remit all deposits by electronic means as provided in paragraph (e), regardless of the aggregate amount of tax withheld during a fiscal year for all of the employers.

Subd. 3. **Estate tax.** Taxes imposed by section 291.03, subdivision 1, take effect at and upon the death of the person whose estate is subject to taxation and are due and payable on or before the expiration of nine months from that death.

Subd. 3a. **Recapture tax.** The additional estate tax imposed by section 291.03, subdivision 11, paragraph (b), is due and payable on or before the expiration of the date provided by section 291.03, subdivision 11, paragraph (c).

Subd. 4. **Sales and use tax.** (a) The taxes imposed by chapter 297A are due and payable to the commissioner monthly on or before the 20th day of the month following the month in which the taxable event occurred, or following another reporting period as the commissioner prescribes or as allowed under section 289A.18, subdivision 4, paragraph (f) or (g), except that use taxes due on an annual use tax return as provided under section 289A.11, subdivision 1, are payable by April 15 following the close of the calendar year.

(b) A vendor having a liability of $250,000 or more during a fiscal year ending June 30 must remit the June liability for the next year in the following manner:

(1) Two business days before June 30 of calendar year 2020 and 2021, the vendor must remit 87.5 percent of the estimated June liability to the commissioner. Two business days before June 30 of calendar year 2022 and thereafter, the vendor must remit 84.5 percent of the estimated June liability to the commissioner.

(2) On or before August 20 of the year, the vendor must pay any additional amount of tax not remitted in June.

(c) A vendor having a liability of:

(1) $10,000 or more, but less than $250,000 during a fiscal year ending June 30, 2013, and fiscal years thereafter, must remit by electronic means all liabilities on returns due for periods beginning in all subsequent calendar years on or before the 20th day of the month following the month in which the taxable event occurred, or on or before the 20th day of the month following the month in which the sale is reported under section 289A.18, subdivision 4; or

(2) $250,000 or more, during a fiscal year ending June 30, 2013, and fiscal years thereafter, must remit by electronic means all liabilities in the manner provided in paragraph (a) on returns due for periods beginning in the subsequent calendar year, except for 90 percent of the estimated June liability, which is due two business days before June 30. The remaining amount of the June liability is due on August 20.

(d) Notwithstanding paragraph (b) or (c), a person prohibited by the person's religious beliefs from paying electronically shall be allowed to remit the payment by mail. The filer must notify the commissioner of revenue of the intent to pay by mail before doing so on a form prescribed by the commissioner. No extra fee may be charged to a person making payment by mail under this paragraph. The payment must be

postmarked at least two business days before the due date for making the payment in order to be considered paid on a timely basis.

Subd. 5. **Payment of franchise tax on LIFO recapture.** If a corporation is subject to LIFO recapture under section 1363(d) of the Internal Revenue Code, any increase in the tax imposed by section 290.06, subdivision 1, by reason of the inclusion of the LIFO recapture amount in its income is payable in four equal installments.

The first installment must be paid on or before the due date, determined without regard to extensions, for filing the return for the first taxable year for which the corporation was subject to the LIFO recapture. The three succeeding installments must be paid on or before the due date, determined without regard to extensions, for filing the corporation's return for the three succeeding taxable years.

For purposes of computing interest on underpayments, the last three installments must not be considered underpayments until after the payment due date specified in this subdivision.

History: *1990 c 480 art 1 s 10; 1991 c 291 art 6 s 10; art 8 s 5; art 11 s 6; art 17 s 2-4; 1992 c 511 art 6 s 19; art 7 s 10; art 8 s 4; 1993 c 13 art 1 s 34; 1993 c 375 art 1 s 3; art 8 s 2,14; art 10 s 14,15; 1994 c 510 art 3 s 8; 1994 c 587 art 1 s 24; 1995 c 264 art 10 s 2; 1997 c 84 art 6 s 20,21; 1998 c 300 art 1 s 2; 1999 c 243 art 4 s 2; 2000 c 490 art 4 s 2; art 8 s 1; 1Sp2001 c 5 art 12 s 1; art 17 s 9-11; 2002 c 377 art 2 s 2; art 3 s 2; 1Sp2003 c 21 art 8 s 2; 1Sp2005 c 3 art 3 s 4; art 9 s 1,2; 2006 c 259 art 13 s 2; 2008 c 154 art 6 s 1; 2008 c 366 art 8 s 1; 2009 c 88 art 4 s 3; 1Sp2010 c 1 art 2 s 4; 2013 c 142 art 5 s 4,5; 2013 c 143 art 15 s 5,6; art 16 s 2; 2014 c 308 art 3 s 4; 1Sp2017 c 1 art 13 s 6; 1Sp2019 c 6 art 3 s 2*

PAYMENT OF ESTIMATED TAX

289A.25 PAYMENT OF ESTIMATED TAX BY INDIVIDUALS, TRUSTS, S CORPORATIONS, OR PARTNERSHIPS.

Subdivision 1. **Requirements to pay.** An individual, trust, S corporation, or partnership must, when prescribed in subdivision 3, paragraph (b), make payments of estimated tax. For individuals, the term "estimated tax" means the amount the taxpayer estimates is the sum of the taxes imposed by chapter 290 for the taxable year. For trusts, S corporations, and partnerships, the term estimated tax means the amount the taxpayer estimates is the sum of the taxes for the taxable year imposed by chapter 290 and the composite income tax imposed by section 289A.08, subdivision 7. If the individual is an infant or incompetent person, the payments must be made by the individual's guardian. If joint payments on estimated tax are made but a joint return is not made for the taxable year, the estimated tax for that year may be treated as the estimated tax of either spouse or may be divided between them.

Subd. 2. **Additions to tax for underpayment.** (a) In the case of any underpayment of estimated tax by a taxpayer, except as provided in subdivision 6 or 7, there must be added to and become a part of the taxes imposed by chapter 290, for the taxable year an amount determined at the rate specified in section 270C.40 upon the amount of the underpayment for the period of the underpayment.

(b) For purposes of paragraph (a), the amount of underpayment shall be the excess of

(1) the amount of the installment required to be paid, over

(2) the amount, if any, of the installment paid on or before the last day prescribed for the payment.

Subd. 3. **Period of underpayment.** (a) The period of the underpayment shall run from the date the installment was required to be paid to the earlier of the following dates:

(1) The 15th day of the fourth month following the close of the taxable year.

(2) With respect to any part of the underpayment, the date on which that part is paid. For purposes of this clause, a payment of estimated tax on any installment date is considered a payment of any unpaid required installments in the order in which the installments are required to be paid.

(b) For purposes of this subdivision, there shall be four required installments for a taxable year. The times for payment of installments shall be:

For the following required installments:	The due date is:
1st	April 15
2nd	June 15
3rd	September 15
4th	January 15 of the following taxable year

Subd. 4. **No addition to tax where tax is small.** No addition to tax is imposed under subdivision 2 for a taxable year if the tax shown on the return for the taxable year (or, if no return is filed, the tax) reduced by the credits allowable is less than $500.

Subd. 5. **Amount of required installment.** The amount of any installment required to be paid shall be 25 percent of the required annual payment except as provided in clause (3). The term "required annual payment" means the lesser of

(1) 90 percent of the tax shown on the return for the taxable year or 90 percent of the tax for the year if no return is filed; or

(2) the total tax liability shown on the return of the taxpayer for the preceding taxable year, if a return showing a liability for the taxes was filed by the taxpayer for the preceding taxable year of 12 months. If the adjusted gross income shown on the return of the taxpayer for the preceding taxable year exceeds $150,000, this clause shall be applied by substituting "110 percent of the total tax liability" for "the total tax liability"

(i) for an individual who is not a Minnesota resident for the entire year, the term "adjusted gross income" means the Minnesota share of that income apportioned to Minnesota under section 290.06, subdivision 2c, paragraph (e), or

(ii) for a trust the term "adjusted gross income" means the income assigned to Minnesota under section 290.17; or

(3) an amount equal to the applicable percentage of the tax for the taxable year computed by placing on an annualized basis the taxable income and alternative minimum taxable income for the months in the taxable year ending before the month in which the installment is required to be paid. The applicable percentage of the tax is 22.5 percent in the case of the first installment, 45 percent for the second installment, 67.5 percent for the third installment, and 90 percent for the fourth installment. For purposes of this clause, the taxable income and alternative minimum taxable income shall be placed on an annualized basis by

(i) multiplying by 12 (or in the case of a taxable year of less than 12 months, the number of months in the taxable year) the taxable income and alternative minimum taxable income computed for the months in the taxable year ending before the month in which the installment is required to be paid; and

(ii) dividing the resulting amount by the number of months in the taxable year ending before the month in which the installment date falls.

A reduction in an installment under clause (3) must be recaptured by increasing the amount of the next required installment by the amount of the reduction.

Subd. 5a. [Repealed, 1994 c 587 art 1 s 25]

Subd. 6. **Exception to addition to tax.** (a) For individuals, no addition to the tax is imposed under this section for any taxable year if:

(1) the taxpayer did not have liability for tax for the preceding taxable year,

(2) the preceding taxable year was a taxable year of 12 months, and

(3) the individual was a resident of Minnesota throughout the preceding taxable year.

(b) For trusts, S corporations, and partnerships, if in any previous taxable year the entity was subject to taxation under chapter 290 or composite income tax is elected under section 289A.08, subdivision 7, then an addition to the tax is imposed under this section. In all other taxable years, no addition to tax is imposed under this section.

Subd. 7. **Waiver of addition to tax.** No addition to the tax is imposed under this section with respect to an underpayment to the extent the commissioner determines that the provisions of section 6654(e)(3) of the Internal Revenue Code apply.

Subd. 8. **Application of section; tax withheld on wages.** For purposes of this section, the estimated tax must be computed without reduction for the amount that the taxpayer estimates as the taxpayer's credit under section 290.92, subdivision 12 (relating to tax withheld at source on wages), and any other refundable credits allowed against income tax liability, and the amount of those credits for the taxable year is considered a payment of estimated tax, and an equal part of those amounts is considered paid on the installment date, determined under subdivision 3, paragraph (b), for that taxable year, unless the taxpayer establishes the dates on which the amounts were actually withheld, in which case the amounts so withheld are considered payments of estimated tax on the dates on which the amounts were actually withheld.

Subd. 9. **Special rule for return filed on or before January 31.** If, on or before January 31 of the following taxable year, the taxpayer files a return for the taxable year and pays in full the amount computed on the return as payable, then no addition to tax is imposed under subdivision 2 with respect to any underpayment of the fourth required installment for the taxable year.

Subd. 10. **Special rule for farmers and fishermen.** For purposes of this section, if an individual is a farmer or fisherman as defined in section 6654(i)(2) of the Internal Revenue Code for a taxable year, only one installment is required for the taxable year, the due date of which is January 15 of the following taxable year, the amount of which is equal to the required annual payment determined under subdivision 5 by substituting "66-2/3 percent" for "90 percent," and subdivision 9 shall be applied by substituting "March 1" for "January 31," and by treating the required installment described as the fourth required installment.

Subd. 11. **Fiscal year taxpayer.** The application of this section to taxable years beginning other than January 1 must be made by substituting, for the months named in this section, the months that correspond. This section must be applied to taxable years of less than 12 months, under rules issued by the commissioner.

Subd. 12. **Estates.** The provisions of this section do not apply to an estate.

Subd. 13. **Overpayment of estimated tax installment.** If an installment payment of estimated tax exceeds the correct amount of the installment payment, the overpayment must be credited against the unpaid installments, if any.

Subd. 14. **Short taxable year.** (a) A trust, S corporation, or partnership with a short taxable year of less than 12 months, but at least four months, must pay estimated tax in equal installments on or before the 15th day of the third, sixth, ninth, and final month of the short taxable year, to the extent applicable based on the number of months in the short taxable year.

(b) A trust, S corporation, or partnership is not required to make estimated tax payments for a short taxable year unless its tax liability before the first day of the last month of the taxable year can reasonably be expected to exceed $500.

(c) No payment is required by a trust, S corporation, or partnership for a short taxable year of less than four months.

History: *1990 c 480 art 1 s 11; 1991 c 291 art 6 s 46; 1992 c 511 art 6 s 3,19; 1993 c 375 art 2 s 22-28; art 8 s 14; 1994 c 416 art 2 s 2; 1994 c 587 art 1 s 4,24; 2005 c 151 art 2 s 17; 2011 c 112 art 1 s 5-7; 2014 c 308 art 9 s 59; 1Sp2019 c 6 art 24 s 7*

289A.26 PAYMENT OF ESTIMATED TAX BY CORPORATIONS.

Subdivision 1. **Minimum liability.** A corporation subject to taxation under chapter 290 (excluding section 290.92 and an S corporation under section 290.9725) or an entity subject to taxation under section 290.05, subdivision 3, must make payment of estimated tax for the taxable year if its tax liability so computed can reasonably be expected to exceed $500, or in accordance with rules prescribed by the commissioner for an affiliated group of corporations filing one return under section 289A.08, subdivision 3.

Subd. 2. **Amount and time for payment of installments.** The estimated tax payment required under subdivision 1 must be paid in four equal installments on or before the 15th day of the third, sixth, ninth, and 12th month of the taxable year.

Subd. 2a. **Electronic payments.** If the aggregate amount of estimated tax payments made is $10,000 or more in a fiscal year ending June 30, all estimated tax payments in all subsequent calendar years must be paid by electronic means.

Subd. 3. **Short taxable year.** (a) A corporation or an entity with a short taxable year of less than 12 months, but at least four months, must pay estimated tax in equal installments on or before the 15th day of the third, sixth, ninth, and final month of the short taxable year, to the extent applicable based on the number of months in the short taxable year.

(b) A corporation or an entity is not required to make estimated tax payments for a short taxable year unless its tax liability before the first day of the last month of the taxable year can reasonably be expected to exceed $500.

(c) No payment is required for a short taxable year of less than four months.

Subd. 4. **Underpayment of estimated tax.** If there is an underpayment of estimated tax by a corporation or an entity, there shall be added to the tax for the taxable year an amount determined at the rate in section 270C.40 on the amount of the underpayment, determined under subdivision 5, for the period of the underpayment determined under subdivision 6. This subdivision does not apply in the first taxable year that a corporation is subject to the tax imposed under section 290.02 or an entity is subject to the tax imposed under section 290.05, subdivision 3.

Subd. 5. **Amount of underpayment.** For purposes of subdivision 4, the amount of the underpayment is the excess of

(1) the required installment, over

(2) the amount, if any, of the installment paid on or before the last date prescribed for payment.

Subd. 6. **Period of underpayment.** The period of the underpayment runs from the date the installment was required to be paid to the earlier of the following dates:

(1) the 15th day of the third month following the close of the taxable year for corporations, and the 15th day of the fifth month following the close of the taxable year for entities subject to tax under section 290.05, subdivision 3; or

(2) with respect to any part of the underpayment, the date on which that part is paid. For purposes of this clause, a payment of estimated tax shall be credited against unpaid required installments in the order in which those installments are required to be paid.

Subd. 7. **Required installments.** (a) Except as otherwise provided in this subdivision, the amount of a required installment is 25 percent of the required annual payment.

(b) Except as otherwise provided in this subdivision, the term "required annual payment" means the lesser of:

(1) 100 percent of the tax shown on the return for the taxable year, or, if no return is filed, 100 percent of the tax for that year; or

(2) 100 percent of the tax shown on the return of the corporation or entity for the preceding taxable year provided the return was for a full 12-month period, showed a liability, and was filed by the corporation or entity.

(c) Except for determining the first required installment for any taxable year, paragraph (b), clause (2), does not apply in the case of a large corporation. The term "large corporation" means a corporation or any predecessor corporation that had taxable net income of $1,000,000 or more for any taxable year during the testing period. The term "testing period" means the three taxable years immediately preceding the taxable year involved. A reduction allowed to a large corporation for the first installment that is allowed by applying paragraph (b), clause (2), must be recaptured by increasing the next required installment by the amount of the reduction.

(d) In the case of a required installment, if the corporation or entity establishes that the annualized income installment is less than the amount determined in paragraph (a), the amount of the required installment is the annualized income installment and the recapture of previous quarters' reductions allowed by this paragraph must be recovered by increasing later required installments to the extent the reductions have not previously been recovered.

(e) The "annualized income installment" is the excess, if any, of:

(1) an amount equal to the applicable percentage of the tax for the taxable year computed by placing on an annualized basis the taxable income:

(i) for the first two months of the taxable year, in the case of the first required installment;

(ii) for the first two months or for the first five months of the taxable year, in the case of the second required installment;

(iii) for the first six months or for the first eight months of the taxable year, in the case of the third required installment; and

(iv) for the first nine months or for the first 11 months of the taxable year, in the case of the fourth required installment, over

(2) the aggregate amount of any prior required installments for the taxable year.

(3) For the purpose of this paragraph, the annualized income shall be computed by placing on an annualized basis the taxable income for the year up to the end of the month preceding the due date for the quarterly payment multiplied by 12 and dividing the resulting amount by the number of months in the taxable year (2, 5, 6, 8, 9, or 11 as the case may be) referred to in clause (1).

(4) The "applicable percentage" used in clause (1) is:

For the following required installments:	The applicable percentage is:
1st	25
2nd	50
3rd	75
4th	100

(f)(1) If this paragraph applies, the amount determined for any installment must be determined in the following manner:

(i) take the taxable income for the months during the taxable year preceding the filing month;

(ii) divide that amount by the base period percentage for the months during the taxable year preceding the filing month;

(iii) determine the tax on the amount determined under item (ii); and

(iv) multiply the tax computed under item (iii) by the base period percentage for the filing month and the months during the taxable year preceding the filing month.

(2) For purposes of this paragraph:

(i) the "base period percentage" for a period of months is the average percent that the taxable income for the corresponding months in each of the three preceding taxable years bears to the taxable income for the three preceding taxable years;

(ii) the term "filing month" means the month in which the installment is required to be paid;

(iii) this paragraph only applies if the base period percentage for any six consecutive months of the taxable year equals or exceeds 70 percent; and

(iv) the commissioner may provide by rule for the determination of the base period percentage in the case of reorganizations, new corporations or entities, and other similar circumstances.

(3) In the case of a required installment determined under this paragraph, if the corporation or entity determines that the installment is less than the amount determined in paragraph (a), the amount of the required installment is the amount determined under this paragraph and the recapture of previous quarters' reductions allowed by this paragraph must be recovered by increasing later required installments to the extent the reductions have not previously been recovered.

Subd. 8. **Definition of tax.** The term "tax" as used in this section means the tax imposed by chapter 290.

Subd. 9. **Failure to file an estimate.** In the case of a corporation or an entity that fails to file an estimated tax for a taxable year when one is required, the period of the underpayment runs from the four installment dates in subdivision 2 or 3, whichever applies, to the earlier of the periods in subdivision 6, clauses (1) and (2).

Subd. 10. **Payment on account.** Payment of the estimated tax or any installment of it shall be considered payment on account of the taxes imposed by chapter 290, for the taxable year.

Subd. 11. **Overpayment of estimated tax installment.** If the amount of an installment payment of estimated tax exceeds the amount determined to be the correct amount of the installment payment, the overpayment must be credited against the unpaid installments, if any.

History: *1990 c 480 art 1 s 12; 1991 c 291 art 7 s 2,3; art 17 s 5; 1992 c 511 art 6 s 4-9; 1993 c 375 art 2 s 29-31; art 8 s 3; 1994 c 587 art 1 s 5; 1995 c 264 art 13 s 10; 2000 c 490 art 4 s 3; 1Sp2001 c 5 art 17 s 12; 2005 c 151 art 2 s 17; 1Sp2005 c 3 art 9 s 3; 2011 c 112 art 1 s 8; 2013 c 142 art 5 s 6; 2013 c 143 art 15 s 7-10*

PAYMENT EXTENSIONS AND LIABILITY

289A.30 EXTENSIONS FOR PAYING TAX.

Subdivision 1. **Fiduciary income, corporate franchise tax.** Where good cause exists, the commissioner may extend the time for payment of the amount determined as a fiduciary income tax or corporate franchise tax by the taxpayer, or an amount determined as a deficiency, for a period of not more than six months from the date prescribed for the payment of the tax.

Subd. 2. **Estate tax.** Where good cause exists, the commissioner may extend the time for payment of estate tax for a period of not more than six months. If an extension to pay the federal estate tax has been granted under section 6161 of the Internal Revenue Code, the time for payment of the estate tax without penalty is extended for that period. A taxpayer who owes at least $5,000 in taxes and who, under section 6161 or 6166 of the Internal Revenue Code has been granted an extension for payment of the tax shown on the return, may elect to pay the tax due to the commissioner in equal amounts at the same time as required for federal purposes. A taxpayer electing to pay the tax in installments shall defer a percentage of tax that does not exceed the percentage of federal tax deferred and must notify the commissioner in writing no later than nine months after the death of the person whose estate is subject to taxation. If the taxpayer fails to pay an installment on time, unless it is shown that the failure is due to reasonable cause, the election is revoked

and the entire amount of unpaid tax plus accrued interest is due and payable 90 days after the date on which the installment was payable.

History: *1990 c 480 art 1 s 13; 1991 c 291 art 6 s 11,46; 1992 c 511 art 6 s 19; 1993 c 375 art 8 s 14; 1994 c 587 art 1 s 24; 2010 c 389 art 3 s 5*

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 270C.58, subdivision 3, 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 taxes imposed under sections 289A.35 and 290.0922 on partnerships are the joint and several liability of the partnership and the general partners.

Subd. 2. **Joint income tax returns.** (a) If a joint income tax return is made by spouses, the liability for the tax is joint and several. A spouse who qualifies for relief from a liability attributable to an underpayment under section 6015 subsection (b) of the Internal Revenue Code, or determined by the commissioner of internal revenue for relief under section 6015 subsection (f) of the Internal Revenue Code, is relieved of the state income tax liability on the underpayment.

(b) In the case of individuals who were married as determined in section 7703 of the Internal Revenue Code prior to the dissolution of their marriage or their legal separation, or prior to the death of one of the individuals, for tax liabilities reported on a joint or combined return, the liability of each person is limited to the proportion of the tax due on the return that equals that person's proportion of the total tax due if each spouse filed separate returns for the taxable year. This provision is effective only when the commissioner receives written notice of the marriage dissolution, legal separation, or death of a spouse from the surviving spouse. No refund may be claimed by an ex-spouse, legally separated or widowed spouse for any taxes paid more than 60 days before receipt by the commissioner of the written notice.

(c) The commissioner is not required to calculate separate liability pursuant to paragraph (b) if the remaining unpaid liability for which recalculation is requested is $100 or less.

Subd. 3. [Repealed, 2005 c 151 art 1 s 117]

Subd. 4. [Repealed, 2005 c 151 art 1 s 117]

Subd. 5. **Withholding tax, withholding from payments to out-of-state contractors, and withholding by partnerships and small business corporations.** (a) Except as provided in paragraph (b), an employer or person withholding tax under section 290.92 or 290.923, subdivision 2, who fails to pay to or deposit with the commissioner a sum or sums required by those sections to be deducted, withheld, and paid, is personally and individually liable to the state for the sum or sums, and added penalties and interest, and is not liable to another person for that payment or payments. The sum or sums deducted and withheld under section 290.92, subdivision 2a or 3, or 290.923, subdivision 2, must be held as a special fund in trust for the state of Minnesota.

(b) If the employer or person withholding tax under section 290.92 or 290.923, subdivision 2, fails to deduct and withhold the tax in violation of those sections, and later the taxes against which the tax may be credited are paid, the tax required to be deducted and withheld will not be collected from the employer. This does not, however, relieve the employer from liability for any penalties and interest otherwise applicable for failure to deduct and withhold. This paragraph does not apply to an employer subject to paragraph (g).

(c) Liability for payment of withholding taxes includes a responsible person or entity described in the personal liability provisions of section 270C.56.

(d) Liability for payment of withholding taxes includes a third-party lender or surety described in section 270C.59.

(e) A partnership or S corporation required to withhold and remit tax under section 290.92, subdivisions 4b and 4c, is liable for payment of the tax to the commissioner, and a person having control of or responsibility for the withholding of the tax or the filing of returns due in connection with the tax is personally liable for the tax due.

(f) A payor of sums required to be withheld under section 290.9705, subdivision 1, is liable to the state for the amount required to be deducted, and is not liable to an out-of-state contractor for the amount of the payment.

(g) If an employer fails to withhold tax from the wages of an employee when required to do so under section 290.92, subdivision 2a, by reason of treating such employee as not being an employee, then the liability for tax is equal to three percent of the wages paid to the employee. The liability for tax of an employee is not affected by the assessment or collection of tax under this paragraph. The employer is not entitled to recover from the employee any tax determined under this paragraph.

Subd. 6. [Repealed, 2005 c 151 art 1 s 117]

Subd. 7. **Sales and use tax.** (a) The sales and use tax required to be collected by the retailer under chapter 297A constitutes a debt owed by the retailer to Minnesota, and the sums collected must be held as a special fund in trust for the state of Minnesota.

A retailer who does not maintain a place of business within this state as defined by section 297A.66, subdivision 1, shall not be indebted to Minnesota for amounts of tax that it was required to collect but did

not collect unless the retailer knew or had been advised by the commissioner of its obligation to collect the tax.

(b) The use tax required to be paid by a purchaser is a debt owed by the purchaser to Minnesota.

(c) The tax imposed by chapter 297A, and interest and penalties, is a personal debt of the individual required to file a return from the time the liability arises, irrespective of when the time for payment of that liability occurs. The debt is, in the case of the executor or administrator of the estate of a decedent and in the case of a fiduciary, that of the individual in an official or fiduciary capacity unless the individual has voluntarily distributed the assets held in that capacity without reserving sufficient assets to pay the tax, interest, and penalties, in which case the individual is personally liable for the deficiency.

(d) Liability for payment of sales and use taxes includes any responsible person or entity described in the personal liability provisions of section 270C.56.

(e) Any amounts collected, even if erroneously or illegally collected, from a purchaser under a representation that they are taxes imposed under chapter 297A are state funds from the time of collection and must be reported on a return filed with the commissioner.

Subd. 8. **Liability of vendor for repayment of refund.** If an individual income tax refund resulting from claiming an education credit under section 290.0674 is paid by means of directly depositing the proceeds of the refund into a bank account controlled by the vendor of the product or service upon which the education credit is based, and the commissioner subsequently disallows the credit, the commissioner may seek repayment of the refund from the vendor. The amount of the repayment must be assessed and collected in the same time and manner as an erroneous refund under section 289A.37, subdivision 2.

History: *1990 c 480 art 1 s 14; 1991 c 291 art 6 s 46; art 11 s 7; 1992 c 511 art 6 s 19; 1993 c 375 art 8 s 14; 1994 c 587 art 1 s 24; 1997 c 84 art 6 s 22; 1999 c 243 art 16 s 14; 2000 c 418 art 1 s 3,44; 1Sp2001 c 5 art 12 s 2; 2003 c 127 art 3 s 3; art 8 s 7,8; 1Sp2003 c 21 art 8 s 3; 2005 c 151 art 2 s 17; art 6 s 4; 2009 c 88 art 7 s 5; 2012 c 295 art 2 s 11; 1Sp2017 c 1 art 13 s 7; 1Sp2019 c 6 art 2 s 9; art 24 s 8*

ASSESSMENTS, EXAMINATIONS, AND STATUTES OF LIMITATIONS

289A.35 ASSESSMENTS ON RETURNS.

(a) The commissioner may audit and adjust the taxpayer's computation of federal adjusted gross income, 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 return has been filed, the commissioner shall enter the liability reported on the return and may make any audit or investigation that is considered necessary.

(b) Upon petition by a taxpayer, and when the commissioner determines that it is in the best interest of the state, the commissioner may allow S corporations and partnerships to receive orders of assessment issued under section 270C.33, subdivision 4, on behalf of their owners, and to pay liabilities shown on such orders. In such cases, the owners' liability must be calculated using the method provided in section 289A.08, subdivision 7, paragraph (b).

(c) A taxpayer may petition the commissioner for the use of the method described in paragraph (b) after the taxpayer is notified that an audit has been initiated and before an order of assessment has been issued.

(d) A determination of the commissioner under paragraph (b) to grant or deny the petition of a taxpayer cannot be appealed to the Tax Court or any other court.

(e) The commissioner may audit and adjust the taxpayer's computation of tax under chapter 291. In the case of a return filed pursuant to section 289A.10, the commissioner shall notify the estate no later than nine months after the filing date, as provided by section 289A.38, subdivision 2, whether the return is under examination or the return has been processed as filed.

History: *1990 c 480 art 1 s 15; 1991 c 291 art 11 s 8; 1997 c 31 art 2 s 5; 2000 c 490 art 13 s 11; 2005 c 151 art 2 s 8; 2011 c 112 art 2 s 2; 1Sp2017 c 1 art 13 s 8; 1Sp2019 c 6 art 1 s 7*

289A.36 [Repealed, 2005 c 151 art 1 s 117]

289A.37 ASSESSMENTS; ERRONEOUS REFUNDS; JOINT INCOME TAX RETURNS.

Subdivision 1. [Repealed, 2005 c 151 art 1 s 117]

Subd. 2. **Erroneous refunds.** (a) Except as provided in paragraph (b), an erroneous refund occurs when the commissioner issues a payment to a person that exceeds the amount the person is entitled to receive under law. An erroneous refund is considered an underpayment of tax on the date issued.

(b) To the extent that the amount paid does not exceed the amount claimed by the taxpayer, an erroneous refund does not include the following:

(1) any amount of a refund or credit paid pursuant to a claim for refund filed by a taxpayer, including but not limited to refunds of claims made under section 290.06, subdivision 23; 290.067; 290.0671; 290.0672; 290.0674; 290.0675; 290.0677; 290.068; 290.0681; or 290.0692; or chapter 290A; or

(2) any amount paid pursuant to a claim for refund of an overpayment of tax filed by a taxpayer.

(c) The commissioner may make an assessment to recover an erroneous refund at any time within two years from the issuance of the erroneous refund. If all or part of the erroneous refund was induced by fraud or misrepresentation of a material fact, the assessment may be made at any time.

(d) Assessments of amounts that are not erroneous refunds under paragraph (b) must be conducted under section 289A.38.

Subd. 3. [Repealed, 2005 c 151 art 1 s 117]

Subd. 4. [Repealed, 2005 c 151 art 1 s 117]

Subd. 5. [Repealed, 2005 c 151 art 1 s 117]

Subd. 6. **Order of assessment if joint income tax return.** If a joint income tax return is filed by spouses, an order of assessment may be a single joint notice. If the commissioner has been notified by either spouse that that spouse's address has changed and if that spouse requests it, then, instead of the single joint notice mailed to the last known address of the spouses, a duplicate or original of the joint notice must be sent to the requesting spouse at the address designated by the requesting spouse. The other joint notice must be mailed to the other spouse at that spouse's last known address. An assessment is not invalid for failure to send it to a spouse if the spouse actually receives the notice in the same period as if it had been mailed to

that spouse at the correct address or if the spouse has failed to provide an address to the commissioner other than the last known address.

History: *1990 c 480 art 1 s 17; 1991 c 291 art 16 s 8; 1992 c 511 art 6 s 10; 1994 c 510 art 4 s 9; 1997 c 84 art 6 s 23; 1Sp2017 c 1 art 16 s 27; 1Sp2019 c 6 art 24 s 9*

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

Subdivision 1. **General rule.** Except as otherwise provided in this section, the amount of taxes assessable must be assessed within 3-1/2 years after the date the return is filed.

Subd. 2. **Filing date.** For purposes of this section, a tax return filed before the last day prescribed by law for filing is considered to be filed on the last day.

Subd. 3. [Repealed, 2011 c 112 art 2 s 5]

Subd. 4. **Property tax refund.** For purposes of computing the limitation under this section, the due date of the property tax refund return as provided for in chapter 290A is the due date for an income tax return covering the year in which the rent was paid or the year preceding the year in which the property taxes are payable.

Subd. 5. **False or fraudulent return; no return.** Notwithstanding the limitations under subdivision 1, the tax may be assessed at any time if a false or fraudulent return is filed or when a taxpayer fails to file a return.

Subd. 6. **Omission in excess of 25 percent.** Additional taxes may be assessed within 6-1/2 years after the due date of the return or the date the return was filed, whichever is later, if:

(1) the taxpayer omits from gross income an amount properly includable in it that is in excess of 25 percent of the amount of gross income stated in the return;

(2) the taxpayer omits from a sales, use, or withholding tax return, or a return for a tax imposed under section 295.52, an amount of taxes in excess of 25 percent of the taxes reported in the return; or

(3) the taxpayer omits from the gross estate assets in excess of 25 percent of the gross estate reported in the return.

Subd. 7. **Federal tax changes.** (a) If the amount of income, items of tax preference, deductions, or credits for any year of a taxpayer, or the wages paid by a taxpayer for any period, 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, 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 estate, withholding tax, corporate franchise tax, or income tax 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. An amended Minnesota income tax return must be accompanied by an amended property tax refund return, if necessary. 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.

(b) For the purposes of paragraph (a), a change or correction includes any case where a taxpayer reaches a closing agreement or compromise with the Internal Revenue Service under section 7121 or 7122 of the Internal Revenue Code.

Subd. 8. **Failure to report change or correction of federal return.** If a taxpayer fails to make a report as required by subdivision 7, the commissioner may recompute the tax, including a refund, based on information available to the commissioner. The tax may be recomputed within six years after the report should have been filed, notwithstanding any period of limitations to the contrary.

Subd. 9. **Report made of change or correction of federal return.** If a taxpayer is required to make a report under subdivision 7, and does report the change or files a copy of the amended return, the commissioner may recompute and reassess the tax due, including a refund (1) within one year after the report or amended return is filed with the commissioner, notwithstanding any period of limitations to the contrary, or (2) within any other applicable period stated in this section, whichever period is longer. The period provided for the carryback of any amount of loss or credit is also extended as provided in this subdivision, notwithstanding any law to the contrary. If the commissioner has completed a field audit of the taxpayer, and, but for this subdivision, the commissioner's time period to adjust the tax has expired, the additional tax due or refund is limited to only those changes that are required to be made to the return which relate to the changes made on the federal return. This subdivision does not apply to sales and use tax.

For purposes of this subdivision and section 289A.42, subdivision 2, a "field audit" is the physical presence of examiners in the taxpayer's or taxpayer's representative's office conducting an examination of the taxpayer with the intention of issuing an assessment or notice of change in tax or which results in the issuing of an assessment or notice of change in tax. The examination may include inspecting a taxpayer's place of business, tangible personal property, equipment, computer systems and facilities, pertinent books, records, papers, vouchers, computer printouts, accounts, and documents.

Subd. 10. **Incorrect determination of federal adjusted gross income.** Notwithstanding any other provision of this chapter, if a taxpayer whose net income is determined under section 290.01, subdivision 19, omits from income an amount that will under the Internal Revenue Code extend the statute of limitations for the assessment of federal income taxes, or otherwise incorrectly determines the taxpayer's federal adjusted gross income resulting in adjustments by the Internal Revenue Service, then the period of assessment and determination of tax will be that under the Internal Revenue Code. When a change is made to federal income during the extended time provided under this subdivision, the provisions under subdivisions 7 to 9 regarding additional extensions apply.

Subd. 11. **Net operating loss carryback.** If a deficiency of tax is attributable to a net operating loss carryback that has been disallowed in whole or in part, the deficiency may be assessed at any time that a deficiency for the taxable year of the loss may be assessed.

Subd. 12. **Request for early audit for individual income, fiduciary income, mining company, and corporate franchise taxes.** (a) Tax must be assessed within 18 months after written request for an assessment has been made in the case of income received (1) during the lifetime of a decedent, (2) by the decedent's estate during the period of administration, (3) by a trustee of a terminating trust or other fiduciary who, because of custody of assets, would be liable for the payment of tax under section 270C.58, subdivision 2, or (4) by a mining company or a corporation. A proceeding in court for the collection of the tax must begin within two years after written request for the assessment (filed after the return is made and in the form the commissioner prescribes) by the personal representative or other fiduciary representing the estate of the decedent, or by the trustee of a terminating trust or other fiduciary who, because of custody of assets, would be liable for the payment of tax under section 270C.58, subdivision 2, or by the corporation. Except as

provided in section 289A.42, subdivision 1, an assessment must not be made after the expiration of 3-1/2 years after the return was filed, and an action must not be brought after the expiration of four years after the return was filed.

(b) Paragraph (a) only applies in the case of a mining company or a corporation if:

(1) the written request notifies the commissioner that the corporation contemplates dissolution at or before the expiration of the 18-month period;

(2) the dissolution is begun in good faith before the expiration of the 18-month period; and

(3) the dissolution is completed within the 18-month period.

Subd. 13. [Repealed, 2005 c 151 art 1 s 117]

Subd. 14. **Failure to timely file withholding reconciliation.** If an employer fails to timely file the reconciliation required by section 289A.09, subdivision 2, paragraph (d), withholding taxes may be assessed within the period prescribed in subdivision 1, or within one year from the date the reconciliation is filed with the commissioner, whichever is later.

Subd. 15. **Purchaser filed refund claims.** If a purchaser refund claim is filed under section 289A.50, subdivision 2a, and the basis for the claim is that the purchaser was improperly charged tax on an improvement to real property or on the purchase of nontaxable services, sales or use tax may be assessed for the cost of materials used to make the real property improvement or to perform the nontaxable service. The assessment may be made against the person making the improvement to real property or the sale of nontaxable services, within the period prescribed in subdivision 1, or within one year after the date of the refund order, whichever is later.

Subd. 16. **Reportable transactions.** (a) If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a reportable transaction, as required by federal law and under section 289A.121, the commissioner may recompute the tax, including a refund, within the later of:

(1) six years after the return is filed with respect to the taxable year in which the taxpayer participated in the reportable transaction; or

(2) for a listed transaction, as defined in section 289A.121, for which the taxpayer fails to include on any return or statement for any taxable year any information that is required under section 289A.121, one year after the earlier of:

(i) the date the taxpayer furnishes the required information to the commissioner; or

(ii) the date that a material advisor, as defined in section 289A.121, meets the requirements of section 289A.121, relating to the transaction with respect to the taxpayer.

(b) If tax is assessable solely because of this section, the assessable deficiency is limited to the items that were not disclosed as required under section 289A.121.

History: *1990 c 480 art 1 s 18; 1991 c 291 art 6 s 12,13,46; art 11 s 9; 1992 c 511 art 6 s 19; 1993 c 375 art 8 s 14; 1994 c 587 art 1 s 24; 1995 c 264 art 10 s 3; 1997 c 31 art 1 s 11; 1998 c 300 art 1 s 3; 2005 c 151 art 2 s 17; art 6 s 5; art 7 s 1,2; 1Sp2005 c 3 art 8 s 3; 2008 c 154 art 11 s 6; 2009 c 88 art 7 s 6; 2011 c 112 art 2 s 3; 1Sp2017 c 1 art 14 s 2; 1Sp2019 c 6 art 13 s 1*

289A.39 LIMITATIONS; ARMED SERVICES.

Subdivision 1. **Extensions for service members.** (a) The limitations of time provided by this chapter, chapter 290 relating to income taxes, chapter 271 relating to the Tax Court for filing returns, paying taxes, claiming refunds, commencing action thereon, appealing to the Tax Court from orders relating to income taxes, and the filing of petitions under chapter 278 that would otherwise be due prior to May 1 of the year in which the taxes are payable, and appealing to the supreme court from decisions of the Tax Court relating to income taxes are extended, as provided in section 7508 of the Internal Revenue Code.

(b) If a member of the National Guard or reserves is called to active duty in the armed forces, the limitations of time provided by this chapter and chapters 290 and 290A relating to income taxes and claims for property tax refunds are extended by the following period of time:

(1) in the case of an individual whose active service is in the United States, six months; or

(2) in the case of an individual whose active service includes service abroad, the period of initial service plus six months.

Nothing in this paragraph reduces the time within which an act is required or permitted under paragraph (a).

(c) If an individual entitled to the benefit of paragraph (a) files a return during the period disregarded under paragraph (a), interest must be paid on an overpayment or refundable credit from the due date of the return, notwithstanding section 289A.56, subdivision 2.

(d) The provisions of this subdivision apply to the spouse of an individual entitled to the benefits of this subdivision with respect to a joint return filed by the spouses.

Subd. 2. **Interest and penalties.** Interest on income tax must not be assessed or collected from an individual, and interest must not be paid upon an income tax refund to any individual, with respect to whom, and for the period during which, the limitations or time are extended as provided in subdivision 1. A penalty will not be assessed or collected from an individual for failure during that period to perform an act required by the laws described in subdivision 1.

Subd. 3. **Assessments; actions.** The time limitations provided for the assessment of a tax, penalty, or interest, are extended, with respect to those individuals and for the period provided in subdivision 1 and for a further period of six months; and the time limitations for the commencement of action to collect a tax, penalty, or interest from those individuals are extended for a period ending six months after the expiration of the time for assessment as provided in this section.

Subd. 4. **Applicability.** Nothing in this section reduces the time within which an act is required or permitted under this chapter.

Subd. 5. **Extension limitations.** This section does not extend the time for performing any of the acts set forth in this chapter beyond the expiration of three months after the appointment of a personal representative or guardian, in this state, for any individual described in this section, except as provided in subdivision 6.

Subd. 6. **Death while serving in armed forces.** If an individual dies while in active service as a member of the military or naval forces of the United States or of any of the United Nations, an income tax imposed under chapter 290 will not be imposed for the taxable year in which the individual dies. Income tax imposed for a prior taxable year that is unpaid at the date of death (including additions to the tax, penalties) must not

be assessed, and if assessed, the assessment must be abated. In addition, upon the filing of a claim for refund within seven years from the date the return was filed, the tax paid or collected with respect to any taxable year beginning after December 31, 1949, during which the decedent was in active service must be refunded.

Subd. 7. **Death of civilian while outside United States.** If an individual dies while a civilian employee of the United States as a result of wounds or injuries incurred while the individual was a civilian employee of the United States, and which were incurred outside the United States in a terroristic or military action, a tax imposed by chapter 290 does not apply with respect to the taxable year in which the death falls and with respect to any prior taxable years in the period beginning with the last taxable year ending before the taxable year in which the wounds or injury were incurred. Terroristic or military action has the meaning given it in section 692(c)(2) of the Internal Revenue Code.

History: *1990 c 480 art 1 s 19; 1991 c 18 s 2; 1991 c 291 art 6 s 46; art 21 s 12; 1992 c 511 art 6 s 19; 1993 c 375 art 8 s 14; 1994 c 587 art 1 s 24; 1996 c 471 art 4 s 2; 2005 c 151 art 6 s 6*

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 270C.33 or an order determining an appeal under section 270C.35, subdivision 8, or one year from the date of a return made by the commissioner under section 270C.33, subdivision 3, 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.

Subd. 1a. **Individual income taxes; suspension during period of disability.** If the taxpayer meets the requirements for suspending the running of the time period to file a claim for refund under section 6511(h) of the Internal Revenue Code, the time period in subdivision 1 for the taxpayer to file a claim for an individual income tax refund is suspended.

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 when the bad debt was (1) written off as uncollectible in the taxpayer's books and records, and (2) either eligible to be deducted for federal income tax purposes or would have been eligible for a bad debt deduction for federal income tax purposes if the taxpayer were required to file a federal income tax return, or within one year from the date the taxpayer's federal income tax return is timely filed claiming the bad debt deduction, whichever period is later. The refund or credit is limited to the amount of overpayment attributable to the loss. "Bad debt" for purposes of this subdivision, has the same meaning as that term is used in United States Code, title 26, section 166, except that for a claim relating to an overpayment of taxes under chapter 297A the following are excluded from the calculation of bad debt: financing charges or interest; sales or use taxes charged on the purchase price; uncollectible amounts

on property that remain in the possession of the seller until the full purchase price is paid; expenses incurred in attempting to collect any debt; and repossessed property. For purposes of reporting a payment received on previously claimed bad debt under chapter 297A, any payments made on a debt or account are applied first proportionally to the taxable price of the property or service and the sales tax on it, and secondly to interest, service charges, and any other charges.

Subd. 3. **Net operating loss; individuals.** A refund or credit must be allowed for a net operating loss carryback to any taxable year authorized by section 290.095, or section 172 of the Internal Revenue Code, but the refund or credit is limited to the amount of overpayment arising from the carryback.

Subd. 4. **Property tax refund claims.** A property tax refund claim under chapter 290A is not allowed if the initial claim is filed more than one year after the original due date for filing the claim.

Subd. 5. **Purchaser filed refund claims.** A claim for refund of taxes paid on a transaction not subject to tax under chapter 297A, where the purchaser may apply directly to the commissioner under section 289A.50, subdivision 2a, must be filed within 3-1/2 years from the 20th day of the month following the month of the invoice date for the purchase.

Subd. 6. **Capital equipment refund claims.** A claim for refund for taxes paid under chapter 297A on capital equipment must be filed within 3-1/2 years from the 20th day of the month following the month of the invoice date for the purchase of the capital equipment. A claim for refund for taxes imposed on capital equipment under section 297A.63 must be filed within 3-1/2 years from the date prescribed for filing the return, or one year from the date of an order assessing tax under section 270C.33, upon payment in full of the tax, penalties, and interest shown on the order, whichever period expires later.

History: *1990 c 480 art 1 s 20; 1991 c 291 art 6 s 46; 1992 c 511 art 6 s 19; 1993 c 375 art 8 s 14; art 10 s 18; 1994 c 587 art 1 s 24; 1995 c 264 art 13 s 11; 1996 c 471 art 2 s 7; 1997 c 84 art 3 s 1; art 6 s 24; 1999 c 243 art 16 s 15,16; 2001 c 7 s 57; 2003 c 127 art 1 s 4; 2005 c 151 art 2 s 17; art 7 s 3-5; 2008 c 154 art 12 s 1; 2009 c 86 art 1 s 54*

289A.41 BANKRUPTCY; SUSPENSION OF TIME.

The running of the period during which a tax must be assessed or collection proceedings commenced is suspended during the period from the date of a filing of a petition in bankruptcy until 30 days after either notice to the commissioner of revenue that the bankruptcy proceedings have been closed or dismissed, or notice that the automatic stay has been terminated or has expired, whichever occurs first.

The suspension of the statute of limitations under this section applies to the person the petition in bankruptcy is filed against and other persons who may also be wholly or partially liable for the tax.

History: *1990 c 480 art 1 s 21; 2009 c 88 art 11 s 6*

289A.42 CONSENT TO EXTEND STATUTE.

Subdivision 1. **Extension agreement.** If before the expiration of time prescribed in sections 289A.38 and 289A.40 for the assessment of tax or the filing of a claim for refund, both the commissioner and the taxpayer have consented in writing to the assessment or filing of a claim for refund after that time, the tax may be assessed or the claim for refund filed at any time before the expiration of the agreed-upon period. The period may be extended by later agreements in writing before the expiration of the period previously agreed upon. The taxpayer and the commissioner may also agree to extend the period for collection of the tax.

Subd. 2. **Federal extensions.** When a taxpayer consents to an extension of time for the assessment of federal withholding or income taxes, the period in which the commissioner may recompute the tax is also extended, notwithstanding any period of limitations to the contrary, as follows:

(1) for the periods provided in section 289A.38, subdivisions 8 and 9;

(2) for six months following the expiration of the extended federal period of limitations when no change is made by the federal authority. If no change is made by the federal authority, and, but for this subdivision, the commissioner's time period to adjust the tax has expired, and if the commissioner has completed a field audit of the taxpayer, no additional changes resulting in additional tax due or a refund may be made. For purposes of this subdivision, "field audit" has the meaning given it in section 289A.38, subdivision 9.

History: *1990 c 480 art 1 s 22; 1991 c 291 art 6 s 14; art 16 s 9; 1998 c 300 art 1 s 4; 2005 c 151 art 2 s 9; 2006 c 212 art 3 s 25; 2007 c 13 art 3 s 16*

289A.43 [Repealed, 2005 c 151 art 1 s 117]

REFUNDS

289A.50 CLAIMS FOR REFUNDS.

Subdivision 1. **General right to refund.** (a) Subject to the requirements of this section and section 289A.40, a taxpayer who has paid a tax in excess of the taxes lawfully due and who files a written claim for refund will be refunded or credited the overpayment of the tax determined by the commissioner to be erroneously paid.

(b) The claim must specify the name of the taxpayer, the date when and the period for which the tax was paid, the kind of tax paid, the amount of the tax that the taxpayer claims was erroneously paid, the grounds on which a refund is claimed, and other information relative to the payment and in the form required by the commissioner. An income tax, estate tax, or corporate franchise tax return, or amended return claiming an overpayment constitutes a claim for refund.

(c) When, in the course of an examination, and within the time for requesting a refund, the commissioner determines that there has been an overpayment of tax, the commissioner shall refund or credit the overpayment to the taxpayer and no demand is necessary. If the overpayment exceeds $1, the amount of the overpayment must be refunded to the taxpayer. If the amount of the overpayment is less than $1, the commissioner is not required to refund. In these situations, the commissioner does not have to make written findings or serve notice by mail to the taxpayer.

(d) If the amount allowable as a credit for withholding, estimated taxes, or dependent care exceeds the tax against which the credit is allowable, the amount of the excess is considered an overpayment. The refund allowed by section 290.06, subdivision 23, is also considered an overpayment. The requirements of section 270C.33 do not apply to the refunding of such an overpayment shown on the original return filed by a taxpayer.

(e) If the entertainment tax withheld at the source exceeds by $1 or more the taxes, penalties, and interest reported in the return of the entertainment entity or imposed by section 290.9201, the excess must be refunded to the entertainment entity. If the excess is less than $1, the commissioner need not refund that amount.

(f) If the surety deposit required for a construction contract exceeds the liability of the out-of-state contractor, the commissioner shall refund the difference to the contractor.

(g) An action of the commissioner in refunding the amount of the overpayment does not constitute a determination of the correctness of the return of the taxpayer.

(h) There is appropriated from the general fund to the commissioner of revenue the amount necessary to pay refunds allowed under this section.

Subd. 1a. **Refund form.** On or before January 1, 2000, the commissioner of revenue shall prepare and make available to taxpayers a form for filing claims for refund of taxes paid in excess of the amount due. The commissioner may require corporate franchise taxpayers claiming a refund of corporate franchise taxes paid in excess of the amount lawfully due to include on the claim for refund or amended return information necessary for payment of the taxes paid in excess of taxes lawfully due by electronic means.

Subd. 2. **Refund of sales tax to vendors; limitation.** (a) If a vendor has collected from a purchaser and remitted to the state a tax on a transaction that is not subject to the tax imposed by chapter 297A, the tax is refundable to the vendor only if and to the extent that the tax and any interest earned on the tax is credited to amounts due to the vendor by the purchaser or returned to the purchaser by the vendor.

(b) In addition to the requirements of subdivision 1, a claim for refund under this subdivision must state in writing that the tax and interest earned on the tax has been or will be refunded or credited to the purchaser by the vendor.

(c) Within 60 days after the date the commissioner issues the refund, any amount not refunded or credited to the purchaser by the vendor, as required by paragraph (a), must be returned to the commissioner by the vendor.

(d) After the commissioner refunds the tax and interest to the vendor, if the commissioner determines that the vendor did not refund or credit the tax and interest as provided in this subdivision, or did not return the amount required to be returned under paragraph (c), the commissioner may assess the vendor for underpayment of tax and interest equal to that portion of the amount that was not refunded or credited to the purchaser. The assessment bears interest which is computed at the rate specified in section 270C.40, subdivision 5, on the unpaid amount from the date the commissioner issues the refund until the date the amount is paid to the commissioner. The assessment may be made at any time within 3-1/2 years after the commissioner refunds the tax and interest to the vendor. If part of the refund was induced by fraud or misrepresentation of a material fact, the assessment may be made at any time.

Subd. 2a. **Refund of sales tax to purchasers.** (a) If a vendor has collected from a purchaser a tax on a transaction that is not subject to the tax imposed by chapter 297A, the purchaser may apply directly to the commissioner for a refund under this section if:

(1) the purchaser is currently registered or was registered during the period of the claim, to collect and remit the sales tax or to remit the use tax; and

(2) either

(i) the amount of the refund to be applied for exceeds $500, or

(ii) the amount of the refund to be applied for does not exceed $500, but the purchaser also applies for a capital equipment claim at the same time, and the total of the two refunds exceeds $500.

(b) The purchaser may not file more than two applications for refund under this subdivision in a calendar year.

(c) Refunds shall not be issued for sales for resale where the vendor has a published no resale policy.

Subd. 2b. **Certified service provider; bad debt claim.** A certified service provider, as defined in section 297A.995, subdivision 2, may claim on behalf of a taxpayer that is its client any bad debt allowance provided by section 297A.81. The certified service provider must credit or refund to its client the full amount of any bad debt allowance or refund received.

Subd. 2c. **Notice from purchaser to vendor requesting refund.** (a) If a vendor has collected from a purchaser a tax on a transaction that is not subject to the tax imposed by chapter 297A, the purchaser may seek from the vendor a return of over-collected sales or use taxes as follows:

(1) the purchaser must provide written notice to the vendor;

(2) the notice to the vendor must contain the information necessary to determine the validity of the request; and

(3) no cause of action against the vendor accrues until the vendor has had 60 days to respond to the written notice.

(b) In connection with a purchaser's request from a vendor of over-collected sales or use taxes, a vendor is presumed to have a reasonable business practice, if in the collection of such sales or use taxes, the vendor: (1) uses a certified service provider as defined in section 297A.995, a certified automated system, as defined in section 297A.995, or a proprietary system that is certified by the state; and (2) has remitted to the state all taxes collected less any deductions, credits, or collection allowances.

Subd. 3. **Withholding tax and entertainer withholding tax refunds.** When there is an overpayment of withholding tax by an employer or a person making royalty payments, or an overpayment of entertainer withholding tax by the payor, a refund allowable under this section is limited to the amount of the overpayment that was not deducted and withheld from employee wages or from the royalty payments, or from the compensation of an entertainer.

Subd. 4. **Notice of refund.** The commissioner shall determine the amount of refund, if any, that is due, and notify the taxpayer of the determination as soon as practicable after a claim has been filed.

If the commissioner determines that the address provided by the taxpayer to claim a refund is invalid or is no longer the current address of the taxpayer, then the date of the mailing of the notification provided under this subdivision is considered the date that the refund is paid for purposes of the payment of interest under section 289A.56 and is considered the date of issuance of the original warrant or check for purposes of issuing a new warrant or check under section 270C.347.

Subd. 5. **Withholding of refunds from child support and maintenance debtors.** (a) If a court of this state finds that a person obligated to pay child support or maintenance is delinquent in making payments, the amount of child support or maintenance unpaid and owing, including attorney fees and costs incurred in ascertaining or collecting child support or maintenance, must be withheld from a refund due the person under chapter 290. The public agency responsible for child support enforcement or the parent or guardian of a child for whom the support, attorney fees, and costs are owed or the party to whom maintenance, attorney fees, and costs are owed may petition the district court for an order providing for the withholding of the amount of child support, maintenance, attorney fees, and costs unpaid and owing as determined by court order. The person from whom the refund may be withheld must be notified of the petition under the Rules of Civil Procedure before the issuance of an order under this subdivision. The order may be granted on a showing to the court that required support or maintenance payments, attorney fees, and costs have not been paid when they were due.

(b) On order of the court, the commissioner shall withhold the money from the refund due to the person obligated to pay the child support or maintenance. The amount withheld shall be remitted to the public agency responsible for child support enforcement, the parent or guardian petitioning on behalf of the child, or the party to whom maintenance is owed, after any delinquent tax obligations of the taxpayer owed to the revenue department have been satisfied and after deduction of the fee prescribed in section 270A.07, subdivision 1. An amount received by the responsible public agency, or the petitioning parent or guardian, or the party to whom maintenance is owed, in excess of the amount of public assistance spent for the benefit of the child to be supported, or the amount of any support, maintenance, attorney fees, and costs that had been the subject of the claim under this subdivision that has been paid by the taxpayer before the diversion of the refund, must be paid to the person entitled to the money. If the refund is based on a joint return, the part of the refund that must be paid to the petitioner is the proportion of the total refund that equals the proportion of the total federal adjusted gross income of the spouses that is the federal adjusted gross income of the spouse who is delinquent in making the child support or maintenance payments.

(c) A petition filed under this subdivision remains in effect with respect to any refunds due under this section until the support or maintenance, attorney fees, and costs have been paid in full or the court orders the commissioner to discontinue withholding the money from the refund due the person obligated to pay the support or maintenance, attorney fees, and costs. If a petition is filed under this subdivision concerning child support and a claim is made under chapter 270A with respect to the individual's refund and notices of both are received before the time when payment of the refund is made on either claim, the claim relating to the liability that accrued first in time must be paid first. The amount of the refund remaining must then be applied to the other claim.

Subd. 6. [Repealed, 1998 c 389 art 6 s 20]

Subd. 7. **Remedies.** (a) If the taxpayer is notified by the commissioner that the refund claim is denied in whole or in part, the taxpayer may:

(1) file an administrative appeal as provided in section 270C.35, or an appeal with the Tax Court, within 60 days after the notice date of the commissioner's notice of denial; or

(2) file an action in the district court to recover the refund.

(b) An action in the district court on a denied claim for refund must be brought within 18 months of the notice date of the denial of the claim by the commissioner. For the purposes of this section, "notice date" has the meaning given in section 270C.35, subdivision 3.

(c) No action in the district court or the Tax Court shall be brought within six months of the filing of the refund claim unless the commissioner denies the claim within that period.

(d) If a taxpayer files a claim for refund and the commissioner has not issued a denial of the claim, the taxpayer may bring an action in the district court or the Tax Court at any time after the expiration of six months from the time the claim was filed.

(e) The commissioner and the taxpayer may agree to extend the period for bringing an action in the district court.

(f) An action for refund of tax by the taxpayer must be brought in the district court of the district in which lies the county of the taxpayer's residence or principal place of business. In the case of an estate or trust, the action must be brought at the principal place of its administration. Any action may be brought in the district court for Ramsey County.

Subd. 8. **Mistake discovered by commissioner.** If money has been erroneously collected from a taxpayer or other person, the commissioner shall, within the period named in section 289A.40 for filing a claim for refund, and, subject to the provisions of chapter 270A, section 270C.64, and this section, grant a refund to that taxpayer or other person.

Subd. 9. **Petition in Tax Court; refund of interest.** Notwithstanding any other law, within one year after a decision of the Tax Court upholding an assessment of the commissioner of revenue becomes final, if the taxpayer has paid the assessment in full, plus interest calculated by the commissioner, the taxpayer may petition the Tax Court to reopen the case solely for a determination that the interest paid exceeds the interest legally due, and if so, the amount of the overpayment. A determination of overpayment of interest under this subdivision is a determination of overpayment of tax under section 271.12, and is reviewable in the same manner as any other decision of the Tax Court.

Subd. 10. **Limitation on refund.** (a) If an addition to federal taxable income under section 290.0131, subdivision 2, is judicially determined to discriminate against interstate commerce with respect to obligations of a certain character or type, the legislature intends that the discrimination be remedied by adding to federal taxable income interest on comparable obligations of Minnesota governmental units and Indian tribes. For purposes of this subdivision, "comparable obligation" means obligations of the character or type that the court found to be unconstitutionally favored by section 290.0131, subdivision 2, whether based on the security for payment, use of the proceeds, or any other factor identified as determinative by the court.

(b) This subdivision applies beginning with the taxable years that begin during the calendar year in which the court's decision is final. Other remedies apply for previous taxable years.

History: *1990 c 480 art 1 s 23; 1990 c 604 art 1 s 21; 1991 c 291 art 6 s 15; 1992 c 511 art 7 s 12; 1993 c 322 s 6; 1993 c 375 art 8 s 4; 1995 c 264 art 1 s 1; art 19 s 5; 1996 c 471 art 2 s 8; 1999 c 243 art 16 s 17,18; 2001 c 7 s 58; 1Sp2001 c 5 art 7 s 33; art 12 s 3; 2003 c 127 art 1 s 5,6; art 6 s 1; 2005 c 151 art 2 s 17; art 6 s 7; 2010 c 389 art 3 s 6; art 4 s 1; 2011 c 112 art 1 s 9; 2016 c 158 art 3 s 5; 1Sp2017 c 1 art 16 s 28; art 21 s 6*

INTEREST

289A.55 INTEREST PAYABLE TO COMMISSIONER.

Subdivision 1. **Interest rate.** When interest is required under this section, interest is computed at the rate specified in section 270C.40.

Subd. 2. **Late payment.** If a tax is not paid within the time named by law for payment, the unpaid tax bears interest from the date the tax should have been paid until the date the tax is paid.

Subd. 3. **Extensions.** When an extension of time for payment has been granted, interest must be paid from the date the payment should have been made, if no extension had been granted, until the date the tax is paid.

Subd. 4. **Additional assessments.** When a taxpayer is liable for additional taxes because of a redetermination by the commissioner, or for any other reason, the additional taxes bear interest from the time the tax should have been paid, without regard to an extension allowed, until the date the tax is paid.

Subd. 5. **Excessive claims for refunds under chapter 290A.** When it is determined that a claim for a property tax refund was excessive, the amount that the taxpayer must repay bears interest from the date the claim was paid until the date of repayment.

Subd. 6. **Erroneous refunds.** In the case of an erroneous refund, interest begins to accrue from the date the refund was paid unless the erroneous refund results from a mistake of the commissioner, in which case no interest or penalty will be imposed, unless the deficiency assessment is not satisfied within 60 days of the order.

Subd. 7. **Installment payments; estate tax.** Interest must be paid on unpaid installment payments of the tax authorized under section 289A.30, subdivision 2, beginning on the date the tax was due without regard to extensions allowed or extensions elected, at the rate given in section 270C.40.

Subd. 8. **Interest on judgments.** Notwithstanding section 549.09, if judgment is entered in favor of the commissioner with regard to any tax, the judgment bears interest at the rate given in section 270C.40 from the date the judgment is entered until the date of payment.

Subd. 9. **Interest on penalties.** (a) A penalty imposed under section 289A.60, subdivision 1, 2, 2a, 4, 5, 6, or 21 bears interest from the date provided in section 270C.40, subdivision 3, to the date of payment of the penalty.

(b) A penalty not included in paragraph (a) bears interest only if it is not paid within 60 days from the date of notice. In that case interest is imposed from the date of notice to the date of payment.

Subd. 10. **Relief for purchasers.** A purchaser that meets the requirements of section 297A.995, subdivision 11, is relieved from the imposition of interest on tax and penalty.

History: *1990 c 480 art 1 s 24; 1995 c 264 art 10 s 4; 1999 c 243 art 16 s 19; 2000 c 490 art 13 s 12; 1Sp2001 c 5 art 11 s 1; 2005 c 151 art 2 s 17; 2008 c 366 art 13 s 1; 2013 c 143 art 18 s 5; 2016 c 158 art 1 s 214*

289A.56 INTEREST ON OVERPAYMENTS.

Subdivision 1. **Interest rate.** When interest is due on an overpayment under this section, it must be computed at the rate specified in section 270C.405.

Subd. 2. **Corporate franchise, mining company, individual and fiduciary income, and entertainer tax overpayments.** Interest must be paid on an overpayment refunded or credited to the taxpayer from the date of payment of the tax until the date the refund is paid or credited. For purposes of this subdivision, the prepayment of tax made by withholding of tax at the source or payment of estimated tax before the due date is considered paid on the last day prescribed by law for the payment of the tax by the taxpayer. A return filed before the due date is considered as filed on the due date.

When the amount of tax withheld at the source or paid as estimated tax or allowable as other refundable credits, or withheld from compensation of entertainers, exceeds the tax shown on the original return by $10, the amount refunded bears interest from 90 days after (1) the due date of the return of the taxpayer, or (2) the date on which the original return is filed, whichever is later, until the date the refund is paid to the taxpayer. Where the amount to be refunded is less than $10, no interest is paid. However, to the extent that the basis for the refund is a net operating loss carryback, interest is computed only from the end of the taxable year in which the loss occurs.

Subd. 3. **Withholding tax, entertainer withholding tax, withholding from payments to out-of-state contractors, estate tax, and sales tax overpayments.** When a refund is due for overpayments of withholding tax, entertainer withholding tax, or withholding from payments to out-of-state contractors, interest is computed from the date of payment to the date the refund is paid or credited. For purposes of this subdivision, the date of payment is the later of the date the tax was finally due or was paid.

For the purposes of computing interest on estate tax refunds, interest is paid from the later of the date of overpayment, the date the estate tax return is due, or the date the original estate tax return is filed to the date the refund is paid.

For purposes of computing interest on sales and use tax refunds, interest is paid from the date of payment to the date the refund is paid or credited, if the refund claim includes a detailed schedule reflecting the tax periods covered in the claim. If the refund claim submitted does not include a detailed schedule reflecting the tax periods covered in the claim, interest is computed from the date the claim was filed.

Subd. 4. **Capital equipment and certain building materials refunds; refunds to purchasers.** Notwithstanding subdivision 3, for refunds payable under sections 297A.75, subdivision 1, and 289A.50, subdivision 2a, interest is computed from 90 days after the refund claim is filed with the commissioner.

Subd. 5. **Sales tax or sales tax on motor vehicles; retailers.** In the case of a refund allowed under section 297A.90, subdivision 3, interest is allowed only from the date on which the person has both registered as a retailer and filed a claim for refund.

Subd. 6. **Property tax refunds under chapter 290A.** (a) When a renter is owed a property tax refund, an unpaid refund bears interest after August 14, or 60 days after the refund claim was made, whichever is later, until the date the refund is paid.

(b) When any other claimant is owed a property tax refund, the unpaid refund bears interest after September 29, or 60 days after the refund claim was made, whichever is later, until the date the refund is paid.

Subd. 7. [Repealed, 2014 c 308 art 9 s 94]

Subd. 8. **Border city zone refunds.** Notwithstanding subdivision 3, for refunds payable under section 469.1734, subdivision 6, interest is computed from 90 days after the refund claim is filed with the commissioner.

History: *1990 c 480 art 1 s 25; 1991 c 291 art 11 s 10; 1993 c 375 art 9 s 15; 1994 c 587 art 2 s 21; 1996 c 471 art 2 s 9; 1997 c 231 art 7 s 1; 1999 c 243 art 4 s 3; 2000 c 418 art 1 s 44; 2003 c 127 art 1 s 7; art 3 s 4; 2005 c 151 art 2 s 17; 1Sp2005 c 3 art 7 s 7; 2008 c 154 art 12 s 2*

CIVIL PENALTIES

289A.60 CIVIL PENALTIES.

Subdivision 1. **Penalty for failure to pay tax.** (a) If a corporate franchise, fiduciary income, mining company, estate, partnership, S corporation, or nonresident entertainer tax is not paid within the time specified for payment, a penalty of six percent is added to the unpaid tax, except that if a corporation or mining company meets the requirements of section 289A.19, subdivision 2, the penalty is not imposed.

(b) For the taxes listed in paragraph (a), in addition to the penalty in that paragraph, whether imposed or not, if a return or amended return is filed after the due date, without regard to extensions, and any tax reported as remaining due is not remitted with the return or amended return, a penalty of five percent of the tax not paid is added to the tax. If the commissioner issues an order assessing additional tax for a tax listed in paragraph (a), and the tax is not paid within 60 days after the mailing of the order or, if appealed, within 60 days after final resolution of the appeal, a penalty of five percent of the unpaid tax is added to the tax.

(c) If an individual income tax is not paid within the time specified for payment, a penalty of four percent is added to the unpaid tax. There is a presumption of reasonable cause for the late payment if the individual: (i) pays by the due date of the return at least 90 percent of the amount of tax, after credits other than withholding and estimated payments, shown owing on the return; (ii) files the return within six months after the due date; and (iii) pays the remaining balance of the reported tax when the return is filed.

(d) If the commissioner issues an order assessing additional individual income tax, and the tax is not paid within 60 days after the mailing of the order or, if appealed, within 60 days after final resolution of the appeal, a penalty of four percent of the unpaid tax is added to the tax.

(e) If a withholding or sales or use tax is not paid within the time specified for payment, a penalty must be added to the amount required to be shown as tax. The penalty is five percent of the tax not paid on or before the date specified for payment of the tax 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.

Subd. 2. **Penalty for failure to make and file return.** If a taxpayer fails to make and file a tax return within the time prescribed, including an extension, or fails to file an individual income tax return within six months after the due date, a penalty of five percent of the amount of tax not paid by the end of that period is added to the tax.

Subd. 2a. **Penalties for extended delinquency.** (a) If an individual income tax is not paid within 180 days after the date of filing of a return or, in the case of taxes assessed by the commissioner, within 180 days after the assessment date or, if appealed, within 180 days after final resolution of the appeal, an extended delinquency penalty of five percent of the tax remaining unpaid is added to the amount due.

(b) If a tax return is not filed within 30 days after written demand for the filing of a delinquent return, an extended delinquency penalty of five percent of the tax not paid prior to the demand or $100 is imposed, whichever amount is greater.

Subd. 3. [Repealed, 1Sp2001 c 5 art 11 s 8]

Subd. 4. **Substantial understatement of liability; penalty.** (a) The commissioner of revenue shall impose a penalty for substantial understatement of any tax payable to the commissioner, except a tax imposed under chapter 297A.

(b) There must be added to the tax an amount equal to 20 percent of the amount of any underpayment attributable to the understatement. There is a substantial understatement of tax for the period if the amount of the understatement for the period exceeds the greater of:

(1) ten percent of the tax required to be shown on the return for the period; or

(2)(i) $10,000 in the case of a mining company or a corporation, other than an S corporation as defined in section 290.9725, when the tax is imposed by chapter 290 or section 298.01 or 298.015, or

(ii) $5,000 in the case of any other taxpayer, and in the case of a mining company or a corporation any tax not imposed by chapter 290 or section 298.01 or 298.015.

(c) For a corporation, other than an S corporation, there is also a substantial understatement of tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of:

(1) ten percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000); or

(2) $10,000,000.

(d) The term "understatement" means the excess of the amount of the tax required to be shown on the return for the period, over the amount of the tax imposed that is shown on the return. The excess must be determined without regard to items to which subdivision 27 applies. The amount of the understatement shall be reduced by that part of the understatement that is attributable to the tax treatment of any item by the taxpayer if (1) there is or was substantial authority for the treatment, or (2)(i) any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return and (ii) there is a reasonable basis for the tax treatment of the item. The exception for substantial authority under clause (1) does not apply to positions listed by the Secretary of the Treasury under section 6662(d)(3) of the Internal Revenue Code. A corporation does not have a reasonable basis for its tax treatment of an item attributable to a multiple-party financing transaction if the treatment does not clearly reflect the income of the corporation within the meaning of section 6662(d)(2)(B) of the Internal Revenue Code. The special rules in cases involving tax shelters provided in section 6662(d)(2)(C) of the Internal Revenue Code shall apply and shall apply to a tax shelter the principal purpose of which is the avoidance or evasion of state taxes.

(e) The commissioner may abate all or any part of the addition to the tax provided by this section on a showing by the taxpayer that there was reasonable cause for the understatement, or part of it, and that the taxpayer acted in good faith. The additional tax and penalty shall bear interest as specified in section 270C.40 until paid.

Subd. 5. **Penalty for intentional disregard of law or rules.** If part of an additional assessment is due to negligence or intentional disregard of the provisions of the applicable tax laws or rules of the commissioner, but without intent to defraud, there must be added to the tax an amount equal to ten percent of the additional assessment.

Subd. 5a. **Penalty for repeated failures to file returns or pay taxes.** If there is a pattern by a person of repeated failures to timely file withholding or sales or use tax returns or timely pay withholding or sales or use 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 270C.34.

Subd. 6. **Penalty for failure to file, false or fraudulent return, evasion.** (a) If a person, with intent to evade or defeat a tax or payment of tax, fails to file a return, files a false or fraudulent return, or attempts in any other manner to evade or defeat a tax or payment of tax, there is imposed on the person a penalty equal to 50 percent of the tax, less amounts paid by the person on the basis of the false or fraudulent return, if any, due for the period to which the return related.

(b) If a person files a false or fraudulent return that includes a claim for refund, there is imposed on the person a penalty equal to 50 percent of the portion of any refund claimed that is attributable to fraud. The penalty under this paragraph is in addition to any penalty imposed under paragraph (a).

Subd. 7. **Penalty for frivolous return.** If a taxpayer files what purports to be a tax return or a claim for refund but which does not contain information on which the substantial correctness of the purported return or claim for refund may be judged or contains information that on its face shows that the purported return or claim for refund is substantially incorrect and the conduct is due to a position that is frivolous or a desire that appears on the purported return or claim for refund to delay or impede the administration of Minnesota tax laws, then the taxpayer shall pay a penalty of the greater of $1,000 or 25 percent of the amount of tax

required to be shown on the return. In a proceeding involving the issue of whether or not a taxpayer is liable for this penalty, the burden of proof is on the commissioner.

Subd. 8. **Penalties; failure to file informational return; incorrect taxpayer identification number.** (a) In the case of a failure to file an informational return required by section 289A.12 with the commissioner on the date prescribed (determined with regard to any extension of time for filing), the person failing to file the return shall pay a penalty of $50 for each failure or in the case of a partnership, S corporation, or fiduciary return, $50 for each partner, shareholder, or beneficiary; but the total amount imposed on the delinquent person for all failures during any calendar year must not exceed $25,000. If a failure to file a return is due to intentional disregard of the filing requirement, then the penalty imposed under the preceding sentence must not be less than an amount equal to:

(1) in the case of a return not described in clause (2) or (3), ten percent of the aggregate amount of the items required to be reported;

(2) in the case of a return required to be filed under section 289A.12, subdivision 5, five percent of the gross proceeds required to be reported; and

(3) in the case of a return required to be filed under section 289A.12, subdivision 9, relating to direct sales, $100 for each failure; however, the total amount imposed on the delinquent person for intentional failures during a calendar year must not exceed $50,000. The penalty must be collected in the same manner as a delinquent income tax.

(b) If a partnership or S corporation files a partnership or S corporation return with an incorrect tax identification number used for a partner or shareholder after being notified by the commissioner that the identification number is incorrect, the partnership or S corporation must pay a penalty of $50 for each such incorrect number.

Subd. 9. [Repealed, 1996 c 305 art 1 s 64]

Subd. 10. **Penalty for failure to provide Social Security number as required.** A person who is required by law to: (1) give the person's Social Security account number to another person; or (2) include in a return, statement, or other document made with respect to another person that individual's Social Security account number, who fails to comply with the requirement when prescribed, must pay a penalty of $50 for each failure. The total amount imposed on a person for failures during a calendar year must not exceed $25,000.

Subd. 11. **Penalties relating to information reports, withholding.** (a) When a person required under section 289A.09, subdivision 2, to give a statement to an employee or payee and a duplicate statement to the commissioner, or to give a reconciliation of the statements and quarterly returns to the commissioner, gives a false or fraudulent statement to an employee or payee or a false or fraudulent duplicate statement or reconciliation of statements and quarterly returns to the commissioner, or fails to give a statement or the reconciliation in the manner, when due, and showing the information required by section 289A.09, subdivision 2, or rules prescribed by the commissioner under that section, that person is liable for a penalty of $50 for an act or failure to act. The total amount imposed on the delinquent person for failures during a calendar year must not exceed $25,000.

(b) In addition to any other penalty provided by law, an employee who gives a withholding exemption certificate or a residency affidavit to an employer that decreases the amount withheld under section 290.92 and as of the time the certificate or affidavit was given to the employer there was no reasonable basis for the statements in the certificate or affidavit is liable to the commissioner of revenue for a penalty of $500 for each instance.

(c) In addition to any other penalty provided by law, an employer who fails to submit a copy of a withholding exemption certificate or a residency affidavit required by section 290.92, subdivision 5a, paragraph (a), clause (1) or (2), or (b) is liable to the commissioner of revenue for a penalty of $50 for each instance.

(d) An employer or payor who fails to file an application for a withholding account number, as required by section 290.92, subdivision 24, is liable to the commissioner for a penalty of $100.

Subd. 12. **Penalties relating to property tax refunds.** (a) If it is determined that a property tax refund claim is excessive and was negligently prepared, a claimant is liable for a penalty of ten percent of the disallowed claim. If the claim has been paid, the amount disallowed must be recovered by assessment and collection.

(b) An owner who without reasonable cause fails to give a certificate of rent constituting property tax to a renter, as required by section 290A.19, paragraph (a), is liable to the commissioner for a penalty of $100 for each failure.

(c) If the owner or managing agent knowingly gives rent certificates that report total rent constituting property taxes in excess of the amount of actual rent constituting property taxes paid on the rented part of a property, the owner or managing agent is liable for a penalty equal to the greater of (1) $100 or (2) 50 percent of the excess that is reported. An overstatement of rent constituting property taxes is presumed to be knowingly made if it exceeds by ten percent or more the actual rent constituting property taxes.

Subd. 13. **Penalties for tax preparers.** (a) If an understatement of liability with respect to a return or claim for refund is due to a reckless disregard of laws and rules or willful attempt in any manner to understate the liability for a tax by a person who is a tax preparer with respect to the return or claim, the person shall pay to the commissioner a penalty of $500. If a part of a claim filed under section 290.0677, subdivision 1, or chapter 290A is excessive due to a reckless disregard or willful attempt in any manner to overstate the claim allowed by a person who is a tax preparer, the tax preparer shall pay to the commissioner a penalty of $500 with respect to the claim. These penalties may not be assessed against the employer of a tax preparer unless the employer was actively involved in the reckless disregard or willful attempt to understate the liability for a tax or to overstate the claim for refund. These penalties are income tax liabilities and may be assessed at any time as provided in section 289A.38, subdivision 5.

(b) A civil action in the name of the state of Minnesota may be commenced to enjoin any person who is a tax preparer doing business in this state as provided in section 270C.447.

(c) The commissioner may terminate or suspend a tax preparer's authority to transmit returns electronically to the state, if the commissioner determines that the tax preparer has engaged in a pattern and practice of conduct in violation of paragraph (a) of this subdivision or has been convicted under section 289A.63.

(d) For purposes of this subdivision, the term "understatement of liability" means an understatement of the net amount payable with respect to a tax imposed by state tax law, or an overstatement of the net amount creditable or refundable with respect to a tax. The determination of whether or not there is an understatement of liability must be made without regard to any administrative or judicial action involving the taxpayer. For purposes of this subdivision, the amount determined for underpayment of estimated tax under either section 289A.25 or 289A.26 is not considered an understatement of liability.

(e) For purposes of this subdivision, the term "overstatement of claim" means an overstatement of the net amount refundable with respect to a claim filed under section 290.0677, subdivision 1, or chapter 290A.

The determination of whether or not there is an overstatement of a claim must be made without regard to administrative or judicial action involving the claimant.

(f) For purposes of this section, the term "tax preparer" or "preparer" has the meaning given in section 270C.445, subdivision 2, paragraph (h).

Subd. 14. **Penalty for use of sales tax exemption certificates to evade tax.** A person who uses an exemption certificate to buy property or purchase services that will be used for purposes other than the exemption claimed, with the intent to evade payment of sales tax to the seller, is subject to a penalty of $100 for each transaction where that use of an exemption certificate has occurred.

Subd. 15. **Accelerated payment of June sales tax liability; penalty for underpayment.** (a) For payments made after December 31, 2019 and before December 31, 2021, if a vendor is required by law to submit an estimation of June sales tax liabilities and 87.5 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 87.5 percent of the preceding May's liability or 87.5 percent of the average monthly liability for the previous calendar year.

(b) For payments made after December 31, 2021, the penalty must not be imposed if the amount remitted in June equals the lesser of 84.5 percent of the preceding May's liability or 84.5 percent of the average monthly liability for the previous calendar year.

Subd. 16. **Penalty for sales after revocation.** A person who engages in the business of making retail sales after revocation of a permit under section 270C.722 is liable for a penalty of $100 for each day the person continues to make taxable sales.

Subd. 17. **Operator of flea markets; penalty.** A person who fails to comply with the provisions of section 297A.87 is subject to a penalty of $100 for each day of each selling event that the operator fails to obtain evidence that a seller is the holder of a valid seller's permit issued under section 297A.83.

Subd. 18. **Payment of penalties.** The penalties imposed by this section are collected and paid in the same manner as taxes.

Subd. 19. **Penalties are additional.** The civil penalties imposed by this section are in addition to the criminal penalties imposed by this chapter.

Subd. 20. **Penalty for promoting abusive tax shelters.** (a) Any person who:

(1)(i) organizes or assists in the organization of a partnership or other entity, an investment plan or arrangement, or any other plan or arrangement, or (ii) participates in the sale of any interest in an entity or plan or arrangement referred to in clause (i); and

(2) makes or furnishes in connection with the organization or sale a statement with respect to the allowability of a deduction or credit, the excludability of income, or the securing of any other tax benefit by reason of holding an interest in the entity or participating in the plan or arrangement that the person knows or has reason to know is false or fraudulent concerning any material matter, shall pay a penalty equal to the greater of $1,000 or 20 percent of the gross income derived or to be derived by the person from the activity.

The penalty imposed by this subdivision is in addition to any other penalty provided by this section. The penalty must be collected in the same manner as any delinquent income tax. In a proceeding involving the issue of whether or not any person is liable for this penalty, the burden of proof is upon the commissioner.

(b) If an activity for which a penalty imposed under this subdivision involves a statement that a material advisor, as defined in section 289A.121, has reason to know is false or fraudulent as to any material matter, the amount of the penalty equals the greater of:

(1) the amount determined under paragraph (a); or

(2) 50 percent of the gross income derived or to be derived from the activity.

Subd. 20a. **Aiding and abetting understating of tax liability.** (a) A penalty in the amount specified under paragraph (b) for each document is imposed on each person who:

(1) aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim, or other document;

(2) knows or has reason to believe that the portion of a return, affidavit, claim, or other document will be used in connection with any material matter arising under the Minnesota individual income or corporate franchise tax; and

(3) knows that the portion, if so used, would result in an understatement of the liability for tax of another person.

(b)(1) Except as provided in clause (2), the amount of the penalty imposed by this subdivision is $1,000.

(2) If the return, affidavit, claim, or other document relates to the tax liability of a corporation, the amount of the penalty imposed by paragraph (a) is $10,000.

(3) If any person is subject to a penalty under paragraph (a) for any document relating to any taxpayer for any taxable period or taxable event, the person is not subject to a penalty under paragraph (a) for any other document relating to the taxpayer for the taxable period or event.

(c) For purposes of this subdivision, "procures" includes (1) ordering or otherwise causing any other person to do an act, and (2) knowing of, and not attempting to prevent, participation by any other person in an act.

(d) In a proceeding involving the issue of whether or not any person is liable for this penalty, the burden of proof is upon the commissioner. The penalty applies whether or not the understatement is with the knowledge or consent of the persons authorized or required to present the return, affidavit, claim, or other document.

(e) For purposes of paragraph (a), clause (1), a person furnishing typing, reproducing, or other mechanical assistance with respect to a document is not treated as having aided or assisted in the preparation of the document by reason of the assistance.

(f)(1) Except as provided by clause (2), the penalty imposed by this section is in addition to any other penalty provided by law.

(2) No penalty applies under subdivision 20 to any person for any document for which a penalty is assessed on the person under this subdivision.

Subd. 21. **Penalty for failure to make payment by electronic means.** In addition to other applicable penalties imposed by this section, after notification from the commissioner to the taxpayer that payments are required to be made by electronic means under section 289A.20, subdivision 2, paragraph (e), or 4, paragraph (c), or 289A.26, subdivision 2a, and the payments are remitted by some other means, there is a

penalty in the amount of five percent of each payment that should have been remitted electronically. After the commissioner's initial notification to the taxpayer that payments are required to be made by electronic means, the commissioner is not required to notify the taxpayer in subsequent periods if the initial notification specified the amount of tax liability at which a taxpayer is required to remit payments by electronic means. The penalty can be abated under the abatement procedures prescribed in section 270C.34, subdivision 2, if the failure to remit the payment electronically is due to reasonable cause.

Subd. 22. **Composite returns.** For the purposes of the penalties imposed by subdivisions 1 and 2, the payment of a composite tax or filing of a composite return pursuant to section 289A.08, subdivision 7, is considered the payment and filing of a corporate tax.

Subd. 23. **Withholding for nonresident partners or shareholders.** For the purposes of the penalties imposed by subdivisions 1, 2, and 5a, the filing of returns required by section 289A.09, subdivision 1, paragraphs (d) and (e), and the payment of amounts withheld under section 290.92, subdivisions 4b and 4c, are considered filing and payment corporate tax rather than withholding tax.

Subd. 24. **Penalty for failure to notify of federal change.** If a person fails to report to the commissioner a change or correction of the person's federal return in the manner and time prescribed in section 289A.38, subdivision 7, there must be added to the tax an amount equal to ten percent of the amount of any underpayment of Minnesota tax attributable to the federal change.

Subd. 25. **Penalty for failure to properly complete sales and use tax return.** A person who fails to report local taxes required to be reported on a sales and use tax return or who fails to report local taxes on separate tax lines on the sales and use tax return is subject to a penalty of five percent of the amount of tax not properly reported on the return. A person who files a consolidated tax return but fails to report location information is subject to a $500 penalty for each return not containing location information. In addition, the commissioner may revoke the privilege for a taxpayer to file consolidated returns and may require the taxpayer to separately register each location and to file a tax return for each location.

Subd. 26. **Tax shelter penalties; registration and listing.** (a) For purposes of this subdivision, "material advisor" has the meaning given it under section 6111(b)(1) of the Internal Revenue Code.

(b) The penalties in this subdivision apply in connection with the use of tax shelters, as defined under section 289A.121, and the definitions under that section apply for the purposes of this subdivision.

(c) A material advisor who fails to register a tax shelter, including providing all of the required information under section 289A.121, on or before the date prescribed or who files false or incomplete information with respect to the transaction is subject to a penalty of $50,000. If the tax shelter is a listed transaction, a penalty applies equal to the greater of:

(1) $200,000;

(2) 50 percent of the gross income that the material advisor derived from that activity; or

(3) 75 percent of the gross income that the material advisor derived from that activity if the material advisor intentionally failed to act.

(d)(1) Any person who fails to include on a return or statement any information with respect to a reportable transaction as required under section 289A.121 is subject to a penalty equal to:

(i) $10,000 in the case of an individual and $50,000 in any other case; or

(ii) with respect to a listed transaction, $100,000 in the case of an individual and $200,000 in any other case.

(2) For a unitary business in which more than one member fails to include information on its return or statement for the same reportable transaction, the penalty under clause (1) for each additional member that fails to include the required information on its return or statement for the reportable transaction is limited to the following amount:

(i) $500 for each member, subject to a maximum additional penalty of $25,000; and

(ii) with respect to a listed transaction, $1,000 for each member, subject to a maximum additional penalty of $100,000.

(e) A material advisor required to maintain or provide a list under section 289A.121, subdivision 6, is subject to a penalty equal to $10,000 for each day after the 20th day that the material advisor failed to make the list available to the commissioner after written request for that list was made. No penalty applies for a failure on any day if the failure is due to reasonable cause.

(f) The penalty imposed by this subdivision is in addition to any other penalty imposed under this section.

(g) Notwithstanding section 270C.34, the commissioner may abate all or any portion of any penalty imposed by paragraphs (c) and (d) for any violation, only if all of the following apply:

(1) the violation is for a reportable transaction, other than a listed transaction; and

(2) abating the penalty would promote compliance with the requirements of chapter 290.

(h) Notwithstanding any other law or rule, a determination under paragraph (g) may not be reviewed in any judicial proceeding.

Subd. 27. **Reportable transaction understatement.** (a) If a taxpayer has a reportable transaction understatement for any taxable year, an amount equal to 20 percent of the amount of the reportable transaction understatement must be added to the tax.

(b)(1) For purposes of this subdivision, "reportable transaction understatement" means the product of:

(i) the amount of the increase, if any, in taxable income that results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of that item as shown on the taxpayer's tax return; and

(ii) the highest rate of tax imposed on the taxpayer under section 290.06 determined without regard to the understatement.

(2) For purposes of clause (1)(i), any reduction of the excess of deductions allowed for the taxable year over gross income for that year, and any reduction in the amount of capital losses which would, without regard to section 1211 of the Internal Revenue Code, be allowed for that year, must be treated as an increase in taxable income.

(c) This subdivision applies to any item that is attributable to:

(1) any listed transaction under section 289A.121; and

(2) any reportable transaction, other than a listed transaction, if a significant purpose of that transaction is the avoidance or evasion of federal income tax liability.

(d) Paragraph (a) applies by substituting "30 percent" for "20 percent" with respect to the portion of any reportable transaction understatement with respect to which the disclosure requirements of section 289A.121, subdivision 5, and section 6664(d)(2)(A) of the Internal Revenue Code are not met.

(e)(1) No penalty applies under this subdivision with respect to any portion of a reportable transaction understatement if the taxpayer shows that there was reasonable cause for the portion and that the taxpayer acted in good faith with respect to the portion. This paragraph applies only if:

(i) the relevant facts affecting the tax treatment of the item are adequately disclosed as required under section 289A.121;

(ii) there is or was substantial authority for the treatment; and

(iii) the taxpayer reasonably believed that the treatment was more likely than not the proper treatment.

(2) A taxpayer who did not adequately disclose under section 289A.121 meets the requirements of clause (1)(i), if the commissioner abates the penalty imposed by subdivision 26, paragraph (d), under subdivision 26, paragraph (g).

(3) For purposes of clause (1)(iii), a taxpayer is treated as having a reasonable belief with respect to the tax treatment of an item only if the belief:

(i) is based on the facts and law that exist when the return of tax which includes the tax treatment is filed; and

(ii) relates solely to the taxpayer's chances of success on the merits of the treatment and does not take into account the possibility that a return will not be audited, the treatment will not be raised on audit, or the treatment will be resolved through settlement if it is raised.

(4) An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if:

(i) the tax advisor:

(A) is a material advisor, as defined in section 289A.121, and participates in the organization, management, promotion, or sale of the transaction or is related (within the meaning of section 267(b) or 707(b)(1) of the Internal Revenue Code) to any person who so participates;

(B) is compensated directly or indirectly by a material advisor with respect to the transaction;

(C) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained; or

(D) has a disqualifying financial interest with respect to the transaction, as determined under United States Treasury regulations prescribed to implement the provisions of section 6664(d)(3)(B)(ii)(IV) of the Internal Revenue Code; or

(ii) the opinion:

(A) is based on unreasonable factual or legal assumptions, including assumptions as to future events;

(B) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person;

(C) does not identify and consider all relevant facts; or

(D) fails to meet any other requirement as the Secretary of the Treasury may prescribe under federal law.

(f) The penalty imposed by this subdivision applies in lieu of the penalty imposed under subdivision 4.

Subd. 28. **Preparer identification number.** (a) Each of the following that is prepared by a tax preparer must include the tax preparer's tax identification number:

(1) a tax return required to be filed under this chapter;

(2) a claim filed under section 290.0677, subdivision 1, or chapter 290A; and

(3) a claim for refund of an overpayment.

(b) A tax preparer is not required to include their preparer tax identification number on a filing if the number is not required in the forms or filing requirements provided by the commissioner.

(c) A tax preparer who fails to include the preparer tax identification number as required by this section is subject to a penalty of $50 for each failure.

(d) A tax preparer who fails to include the preparer tax identification number as required by this section, and who is required to have a valid preparer tax identification number issued under section 6109(a)(4) of the Internal Revenue Code, but does not have one, is subject to a $500 penalty for each failure. A tax preparer subject to the penalty in this paragraph is not subject to the penalty in paragraph (c).

(e) For the purposes of this subdivision, "tax preparer" has the meaning given in section 270C.445, subdivision 2, paragraph (h), and "preparer tax identification number" means the number the tax preparer is required to use federally under section 6109(a)(4) of the Internal Revenue Code.

Subd. 29. **Penalty for failure to report liquor sales.** In the case of a failure to file an informational report required by section 297A.8155 with the commissioner on or before the date prescribed, the person failing to file the report shall pay a penalty of $500 for each failure. If a failure to file a report is intentional, the penalty shall be $1,000 for each failure.

Subd. 30. **Relief for purchasers.** A purchaser that meets the requirements of section 297A.995, subdivision 11, is relieved from the imposition of penalty.

Subd. 31. [Repealed, 2013 c 143 art 16 s 11]

Subd. 32. **Sales suppression.** (a) A person who:

(1) sells;

(2) transfers;

(3) develops;

(4) manufactures; or

(5) possesses with the intent to sell or transfer

an automated sales suppression device, zapper, phantom-ware, or similar device capable of being used to commit tax fraud or suppress sales is liable for a civil penalty calculated under paragraph (b).

(b) The amount of the civil penalty equals the greater of (1) $2,000, or (2) the total amount of all taxes and penalties due that are attributable to the use of any automated sales suppression device, zapper, phantom-ware, or similar device facilitated by the sale, transfer, development, or manufacture of the automated sales suppression device, zapper, phantom-ware, or similar device by the person.

(c) The definitions in section 289A.14 apply to this subdivision.

(d) This subdivision does not apply to the commissioner, a person acting at the direction of the commissioner, an agent of the commissioner, law enforcement agencies, or postsecondary education institutions that possess an automated sales suppression device, zapper, or phantom-ware for study to combat the evasion of taxes by use of the automated sales suppression devices, zappers, or phantom-ware.

History: *1990 c 480 art 1 s 26; 1991 c 291 art 6 s 16,17,46; art 8 s 6; art 11 s 11; art 16 s 10; 1992 c 511 art 6 s 19; 1993 c 375 art 8 s 14; art 10 s 19-23; 1994 c 510 art 2 s 2,3; 1994 c 587 art 1 s 24; art 12 s 6; 1995 c 264 art 4 s 9; art 10 s 5; art 11 s 8; art 13 s 12; 1996 c 471 art 3 s 52; 1997 c 84 art 3 s 2; 1997 c 231 art 2 s 70; 1999 c 243 art 16 s 20,21; 2000 c 418 art 1 s 44; 2000 c 490 art 4 s 4; art 8 s 2,3; 2001 c 7 s 59,60; 1Sp2001 c 5 art 11 s 2-5; art 17 s 13; 2002 c 377 art 10 s 10; 1Sp2001 c 5 art 12 s 95; 2002 c 377 art 3 s 24; 2003 c 127 art 3 s 5; art 6 s 2,3; 1Sp2003 c 21 art 8 s 4,15; 2005 c 151 art 2 s 10,17; art 6 s 8-10; art 9 s 17-19; 1Sp2005 c 3 art 8 s 4-8; art 11 s 5; 2006 c 259 art 13 s 3; 2008 c 154 art 6 s 2; art 11 s 7-10; art 12 s 3,4; 2008 c 366 art 8 s 2; art 13 s 2; 2010 c 389 art 3 s 7; 1Sp2010 c 1 art 2 s 5; 2011 c 112 art 4 s 1; 2013 c 143 art 18 s 6; 2014 c 308 art 3 s 5; 1Sp2017 c 1 art 12 s 2; art 22 s 19,20; 1Sp2019 c 6 art 3 s 3*

CRIMINAL PENALTIES

289A.63 CRIMINAL PENALTIES.

Subdivision 1. **Penalties for knowing failure to file or pay; willful evasion.** (a) A person required to file a return, report, or other document with the commissioner, who knowingly, rather than accidentally, inadvertently, or negligently, fails to file it when required, is guilty of a gross misdemeanor. A person required to file a return, report, or other document who willfully attempts in any manner to evade or defeat a tax by failing to file it when required, is guilty of a felony.

(b) A person required to pay or to collect and remit a tax, who knowingly, rather than accidentally, inadvertently, or negligently, fails to do so when required, is guilty of a gross misdemeanor. A person required to pay or to collect and remit a tax, who willfully attempts to evade or defeat a tax law by failing to do so when required, is guilty of a felony.

Subd. 2. **False or fraudulent returns; penalties.** (a) A person who files with the commissioner a return, report, or other document, known by the person to be fraudulent or false concerning a material matter, is guilty of a felony.

(b) A person who knowingly aids or assists in, or advises in the preparation or presentation of a return, report, or other document that is fraudulent or false concerning a material matter, whether or not the falsity or fraud committed is with the knowledge or consent of the person authorized or required to present the return, report, or other document, is guilty of a felony.

Subd. 3. **Sales without permit; violations.** (a) A person who engages in the business of making retail sales in Minnesota without the permit required under chapter 297A, or a responsible officer of a corporation who so engages in business, is guilty of a gross misdemeanor.

(b) A person who engages in the business of making retail sales in Minnesota after revocation of a permit under section 270C.722, when the commissioner has not issued a new permit, is guilty of a felony.

Subd. 4. **Advertising no sales or use tax; violation.** It is a misdemeanor for a person to broadcast or publish, or arrange to have broadcast or published, an advertisement in a publication or broadcast media, printed, distributed, broadcast, or intended to be received in this state, that states that no sales or use tax is due, when the person knows the advertisement is false.

Subd. 5. **Employee giving employer false information.** An employee required to supply information to an employer under section 290.92, subdivisions 4a and 5, who knowingly fails to supply information or who knowingly supplies false or fraudulent information to an employer, is guilty of a gross misdemeanor.

Subd. 6. **Collection of tax; penalty.** An agent, canvasser, or employee of a retailer, who is not authorized by permit from the commissioner, may not collect the sales tax as imposed by chapter 297A, nor sell, solicit orders for, nor deliver, any tangible personal property in this state. An agent, canvasser, or employee violating the provisions of section 297A.63; 297A.66 to 297A.71; 297A.75; 297A.76, subdivision 1; 297A.77; 297A.78; 297A.80; 297A.82, subdivision 4; 297A.83; 297A.89; 297A.90; 297A.91; or 297A.96 is guilty of a misdemeanor.

Subd. 7. [Renumbered 270B.18, subd 4]

Subd. 8. **Criminal penalties.** Criminal penalties imposed by section 270B.18, subdivision 4, and this section are in addition to any civil penalties imposed by this chapter.

Subd. 9. **Statute of limitations.** Notwithstanding section 628.26, or any other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon a criminal offense named in section 270B.18, subdivision 4, and this section, in the proper court within six years after the offense is committed.

Subd. 10. **Person defined.** The term "person" as used in section 270B.18, subdivision 4, and this section includes any officer or employee of a corporation or a member or employee of a partnership who as an officer, member, or employee is under a duty to perform the act in respect to which the violation occurs.

Subd. 11. **Consolidation of venue.** If two or more offenses in section 270B.18, subdivision 4, and this section are committed by the same person in more than one county, the accused may be prosecuted for all the offenses in any county in which one of the offenses was committed.

Subd. 12. **Felony.** (a) A person who sells, purchases, installs, transfers, develops, manufactures, or uses an automated sales suppression device, zapper, phantom-ware, or similar device knowing that the device or phantom-ware is capable of being used to commit tax fraud or suppress sales is guilty of a felony and may be sentenced to imprisonment for not more than five years or to a payment of a fine of not more than $10,000, or both.

(b) An automated sales suppression device, zapper, phantom-ware, and any other device containing an automated sales suppression, zapper, or phantom-ware device or software is contraband and subject to forfeiture under section 609.5316.

(c) The definitions in section 289A.14 apply to this subdivision.

(d) This subdivision does not apply to the commissioner, a person acting at the direction of the commissioner, an agent of the commissioner, law enforcement agencies, or postsecondary education

institutions that possess an automated sales suppression device, zapper, or phantom-ware for study to combat the evasion of taxes by use of the automated sales suppression devices, zappers, or phantom-ware.

History: *1990 c 480 art 1 s 27; 1993 c 326 art 4 s 7; 1993 c 375 art 9 s 16; 2000 c 418 art 1 s 44; 2005 c 151 art 2 s 17; 2008 c 277 art 1 s 62; 1Sp2017 c 1 art 12 s 3*

289A.65 [Repealed, 2005 c 151 art 1 s 117]