CHAPTER 270C

DEPARTMENT OF REVENUE

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270C.01 DEFINITIONS.

Subdivision 1. **Applicability.** For purposes of this chapter only, the following words, terms, and phrases have the meanings given them in this section unless the language or context clearly indicates that a different meaning is intended.

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

Subd. 3. **Department.** "Department" means the Department of Revenue.

Subd. 4. **Electronic means; electronically.** "Electronic means" and "electronically" mean a method that is electronic, as defined in section 325L.02, paragraph (e), and that is prescribed by the commissioner. Electronic means includes the use of a touch-tone telephone to transmit return information in a manner prescribed by the commissioner.

Subd. 5. **Law administered by the commissioner.** "Law administered by the commissioner" means a law or rule that vests or imposes a power, duty, responsibility, or authority in the commissioner, except the following laws: (1) the property tax laws, and (2) chapter 16D.

Subd. 6. **Person.** "Person" means an individual, trust, estate, fiduciary, partnership, company, corporation, limited liability company, association, governmental unit or agency, public or private organization of any kind, or other legal entity.

Subd. 7. **Property tax laws.** "Property tax laws" means all laws and rules related to the administration of the tax on property referred to in section 272.01, subdivision 1, and all laws related to the administration of the tax on wind energy production imposed under section 272.029, subdivision 1.

Subd. 8. **Return.** "Return" means a return, information return, or report, required by a law administered by the commissioner.

Subd. 9. **State revenue laws.** "State revenue laws" means all laws administered by the commissioner and the property tax laws.

Subd. 10. **Tax.** "Tax" means a tax or fee imposed by a law administered by the commissioner.

Subd. 11. **Taxpayer.** "Taxpayer" means a person subject to, or liable for, a tax or fee imposed by a law administered by the commissioner; a person required to file a return, information return, or report, with respect to, or to pay, or withhold or collect and remit, a tax or fee imposed by a law administered by the commissioner; a person required to obtain a license or a permit under a law administered by the commissioner; or a person required to keep records regarding a tax or fee imposed by a law administered by the commissioner.

History: *2005 c 151 art 1 s 1; 2006 c 259 art 8 s 1*

270C.02 DEPARTMENT OF REVENUE; COMMISSIONER.

Subdivision 1. **Commissioner; supervision of department and appointment.** The Department of Revenue is under the supervision and control of the commissioner. The commissioner shall be appointed by the governor under the provisions of section 15.06. The commissioner shall be selected on the basis of ability and experience in the field of tax administration and without regard to political affiliations.

Subd. 2. **Power to appoint staff.** (a) The commissioner may organize the department as the commissioner deems necessary, and appoint one deputy commissioner, a department secretary, directors of divisions, and such other officers, employees, and agents, as the commissioner deems necessary to carry out the duties, responsibilities, and authority entrusted to the commissioner. The commissioner may define the duties of such officers, employees, and agents, and delegate to them any of the commissioner's powers or duties, subject to the commissioner's control and under such conditions as the commissioner may prescribe. Appointments to exercise delegated power to sign documents which require the signature of the commissioner or a delegate by law shall be by written order filed with the secretary of state. The delegations of authority granted by the commissioner remain in effect until revoked by the commissioner or a successor commissioner.

(b) The commissioner may appoint agents as the commissioner considers necessary to make examinations and determinations. The agents have the rights and powers conferred on the commissioner to subpoena, examine, and copy books, records, papers, or memoranda, subpoena witnesses, administer oaths and affirmations, and take testimony.

Subd. 3. **Salaries.** The commissioner shall appoint and employ additional employees and other agents, purchase supplies or materials, or incur other expenditures in the administration and enforcement of state revenue laws as considered necessary. The salaries of all agents and employees provided for in this chapter shall be fixed by the appointing authority, subject to the approval of the commissioner of management and budget.

Subd. 4. **Office and supplies furnished; expenses.** The commissioner shall be provided with suitable and necessary office furniture, supplies, stationery, books, periodicals, newspapers, maps, and financial and commercial reports; and all necessary expenses therefor shall be audited and paid as other expenses are audited and paid. The actual necessary expenses of the commissioner, the commissioner's employees and agents, and such experts and assistants as may be employed by the commissioner while traveling on the business of the department, shall be paid by the state. The expenditures must be sworn to by the party who incurred the expense and approved by the commissioner.

Subd. 5. **Filing officers.** The commissioner is the filing officer and custodian of the books, files, and records of the department. The commissioner may certify copies of the books, files, and records in the custody of the commissioner for all purposes in the same manner as other custodians of public records. The commissioner may authorize other employees of the department to certify books, files, and records in the custody of the commissioner. The authorization must be made by a written order stating the documents that may be certified and must be filed with the secretary of state.

Subd. 6. **Department seal.** The department shall have a seal engraved with the words, "State of Minnesota, Department of Revenue." Such seal may be used to authenticate the official acts of the commissioner or any other employees of the department, but the failure to use the seal shall not invalidate any such acts. Duplicate seals may be provided for the use of directors of divisions or other employees of the department.

History: *2005 c 151 art 1 s 2; 1Sp2005 c 3 art 11 s 1; 2008 c 204 s 42; 2009 c 101 art 2 s 109*

270C.03 POWERS AND DUTIES.

Subdivision 1. **Powers and duties.** The commissioner shall have and exercise the following powers and duties:

(1) administer and enforce the assessment and collection of taxes;

(2) make determinations, corrections, and assessments with respect to taxes, including interest, additions to taxes, and assessable penalties;

(3) use statistical or other sampling techniques consistent with generally accepted auditing standards in examining returns or records and making assessments;

(4) investigate the tax laws of other states and countries, and formulate and submit to the legislature such legislation as the commissioner may deem expedient to prevent evasions of state revenue laws and to secure just and equal taxation and improvement in the system of state revenue laws;

(5) consult and confer with the governor upon the subject of taxation, the administration of the laws in regard thereto, and the progress of the work of the department, and furnish the governor, from time to time, such assistance and information as the governor may require relating to tax matters;

(6) execute and administer any agreement with the secretary of the treasury or the Bureau of Alcohol, Tobacco, Firearms and Explosives in the Department of Justice of the United States or a representative of another state regarding the exchange of information and administration of the state revenue laws;

(7) require town, city, county, and other public officers to report information as to the collection of taxes received from licenses and other sources, and such other information as may be needful in the work of the commissioner, in such form as the commissioner may prescribe;

(8) authorize the use of unmarked motor vehicles to conduct seizures or criminal investigations pursuant to the commissioner's authority;

(9) authorize the participation in audits performed by the Multistate Tax Commission. For the purposes of chapter 270B, the Multistate Tax Commission will be considered to be a state for the purposes of auditing corporate sales, excise, and income tax returns;

(10) maintain toll-free telephone access for taxpayer assistance for calls from locations within the state; and

(11) exercise other powers and authority and perform other duties required of or imposed upon the commissioner by law.

Subd. 2. **Mission; efficiency.** It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

(1) prevent the waste or unnecessary spending of public money;

(2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible;

(3) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;

(4) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;

(5) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A;

(6) report to the legislature on the performance of agency operations and the accomplishment of agency goals in the agency's biennial budget according to section 16A.10, subdivision 1; and

(7) recommend to the legislature appropriate changes in law necessary to carry out the mission and improve the performance of the department.

History: *2005 c 151 art 1 s 3; 2006 c 253 s 14; 2007 c 148 art 2 s 48; 2013 c 143 art 13 s 7*

270C.04 USE OF INFORMATION.

Notwithstanding the provisions of any other law, the commissioner may use any and all information in the commissioner's possession, or to which the commissioner has access, to insure equal and consistent application and enforcement of all state revenue laws. This section shall not be construed as granting to the commissioner any power to release any information outside the department.

History: *2005 c 151 art 1 s 4*

270C.05 ACCESS TO CRIMINAL JUSTICE DATA.

The commissioner may enter into an agreement with the commissioner of public safety to allow designated employees of the Department of Revenue to have access to the criminal justice data communications network provided in section 299C.46. For purposes of that section, the criminal investigation unit of the Department of Revenue is considered a criminal justice agency.

History: *2005 c 151 art 1 s 5*

270C.055 CRIMINAL INVESTIGATIONS, REFERRAL, INFORMATION DISCLOSURE, AND VENUE.

Subdivision 1. **Requesting assistance.** If the commissioner has reason to believe that a criminal violation of the state revenue laws or chapter 349 has occurred, the commissioner may request the attorney general or the prosecuting authority of any county to assist in a criminal investigation.

Subd. 2. **Referral for prosecution.** If a proceeding is referred to a prosecuting authority, and the prosecuting authority fails to issue or cause to be issued an indictment or criminal complaint within 30 days after the referral by the commissioner, the attorney general may conduct the proceeding.

Subd. 3. **Authority to disclose information.** The commissioner may disclose information to the prosecuting authority and attorney general pursuant to section 270B.05, subdivision 2, clause (1).

Subd. 4. **Venue.** Unless otherwise provided in chapter 289A, if two or more criminal offenses under the state revenue laws or chapter 349 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.

History: *2005 c 151 art 1 s 6; 2026 c 128 art 11 s 6*

270C.06 RULEMAKING AUTHORITY.

The commissioner shall, from time to time, make, publish, and distribute rules for the administration and enforcement of state revenue laws. The rules have the force of law.

History: *2005 c 151 art 1 s 7*

270C.07 REVENUE NOTICES.

Subdivision 1. **Authority.** The commissioner may make, adopt, and publish interpretive revenue notices. A "revenue notice" is a policy statement that has been published pursuant to subdivision 5 and that provides interpretation, details, or supplementary information concerning the application of state revenue laws or

rules promulgated by the commissioner. Revenue notices are published for the information and guidance of taxpayers, local government officials, the department, and others concerned.

Subd. 2. **Effect.** Revenue notices do not have the force and effect of law and have no precedential effect, but may be relied on by taxpayers until revoked or modified. A notice may be expressly revoked or modified by the commissioner, by the issuance of a revenue notice, but may not be revoked or modified retroactively to the detriment of the taxpayers. A change in the law or an interpretation of the law occurring after the revenue notice is issued, whether in the form of a statute, court decision, administrative rule, or revenue notice, results in revocation or modification of the notice to the extent that the change affects the notice.

Subd. 3. **Retroactivity.** Revenue notices are generally interpretive of existing law and therefore are retroactive to the effective date of the applicable law provision unless otherwise stated in the notice.

Subd. 4. **Issuance.** The issuance of revenue notices is at the discretion of the commissioner. The commissioner shall establish procedures governing the issuance of revenue notices and tax information bulletins. At least one week before publication of a revenue notice in the State Register, the commissioner shall provide a copy of the notice to the chairs of the Taxes Committee of the house of representatives and the Taxes and Tax Laws Committee of the senate.

Subd. 5. **Publication.** The commissioner shall publish the revenue notices in the State Register and in any other manner that makes them accessible to the general public. The commissioner may charge a reasonable fee for publications.

History: *2005 c 151 art 1 s 8*

270C.08 TAX INFORMATION BULLETINS.

The commissioner may issue tax information bulletins. "Tax information bulletins" are informational guides to enable taxpayers and local governmental officials to become more familiar with state revenue laws and their rights and responsibilities under these laws. Nothing contained in the tax information bulletins supersedes, alters, or otherwise changes any provisions of the state revenue laws, administrative rules, court decisions, or revenue notices.

History: *2005 c 151 art 1 s 9*

270C.085 NOTIFICATION REQUIREMENTS; SALES AND USE TAXES.

The commissioner of revenue shall establish a means of electronically notifying persons holding a sales tax permit under section 297A.84 of any statutory change in chapter 297A and any issuance or change in any administrative rule, revenue notice, or sales tax fact sheet or other written information provided by the department explaining the interpretation or administration of the tax imposed under that chapter. The notification must indicate the basic subject of the statute, rule, fact sheet, or other material and provide an electronic link to the material. Any person holding a sales tax permit that provides an electronic address to the department must receive these notifications unless they specifically request electronically, or in writing, to be removed from the notification list. This requirement does not replace traditional means of notifying the general public or persons without access to electronic communications of changes in the sales tax law.

History: *2009 c 88 art 4 s 1; 2014 c 308 art 9 s 18*

270C.09 OPINION OF ATTORNEY GENERAL; EFFECT.

The commissioner may in writing request the opinion of the attorney general upon any matter regarding the state revenue laws. Any written opinion of the attorney general upon any such matter rendered in response

to such request shall have the force and effect of law unless and until overruled by a decision of the Tax Court or a court of competent jurisdiction.

History: *2005 c 151 art 1 s 10*

270C.10 EX-EMPLOYEES NOT TO REPRESENT TAXPAYERS; PENALTY.

An employee of the department may not, for a period of one year after the employee's employment has terminated, act as counsel, attorney, or agent for a taxpayer in connection with a claim or proceeding pending in the department. An employee of the department may not act as counsel, attorney, or agent for a taxpayer at any time after termination of employment in connection with a claim or proceeding of which the person has knowledge that was acquired during the term of employment. A violation of this section is a gross misdemeanor.

History: *2005 c 151 art 1 s 11*

270C.101 APPLICATION FOR BUSINESS REGISTRATION; CERTAIN INFORMATION NOT REQUIRED.

Notwithstanding any law to the contrary, an entity applying for a Minnesota business tax account number is not required to list the names, home addresses, and Social Security numbers of its officers or directors when the entity applying for an account number is an instrumentality of a state, a local, or the federal government, or a Tribal government.

History: *2011 c 112 art 5 s 2*

270C.105 BASIS FOR EVALUATION OF DEPARTMENT OF REVENUE EMPLOYEES.

The department must not use tax enforcement results to impose individual revenue quotas with respect to employees or their immediate supervisors who are directly involved in assessment or collection activities. The department may, however, use individual performance with regard to number of cases completed and, in the case of collections employees, dollars collected, as factors in evaluating an employee and not be considered as failing to comply with this section.

History: *2005 c 151 art 1 s 12*

270C.11 TAX EXPENDITURE BUDGET.

Subdivision 1. **Statement of purpose.** State governmental policy objectives are sought to be achieved both by direct expenditure of governmental funds and by the granting of special and selective tax relief or tax expenditures. Both direct expenditures of governmental funds and tax expenditures have an effect on the ability of the state and local governments to lower tax rates or to increase expenditures. As a result, tax expenditures should receive a regular and comprehensive review by the legislature as to (1) their total cost, (2) their effectiveness in achieving their objectives, (3) their effect on the fairness and equity of the distribution of the tax burden, and (4) the public and private cost of administering tax expenditure financed programs. This section is intended to facilitate a regular review of the state and local tax expenditure budget by the legislature by providing for the preparation of a regular biennial tax expenditure budget.

Subd. 2. **Preparation; submission.** The commissioner shall prepare a tax expenditure budget for the state. The tax expenditure budget report shall be submitted to the legislature by November 1 of each even-numbered year.

Subd. 3. **Period covered.** The report shall include estimates of annual tax expenditures for, at a minimum, a three-year period including the two-year period covered in the governor's budget submitted in the preceding January pursuant to section 16A.11.

Subd. 4. **Contents.** (a) The report shall detail for each tax expenditure item:

(1) the amount of tax revenue forgone;

(2) a citation of the statutory or other legal authority for the expenditure;

(3) the year in which it was enacted or the tax year in which it became effective;

(4) the objective of the expenditure, as submitted to the commission in accordance with section 3.192 or identified by the Tax Expenditure Review Commission;

(5) the incidence of the expenditure, if it is a significant sales or income tax expenditure; and

(6) the revenue-neutral amount by which the relevant tax rate could be reduced if the expenditure were repealed.

(b) The report may contain additional information which the commissioner considers relevant to the legislature's consideration and review of individual tax expenditure items. This may include but is not limited to analysis of whether the expenditure is achieving that objective and the effect of the expenditure on the administration of the tax system.

Subd. 5. **Revenue estimates; legislative bills.** Upon reasonable notice from the chair of the house of representatives or senate tax committee that a bill is scheduled for hearing, the commissioner shall prepare an estimate of the effect on the state's tax revenues which would result from the passage of a legislative bill establishing, extending, or restricting a tax expenditure. These revenue estimates shall contain the same information as provided in subdivision 4 for expenditure items contained in the tax expenditure budget, as appropriate.

Subd. 6. **Definitions.** For purposes of this section, the following terms have the meanings given:

(1) "business tax credit" means:

(i) a credit against the corporate franchise tax claimed by a C corporation; or

(ii) a credit against the individual or fiduciary income tax claimed by a pass-through entity that is allocated to its partners, members, or shareholders;

(2) "pass-through entity" means a partnership, limited liability corporation, or S corporation;

(3) "significant tax expenditure" means a tax expenditure, but excluding any tax expenditure that:

(i) is incorporated into state law by reference to a federal definition of income;

(ii) results in a revenue reduction of less than $10,000,000 per biennium; or

(iii) is a business tax credit;

(4) "tax expenditure" means a tax provision which provides a gross income definition, deduction, exemption, credit, or rate for certain persons, types of income, transactions, or property that results in reduced tax revenue, but excludes provisions used to mitigate tax pyramiding;

(5) "tax" means any tax of statewide application or any tax authorized by state law to be levied by local governments generally. It does not include a special local tax levied pursuant to special law or to a special local tax levied pursuant to general authority that is no longer applicable to local governments generally; and

(6) "tax pyramiding" means imposing sales taxes under chapter 297A on intermediate business-to-business transactions rather than sales to final consumers.

History: *2005 c 151 art 1 s 13; 1Sp2021 c 14 art 11 s 14-16; 1Sp2025 c 13 art 8 s 12*

270C.12 TAX INFORMATION SAMPLE DATA.

Subdivision 1. **Preparation of samples.** The commissioner shall prepare microdata samples of income tax returns and other information useful for purposes of:

(1) estimating state revenues;

(2) simulating the effect of changes or proposed changes in state and federal tax law on the amount of state revenues; and

(3) analyzing the incidence of present or proposed taxes.

Subd. 2. **Coordinating committee.** A coordinating committee is established to oversee and coordinate preparation of the microdata samples. The committee consists of:

(1) the director of the Research Division of the department who shall serve as chair of the committee;

(2) the state economist;

(3) the chair of the Committee on Taxes of the house of representatives or the chair's designee; and

(4) the chair of the Committee on Taxes and Tax Laws of the senate or the chair's designee. The committee shall consider the analysis needs and use of the microdata samples by the Management and Budget and Revenue Departments and the legislature in designing and preparing the samples, including the type of data to be included, the structure of the samples, size of the samples, and other relevant factors.

Subd. 3. **Contents of samples.** The samples must consist of information derived from a random sample of federal and Minnesota individual income tax returns. The samples prepared in odd-numbered years must be augmented by additional information from other sources as the coordinating committee determines is feasible and appropriate. The coordinating committee shall consider inclusion of:

(1) information derived from property tax refund returns;

(2) the estimated market value of the taxpayer's home from the homestead declaration; and

(3) information from other sources, such as the surveys conducted by the United States Departments of Commerce and Labor.

Subd. 4. **Consultation on analysis models.** The coordinating committee shall facilitate regular consultation among the Department of Revenue, the Department of Management and Budget, and house of representatives and senate staffs in development and maintenance of their respective computer models used to analyze the microdata samples. The committee shall encourage efforts to attain more commonality in the models, greater sharing of program development efforts and programming tasks, and more consistency in the resulting analyses.

Subd. 5. **Duration.** Notwithstanding the provisions of any statutes to the contrary, the coordinating committee as established by this section to oversee and coordinate preparation of the microdata samples of income tax returns and other information shall not expire.

History: *2005 c 151 art 1 s 14; 2009 c 88 art 11 s 2; 2009 c 101 art 2 s 109; 2014 c 286 art 8 s 33*

270C.13 TAX INCIDENCE REPORTS.

Subdivision 1. **Biennial report.** (a) The commissioner shall report to the legislature on the overall incidence of the income tax, sales and excise taxes, and property tax.

(b) The commissioner must submit the report:

(1) by March 1, 2021; and

(2) by March 1, 2024, and each even-numbered year thereafter.

(c) The report shall present information on the distribution of the tax burden as follows: (1) for the overall income distribution, using a systemwide incidence measure such as the Suits index or other appropriate measures of equality and inequality; (2) by income classes, including at a minimum deciles of the income distribution; and (3) by other appropriate taxpayer characteristics.

(d) The commissioner may request information from any state officer or agency to assist in carrying out this section. The state officer or agency shall provide the data requested to the extent permitted by law.

Subd. 2. **Bill analyses.** At the request of the chair of the house of representatives Tax Committee or the senate Committee on Taxes and Tax Laws, the commissioner shall prepare an incidence impact analysis of a bill or a proposal to change the tax system which increases, decreases, or redistributes taxes by more than $20,000,000. To the extent data is available on the changes in the distribution of the tax burden that are affected by the bill or proposal, the analysis shall report on the incidence effects that would result if the bill were enacted. The report may present information using systemwide measures, such as Suits or other similar indexes, by income classes, taxpayer characteristics, or other relevant categories. The report may include analyses of the effect of the bill or proposal on representative taxpayers. The analysis must include a statement of the incidence assumptions that were used in computing the burdens.

Subd. 3. **Income measure.** The incidence analyses shall use the broadest measure of economic income for which reliable data is available.

History: *2005 c 151 art 1 s 15; 1Sp2011 c 7 art 10 s 1; 2013 c 3 s 2; 1Sp2021 c 14 art 11 s 17; 2023 c 64 art 18 s 2*

270C.131 MS 2018 [Repealed, 1Sp2019 c 6 art 23 s 4]

270C.14 AUTHORITY TO PAY LOCAL TAXES; APPROPRIATION.

The commissioner may pay to any local government unit, any locally imposed sales taxes that may be assessed against the department. There is appropriated to the commissioner from the general fund the amount needed to make the payments.

History: *2005 c 151 art 1 s 16*

270C.145 MS 2012 [Repealed, 2013 c 142 art 5 s 15]

270C.15 REVENUE DEPARTMENT SERVICE AND RECOVERY SPECIAL REVENUE FUND.

A Revenue Department service and recovery special revenue fund is created for the purpose of recovering the costs of furnishing government data and related services or products, as well as recovering costs associated with collecting local taxes on sales and the retail delivery fee established under chapter 168E. All money collected under this section is deposited in the Revenue Department service and recovery special revenue fund. Money in the fund is appropriated to the commissioner to reimburse the department for the costs incurred in administering the tax law or providing the data, service, or product. Any money paid to the department as a criminal fine for a violation of state revenue law that is designated by the court to fund enforcement of state revenue law is appropriated to this fund.

History: *2005 c 151 art 1 s 17; 2023 c 68 art 3 s 20*

270C.16 COLLECTION OF DELINQUENT LIABILITIES; COSTS.

Subdivision 1. **Appropriation.** For the purpose of collecting delinquent tax liabilities or debts as defined in section 16D.02, subdivision 3, there is appropriated to the commissioner an amount representing the cost of collection by contract with collection agencies, revenue departments of other states, or attorneys to enable the commissioner to reimburse these agencies, departments, or attorneys for this service. The commissioner shall report quarterly on the status of this program to the chair of the house of representatives Tax and Appropriation Committees and senate Tax and Finance Committees.

Subd. 2. **Prepayment.** Notwithstanding section 16A.15, subdivision 3, the commissioner may authorize the prepayment of sheriff's fees, attorney fees, fees charged by revenue departments of other states, or court costs to be incurred in connection with the collection of delinquent tax liabilities owed to the commissioner.

History: *2005 c 151 art 1 s 18*

270C.17 COMMISSIONER TO COLLECT CERTAIN LOCAL TAXES.

Subdivision 1. **Costs deducted; appropriation.** If the commissioner agrees to collect a local tax, the local unit of government must agree that all the direct and indirect costs of the department for collecting the tax and any other statewide indirect costs will be deducted from the amounts collected and paid to the local unit of government.

Subd. 2. MS 2020 [Repealed, 1Sp2021 c 14 art 14 s 4]

History: *2005 c 151 art 1 s 19*

270C.171 SPECIAL LAWS; LOCAL TAXES.

Subdivision 1. **Definitions.** (a) If a special law grants a local government unit or group of units the authority to impose a local tax other than sales tax, including but not limited to taxes such as lodging, entertainment, admissions, or food and beverage taxes, and the Department of Revenue either has agreed to or is required to administer the tax, such that the tax is reported and paid with the chapter 297A taxes, then each term used in the special law is defined as follows:

(1) as defined in chapter 297A or in Minnesota Rules, chapter 8130; or

(2) if the specific term is not defined either in chapter 297A or in Minnesota Rules, chapter 8130, then defined consistent with the position of the Department of Revenue as to the extent of the tax base.

(b) This subdivision does not apply to terms that are defined by the authorizing special law.

(c) This subdivision applies notwithstanding whether a local government unit or group of units adopts consistent definitions into local law.

Subd. 2. **Application.** This section applies to a special law that is described in subdivision 1 that was:

(1) originally enacted prior to 2010, and that was amended by special law in or after 2010, to extend the time for imposing the tax or to modify the tax base; or

(2) first enacted in or after 2010.

History: *2010 c 389 art 4 s 14; 1Sp2017 c 1 art 19 s 1*

270C.18 SETOFF OF POLITICAL SUBDIVISION DEBTS.

(a) As used in this section, "political subdivision" means counties and home rule charter or statutory cities, and "debts" means a legal obligation to pay a fixed amount of money, which equals or exceeds $100 and which is due and payable to the claimant political subdivision.

(b) If one political subdivision owes a debt to another political subdivision, and the debt has not been paid within six months of the date when payment was due, the creditor political subdivision may notify the commissioner of the debt, and shall provide the commissioner with information sufficient to verify the claim. If the commissioner has reason to believe that the claim is valid, and the debt has not been paid, the commissioner shall initiate setoff procedures under this section.

(c) Within ten days of receipt of the notification from the creditor political subdivision, the commissioner shall send a written notice to the debtor political subdivision, advising it of the nature and amount of the claim. This written notice shall advise the debtor of the creditor political subdivision's intention to request setoff of the refund against the debt. The notice will also advise the debtor that the debt can be set off against a state aid payment, and will advise the debtor of the right to contest the validity of the claim at a hearing. The debtor must assert this right by written request to the commissioner, which request the commissioner must receive within 45 days of the mailing date of the notice.

(d) If the commissioner receives written notice of a debtor political subdivision's intention to contest at hearing the claim upon which the intended setoff is based, the commissioner shall initiate a hearing according to contested case procedures established in the state Administrative Procedure Act not later than 30 days after receipt of the debtor's request for a hearing. The costs of the hearing shall be paid equally by the political subdivisions that are parties to the hearing. The Court of Administrative Hearings shall separately bill each political subdivision for one-half of the costs.

(e) If the debtor political subdivision does not object to the claim, or does not prevail in an objection to the claim or at a hearing on the claim, the commissioner shall deduct the amount of the debt from the next payment scheduled to be made to the debtor under section 273.1398 or chapter 477A. The commissioner shall remit the amount deducted to the claimant political subdivision.

History: *2005 c 151 art 1 s 20; 2025 c 39 art 2 s 68*

270C.19 TAXES AND FEES; REFUND AND SHARING AGREEMENTS WITH INDIANS.

Subdivision 1. **Taxes paid by Indians.** (a) Notwithstanding any other law which limits the refund of tax, the commissioner is authorized to enter into a tax refund agreement with the governing body of any federally recognized Indian Tribe in Minnesota.

(b) The agreement may provide for:

(1) a mutually agreed-upon amount as a refund to the governing body of an estimate of any sales or excise tax paid by Tribal members on transactions occurring on the reservation or on transactions that would occur on the reservation if there was no agreement; or

(2) an amount which measures the economic value of an agreement by the Tribal government to pay the equivalent of the state sales tax on items included in the sales tax base but exempt on the reservation.

(c) For purposes of this section, "Tribal members" means the number of enrolled members of the Tribe who live on or adjacent to the reservation as defined in the agreement.

(d) In arriving at the refund amount, the commissioner must consider the number of Tribal members as most recently submitted by the Tribe to the commissioner, estimates contained in the tax incidence report under section 270C.13, and any other information available to the commissioner.

Subd. 2. **Sales, use, and excise taxes.** (a) The commissioner is authorized to enter into a tax agreement with the governing body of any federally recognized Indian Tribe in Minnesota, that provides for the state and the Tribal government to share sales, use, and excise tax revenues generated from on-reservation activities of non-Tribal members and off-reservation activities of Tribal members. Every agreement entered into pursuant to this subdivision must require the commissioner to collect all state and Tribal taxes covered by the agreement.

(b) The commissioner is authorized to collect any Tribal taxes imposed pursuant to any agreement entered into pursuant to this subdivision and to make payments authorized by the agreement to the Tribal government from the funds collected.

(c) The commissioner shall pay to the Tribal government its share of the taxes collected pursuant to the agreement, as indicated in the agreement, and grant the taxpayer a credit for the taxpayer's share of the amount paid to the Tribal government against the taxpayer's Minnesota tax.

Subd. 3. **Appropriation.** There is annually appropriated from the general fund to the commissioner the amounts necessary to make the refunds provided in this section.

Subd. 4. **Payments to counties.** (a) The commissioner shall pay to a county in which an Indian gaming casino is located:

(1) ten percent of the state share of all taxes generated from activities on reservations and collected under a tax agreement under this section with the Tribal government for the reservation located in the county; or

(2) five percent of excise taxes collected by the state that are determined by the department to have been generated from activities on a reservation located in the county, the Tribal government of which does not have a tax agreement under this section and did not have a tax agreement on June 30, 2003.

If the Tribe has casinos located in more than one county, the payment must be divided equally among the counties in which the casinos are located.

(b) The commissioner shall make the payments required under this subdivision by February 28 of the year following the year the taxes are collected.

(c) An amount sufficient to make the payments authorized by this subdivision is annually appropriated from the general fund to the commissioner.

Subd. 5. **Fees; appropriation.** (a) The commissioner may enter into an agreement with the governing body of any federally recognized Indian reservation in Minnesota concerning fees administered by the

commissioner that are paid by the Tribe, members of the Tribe, or persons who conduct business with the Tribe, or otherwise imposed on on-reservation activities. The agreement may provide for the refund or sharing of the fee. The commissioner may make any payments required by the agreement from the fees collected.

(b) Each head of an agency, board, or other governmental entity that administers a program that is funded by fees administered by the commissioner may sign an agreement entered into by the commissioner under this subdivision. An agreement is not valid until signed by the head of each agency, board, or other governmental entity that administers a program funded by the particular fee covered in an agreement and by the commissioner.

(c) There is annually appropriated to the commissioner from the funds for which the fees are collected the amounts necessary to make payments as provided in this subdivision.

Subd. 6. **Cannabis sales.** (a) The commissioner is authorized to enter into a tax agreement with the governing body of any federally recognized Indian Tribe in Minnesota that provides for the state and the Tribal government to share state and local sales tax and gross receipts tax imposed on the sale of cannabis at retail by a Tribally owned business at a location off the reservation.

(b) Any payment to the Tribe under this subdivision must be limited to an approximation of the expenses borne by the Tribe in regulating the production and supplying of cannabis products to the off-reservation retail business and to taxes paid by members of the Tribe at that business location.

(c) Authority under this subdivision applies only to Tribal governments that have a compact under section 3.9228.

(d) There is annually appropriated from the general fund to the commissioner the amount necessary to make the payments provided in this subdivision.

History: *2005 c 151 art 1 s 21; 2023 c 63 art 2 s 2; 2023 c 64 art 15 s 5; art 19 s 1*

270C.20 DESTRUCTION OF RETURNS.

The commissioner of revenue is hereby authorized to destroy all tax returns, required under chapter 290 or 290A, including audit reports, orders, and correspondence relating thereto, which have been on file in the commissioner's office for a period to be determined by the commissioner. The commissioner may make copies of such returns, orders, or correspondence by microfilm, photostat, or other similar means and may immediately destroy the original documents from which such copies have been made. Such copies, when certified to by the commissioner, shall be admissible in evidence in the same manner and be given the same effect as the original documents destroyed.

The commissioner may destroy correspondence and documents contained in the files of the division which do not relate specifically to any tax return.

Notwithstanding the above provisions the commissioner may, utilizing such safeguards as the commissioner in the commissioner's discretion deems necessary, (1) employ a commercial photographer for the purpose of developing microfilm of returns or other documents, or (2) employ a vendor for the purpose of obtaining the vendor's services an example of which is the preparation of income tax return labels.

History: *1945 c 604 s 27; 1947 c 92 s 1; 1965 c 398 s 1; 1967 c 120 s 1; 1973 c 582 s 3; 1982 c 523 art 1 s 50; 1986 c 444; 1989 c 184 art 2 s 22*

270C.21 TAXPAYER ASSISTANCE GRANTS; TAX CREDIT OUTREACH GRANTS.

Subdivision 1. **Taxpayer assistance.** When the commissioner awards grants under this section, the commissioner must provide public notice of the grants in a timely manner so that the grant process is completed and grants are awarded by October 1, in order for recipient organizations to adequately plan expenditures for the filing season. At the time the commissioner provides public notice, the commissioner must also notify organizations that received grants in the previous biennium. Amounts appropriated for grants under this section are not subject to retention of administrative costs under section 16B.98, subdivision 14.

Subd. 2. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given.

(b) "Eligible credit" means a credit, refund, or other tax preference targeting low-income taxpayers, including but not limited to the credits under sections 290.0661, 290.0671, 290.0674, and 290.0693, and chapter 290A.

(c) "Tax outreach organization" means a nonprofit organization or federally recognized Indian Tribe with experience serving demographic groups or geographic regions that have historically had low rates of participation in eligible credits.

(d) "Taxpayer assistance services" means accounting and tax preparation services provided by volunteers to low-income, elderly, and disadvantaged Minnesota residents to help them file federal and state income tax returns and Minnesota property tax refund claims and to provide personal representation before the Department of Revenue and Internal Revenue Service.

(e) "Volunteer taxpayer assistance organization" means an eligible organization qualifying under section 7526A(e)(2)(B) of the Internal Revenue Code of 1986.

Subd. 3. **Taxpayer assistance grants.** The commissioner must make grants to one or more volunteer taxpayer assistance organizations to coordinate, facilitate, encourage, and aid in the provision of taxpayer assistance services.

Subd. 4. **Tax credit outreach grants.** The commissioner must make one or more grants to tax outreach organizations and volunteer assistance organizations. Grants provided under this subdivision must be used to:

(1) publicize and promote the availability of eligible credits to taxpayers likely to be eligible for those credits; or

(2) provide taxpayer assistance services.

History: *2007 c 148 art 2 s 49; 1Sp2021 c 12 art 2 s 18; 2024 c 127 art 71 s 1*

270C.22 COST OF LIVING ADJUSTMENT.

Subdivision 1. **Adjustment; definition; period; rounding.** (a) The commissioner shall annually make a cost of living adjustment to the dollar amounts noted in sections that reference this section. The commissioner shall adjust the amounts based on the index as provided in this section. For purposes of this section, "index" means the Chained Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics. The values of the index used to determine the adjustments under this section are the latest published values when the Bureau of Labor Statistics publishes the initial value of the index for August of the year preceding the year to which the adjustment applies.

(b) For the purposes of this section, "statutory year" means the year preceding the first year for which dollar amounts are to be adjusted for inflation under sections that reference this section. For adjustments under chapter 290A, the statutory year refers to the year in which a taxpayer's household income used to calculate refunds under chapter 290A was earned and not the year in which refunds are payable. For all other adjustments, the statutory year refers to the taxable year unless otherwise specified.

(c) To determine the dollar amounts for taxable year 2020, the commissioner shall determine the percentage change in the index for the 12-month period ending on August 31, 2019, and increase each of the unrounded dollar amounts in the sections referencing this section by that percentage change. For each subsequent taxable year, the commissioner shall increase the dollar amounts by the percentage change in the index from August 31 of the year preceding the statutory year to August 31 of the year preceding the taxable year.

(d) To determine the dollar amounts for refunds payable in 2020 under chapter 290A, the commissioner shall determine the percentage change in the index for the 12-month period ending on August 31, 2019, and increase each of the unrounded dollar amounts in the sections referencing this section by that percentage change. For each subsequent year, the commissioner shall increase the dollar amounts by the percentage change in the index from August 31 of the statutory year to August 31 of the year preceding the year in which refunds are payable.

(e) Unless otherwise provided, the commissioner shall round the amounts as adjusted to the nearest $10 amount. If an amount ends in $5, the amount is rounded up to the nearest $10 amount.

Subd. 2. **Publication.** The commissioner shall announce and publish the adjusted dollar amounts required by subdivision 1 on the Department of Revenue's website on or before December 15 of each year.

Subd. 3. **Special provision.** The determination of the commissioner under this subdivision is not a rule and is not subject to the Administrative Procedure Act under chapter 14, including section 14.386.

History: *1Sp2019 c 6 art 1 s 2; 1Sp2021 c 14 art 16 s 1*

TAX ADMINISTRATION

270C.25 PROHIBITION OF SUITS TO RESTRAIN ASSESSMENT OR COLLECTION.

Subdivision 1. **General rule.** No suit to restrain assessment or collection of a tax, fee, penalty, or interest, imposed by a law administered by the commissioner, including a declaratory judgment action, can be maintained in any court by any person except pursuant to the express procedures in (1) this chapter, (2) chapter 271, (3) chapter 289A, and (4) any other law administered by the commissioner for contesting the assessment or collection of taxes, fees, penalties, or interest.

Subd. 2. **Facial challenge to constitutionality.** An action, otherwise prohibited under subdivision 1, that asserts a facial challenge to the constitutionality of a tax or fee imposed by a law administered by the commissioner may be maintained only if it is demonstrated to the court by clear and convincing evidence that under no circumstances could the commissioner ultimately prevail and that the taxpayer or fee payer will suffer irreparable harm if the relief sought is not granted.

History: *2005 c 151 art 1 s 22*

270C.26 PENALTY FOR FILING CERTAIN DOCUMENTS AGAINST DEPARTMENT OF REVENUE EMPLOYEES.

Subdivision 1. **Definitions.** (a) "Recording office" means a county recorder, registrar of titles, or secretary of state in this state or another state.

(b) "Filing party" means the person or persons requesting or causing another person to request that the recording office accept documents or instruments for recording or filing.

Subd. 2. **Invalid documents naming commissioner or department employees.** Filing a document, including a nonconsensual common law lien under section 514.99, that purports to create a claim against the commissioner or an employee of the department based on performance or nonperformance of duties by the commissioner or employee is invalid unless accompanied by a specific order from a court of competent jurisdiction authorizing the filing of the document or unless a specific statute authorizes the filing of the document.

Subd. 3. **Civil penalty.** If a filing party causes a document described in subdivision 2 to be recorded in a recording office, the commissioner may assess a penalty against the filing party of $1,000 per document filed, payable to the general fund. An order assessing a penalty under this section is reviewable administratively under section 270C.35 and is appealable to Tax Court under chapter 271. The penalty is collected and paid in the same manner as a tax collected by the commissioner. The penalty is in addition to any other remedy available to the commissioner or to an employee of the department against whom the document has been filed.

History: *2005 c 151 art 1 s 23*

270C.27 CIVIL DAMAGES FOR FAILURE TO RELEASE LIEN.

Subdivision 1. **In general.** (a) A taxpayer may bring a civil action for damages against the commissioner in district court when an employee or the department has knowingly or negligently:

(1) failed to release a lien as required by section 270C.63, subdivision 15; or

(2) failed to release a lien within 30 days after satisfaction of the liability on which the lien is based.

(b) An action under paragraph (a), clause (2), must be preceded by 30 days' written notice by the taxpayer to the commissioner and the taxpayer's rights advocate that the lien has not been released. An action under paragraph (a) must be commenced within two years after the date the right of action accrued.

Subd. 2. **Damages.** On a finding of liability on the part of the defendant in an action brought under subdivision 1, the defendant is liable to the plaintiff in an amount equal to the sum of actual, direct economic damages sustained by the plaintiff due to the actions of the defendant, plus the costs of the action. Damages must be paid in accordance with section 3.736, subdivision 7.

Subd. 3. **Mitigation of damages.** Damages awarded must be reduced by the amount of the damages that could reasonably have been mitigated by the plaintiff.

History: *2005 c 151 art 1 s 24; 1Sp2005 c 3 art 11 s 2*

270C.275 CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED COLLECTION ACTIONS.

Subdivision 1. **In general.** If in connection with the collection of delinquent taxes, an employee of the department recklessly or intentionally disregards a law administered by the commissioner, the taxpayer may

bring a civil action for damages against the commissioner in district court within two years after the date the right of action accrues.

Subd. 2. **Damages.** On a finding of liability on the part of the defendant in an action brought under subdivision 1, the defendant is liable to the plaintiff in an amount equal to the lesser of $200,000, or the sum of (1) actual, direct economic damages sustained by the plaintiff as a proximate result of the reckless or intentional actions of the employee and (2) the costs of the action. Damages must be paid in accordance with section 3.736, subdivision 7.

Subd. 3. **Limitations.** A judgment for damages must not be awarded under subdivision 2 unless the court determines that the plaintiff has exhausted the administrative remedies available to the plaintiff within the department. Damages awarded must be reduced by the amount of the damages that could reasonably have been mitigated by the plaintiff.

Subd. 4. **Penalties for procedures instituted primarily for delay.** When it appears to the district court that:

(1) proceedings before it under this section have been instituted or maintained by the taxpayer primarily for delay;

(2) the taxpayer's position in such proceeding is frivolous or groundless; or

(3) the taxpayer unreasonably failed to pursue available administrative remedies,

the district court, in its decision, may require the taxpayer to pay to the department a penalty not in excess of $25,000. The penalty may be collected and paid in the same manner as a tax collected by the commissioner.

History: *2005 c 151 art 1 s 25*

270C.28 DISCLOSURE OF RIGHTS OF TAXPAYERS.

Subdivision 1. **In general.** The commissioner shall prepare statements that set forth in simple and nontechnical terms:

(1) the rights and obligations of the department and the taxpayer during an audit;

(2) the procedures by which a taxpayer may appeal an adverse decision of the department, including administrative and judicial appeals;

(3) the procedures for filing refund claims and filing of taxpayer complaints; and

(4) the procedures that the department may use in enforcing a law administered by the commissioner, including assessment, jeopardy assessment, levy and distraint, and the filing of liens.

Subd. 2. **Distribution.** The appropriate statement prepared in accordance with subdivision 1 must be distributed by the commissioner to all taxpayers contacted with respect to the determination or collection of a tax, other than the providing of tax forms. Failure to receive the statement does not invalidate the determination or collection action, nor does it affect, modify, or alter any statutory time limits applicable to the determination or collection action, including the time limit for filing a claim for refund.

History: *2005 c 151 art 1 s 26; 1Sp2005 c 3 art 11 s 3*

270C.285 PROCEDURES INVOLVING IN-PERSON TAXPAYER INTERVIEWS.

Subdivision 1. **Recording of interviews.** (a) Upon reasonable advance notice from the taxpayer, a taxpayer shall be allowed to make an audio recording, with the taxpayer's equipment and at the taxpayer's expense, of an interview of the taxpayer by the department regarding the audit or collection of a tax.

(b) An employee of the department may record an interview described in paragraph (a) if the taxpayer is informed of the recording before the interview and a transcript or copy of the recording is made available to the taxpayer on the taxpayer's request, provided the department is reimbursed by the taxpayer for the cost of transcribing or copying the recording.

Subd. 2. **Safeguards.** (a) Before or at the start of an initial interview, an employee of the department shall provide to the taxpayer in the case of an audit interview an explanation of the audit process and the taxpayer's rights under that process and, in the case of a collection interview, an explanation of the collection process and the taxpayer's rights under that process.

(b) If a taxpayer requests to consult with an attorney, accountant, agent, preparer, or any other person permitted to represent the taxpayer before the department at any time during an interview, except an interview initiated by an administrative subpoena, the interview must be suspended for no more than 30 days.

Subd. 3. **Representatives holding power of attorney.** An attorney, accountant, agent, preparer, or any other person permitted to represent the taxpayer before the department who has a written power of attorney executed by the taxpayer may represent the taxpayer in an interview described in subdivision 1. The taxpayer may be required to accompany the representative only if a subpoena is issued. In this instance, with the consent of an immediate supervisor and after ten days' notice to the representative, the department employee may notify the taxpayer directly that the employee believes the representative is unreasonably delaying the examination or investigation process.

Subd. 4. **Not to apply to certain investigations.** This section does not apply to criminal investigations or investigations relating to the conduct of an employee of the department.

History: *2005 c 151 art 1 s 27*

270C.29 NOTICES TO HOLDERS OF POWERS OF ATTORNEY.

If a taxpayer has executed a written power of attorney, in a form prescribed by the commissioner, the commissioner shall allow the taxpayer to elect, in writing, that all notices and correspondence between the department and the taxpayer will be sent to the holder of the power of attorney.

History: *2005 c 151 art 1 s 28*

270C.30 RETURNS AND OTHER DOCUMENTS; FORMAT; FURNISHING.

Except as otherwise provided by law, the commissioner shall prescribe the content, format, and manner of all returns and other forms required to be filed under a law administered by the commissioner, and may furnish them subject to charge on application.

History: *2005 c 151 art 1 s 29; 2011 c 112 art 10 s 2; 1Sp2017 c 1 art 16 s 4*

270C.301 ROUNDING OF DOLLAR AMOUNTS REPORTED ON TAX FORMS.

Where not otherwise provided by law, in computing the dollar amount of items reported on any return or other document, and accompanying schedules, filed with the commissioner, money items may, in the

discretion of the commissioner, be rounded off to the nearest whole dollar amount, disregarding amounts less than 50 cents and increasing amounts of 50 cents to 99 cents to the next highest dollar.

History: *2011 c 112 art 5 s 3*

270C.302 RETURNS, OTHER FORMS; WHERE FILED.

Returns and other forms required to be filed under a law administered by the commissioner must be filed at the commissioner's office in St. Paul, or such other place as the commissioner may designate.

History: *2005 c 151 art 1 s 30*

270C.304 ELECTRONICALLY FILED RETURNS; SIGNATURES.

For purposes of a law administered by the commissioner, the name of the taxpayer, the name of the taxpayer's authorized agent, or the taxpayer's identification number, will constitute a signature when transmitted as part of the return information on returns filed by electronic means by the taxpayer or at the taxpayer's direction.

History: *2005 c 151 art 1 s 31; 2006 c 259 art 8 s 2*

270C.306 COMMISSIONER MAY REQUIRE SOCIAL SECURITY OR IDENTIFYING NUMBERS ON FORMS.

Notwithstanding the provisions of any other law except section 272.115, the commissioner may require that a form required to be filed with the commissioner include the Social Security number, federal Employer Identification Number, or Minnesota taxpayer identification number of the taxpayer or applicant.

History: *2005 c 151 art 1 s 32; 2008 c 154 art 13 s 20*

270C.308 PROHIBITION OF DISPLAY OF SOCIAL SECURITY NUMBERS.

No label, envelope, or other material printed by the department may include the Social Security number of the taxpayer in a place that will be visible to a third party when delivered or mailed to the taxpayer.

History: *2005 c 151 art 1 s 33*

270C.31 EXAMINATIONS AND INVESTIGATIONS.

Subdivision 1. **Scope.** To determine the accuracy of a return, to fix liability under state revenue law, to administer state revenue law, when conducting an investigation or an audit of a taxpayer, for the purpose of collection, and in any matter which the commissioner has the power to investigate or determine, the commissioner has authority to take the actions allowed in this section.

Subd. 2. **Reasonable examinations or investigations of taxpayer.** The commissioner may make reasonable examinations or investigations of a taxpayer's place of business, tangible personal property, equipment, computer systems, and facilities. The commissioner may inspect and copy the taxpayer's relevant books, records, papers, documents, and other data, in whatever form.

Subd. 3. **Access to records.** The commissioner may examine, except where privileged by law, the relevant records and files of any person, business, institution, financial institution, state agency, agency of the United States government, or agency of any other state where permitted by statute, agreement, or reciprocity.

Subd. 4. **Examinations under oath.** The commissioner may administer oaths and affirmations and examine taxpayers and other persons under oath or affirmation.

Subd. 5. **Depositions.** The commissioner may depose witnesses who reside inside or outside the state, or who are absent from the state. Depositions are to be taken, upon notice to the interested party, if any, in the same manner that depositions of witnesses are taken in civil actions in the district court.

Subd. 6. **Witness fees.** The fees of witnesses required by the commissioner to appear are equal to those allowed to witnesses appearing before courts of this state. The fees must be paid in the manner provided for the payment of other expenses incident to the administration of state revenue law.

Subd. 7. **Limitation of authority.** The authority granted in this section to the commissioner does not apply to a matter that has been appealed to Tax Court.

History: *2005 c 151 art 1 s 34*

270C.32 SUBPOENAS.

Subdivision 1. **Authority to issue subpoenas.** In addition to the authority to examine and investigate granted under section 270C.31, and to carry out that authority, the commissioner may issue subpoenas to compel a person, at a time and place reasonable under the circumstances, to appear and give testimony, and to produce relevant books, records, papers, documents, and other data, in whatever form, for inspection and copying.

Subd. 2. **Request by taxpayer for subpoena.** When the commissioner has the authority to issue a subpoena, the commissioner shall honor a reasonable request by a taxpayer to issue a subpoena.

Subd. 3. **Third-party subpoena where taxpayer's identity is known.** (a) An examination or investigation may extend to a person that the commissioner determines has access to information that may be relevant to the examination or investigation. When a subpoena requiring the production of records as described in subdivision 1 is served on a third-party record keeper, written notice of the subpoena must be mailed to the taxpayer and to any other person who is identified in the subpoena. The notices must be given within three days of the day on which the subpoena is served. The notice required by this subdivision is sufficient if it is mailed to the last known address of the addressee.

(b) The provisions of this subdivision regarding notice to the taxpayer or other parties identified in the subpoena do not apply if there is reasonable cause to believe that the giving of notice may lead to attempts to conceal, destroy, or alter records or assets relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records. Notice is not required under this subdivision or under another law if the taxpayer or other parties identified in the subpoena are under criminal investigation, and the subpoena has been issued as part of the criminal investigation.

(c) A third-party record keeper who is advised that a subpoena has been issued as part of a criminal investigation is prohibited from informing by any means the taxpayer or other parties identified in the subpoena of the receipt of the subpoena, the contents of the subpoena, or the fact that the taxpayer or other parties identified may be or are under criminal investigation.

Subd. 4. **Third-party subpoena where taxpayer's identity is not known.** (a) The commissioner may issue a subpoena that does not identify the person or persons with respect to whose liability the subpoena is issued, but only if:

(1) the subpoena relates to the investigation of a particular person or ascertainable group or class of persons;

(2) there is a reasonable basis to believe that the person or group or class of persons may fail or may have failed to comply with a state revenue law;

(3) the information sought to be obtained from the examination of the records, and the identity of the person or persons with respect to whose liability the subpoena is issued, is not readily available from other sources;

(4) the subpoena is clear and specific as to the information sought to be obtained; and

(5) the information sought to be obtained is limited solely to the scope of the investigation.

(b) The party served with a subpoena that does not identify the person or persons with respect to whose tax liability the subpoena is issued shall, within 20 days after service of the subpoena, petition the district court for the judicial district of the county in which that party is located for a determination as to whether the commissioner has complied with all the requirements in paragraph (a), clauses (1) to (5), and thus, whether the subpoena is enforceable. If no petition is made by the party served within the time prescribed, the subpoena shall have the force and effect of a court order.

Subd. 5. **Access to records in connection with examination of businesses located outside the state.** (a) In order to determine whether a business located outside the state of Minnesota is required to file a return under a law administered by the commissioner, the commissioner may examine the relevant records and files of the business. To the full extent permitted by the Minnesota and United States Constitutions, the commissioner may compel production of those relevant records and files by subpoena. The subpoena may be served on the secretary of state along with the address to which service of the subpoena is to be sent and a fee of $50. The secretary of state shall forward a copy of the subpoena to the business using the procedures for service of process in section 5.25, subdivision 6.

(b) The commissioner shall pay the reasonable cost of producing records subject to subpoena under this subdivision if:

(1) the subpoenaed party cannot produce the records without undue burden; and

(2) the examination made pursuant to paragraph (a) shows that the subpoenaed party is not required to file a return under a law administered by the commissioner.

Subd. 6. **Demand for court administrator's subpoena.** In addition to administrative subpoenas of the commissioner, upon demand of the commissioner or an agent of the commissioner, the court administrator of any district court shall issue a subpoena for a witness to appear before the agent, or for the production of relevant books, records, papers, documents, and other data, in whatever form, to the agent for inspection and copying.

Subd. 7. **Enforcement of subpoenas.** Failure to comply with a subpoena shall be punished in the same manner as contempt of the district court in the following venues:

(1) the district court of the district in which a court administrator's subpoena is issued under subdivision 6;

(2) the district court of the district in which the party served with a subpoena is located, when the subpoena is issued by the commissioner or the commissioner's agent; and

(3) the District Court for Ramsey County, when a subpoena is issued under subdivision 5. In addition to contempt remedies, the court may issue any order it deems reasonable to enforce compliance with a subpoena issued under subdivision 5.

Subd. 8. **Penalty for violating court order to comply with subpoena.** In addition to sanctions imposed under subdivision 7, a penalty of $250 per day is imposed on any business that is in violation of a court order to comply with a subpoena that is seeking information necessary for the commissioner to be able to determine whether the business is required to file a return or pay a tax. The maximum penalty is $25,000. Upon the request of the commissioner, the court shall determine the amount of the penalty and enter it as a judgment in favor of the commissioner. The penalty is not payable until the judgment is entered.

Subd. 9. **Cost of production of records.** The cost of producing records of a third party required by a subpoena must be paid by the taxpayer, if the taxpayer requests the subpoena to be issued, or if the taxpayer has the records available but has refused to provide them to the commissioner. In other cases where the taxpayer cannot produce records and the commissioner then issues a subpoena for third-party records, the commissioner shall pay the reasonable cost of producing the records. The commissioner may later assess the reasonable costs against the taxpayer if the records contribute to the determination of an assessment of tax against the taxpayer.

Subd. 10. **Limitation of authority.** The authority granted in this section to the commissioner and the commissioner's agents does not apply to a matter that has been appealed to Tax Court.

History: *2005 c 151 art 1 s 35; 2011 c 112 art 5 s 4*

270C.33 COMMISSIONER ASSESSMENT PROCEDURES.

Subdivision 1. **Orders and decisions.** All orders and decisions of the commissioner, or any subordinates, respecting any tax, assessment, or other obligation, must be in writing and entered into the records of the commissioner.

Subd. 2. **Notices.** (a) At the same time that notice of an assessment, determination, or order, of the commissioner is given to a taxpayer, the taxpayer must be given a written notice that:

(1) describes the taxpayer's appeal rights;

(2) lists the amounts of tax, interest, additions to tax, and penalties due; and

(3) explains the basis for the assessment.

(b) Failure to provide all the required information does not invalidate the assessment, determination, or order for purposes of satisfying statutory notice requirements if the assessment, determination, or order contains sufficient information to advise the taxpayer that an assessment has been made.

Subd. 3. **Commissioner filed returns.** If a taxpayer fails to file a return, the commissioner, from information in the commissioner's possession or obtainable by the commissioner, may make and file a return for the taxpayer, or may issue an order of assessment under subdivision 4.

Subd. 4. **Orders of assessment.** (a) The commissioner may issue an order of assessment in any of the following circumstances:

(1) the commissioner determines that the correct amount of tax is different than that assessed on a return filed with the commissioner;

(2) no return has been filed and the commissioner determines the amount of tax that should have been assessed;

(3) the commissioner determines that the correct amount of a refundable credit is different than the amount claimed by a taxpayer. For purposes of this subdivision, "refundable credit" means a refund benefit or credit due a person that is unrelated to the person's liability for a tax. "Refundable credit" does not include estimated tax payments or withholding taxes. An assessment for an overpayment of a refundable credit may be collected in the same manner as a tax collected by the commissioner;

(4) the commissioner determines the correct amount of a tax that the taxpayer is not required to assess by a return filed with the commissioner; and

(5) the commissioner determines that a penalty other than a penalty for late payment of tax, late filing of a return, or failure to pay tax by electronic means should be imposed, and the penalty is not included on an order of assessment made under clauses (1) to (4).

(b) An order of assessment must be in writing.

(c) An order of assessment must be signed by the commissioner or a delegate, or have their facsimile signature, if the change in tax, excluding penalties and interest, exceeds $1,000.

(d) An order of assessment is final when made but, as applicable, is reviewable administratively under section 270C.35, or appealable to Tax Court under chapter 271.

Subd. 5. **Prohibition against collection during appeal period of an order.** No collection action can be taken on an order of assessment, or any other order imposing a liability, including the filing of liens under section 270C.63, and no late payment penalties may be imposed when a return has been filed for the tax type and period upon which the order is based, during the appeal period of an order. The appeal period of an order ends: (1) 60 days after the notice date designated by the commissioner on the order; (2) if an administrative appeal is filed under section 270C.35, 60 days after the notice date designated by the commissioner on the written determination of the administrative appeal; (3) if an appeal to Tax Court is filed under chapter 271, when the decision of the Tax Court is made; or (4) if an appeal to Tax Court is filed and the appeal is based upon a constitutional challenge to the tax, 60 days after final determination of the appeal. This subdivision does not apply to a jeopardy assessment under section 270C.36, or a jeopardy collection under section 270C.36.

Subd. 6. **Assessment presumed valid.** A return or assessment of tax made by the commissioner is prima facie correct and valid. The taxpayer has the burden of establishing its incorrectness or invalidity in any related action or proceeding.

Subd. 7. **Aggregate refund or assessment.** The commissioner, on examining returns for more than one year or period, may issue one order covering the period under examination that reflects the aggregate refund or additional tax due.

Subd. 8. **Sufficiency of notice.** An assessment of tax made by the commissioner, sent postage prepaid by United States mail to the taxpayer at the taxpayer's last known address, or sent by electronic mail to the taxpayer's last known electronic mailing address as provided for in section 325L.08, is sufficient even if the taxpayer is deceased or is under a legal disability, or, in the case of a corporation, has terminated its existence, unless the commissioner has been provided with a new address by a party authorized to receive notices of assessment. Notice of an assessment is sufficient if it is sent on or before the notice date designated by the commissioner on the assessment.

Subd. 9. **Consent agreement.** A taxpayer shall have the right at any time, whether or not an order has been issued, to sign and deliver to the commissioner a written consent to a change in tax liability that waives the requirement of any additional notice and all rights to an administrative appeal and appeal to Tax Court concerning the assessment and collection of any part or all of the tax liability.

History: *2005 c 151 art 1 s 36,116; art 9 s 16; 2006 c 259 art 8 s 3; 2008 c 366 art 16 s 5; 1Sp2017 c 1 art 16 s 5,6*

270C.34 ABATEMENT OF PENALTY, INTEREST, AND ADDITIONAL TAX CHARGE.

Subdivision 1. **Authority.** (a) The commissioner may abate, reduce, or refund any penalty or interest that is imposed by a law administered by the commissioner, or imposed by section 270.0725, subdivision 1 or 2, or 270.075, subdivision 2, as a result of the late payment of tax or late filing of a return, or any part of an additional tax charge under section 289A.25, subdivision 2, or 289A.26, subdivision 4, if the failure to timely pay the tax or failure to timely file the return is due to reasonable cause, or if the taxpayer is located in a presidentially declared disaster or in a presidentially declared state of emergency area or in an area declared to be in a state of emergency by the governor under section 12.31.

(b) The commissioner shall abate any part of a penalty or additional tax charge under section 289A.25, subdivision 2, or 289A.26, subdivision 4, attributable to erroneous advice given to the taxpayer in writing by an employee of the department acting in an official capacity, if the advice:

(1) was reasonably relied on and was in response to a specific written request of the taxpayer; and

(2) was not the result of failure by the taxpayer to provide adequate or accurate information.

Subd. 2. **Procedure.** (a) A request for abatement of penalty under subdivision 1 or section 289A.60, subdivision 4, or a request for abatement of interest or additional tax charge, must be filed with the commissioner within 60 days of the notice date of the penalty or additional tax charge. For purposes of this section, "notice date" means the notice date designated by the commissioner on the order or other notice that a penalty or additional tax charge has been imposed.

(b) If the commissioner issues an order denying a request for abatement of penalty, interest, or additional tax charge, the taxpayer may file an administrative appeal as provided in section 270C.35 or appeal to Tax Court as provided in section 271.06.

(c) If the commissioner does not issue an order on the abatement request within 60 days from the date the request is received, the taxpayer may appeal to Tax Court as provided in section 271.06.

History: *2005 c 151 art 1 s 37; 2008 c 154 art 13 s 21; 2010 c 389 art 10 s 2; 2011 c 112 art 1 s 1; 2013 c 143 art 17 s 4; 2014 c 308 art 11 s 1; 1Sp2017 c 1 art 16 s 7*

270C.345 DETERMINATION OF MINIMUMS AND CANCELLATION; ADDITIONAL TAX, COLLECTION, REFUNDS.

Notwithstanding any other provision of law, the commissioner may:

(1) based upon the administrative costs of processing, determine minimum standards for the determination of additional tax for which an order shall be issued;

(2) based upon collection costs as compared to the amount of tax involved, determine minimum standards of collection;

(3) based upon the administrative costs of processing, determine the minimum amount of a refund to be made where no claim has been filed; and

(4) cancel any amounts below these minimum standards determined under clauses (1) and (2).

History: *2005 c 151 art 1 s 38*

270C.346 ERRONEOUS REMITTANCES.

If a remittance is erroneously made payable to the commissioner and the commissioner had knowledge that the proper payee is a state or local official of this state, the commissioner may endorse such remittance to the proper state or local official. The commissioner is also authorized to return a remittance if the records indicate that it has been erroneously submitted.

History: *2005 c 151 art 1 s 39*

270C.347 REBATE CHECKS AND WARRANTS; AUTHORITY TO REISSUE; APPROPRIATION.

Subdivision 1. **Checks and warrants, authority to reissue.** Notwithstanding any other provision of law, the commissioner may, based on a showing of reasonable cause, reissue an uncashed rebate or property tax refund warrant or check that has lapsed under any provision of law relating to rebates or under section 290A.18, subdivision 2. The authority to reissue warrants or checks under this subdivision is limited to five years after the date of issuance of the original warrant or check.

Subd. 2. **Appropriation.** An amount sufficient for the reissuance of rebate warrants authorized under subdivision 1 is appropriated to the commissioner from the general fund.

History: *2005 c 151 art 1 s 40*

270C.35 ADMINISTRATIVE REVIEW.

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

Subd. 2. **Appeal by taxpayer.** A taxpayer who wishes to seek administrative review must follow the procedures in subdivision 4.

Subd. 3. **Notice date.** For purposes of this section, "notice date" means the notice date designated by the commissioner on the order adjusting the tax or order denying a request for abatement, or, in the case of a denied refund, the notice date designated by the commissioner on the notice of denial.

Subd. 4. **Time and content for administrative appeal.** Within 60 days after the notice date, the taxpayer must file a written appeal with the commissioner. The appeal need not be in any particular form but must contain the following information:

(1) name and address of the taxpayer;

(2) if a corporation, the state of incorporation of the taxpayer, and the principal place of business of the corporation;

(3) the Minnesota identification number or Social Security number of the taxpayer;

(4) the type of tax involved;

(5) the date;

(6) the tax years or periods involved and the amount of tax involved for each year or period;

(7) the findings in the notice that the taxpayer disputes;

(8) a summary statement that the taxpayer relies on for each exception; and

(9) the taxpayer's signature or signature of the taxpayer's duly authorized agent.

Subd. 5. **Extensions.** When requested in writing and within the time allowed for filing an administrative appeal, the commissioner may extend the time for filing an appeal for a period not more than 30 days from the expiration of the 60 days from the notice date.

Subd. 6. **Determination of appeal.** On the basis of applicable law and available information, the commissioner shall determine the validity, if any, in whole or part of the appeal and notify the taxpayer of the decision. This notice must be in writing and contain the basis for the determination.

Subd. 7. **Agreement determining tax liability.** When it appears to be in the best interests of the state, the commissioner may settle any taxes, penalties, or interest that the commissioner has under consideration by virtue of an appeal filed under this section. An agreement must be in writing and signed by the commissioner and the taxpayer, or the taxpayer's representative authorized by the taxpayer to enter into an agreement. The agreement shall be final and conclusive and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact, the case shall not be reopened as to the matters agreed upon.

Subd. 8. **Order and appeal of an administrative determination.** Following the determination of an appeal and notwithstanding any period of limitations for making assessments or other determinations to the contrary, the commissioner must issue an order reflecting that disposition. If the statute of limitations for making assessments or other determinations would have expired before the issuance of this order, except for this section, the order is limited to issues or matters contained in the appealed determination. The order is appealable to the Minnesota Tax Court under section 271.06.

Subd. 9. **Appeal where no determination.** If the commissioner does not make a determination within six months of the filing of an administrative appeal, the taxpayer may elect to appeal to Tax Court.

Subd. 10. **Exemption from Administrative Procedure Act.** This section is not subject to chapter 14.

Subd. 11. **Dismissal of administrative appeal.** If a taxpayer files an administrative appeal for an order of the commissioner and also files an appeal to the Tax Court for that same order of the commissioner, the administrative appeal is dismissed and the commissioner is no longer required to make a determination of appeal under subdivision 6.

History: *2005 c 151 art 1 s 41; 1Sp2017 c 1 art 16 s 8,9*

270C.36 JEOPARDY ASSESSMENT AND COLLECTION.

Subdivision 1. **Assessment.** If the commissioner has reasonable grounds to believe that a taxpayer is about to leave, or take property from, this state with the purpose of evading a tax, or that the collection of the tax will be jeopardized by delays incident to other methods of collection, the commissioner may immediately declare the taxpayer's reporting period to be at an end and assess the tax due by issuing an order under section 270C.33, subdivision 4. The commissioner may make the assessment on the basis of knowledge

or information available to the commissioner, and notwithstanding the prohibition against collection under section 270C.33, subdivision 5, demand immediate payment of the amount due shown in the assessment.

Subd. 2. **Collection.** Notwithstanding the prohibition against collection in section 270C.33, subdivision 5, and the notice provisions in section 270C.67, subdivision 3, if the commissioner has reason to believe that collection of a tax is in jeopardy, notice and demand for immediate payment of the tax may be made. If the tax is not paid, the commissioner may proceed to collect by levy or by filing a lien under section 270C.63. For this purpose, "tax" includes any penalty, interest, and costs, properly payable.

Subd. 3. **Administrative review.** Within five days after a jeopardy assessment or jeopardy collection is made to assess or collect a tax, the commissioner shall provide the taxpayer with a written statement of the information relied on in making the assessment or levy. Within 30 days after the written statement is provided or, if not provided, within 35 days after the assessment or levy, the taxpayer may request the commissioner to review the action taken. After a request for review, the commissioner shall determine whether the assessment or levy is reasonable and whether the amount assessed or demanded as a result of the action is appropriate under the circumstances.

Subd. 4. **Judicial review.** A determination by the commissioner under subdivision 3 is appealable to the Tax Court in the manner provided by law, and the appeal must be expeditiously heard by the court. If the court determines that the making of the assessment or levy is unreasonable, or that the amount assessed or demanded is inappropriate, the court may order the commissioner to release the levy, abate the assessment, redetermine in whole or in part the amount assessed or demanded, or take other action. A determination by the court under this subdivision is final and may not be appealed by either party.

Subd. 5. **Burden of proof.** In a proceeding under subdivision 4, the burden of proving that the assessment or collection of the tax was jeopardized by delay is on the commissioner. Regarding the issue of whether the amount assessed or demanded as a result of the action is appropriate, the commissioner shall provide a written statement explaining the basis for determining the amount, and the burden is on the taxpayer to show that the statement is incorrect or invalid.

Subd. 6. **Defenses.** It is not a defense to an assessment or demand made under this section that the tax period has not terminated, that the time otherwise allowed by law to file a return has not expired, that the notices otherwise required by law for making an assessment or demand have not been given, or that the time otherwise allowed by law to appeal or pay the tax has not expired.

History: *2005 c 151 art 1 s 42*

270C.37 TAXPAYER ASSISTANCE ORDERS; TAXPAYER'S RIGHTS ADVOCATE.

Subdivision 1. **Authority to issue.** On application filed by a taxpayer with the Department of Revenue taxpayer's rights advocate, in the form, manner, and in the time prescribed by the commissioner, and after thorough investigation, the taxpayer's rights advocate may issue a taxpayer assistance order if, in the determination of the taxpayer's rights advocate, the manner in which a law administered by the commissioner is being carried out is creating or will create an unjust and inequitable result for the taxpayer.

Subd. 2. **Terms of a taxpayer assistance order.** A taxpayer assistance order may require the department within a specified time period to release property of the taxpayer levied on, cease any action, take any action as permitted by law, or refrain from taking any action to enforce a law administered by the commissioner against the taxpayer, until the issue or issues giving rise to the order have been resolved.

Subd. 3. **Authority to modify or rescind.** A taxpayer assistance order issued by the taxpayer's rights advocate under this section may be modified or rescinded by the commissioner.

Subd. 4. **Suspension of running of period of limitation.** The running of the period of limitation with respect to an action described in subdivision 2 is suspended from the date of the taxpayer assistance order until the expiration date of the order or, if modified, the expiration date of the modified order or, if rescinded, the date of the rescission.

Subd. 5. **Independent action of taxpayer's rights advocate.** This section does not prevent the taxpayer's rights advocate from taking action in the absence of an application under subdivision 1.

Subd. 6. **Taxpayer's rights advocate.** For purposes of this section, the term "taxpayer's rights advocate" includes a designee of the taxpayer's rights advocate. The taxpayer's rights advocate shall represent the interests of taxpayers who have grievances against the department in connection with an audit or collection activity, and shall report directly to the commissioner. A determination of the taxpayer's rights advocate under this section to issue or to not issue a taxpayer assistance order is final and cannot be appealed to the Tax Court or any other court.

History: *2005 c 151 art 1 s 43*

270C.38 NOTICE OF DETERMINATION OR ACTION OF THE COMMISSIONER.

Subdivision 1. **Sufficient notice.** (a) If no method of notification of a written determination or action of the commissioner is otherwise specifically provided for by law, notice of the determination or action sent postage prepaid by United States mail to the taxpayer or other person affected by the determination or action at the taxpayer's or person's last known address, is sufficient. If the taxpayer or person being notified is deceased or is under a legal disability, or, in the case of a corporation being notified that has terminated its existence, notice to the last known address of the taxpayer, person, or corporation is sufficient, unless the department has been provided with a new address by a party authorized to receive notices from the commissioner.

(b) If a taxpayer or other person agrees to accept notification by electronic means, notice of a determination or action of the commissioner sent by electronic mail to the taxpayer's or person's last known electronic mailing address as provided for in section 325L.08 is sufficient.

(c) Notice of a determination or action of the commissioner is sufficient if it is sent on or before the notice date designated by the commissioner on the notice.

Subd. 2. **Service of notice by mail.** Notwithstanding any other law to the contrary, the commissioner, if required to serve notices by registered or certified mail, may choose to make such service by regular mail, retaining a record of adequate proof of such service.

History: *2005 c 151 art 1 s 44; 2013 c 143 art 18 s 2; 1Sp2017 c 1 art 16 s 10*

270C.39 DUE DATE ON SATURDAY, SUNDAY, OR HOLIDAY.

When the last day prescribed by law for the payment of any tax to or the filing of any return, statement, or document with the commissioner or the department falls on Saturday, Sunday, or a legal holiday, the performance of such act shall be considered timely if it is performed on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For purposes of this section, the last day for the performance of the prescribed act shall be determined by including any authorized extension of time; the term "legal holiday" shall mean any day made a holiday in Minnesota by section 645.44, subdivision 5, or by the laws of the United States.

History: *2005 c 151 art 1 s 45*

270C.395 TIMELY MAILING TREATED AS TIMELY FILING AND PAYING.

Subdivision 1. **Date of delivery.** When a document, including a return, claim, or statement, is required to be filed, or a payment is required to be made to the commissioner within a prescribed period, or on or before a prescribed date, and if the document or payment is delivered by electronic means or by United States mail after the period or the date to the place prescribed for filing or payment, then the date of delivery or of payment is the date of the confirmation time-and-date stamp of the transaction, if delivered by electronic means, or the date of the United States postmark stamped on the cover in which the document or payment is mailed, if delivered by United States mail, as the case may be.

Subd. 2. **Mailing requirements.** Subdivision 1 applies only if:

(1) the postmark date falls within the prescribed period or on or before the prescribed date,

(i) for filing (including any extension granted for the filing) of the document, or

(ii) for making the payment (including any extension granted for making the payment); and

(2) the document or payment was within the time prescribed in clause (1), deposited in the mail in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the office of the Department of Revenue with which the document is required to be filed or to which payment is required to be made.

Subd. 3. **Confirmation of electronic filing and payment and United States Postal Service postmark.** The confirmation numbers and confirmation time-and-date stamps received by the taxpayer following electronic payment or filing are proof of the payment authorization and filing dates. Only the postmark of the United States Postal Service, rather than those of private postage meters, qualifies as proof of timely mailing under this section. If the document or payment is sent by United States registered mail, the date of registration shall be treated as the postmark date. If the document or payment is sent by United States certified mail and the sender's receipt is postmarked by the postal employee to whom the envelope containing such document or payment is presented, the date of the United States postmark on the receipt shall be treated as the postmark date of the document or payment.

Subd. 4. **Receipt date otherwise governs.** In any case in which the document or payment is not treated as timely filed or paid under this section, the date of receipt by the commissioner, and not the postmark date, shall govern for purposes of determining the amount of any penalties for late filing or payment.

Subd. 5. **Private delivery services.** A reference in this section to the United States mail shall be treated as including a reference to any designated delivery service, and any reference in this section to a postmark by the United States Postal Service shall be treated as including a reference to any date recorded or marked by any designated delivery service in accordance with section 7502(f) of the Internal Revenue Code.

History: *2005 c 151 art 1 s 46*

270C.40 INTEREST PAYABLE TO COMMISSIONER.

Subdivision 1. **Interest; rate.** If any tax payable to the commissioner or to the department is not paid within the time specified by law for payment, the unpaid tax shall bear interest at the rate for each year determined in subdivision 5 from the date such tax should have been paid until the date that the tax was paid, unless otherwise provided by law.

Subd. 2. **Extension of time.** When an extension of time has been granted by the commissioner, interest shall be paid at the rate for each year determined in subdivision 5 from the date such payment should have been made, if no extension had been granted, until the date of payment of such tax.

Subd. 3. **Penalty.** If any penalty payable to the commissioner shall by law bear interest, such penalty shall bear interest at the rate for each year determined in subdivision 5 from the date the penalty was assessable until the date that such penalty was paid, unless a different rate of interest is otherwise provided by law.

Subd. 4. **Underpayment of estimated tax.** There shall be added to the amount of any underpayment of estimated tax, computed pursuant to chapter 289A, an amount in lieu of interest. The amount in lieu of interest for that taxable year shall be the amount determined in subdivision 5 for January 1 on which begins the taxable year or precedes the beginning of the taxable year. The amount in lieu of interest does not bear interest after the due date of the return for that taxable year.

Subd. 5. **Annual interest rate.** The rate of interest or amount in lieu of interest contained in subdivisions 1 to 4 shall be determined by the commissioner not later than October 15 of each year and shall be equal to the prime rate charged by banks during the six-month period ending on September 30 of that year, rounded to the nearest full percent. The rate of interest or amount in lieu of interest becomes effective on January 1 of the immediately succeeding year except as provided in subdivision 4. For purposes of this subdivision, the term "prime rate charged by banks" means the average predominant prime rate quoted by commercial banks to large businesses, as determined by the Board of Governors of the Federal Reserve System. The determination of the commissioner pursuant to this subdivision shall not be considered a "rule" and shall not be subject to the Administrative Procedure Act contained in chapter 14.

Subd. 6. **Unpaid judgment.** Notwithstanding section 549.09, if judgment is entered upon any tax payable to the commissioner which has not been paid within the time specified by law for payment, the unpaid judgment shall bear interest at the rate specified in this section from the date judgment is entered until the date of payment.

History: *2005 c 151 art 1 s 47*

270C.405 INTEREST ON REFUNDS.

When any tax payable to the commissioner or to the department is overpaid and an amount is due the taxpayer as a refund of the overpayment, the overpayment shall bear interest from the date of payment of the tax until the date the refund is paid or credit is made, unless another period for computing interest is provided by law. The interest rate per annum on overpayments shall be the interest rate contained in section 270C.40, subdivision 5; the rate shall be adjusted annually and become effective as provided in section 270C.40, subdivision 5. The determination of the commissioner pursuant to this section is not a "rule" and is not subject to the Administrative Procedure Act contained in chapter 14.

History: *2005 c 151 art 1 s 48*

270C.41 AGREEMENTS WITH FEDERAL GOVERNMENT.

Subdivision 1. **Agreement with Internal Revenue Service.** Pursuant to section 270B.12, the commissioner may enter into an agreement with the Internal Revenue Service to identify taxpayers who have refunds due from the department and liabilities owing to the Internal Revenue Service. In accordance with the procedures established in the agreement, the Internal Revenue Service may levy against the refunds to be paid by the department. For each refund levied upon, the commissioner shall first deduct from the refund a fee of $20, and then remit the refund or the amount of the levy, whichever is less, to the Internal

Revenue Service. The proceeds of fees shall be deposited into the Department of Revenue recapture revolving fund under section 270A.07, subdivision 1.

Subd. 2. **Reciprocal offset agreements.** (a) The commissioner is authorized to enter into agreements with the federal Department of the Treasury that provide for offsetting state payments against federal nontax obligations. Except as provided in paragraph (d), the commissioner may charge a fee of $20 per transaction for such offsets and may collect this offset fee from the debtor by deducting it from the state payment. The agreement may provide for offsetting federal payments, as authorized by federal law, against state tax and nontax obligations, and collecting the offset cost from the debtor. The agreement shall provide that the federal Department of the Treasury may deduct a fee from each administrative offset and state payment offset. Setoffs to collect state and other entity obligations under this chapter and chapters 16D and 270A, and any other provision of Minnesota Statutes, occur before a state payment offset. For purposes of this paragraph "administrative offset" is any offset of federal payments to collect state debts and "state payment offset" is any offset of state payments to collect federal nontax debts.

(b) A debt is eligible for offset under this program if notice of intent to offset the debt is sent at least 60 days prior to filing an offset claim or a shorter period of time, if required by federal law or an agreement with the federal Department of the Treasury. When there is an agreement for scheduled payments on an account, the debtor must be sent this notice each time an additional debt is claimed.

(c) The debtor shall have the time period required for notice under paragraph (b) to contest the offset. An agreement under this section must not allow for offset of payments if the debt that would be subject to the offset is being contested or if the time for appealing the determination of the debt has not yet expired. The treasury offset program agreement entered into by the state must not require federal agencies to provide different due process than the requirements under Code of Federal Regulations, title 31, section 285.6.

(d) Notwithstanding the fee authorized under paragraph (a), if the commissioner enters into a contingency fee agreement with a nonstate vendor to provide assistance under this section, the commissioner may charge a debtor a fee for the processing of state payment offsets for the recovery of federal nontax debts or the processing of federal payment offsets for the recovery of state tax and nontax debt. The fee is a separate debt and may be withheld from any refund, reimbursement, or other money held for the debtor. The fee may not exceed 15 percent of the original debt. Section 16A.1283 does not apply to fees charged under this paragraph.

History: *2005 c 151 art 1 s 49; 1Sp2011 c 10 art 3 s 33*

270C.42 ELECTRONIC PAYMENTS; PENALTY.

Subdivision 1. **Payments required to be made electronically.** (a) If a taxpayer is required to make payment of a tax to the commissioner by electronic means, the taxpayer shall make all payments of all taxes and fees paid to the commissioner by electronic means.

(b) Paragraph (a) does not apply to payments required to be made for individual income taxes under section 289A.20, subdivision 1, paragraph (a), or 289A.25.

Subd. 2. **Penalty for failure to pay electronically.** In addition to other applicable penalties imposed by law, after notification from the commissioner to the taxpayer that payments for a tax payable to the commissioner are required to be made by electronic means, 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 if the failure to remit the payment electronically is due to reasonable cause. The penalty bears interest at the rate specified in section 270C.40 from the date provided in section 270C.40, subdivision 3, to the date of payment of the penalty.

History: *2005 c 151 art 1 s 50; 2013 c 143 art 18 s 3*

270C.425 FINANCIAL TRANSACTION CARDS; PAYMENT OF TAXES; APPROPRIATION.

(a) The commissioner may allow taxpayers to use financial transaction cards, as defined in section 325G.02, subdivision 2, to pay any of the following which are payable to the commissioner:

(1) taxes;

(2) estimated tax deposits;

(3) penalties;

(4) interest;

(5) additions to taxes; and

(6) fees.

(b) The commissioner may impose a fee on each transaction under paragraph (a). The fee is equal to the fee the commissioner is required to pay for the taxpayer's use of the financial transaction card. This fee must be deposited in the general fund and is appropriated to the commissioner for the purpose of paying the transaction card fee.

(c) The types of financial transaction cards that will be accepted shall be determined solely by the commissioner. The selection of transaction card vendors shall be made through a request for proposals process. Before issuing a request for proposals, the commissioner shall review the request for proposals and any specifications with the commissioner of management and budget. The commissioner shall select the transaction card vendors from among those which meet the operational and cost requirements of the department. The commissioner may limit the number of different types of financial transaction cards that will be accepted.

(d) If the commissioner allows taxpayers to pay taxes with financial transaction cards, the commissioner shall report quarterly on the status of this program to the chairs of the house of representatives Tax and Appropriations Committees and the chairs of the senate Tax and Finance Committees.

History: *2005 c 151 art 1 s 51; 2009 c 101 art 2 s 109*

270C.43 REFUNDS PAYABLE IN INSTALLMENTS.

Subdivision 1. **Law held unconstitutional.** Where there is (1) a final judicial determination that a law administered by the commissioner is unconstitutional, is in violation of state or federal law, or that a regulation or statute has been misinterpreted by the department; and (2) the determination is not limited to prospective application, the procedures in this section relating to refunds attributable to that determination apply.

Subd. 2. **Estimate of cumulative refunds.** The commissioner shall estimate the cumulative refunds due resulting from the judicial determination.

Subd. 3. **General refund provisions.** If the commissioner determines that the cumulative refunds due all affected taxpayers will not exceed $50,000,000, the general provisions for refunding for the particular tax type apply.

Subd. 4. **Refund procedures.** (a) If the commissioner determines that the cumulative refunds due all affected taxpayers will exceed $50,000,000, the refund procedures in this subdivision apply.

(b) The refunds due shall be paid in five installments. The first installment will be paid during the calendar year following the later of the filing of the refund claim or the final judicial determination and subsequent installments will be paid at any time during each of the four succeeding calendar years.

(c) The commissioner shall compute the annual refund installment due under this subdivision, and notify the taxpayer of the total amount of the claim for refund which has been allowed.

(d) The installment paid each year equals 20 percent of the refund allowed unless the commissioner determines that the cumulative refunds due for a particular year under this section will exceed $150,000,000. If the refunds payable will exceed that amount, they will be reduced pro rata with any balance remaining due payable with the final refund installment.

(e) Unless contrary to the provisions in this section, the provisions for refunds in the various tax types, including provisions related to the payment of interest, apply to the refunds subject to these provisions.

(f) The commissioner may establish a de minimis individual refund amount below which the installment provisions do not apply. The amount established under this paragraph is not subject to the provisions of chapter 14.

(g) If the commissioner of management and budget determines that it is in the best interest of the state, refunds payable under this section may be paid in fewer than five installments.

History: *2005 c 151 art 1 s 52; 2009 c 101 art 2 s 109*

270C.435 REFUNDS NOT SUBJECT TO ATTACHMENT OR GARNISHMENT.

No amount of a tax refund or other payment payable by the commissioner to a taxpayer is assignable or subject to execution, levy, attachment, garnishment, lien foreclosure, or other legal process, except as specifically provided by law.

History: *2008 c 154 art 15 s 5*

270C.44 PRACTICE BEFORE THE COMMISSIONER.

The commissioner shall prescribe rules governing the qualification and practice of agents, attorneys, or other persons representing taxpayers before the commissioner. The rules may require that those persons, agents, and attorneys show that they are of good character and in good repute, have the necessary qualifications to give taxpayers valuable services, and are otherwise competent to advise and assist taxpayers in the presentation of their case before being recognized as representatives of taxpayers. After due notice and opportunity for hearing, the commissioner may suspend and bar from further practice before the commissioner any person, agent, or attorney who is shown to be incompetent or disreputable, who refuses to comply with the rules, or who with intent to defraud, willfully or knowingly deceives, misleads, or threatens a taxpayer or prospective taxpayer, by words, circular, letter, or by advertisement. This section does not curtail the

rights of individuals to appear in their own behalf or partners or corporations' officers to appear in behalf of their respective partnerships or corporations.

History: *2005 c 151 art 1 s 53*

270C.445 TAX PREPARATION SERVICES.

Subdivision 1. MS 2016 [Repealed, 1Sp2017 c 1 art 22 s 22]

Subd. 2. **Definitions.** (a) For purposes of this section and sections 270C.4451 to 270C.447, the following terms have the meanings given.

(b) "Advertise" means to solicit business through any means or medium.

(c) "Client" means a person for whom a tax preparer performs or agrees to perform tax preparation services.

(d) "Facilitate" means to individually or in conjunction or cooperation with another person:

(1) accept an application for a refund anticipation loan;

(2) pay to a client the proceeds, through direct deposit, a negotiable instrument, or any other means, of a refund anticipation loan; or

(3) offer, arrange, process, provide, or in any other manner act to allow the making of, a refund anticipation loan.

(e) "Refund anticipation check" means a negotiable instrument provided to a client by the tax preparer or another person, which is issued from the proceeds of a taxpayer's federal or state income tax refund or both and represents the net of the refund minus the tax preparation fee and any other fees. A refund anticipation check includes a refund transfer.

(f) "Refund anticipation loan" means a loan or any other extension of credit, whether provided by the tax preparer or another entity such as a financial institution, in anticipation of, and whose payment is secured by, a client's federal or state income tax refund or both.

(g) "Tax preparation services" means services provided for compensation to a client to:

(1) assist with preparing or filing a return;

(2) assume final responsibility for completed work on a return on which preliminary work has been done by another;

(3) sign or include on a return the preparer tax identification number required under section 6109(a)(4) of the Internal Revenue Code; or

(4) facilitate the provision of a refund anticipation loan or a refund anticipation check.

(h) "Tax preparer" or "preparer" means a person providing tax preparation services except:

(1) an employee who prepares their employer's return;

(2) any fiduciary, or the regular employees of a fiduciary, while acting on behalf of the fiduciary estate, testator, trustor, grantor, or beneficiaries of them;

(3) nonprofit organizations providing tax preparation services under the Internal Revenue Service Volunteer Income Tax Assistance Program or Tax Counseling for the Elderly Program;

(4) a person who merely furnishes typing, reproducing, or other mechanical assistance;

(5) a third-party bulk filer as defined in section 290.92, subdivision 30, that is currently registered with the commissioner; and

(6) a certified service provider as defined in section 297A.995, subdivision 2, paragraph (c), that provides all of the sales tax functions for a retailer not maintaining a place of business in this state as described in section 297A.66.

(i) Except as otherwise provided, "return" means:

(1) a return as defined in section 270C.01, subdivision 8;

(2) a claim for refund of an overpayment;

(3) a claim filed pursuant to chapter 290A; and

(4) a claim for a credit filed under section 290.0677, subdivision 1.

Subd. 3. **Standards of conduct.** No tax preparer shall:

(1) without good cause fail to promptly, diligently, and without unreasonable delay complete a client's return;

(2) obtain the signature of a client to a return or authorizing document that contains blank spaces to be filled in after it has been signed;

(3) fail to sign a client's return when compensation for services rendered has been made;

(4) fail to provide on a client's return the preparer tax identification number when required under section 6109(a)(4) of the Internal Revenue Code or section 289A.60, subdivision 28;

(5) fail or refuse to give a client a copy of any document requiring the client's signature within a reasonable time after the client signs the document;

(6) fail to retain for at least four years a copy of a client's returns;

(7) fail to maintain a confidential relationship with clients or former clients;

(8) fail to take commercially reasonable measures to safeguard a client's nonpublic personal information;

(9) make, authorize, publish, disseminate, circulate, or cause to make, either directly or indirectly, any false, deceptive, or misleading statement or representation relating to or in connection with the offering or provision of tax preparation services;

(10) require a client to enter into a loan arrangement in order to complete a client's return;

(11) claim credits or deductions on a client's return for which the tax preparer knows or reasonably should know the client does not qualify;

(12) report a household income on a client's claim filed under chapter 290A that the tax preparer knows or reasonably should know is not accurate;

(13) engage in any conduct that is subject to a penalty under section 289A.60, subdivision 13, 20, 20a, 26, or 28;

(14) whether or not acting as a taxpayer representative, fail to conform to the standards of conduct required by Minnesota Rules, part 8052.0300, subpart 4;

(15) whether or not acting as a taxpayer representative, engage in any conduct that is incompetent conduct under Minnesota Rules, part 8052.0300, subpart 5;

(16) whether or not acting as a taxpayer representative, engage in any conduct that is disreputable conduct under Minnesota Rules, part 8052.0300, subpart 6;

(17) charge, offer to accept, or accept a fee based upon a percentage of an anticipated refund for tax preparation services;

(18) under any circumstances, withhold or fail to return to a client a document provided by the client for use in preparing the client's return;

(19) take control or ownership of a client's refund or department payment by any means, including:

(i) directly or indirectly endorsing or otherwise negotiating a check or other refund instrument, including an electronic version of a check;

(ii) directing an electronic or direct deposit of the refund or department payment into an account unless the client's name is on the account; and

(iii) establishing or using an account in the preparer's name to receive a client's refund or department payment through a direct deposit or any other instrument unless the client's name is also on the account;

(20) fail to act in the best interests of the client;

(21) fail to safeguard and account for any money handled for the client;

(22) fail to disclose all material facts of which the preparer has knowledge which might reasonably affect the client's rights and interests;

(23) violate any provision of section 332.37;

(24) include any of the following in any document provided or signed in connection with the provision of tax preparation services:

(i) a hold harmless clause;

(ii) a confession of judgment or a power of attorney to confess judgment against the client or appear as the client in any judicial proceeding;

(iii) a waiver of the right to a jury trial, if applicable, in any action brought by or against a debtor;

(iv) an assignment of or an order for payment of wages or other compensation for services;

(v) a provision in which the client agrees not to assert any claim or defense otherwise available;

(vi) a waiver of any provision of this section or a release of any obligation required to be performed on the part of the tax preparer; or

(vii) a waiver of the right to injunctive, declaratory, or other equitable relief or relief on a class basis; or

(25) if making, providing, or facilitating a refund anticipation loan, fail to provide all disclosures required by the federal Truth in Lending Act, United States Code, title 15, in a form that may be retained by the client.

Subd. 3a. [Renumbered 270C.4451, subdivision 1]

Subd. 4. [Renumbered 270C.4451, subd 2]

Subd. 4a. [Renumbered 270C.4451, subd 3]

Subd. 4b. [Renumbered 270C.4451, subd 4]

Subd. 5. **Itemized bill required.** A tax preparer must provide an itemized statement of the charges for services, at least separately stating the charges for:

(1) return preparation;

(2) providing or facilitating a refund anticipation loan; and

(3) each fee associated with the provision of a refund anticipation check.

Subd. 5a. **Nongame wildlife checkoff.** A tax preparer must give written notice of the option to contribute to the nongame wildlife management account in section 290.431 to corporate clients that file an income tax return and to individual clients who file an income tax return or claim under chapter 290A. This notification must be included with information sent to the client at the same time as the preliminary worksheets or other documents used in preparing the client's return and must include a line for displaying contributions.

Subd. 5b. [Renumbered 270C.4451, subd 5]

Subd. 6. **Enforcement; administrative order; penalties; cease and desist.** (a) The commissioner may impose an administrative penalty of not more than $1,000 per violation of subdivision 3 or 5, or section 270C.4451, provided that a penalty may not be imposed for any conduct for which a tax preparer penalty is imposed under section 289A.60, subdivision 13. The commissioner may terminate a tax preparer's authority to transmit returns electronically to the state, if the commissioner determines the tax preparer engaged in a pattern and practice of violating this section. Imposition of a penalty under this paragraph is subject to the contested case procedure under chapter 14. The commissioner shall collect the penalty in the same manner as the income tax. There is no right to make a claim for refund under section 289A.50 of the penalty imposed under this paragraph. Penalties imposed under this paragraph are public data.

(b) In addition to the penalty under paragraph (a), if the commissioner determines that a tax preparer has violated subdivision 3 or 5, or section 270C.4451, the commissioner may issue an administrative order to the tax preparer requiring the tax preparer to cease and desist from committing the violation. The administrative order may include an administrative penalty provided in paragraph (a).

(c) If the commissioner issues an administrative order under paragraph (b), the commissioner must send the order to the tax preparer addressed to the last known address of the tax preparer.

(d) A cease and desist order under paragraph (b) must:

(1) describe the act, conduct, or practice committed and include a reference to the law that the act, conduct, or practice violates; and

(2) provide notice that the tax preparer may request a hearing as provided in this subdivision.

(e) Within 30 days after the commissioner issues an administrative order under paragraph (b), the tax preparer may request a hearing to review the commissioner's action. The request for hearing must be made in writing and must be served on the commissioner at the address specified in the order. The hearing request must specifically state the reasons for seeking review of the order. The date on which a request for hearing is served by mail is the postmark date on the envelope in which the request for hearing is mailed.

(f) If a tax preparer does not timely request a hearing regarding an administrative order issued under paragraph (b), the order becomes a final order of the commissioner and is not subject to review by any court or agency.

(g) If a tax preparer timely requests a hearing regarding an administrative order issued under paragraph (b), the hearing must be commenced by the issuance of a notice of and order for hearing by the commissioner within 30 days after the commissioner receives the request for a hearing.

(h) A hearing timely requested under paragraph (e) is subject to the contested case procedure under chapter 14, as modified by this subdivision. The administrative law judge must issue a report containing findings of fact, conclusions of law, and a recommended order within 30 days after the completion of the hearing, the receipt of late-filed exhibits, or the submission of written arguments, whichever is later.

(i) Within 15 days of the date of the administrative law judge's report issued under paragraph (h), any party aggrieved by the administrative law judge's report may submit written exceptions and arguments to the commissioner. Within 45 days after receiving the administrative law judge's report, the commissioner must issue an order vacating, modifying, or making final the administrative order.

(j) The commissioner and the tax preparer requesting a hearing may by agreement lengthen any time periods prescribed in paragraphs (g) to (i).

(k) An administrative order issued under paragraph (b) is in effect until it is modified or vacated by the commissioner or an appellate court. The administrative hearing provided by paragraphs (e) to (i) and any appellate judicial review as provided in chapter 14 constitute the exclusive remedy for a tax preparer aggrieved by the order.

(l) The commissioner may impose an administrative penalty, in addition to the penalty under paragraph (a), up to $5,000 per violation of a cease and desist order issued under paragraph (b). Imposition of a penalty under this paragraph is subject to the contested case procedure under chapter 14. Within 30 days after the commissioner imposes a penalty under this paragraph, the tax preparer assessed the penalty may request a hearing to review the penalty order. The request for hearing must be made in writing and must be served on the commissioner at the address specified in the order. The hearing request must specifically state the reasons for seeking review of the order. The cease and desist order issued under paragraph (b) is not subject to review in a proceeding to challenge the penalty order under this paragraph. The date on which a request for hearing is served by mail is the postmark date on the envelope in which the request for hearing is mailed. If the tax preparer does not timely request a hearing, the penalty order becomes a final order of the commissioner and is not subject to review by any court or agency. A penalty imposed by the commissioner under this paragraph may be collected and enforced by the commissioner as an income tax liability. There is no right to make a claim for refund under section 289A.50 of the penalty imposed under this paragraph. A penalty imposed under this paragraph is public data.

(m) If a tax preparer violates a cease and desist order issued under paragraph (b), the commissioner may terminate the tax preparer's authority to transmit returns electronically to the state. Termination under this paragraph is public data.

(n) A cease and desist order issued under paragraph (b) is public data when it is a final order.

(o) Notwithstanding any other law, the commissioner may impose a penalty or take other action under this subdivision against a tax preparer, with respect to a return, within the period to assess tax on that return as provided by sections 289A.38 to 289A.382.

(p) Notwithstanding any other law, the imposition of a penalty or any other action against a tax preparer under this subdivision, other than with respect to a return, must be taken by the commissioner within five years of the violation of statute.

Subd. 6a. **Exchange of data; State Board of Accountancy.** The State Board of Accountancy shall refer to the commissioner complaints it receives about tax preparers who are not subject to the jurisdiction of the State Board of Accountancy and who are alleged to have violated the provisions of this section, except subdivision 5a, or section 270C.4451.

Subd. 6b. **Exchange of data; Lawyers Professional Responsibility Board.** The Lawyers Professional Responsibility Board may refer to the commissioner complaints it receives about tax preparers who are not subject to its jurisdiction and who are alleged to have violated the provisions of this section, except subdivision 5a, or section 270C.4451.

Subd. 6c. **Exchange of data; commissioner.** The commissioner shall refer information and complaints about tax preparers who are alleged to have violated the provisions of this section, except subdivision 5a, or section 270C.4451, to:

(1) the State Board of Accountancy, if the tax preparer is under its jurisdiction; and

(2) the Lawyers Professional Responsibility Board, if the tax preparer is under its jurisdiction.

Subd. 6d. **Data private.** Information exchanged on individuals under subdivisions 6a to 6c are private data under section 13.02, subdivision 12, until such time as a penalty is imposed as provided in section 326A.08 or by the Lawyers Professional Responsibility Board.

Subd. 7. **Enforcement; civil actions.** (a) Any violation of this section or section 270C.4451 is an unfair, deceptive, and unlawful trade practice within the meaning of section 8.31. An action taken under this section is in the public interest.

(b) A client may bring a civil action seeking redress for a violation of this section in the conciliation or the district court of the county in which unlawful action is alleged to have been committed or where the respondent resides or has a principal place of business.

(c) A court finding for the plaintiff must award:

(1) actual damages;

(2) incidental and consequential damages;

(3) statutory damages of twice the sum of: (i) the tax preparation fees; and (ii) if the plaintiff violated section 270C.4451, subdivision 1, 2, or 5, all interest and fees for a refund anticipation loan;

(4) reasonable attorney fees;

(5) court costs; and

(6) any other equitable relief as the court considers appropriate.

Subd. 8. **Limited exemptions.** (a) Except as provided in paragraph (b), the provisions of subdivisions 3; 5; 5a; 6, paragraphs (a) to (n); and 7, do not apply to:

(1) an attorney admitted to practice under section 481.01;

(2) a registered accounting practitioner, a registered accounting practitioner firm, a certified public accountant, or a certified public accountant firm, licensed in accordance with chapter 326A;

(3) an enrolled agent who has passed the special enrollment examination administered by the Internal Revenue Service;

(4) a person who provides, or assists in providing, tax preparation services within the scope of duties as an employee under the direction or supervision of a person who is exempt under this subdivision; or

(5) a person acting as a supervisor to a tax preparer who is exempt under this subdivision.

(b) The provisions of subdivisions 3; 6, paragraphs (a) to (n); and 7, apply to a tax preparer who would otherwise be exempt under paragraph (a) if the tax preparer has:

(1) had a professional license suspended or revoked for cause, not including a failure to pay a professional licensing fee, by any authority of any state, territory, or possession of the United States, including a commonwealth, or the District of Columbia, any federal court of record, or any federal agency, body, or board;

(2) irrespective of whether an appeal has been taken, been convicted of any crime involving dishonesty or breach of trust;

(3) been censured, suspended, or disbarred under United States Treasury Department Circular 230;

(4) been sanctioned by a court of competent jurisdiction, whether in a civil or criminal proceeding, including suits for injunctive relief, relating to any taxpayer's tax liability or the tax preparer's own tax liability, for:

(i) instituting or maintaining proceedings primarily for delay;

(ii) advancing frivolous or groundless arguments; or

(iii) failing to pursue available administrative remedies; or

(5) demonstrated a pattern of willful disreputable conduct by:

(i) failing to file a return that the tax preparer was required to file annually for two of the three immediately preceding tax periods; or

(ii) failing to file a return that the tax preparer was required to file more frequently than annually for three of the six immediately preceding tax periods.

Subd. 9. **Powers additional.** The powers and authority granted in this section are in addition to all other powers of the commissioner. The use of the powers granted in this section does not preclude the use of any other power or authority of the commissioner.

History: *2005 c 151 art 1 s 54,116; art 9 s 2-9; 1Sp2005 c 3 art 11 s 4; 2009 c 88 art 12 s 1; 2010 c 382 s 56; 1Sp2017 c 1 art 22 s 1-10,21; 1Sp2021 c 14 art 2 s 1; art 16 s 2; 2024 c 85 s 80-82; 1Sp2025 c 13 art 1 s 4; art 11 s 1,2*

270C.4451 REFUND ANTICIPATION LOANS AND CHECKS; REQUIRED DISCLOSURES.

Subdivision 1. **Written agreements required; refund anticipation loans and checks.** (a) All agreements to make, provide, or facilitate a refund anticipation loan or refund anticipation check must be in writing. No agreement may include a provision that directly or indirectly arranges for payment of or deduction from any portion of the refund anticipation loan or refund anticipation check for check cashing, credit insurance, attorney fees, or the collection of any debt owed to any party for any other good or service other than a debt owed to the facilitator for the repayment of a refund anticipation loan and tax preparation fees associated with the refund anticipation loan or refund anticipation check.

(b) If a written agreement contains a mandatory arbitration clause, the tax preparer must provide a separate written notice to the client that:

(1) arbitration is the exclusive means of dispute resolution for any dispute about the written agreement;

(2) the client has the right to affirmatively opt out of the arbitration clause within 30 days of entering into an agreement; and

(3) the client is not bound to arbitration if the claim or dispute involves a violation of this section or the client invokes the remedies provided in section 270C.445, subdivision 7.

The tax preparer must advise the client, both orally and in writing, of the process by which the client may exercise the right to opt out of the mandatory arbitration clause.

Subd. 2. **Required disclosures.** (a) Before or at the same time a tax preparer offers to make or facilitate a refund anticipation loan to the client, the preparer must make the disclosures in subdivision 3. Before or at the same time a tax preparer offers or facilitates a refund anticipation check or refund transfer, the tax preparer must make the disclosures in subdivision 4.

(b) The disclosures must be provided to a client in a written notice on a single sheet of paper, separate from any other document or writing.

(c) All required statements must be in capital and small font type fonts, in a minimum of 14-point type, with at least a double space between each statement.

(d) The notice must be signed and dated by the tax preparer and the client.

(e) All required disclosures, notices, and statements must be provided in the client's primary language, if the tax preparer advertises in that language.

Subd. 3. **Refund anticipation loan disclosures.** The disclosure required under subdivision 2 for a refund anticipation loan must contain:

(1) a legend, centered at the top on the single sheet of paper, in bold, capital letters, and in 28-point type stating "NOTICE";

(2) the following verbatim statements:

(i) "This is a loan. This is not your refund. The annual percentage rate (APR), based on the estimated payment period, is (fill in the estimated APR).";

(ii) "Your refund will be used to repay the loan. As a result, the amount of your refund will be reduced by (fill in appropriate dollar amount) for fees, interest, and other charges.";

(iii) "You have the right to cancel this transaction by returning the loan check or the amount of the loan in cash within one business day after you get the loan."; and

(iv) "You can get your refund in about two weeks if you file your return electronically and have the Internal Revenue Service send your refund to your own bank account."; and

(3) if the client is subject to additional interest when a refund is delayed, the following verbatim statement must also be included in the notice: "If you choose to take this loan and your refund is delayed, you may have to pay."

Subd. 4. **Refund anticipation check disclosures.** (a) The disclosure required under subdivision 2 for a refund anticipation check must contain:

(1) a legend, centered at the top on the single sheet of paper, in bold, capital letters, and in 28-point type stating "NOTICE";

(2) the following verbatim statements:

(i) "You do not have to purchase a refund anticipation check (RAC) to get your tax refund.";

(ii) "Generally the IRS can direct deposit your income tax refund to your personal bank account within 8 to 15 days after the IRS accepts your tax return for processing.";

(iii) "If you choose to purchase a RAC, your tax return funds will generally be made available to you within 8 to 15 days.";

(iv) "A RAC is not a loan.";

(v) "The cost of the RAC is $ (fill in dollar amount).";

(vi) "You can either pay for your RAC now or you can have it withheld from your refund."; and

(vii) "The cost of your tax return is not any more or any less if you purchase a RAC."

(b) A tax preparer offering a refund anticipation check that uses a different product name, including but not limited to refund transfer, must substitute the product name for "RAC" in all the statements required under this subdivision.

Subd. 5. **Right to rescind refund anticipation loan.** (a) A client may rescind a refund anticipation loan on or before the close of business on the next day of business following execution of the loan agreement or receipt of the proceeds of the loan by (1) providing written notification to the tax preparer of the rescission, and (2) either (i) returning the original check issued for the loan, or (ii) tendering the amount of the loan to the tax preparer.

(b) The tax preparer may charge a fee for rescinding a refund anticipation loan only if an account has been established at a financial institution to electronically receive the refund and the financial institution has charged a fee to establish the account. The allowable fee the tax preparer may charge the client rescinding

the refund anticipation loan may not exceed the fee charged to the tax preparer by the financial institution to establish the account.

History: *2005 c 151 art 1 s 54; 2009 c 88 art 12 s 1; 1Sp2017 c 1 art 22 s 21*

270C.446 PUBLICATION OF NAMES OF TAX PREPARERS SUBJECT TO PENALTIES.

Subdivision 1. **Publication of list.** Notwithstanding any other law, the commissioner must publish as provided in this section a list or lists of tax preparers subject to penalties.

Subd. 2. **Required and excluded tax preparers.** (a) Subject to the limitations of paragraph (b), the commissioner must publish lists of tax preparers as defined in section 270C.445, subdivision 2, paragraph (h), who have been:

(1) convicted under section 289A.63;

(2) assessed penalties in excess of $1,000 under section 289A.60, subdivision 13, paragraph (a);

(3) convicted for identity theft under section 609.527, or a similar statute, for a return filed with the commissioner, the Internal Revenue Service, or another state;

(4) assessed a penalty under section 270C.445, subdivision 6, paragraph (a), in excess of $1,000;

(5) issued a cease and desist order under section 270C.445, subdivision 6, paragraph (b), that has become a final order;

(6) assessed a penalty under section 270C.445, subdivision 6, paragraph (l), for violating a cease and desist order; or

(7) assessed a penalty under section 289A.60, subdivision 28, paragraph (c) or (d), in excess of $1,000.

(b) For the purposes of this section, tax preparers are not subject to publication if:

(1) an administrative or court action contesting or appealing a penalty described in paragraph (a), clause (2), (4), or (6), has been filed or served and is unresolved at the time when notice would be given under subdivision 3;

(2) an appeal period to contest a penalty described in paragraph (a), clause (2), (4), or (6), has not expired;

(3) the commissioner has been notified that the tax preparer is deceased;

(4) an appeal period to contest a cease and desist order issued under section 270C.445, subdivision 6, paragraph (b), has not expired;

(5) an administrative or court action contesting or appealing a cease and desist order issued under section 270C.445, subdivision 6, paragraph (b), has been filed or served and is unresolved at the time when notice would be given under subdivision 3;

(6) a direct appeal of a conviction described in paragraph (a), clause (1) or (3), has been filed or served and is unresolved at the time when the notice would be given under subdivision 3; or

(7) an appeal period to contest a conviction described in paragraph (a), clause (1) or (3), has not expired.

Subd. 3. **Notice to tax preparer.** (a) At least 30 days before publishing the name of a tax preparer subject to publication under this section, the commissioner shall mail a written notice to the tax preparer,

detailing the basis for the publication and the intended publication of the information listed in subdivision 4 related to the penalty. The notice must be sent to the tax preparer addressed to the last known address of the tax preparer. The notice must include information regarding the exceptions listed in subdivision 2, paragraph (b), and must state that the tax preparer's information will not be published if the tax preparer provides information establishing that subdivision 2, paragraph (b), prohibits publication of the tax preparer's name.

(b) Thirty days after the notice is mailed and if the tax preparer has not proved to the commissioner that subdivision 2, paragraph (b), prohibits publication, the commissioner may publish in a list of tax preparers subject to penalty the information about the tax preparer that is listed in subdivision 4.

Subd. 4. **Form of list.** The list may be published by any medium or method. The list must contain the name, associated business name or names, address or addresses, and violation or violations that make each tax preparer subject to publication.

Subd. 5. **Removal from list.** The commissioner shall remove the name of a tax preparer from the list of tax preparers published under this section:

(1) when the commissioner determines that the name was included on the list in error;

(2) within three years after the preparer has demonstrated to the commissioner that the preparer fully paid all fines and penalties imposed, served any suspension, satisfied any sentence imposed, successfully completed any probationary period imposed, and successfully completed any remedial actions required by the commissioner, the State Board of Accountancy, or the Lawyers Professional Responsibility Board; or

(3) when the commissioner has been notified that the tax preparer is deceased.

Subd. 6. **Names published in error.** If the commissioner publishes a name under subdivision 1 in error, the tax preparer whose name was erroneously published has a right to request a retraction and apology. If the tax preparer so requests, the commissioner shall publish a retraction and apology acknowledging that the tax preparer's name was published in error. The retraction and apology must appear in the same medium and the same format as the original list that contained the name listed in error.

Subd. 7. **Payment of damages.** Actions against the commissioner of revenue or the state of Minnesota arising out of the implementation of this program must be brought under section 270C.275.

History: *2005 c 151 art 1 s 116; art 9 s 10; 2008 c 154 art 15 s 6; 2009 c 88 art 11 s 3,4; 1Sp2017 c 1 art 22 s 11-14; 2023 c 64 art 18 s 3; 2024 c 85 s 83*

270C.447 LEGAL ACTION TO ENJOIN TAX RETURN PREPARER.

Subdivision 1. **Commencement of action.** (a) Whenever it appears to the commissioner that a tax preparer doing business in Minnesota has engaged in any conduct described in subdivision 2, a civil action in the name of the state of Minnesota may be commenced to enjoin the conduct and enforce compliance.

(b) An action under this subdivision must be brought by the attorney general in:

(1) the district court for the judicial district of the tax preparer's residence or principal place of business;

(2) the district court for the judicial district of the residence of any taxpayer with respect to whose return the action is brought; or

(3) Ramsey County District Court.

(c) The court may exercise its jurisdiction over the action separate and apart from any other action brought by the state of Minnesota against the tax preparer or any taxpayer. The court must grant a permanent injunction or other appropriate relief if the commissioner shows that the person has engaged in conduct constituting a violation of a law administered by the commissioner or a cease and desist order issued by the commissioner. The commissioner shall not be required to show irreparable harm.

Subd. 2. **Injunction prohibiting specific conduct.** In an action under subdivision 1, the court may enjoin the person from further engaging in that conduct if the court finds that a tax preparer has:

(1) engaged in any conduct subject to a civil penalty under section 289A.60, a criminal penalty under section 289A.63, or a criminal penalty under section 609.527 or a similar statute for a return filed with the commissioner, the Internal Revenue Service, or another state;

(2) misrepresented the preparer's eligibility to practice before the Department of Revenue, or misrepresented the preparer's experience or education as a tax preparer;

(3) guaranteed the payment of any tax refund or the allowance of any tax credit;

(4) violated a cease and desist order issued by the commissioner; or

(5) engaged in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of a law administered by the commissioner, and injunctive relief is appropriate to prevent the recurrence of that conduct.

Subd. 3. **Injunction prohibiting all business activities.** If the court finds that a tax preparer has continually or repeatedly engaged in conduct described in subdivision 2, and that an injunction prohibiting that conduct would not be sufficient to prevent the person's interference with the proper administration of a law administered by the commissioner, the court may enjoin the person from acting as a tax preparer. The court may not enjoin the employer of a tax preparer for conduct described in subdivision 2 engaged in by one or more of the employer's employees unless the employer was also actively involved in that conduct.

Subd. 3a. **Enforcement of cease and desist orders.** (a) Whenever the commissioner under subdivision 1 or 3 seeks to enforce compliance with a cease and desist order, the court must consider the allegations in the cease and desist order conclusively established if the order is a final order.

(b) If the court finds the tax preparer was not in compliance with a cease and desist order, the court may impose a further civil penalty against the tax preparer for contempt in an amount up to $10,000 for each violation and may grant any other relief the court determines is just and proper in the circumstances. A civil penalty imposed by a court under this section may be collected and enforced by the commissioner as an income tax liability.

(c) The court may not require the commissioner to post a bond in an action or proceeding under this section.

Subd. 4. MS 2016 [Repealed, 1Sp2017 c 1 art 22 s 22]

History: *2005 c 151 art 1 s 55; 1Sp2017 c 1 art 22 s 15-18*

270C.449 EQUITABLE ACTIONS.

(a) The commissioner may bring a civil action to enjoin any person from taking action or failing to take action that is subject to penalty under section 289A.60, subdivisions 20, 20a, and 26.

(b) In any action under paragraph (a), the court may enjoin the person from engaging in the conduct, if the court finds that:

(1) the person has engaged in the specified conduct; and

(2) injunctive relief is appropriate to prevent recurrence of the conduct.

History: *1Sp2005 c 3 art 8 s 1*

COLLECTION

270C.50 USE OF COLLECTION REMEDIES.

In addition to the remedies provided in the state revenue laws, the commissioner may use any remedy available to nongovernmental creditors to collect taxes.

History: *2005 c 151 art 1 s 56*

270C.51 ALLOCATION OF PAYMENT.

In the discretion of the commissioner, payments received for taxes may be credited first to the oldest liability not secured by a judgment or lien. For liabilities to which payments are applied, the commissioner may credit payments first to penalties, next to interest, and then to the tax due.

History: *2005 c 151 art 1 s 57*

270C.52 SETTLEMENT AGREEMENTS, PAYMENT AGREEMENTS, AND OFFERS IN COMPROMISE.

Subdivision 1. **Liability agreements.** The commissioner, or any employee of the department authorized in writing by the commissioner, is authorized to enter into an agreement in writing with any taxpayer, or duly authorized agent or representative of the taxpayer, relating to the liability of the taxpayer in respect of any tax for any tax period ending prior to the date of the agreement. The agreement shall be final and conclusive and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact, the case shall not be reopened as to the matters agreed upon, or the agreement modified, by any employee or agent of the state; and, in any suit, action, or proceeding, the agreement, or any determination, assessment, collection, payment, abatement, refund, or credit, made in accordance with the agreement, shall not be annulled, modified, set aside, or disregarded.

Subd. 2. **Payment agreements.** (a) When any portion of any tax payable to the commissioner together with interest and penalty thereon, if any, has not been paid, the commissioner may extend the time for payment for a further period. When the authority of this section is invoked, the extension shall be evidenced by written agreement signed by the taxpayer and the commissioner, stating the amount of the tax with penalty and interest, if any, and providing for the payment of the amount in installments.

(b) The agreement may contain a confession of judgment for the amount and for any unpaid portion thereof. If the agreement contains a confession of judgment, the confession of judgment must provide that the commissioner may enter judgment against the taxpayer in the district court of the county of residence as shown upon the taxpayer's tax return for the unpaid portion of the amount specified in the extension agreement.

(c) The agreement shall provide that it can be terminated, after notice by the commissioner, if information provided by the taxpayer prior to the agreement was inaccurate or incomplete, collection of the tax covered

by the agreement is in jeopardy, there is a subsequent change in the taxpayer's financial condition, the taxpayer has failed to make a payment due under the agreement, or the taxpayer has failed to pay any other tax or file a tax return coming due after the agreement.

(d) The notice must be given at least 14 calendar days prior to termination, and shall advise the taxpayer of the right to request a reconsideration from the commissioner of whether termination is reasonable and appropriate under the circumstances. A request for reconsideration does not stay collection action beyond the 14-day notice period. If the commissioner has reason to believe that collection of the tax covered by the agreement is in jeopardy, the commissioner may proceed under section 270C.36 and terminate the agreement without regard to the 14-day period.

(e) The commissioner may accept other collateral the commissioner considers appropriate to secure satisfaction of the tax liability. The principal sum specified in the agreement shall bear interest at the rate specified in section 270C.40 on all unpaid portions thereof until the same has been fully paid or the unpaid portion thereof has been entered as a judgment. The judgment shall bear interest at the rate specified in section 270C.40.

(f) If it appears to the commissioner that the tax reported by the taxpayer is in excess of the amount actually owing by the taxpayer, the extension agreement or the judgment entered pursuant thereto shall be corrected. If after making the extension agreement or entering judgment with respect thereto, the commissioner determines that the tax as reported by the taxpayer is less than the amount actually due, the commissioner shall assess a further tax in accordance with the provisions of law applicable to the tax.

(g) The authority granted to the commissioner by this section is in addition to any other authority granted to the commissioner by law to extend the time of payment or the time for filing a return and shall not be construed in limitation thereof.

Subd. 3. **Offer-in-compromise and installment payment program.** (a) In implementing the authority provided in subdivision 2 or in sections 8.30 and 16D.15 to accept offers of installment payments or offers-in-compromise of tax liabilities, the commissioner shall prescribe guidelines for employees of the department to determine whether an offer-in-compromise or an offer to make installment payments is adequate and should be accepted to resolve a dispute. In prescribing the guidelines, the commissioner shall develop and publish schedules of national and local allowances designed to provide that taxpayers entering into a compromise or payment agreement have an adequate means to provide for basic living expenses. The guidelines must provide that the taxpayer's ownership interest in a motor vehicle, to the extent of the value allowed in section 550.37, will not be considered as an asset; in the case of an offer related to a joint tax liability of spouses, that value of two motor vehicles must be excluded. The guidelines must provide that employees of the department shall determine, on the basis of the facts and circumstances of each taxpayer, whether the use of the schedules is appropriate and that employees must not use the schedules to the extent the use would result in the taxpayer not having adequate means to provide for basic living expenses. The guidelines must provide that:

(1) an employee of the department shall not reject an offer-in-compromise or an offer to make installment payments from a low-income taxpayer solely on the basis of the amount of the offer; and

(2) in the case of an offer-in-compromise which relates only to issues of liability of the taxpayer:

(i) the offer must not be rejected solely because the commissioner is unable to locate the taxpayer's return or return information for verification of the liability; and

(ii) the taxpayer shall not be required to provide an audited, reviewed, or compiled financial statement.

(b) The commissioner shall establish procedures:

(1) that require presentation of a counteroffer or a written rejection of the offer by the commissioner if the amount offered by the taxpayer in an offer-in-compromise or an offer to make installment payments is not accepted by the commissioner;

(2) for an administrative review of any written rejection of a proposed offer-in-compromise or installment agreement made by a taxpayer under this section before the rejection is communicated to the taxpayer;

(3) that allow a taxpayer to request reconsideration of any written rejection of the offer or agreement to the commissioner to determine whether the rejection is reasonable and appropriate under the circumstances; and

(4) that provide for notification to the taxpayer when an offer-in-compromise has been accepted, and issuance of certificates of release of any liens imposed under section 270C.63 related to the liability which is the subject of the compromise.

(c) Each compromise proposal must be accompanied by a nonrefundable payment of $250. If the compromise proposal is accepted, the payment must be applied to the accepted compromise amount. If the compromise is rejected, the payment must be applied to the outstanding tax debts of the taxpayer pursuant to section 270C.51. In cases of financial hardship, upon presentation of information establishing an inability to make the $250 payment, the commissioner may waive this requirement.

History: *2005 c 151 art 1 s 58,116; art 9 s 12; 2010 c 389 art 10 s 3; 2014 c 308 art 9 s 19; 2023 c 64 art 15 s 6*

270C.53 MS 2012 [Repealed, 2014 c 308 art 9 s 94]

270C.54 COLLECTION OF FINANCIAL INSTITUTION FEES.

The commissioner shall collect from a taxpayer any collection fees or costs charged by financial institutions and incurred by the commissioner.

History: *2005 c 151 art 1 s 60*

270C.545 FEDERAL TAX REFUND OFFSET FEES; TIME LIMIT FOR SUBMITTING CLAIMS FOR OFFSET.

If fees are charged by the Department of the Treasury of the United States for the offset of federal tax refunds or the offset of federal payments and these fees are deducted from the refund or the federal payment amounts remitted to the commissioner, then the unpaid debts of the taxpayers whose refunds or federal payments are being offset to satisfy the debts are reduced only by the actual amount of the refund payments or federal payments received by the commissioner. Notwithstanding any other provision of law to the contrary, a claim for the offset of a federal tax refund must be submitted to the Department of the Treasury of the United States within ten years after the date of the assessment of the tax owed by the taxpayer whose refund is to be offset to satisfy the debt. For court debts referred to the commissioner under section 16D.04, subdivision 2, paragraph (a), the federal refund offset fees are deducted as provided in this section, but the ten-year time limit prescribed in this section for tax debts does not apply.

History: *2005 c 151 art 1 s 61; 2006 c 260 art 5 s 6; 1Sp2011 c 10 art 3 s 34*

270C.56 PERSONAL LIABILITY.

Subdivision 1. **Liability imposed.** A person who, either singly or jointly with others, has the control of, supervision of, or responsibility for filing returns or reports, paying taxes, or collecting or withholding and remitting taxes and who fails to do so, or a person who is liable under any other law, is liable for the payment of taxes arising under chapters 295, 296A, 297A, 297F, and 297G, or sections 290.036, 290.92, and 297E.02, and the applicable penalties and interest on those taxes.

Subd. 2. **Person defined.** The term "person" includes, but is not limited to, a corporation, estate, trust, organization, or association, whether organized for profit or not, an officer or director of a corporation, a member of a partnership, an employee, a third party (including, but not limited to, a financial institution, lender, or surety), and any other individual or entity. "Person" does not include an unpaid, volunteer member of a board of trustees or directors of an organization exempt from taxation under section 290.05, if the member is solely serving in an honorary capacity, does not participate in the day-to-day or financial operations of the organization, and has no actual knowledge of the failure to file returns or remit taxes.

Subd. 3. **Procedure for assessment; claims for refunds.** (a) The commissioner may assess liability for the taxes described in subdivision 1 against a person liable under this section. The assessment may be based upon information available to the commissioner. It must be made within the prescribed period of limitations for assessing the underlying tax, within one year after the date of an order assessing underlying tax, or within one year after the date of a final administrative or judicial determination, whichever period expires later. An order assessing personal liability under this section is reviewable under section 270C.35 and is appealable to Tax Court.

(b) If the time for appealing the order has expired and a payment is made by or collected from the person assessed on the order in excess of the amount lawfully due from that person of any portion of the liability shown on the order, a claim for refund may be made by that person within 120 days after any payment of the liability if the payment is within 3-1/2 years after the date the order was issued. Claims for refund under this paragraph are limited to the amount paid during the 120-day period. Any amounts collected under paragraph (c) after a claim for refund is filed in order to satisfy the unpaid balance of the assessment that is the subject of the claim shall be returned if the claim is allowed. There is no claim for refund available under this paragraph if the assessment has previously been the subject of an administrative or Tax Court appeal, or a denied claim for refund. The taxpayer may contest denial of the refund as provided in the procedures governing claims for refunds under section 289A.50, subdivision 7.

(c) If a person has been assessed under this section for an amount for a given period and the time for appeal has expired, regardless of whether an action contesting denial of a claim for refund has been filed under paragraph (b), or there has been a final determination that the person is liable, collection action is not stayed pursuant to section 270C.33, subdivision 5, for that assessment or for subsequent assessments of additional amounts for the same person for the same period and tax type.

Subd. 4. **Right of contribution.** A person who has paid all or part of a liability assessed under this section has a cause of action against other liable persons to recover the amount paid in excess of that person's share of the liability. A claim for recovery of contribution may be made only in a proceeding which is separate from, and cannot be joined or consolidated with, an administrative or judicial proceeding or investigation involving the commissioner's administration or enforcement of this section. An order assessing liability under this section against the person from whom contribution is being sought is not a prerequisite for bringing an action for recovery of contribution, nor is the issuance of an order binding on the court in which the proceeding is brought. The court can determine whether each person would be liable under this section and the share of liability. The commissioner cannot be made a party to any proceeding for recovery

of contribution, nor is a determination in such a proceeding binding on the commissioner for the purpose of administering or enforcing this section. An action for contribution arises when the liability under this section is paid in full, or the liability of the person seeking contribution has been determined by agreement between the commissioner and such person and paid, and must be brought within the time period prescribed in section 541.05.

History: *2005 c 151 art 1 s 62; 2008 c 154 art 15 s 7; 2008 c 366 art 14 s 2; 2009 c 88 art 11 s 5; art 12 s 2; 2013 c 143 art 5 s 1; 2014 c 308 art 11 s 2; 2026 c 128 art 8 s 3*

270C.57 SUCCESSOR LIABILITY OF BUSINESSES.

Subdivision 1. **Definitions.** (a) The following terms used in this section have the following meanings.

(b) "Successor" means a person who directly or indirectly purchases, acquires, is gifted, or succeeds to the business or stock of goods of any person quitting, selling, or otherwise disposing of a business or stock of goods. Successor does not include a personal representative or beneficiary of an estate, a trustee in bankruptcy, a debtor in possession, a receiver, a secured party, a mortgagee, an assignee of rents, or any other lienholder.

(c) "Person" means an individual, partnership, corporation, sole proprietorship, joint venture, limited liability company, or any other type of business entity or association.

(d) "Withhold" means setting aside money or dealing with the payment of consideration in a manner that denies a transferring business the benefit of the transfer in an amount equal to the tax liability of the transferring business.

(e) "Purchase price" means the consideration paid or to be paid for the transfer by the successor to the transferring business, and includes amounts paid for tangible property or intangibles such as leases, licenses, or goodwill. Purchase price also includes debts assumed or forgiven by the successor, or real or personal property conveyed or to be conveyed by the successor to the transferring business.

(f) "Arm's-length transaction" means a transfer for adequate consideration between independent parties both acting in their own best interests. If the parties are related to each other, a rebuttable presumption arises that the transaction is not at arm's length.

(g) "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with a business or an interest in a business, or a stock of goods, whether by gift or for consideration. Transfer includes a change in the type of business entity or the name of the business, where one business is discontinued and a new one started. Transfer also includes the acquisition by a new corporation of the assets of a prior business in exchange for the stock of the new corporation. Transfer does not include an assignment for the benefit of creditors, foreclosure or enforcement of a mortgage, assignment of rents, security interest or lien, sale or disposition in a bankruptcy proceeding, or sale or disposition by a receiver.

(h) "Transfer in bulk" means a transfer, other than in the ordinary course of the transferor's trade or business, of more than one-half of all the property of a business at all locations combined, as measured by the value of the property at the time of the transfer.

(i) For purposes of this section, "tax" means sales, withholding, and any tax imposed by chapter 296A.

Subd. 2. **Bulk transfers; liability of successor; lien.** (a) Whenever a business transfers in bulk to a successor the business assets, and an enforceable lien for unpaid taxes has been filed against the business

by the commissioner under section 270C.63, at least 20 days before taking possession of the assets or paying the purchase price, the successor shall notify the commissioner of the transfer and the terms and conditions related to it. The notice must include the tax identification number of the transferring business. If an agreement to transfer has been entered into, this notice requirement only applies: (1) if a lien described under this paragraph has been filed prior to the date of the agreement; or (2) if the date of the transfer is more than 30 days after the date of the agreement, and a lien described under this paragraph is filed at least 30 days prior to the date of transfer.

(b) If the successor fails to give the notice required in paragraph (a), the successor is liable for any unpaid taxes, interest, and penalties due from the transferring business to the extent of the purchase price. If the successor provides the notice required in paragraph (a) and, within 20 days after receipt of the notice, the commissioner notifies the successor that tax liabilities exist in addition to those included on the lien or there are tax returns due but not filed, the successor is, in addition to being liable for the amounts included on the lien, liable for all other uncontested taxes, interest, and penalties as stated in the commissioner's notice from the transferring business to the extent of the purchase price if the successor pays the purchase price or takes possession of the assets without withholding and remitting the liability to the commissioner. The successor is liable whether the purchase price is paid or the assets are transferred prior to or after notification from the commissioner. The commissioner may also notify the successor that there are tax liabilities or tax returns due from the transferring business other than the liabilities included on the lien, and of the current balance due to satisfy the lien.

(c) If, based upon the information available, the commissioner determines that a transfer was not at arm's length or was a gift, the successor's liability under this section equals the value of the assets transferred. For purposes of imposing the liability, the value of the property transferred is presumed, subject to rebuttal, to equal the unpaid taxes, interest, and penalties of the transferring business.

(d) In the case of a gift resulting in successor liability under this section, return of the gifted property by the donee to the donor releases the donee's successor liability.

(e) A successor who complies with the requirements of paragraphs (a) and (b) is not liable for any assessments of taxes of the transferring business made after the commissioner provides notice to the successor under paragraph (b), except for taxes assessed on returns filed to comply with the notice. If the commissioner fails to provide the notice and the 20-day period expires, the successor is not liable for any taxes of the transferring business other than those included on the lien.

Subd. 3. **Assessment; abatement; review.** The commissioner may assess liability against a successor business under this section within the time prescribed for collecting the underlying taxes, interest, and penalties. The assessment is presumed to be valid, and the burden is upon the successor to show it is incorrect or invalid. An order assessing successor liability is reviewable administratively under section 270C.35 and is appealable to Tax Court under chapter 271. The commissioner may abate an assessment if the successor's failure to give the notice required under this section is due to reasonable cause. The procedural and appeal provisions under section 270C.34 apply to abatement requests under this subdivision. Collection remedies available against the transferring business are available against the successor from the date of assessment of successor liability.

Subd. 4. **Disclosure.** Notification by the commissioner to the successor under subdivision 2, paragraph (b), that the transferring business owes taxes, interest, and penalties or has returns that are due, or that there

are no outstanding liabilities or returns other than the liabilities included on the lien, or of the current balance due to satisfy the lien, is not a disclosure violation under chapter 270B.

History: *2005 c 151 art 1 s 63; 2006 c 259 art 8 s 4; 1Sp2019 c 6 art 11 s 2*

270C.58 LIABILITY OF TRANSFEREES AND FIDUCIARIES.

Subdivision 1. **Transferees and fiduciaries.** The amounts of the following liabilities are, except as otherwise provided in subdivision 3, assessed, collected, and paid in the same manner and subject to the same provisions and limitations as a deficiency in a tax imposed by chapter 290, including any provisions of law for the collection of taxes:

(1) the liability, at law or in equity, of a transferee of property of a taxpayer for tax or overpayment of a refund, including interest, additional amounts, and additions to the tax or overpayment provided by law, imposed upon the taxpayer by chapter 290 or provided for in chapter 290A; and

(2) the liability of a fiduciary under subdivision 2, for the payment of tax from the estate of the taxpayer. The liability may reflect the amount of tax shown on the return or any deficiency in tax.

Subd. 2. **Tax as a personal debt of a fiduciary.** A tax imposed by chapter 290 and an overpayment of a refund provided for in chapter 290A, and interest and penalties, is a personal debt of the taxpayer from the time the liability arises, regardless of when the time for discharging the liability by payment occurs. The debt is, in the case of the personal representative of the estate of a decedent and in the case of any fiduciary, that of the individual in the individual's official or fiduciary capacity only, 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 event the individual is personally liable for the deficiency.

Subd. 3. **Time limit for assessment and collection for transferee or fiduciary.** The period of limitation for assessment and collection of any liability of a transferee or fiduciary is as follows:

(1) In the case of the liability of an initial transferee of the property of the taxpayer, the tax may be assessed within one year after the expiration of the period of limitation of assessment against the taxpayer. The tax may be collected by action brought within one year after the expiration of the period of limitation for the starting of an action against the taxpayer.

(2) In the case of the liability of the transferee of a transferee of the property of the taxpayer, the tax may be assessed within one year after the expiration of the period of limitation for assessment against the preceding transferee, but only if within 3-1/2 years after the expiration of the period of limitation for assessment against the taxpayer. The tax may be collected by action brought within one year after the expiration of the period of limitation for the starting of an action against the preceding transferee, but only if within four years after the expiration of the period of limitation for bringing an action against the taxpayer; except that if before the expiration of the period of limitation for the assessment of the liability of the transferee a court proceeding for the collection of the tax or liability has been begun against the taxpayer or last preceding transferee, liability of the transferee expires one year after the return of execution in the court proceeding and the period of limitation for collection by action will expire one year after the liability is assessed.

(3) In the case of the liability of a fiduciary, the tax may be assessed up to one year after the liability arises or not later than the expiration of the period for collection of the tax for which the liability arises, whichever is later, and may be collected by action brought within one year after assessment.

(4) For the purposes of this subdivision, if the taxpayer is deceased, or in the case of a corporation, has ended its existence, the period of limitation for assessment against the taxpayer will be the period that would be in effect had death or termination of existence not occurred.

As used in this subdivision, the term "transferee" includes heir, legatee, devisee, and distributee.

History: *2005 c 151 art 1 s 64*

270C.585 TRANSFEREE LIABILITY FOR ESTATE TAX.

The personal representative and person to whom property that is subject to taxation under chapter 291 is transferred, other than a bona fide purchaser, mortgagee, or lessee, is personally liable for that tax, until its payment, to the extent of the value of the property at the time of the transfer. Personal liability also does not extend to subsequent transferees from bona fide purchasers, mortgagees, and lessees.

History: *2005 c 151 art 1 s 65*

270C.59 LIABILITY OF THIRD PARTIES PAYING OR PROVIDING FOR WAGES.

(a) For purposes of section 290.92, if a lender, surety, or other person, who is not an employer with respect to an employee or group of employees, pays wages directly to such an employee or group of employees, employed by one or more employers, or to an agent on behalf of such employee or employees, such lender, surety, or other person shall be liable to the commissioner in a sum equal to the taxes required to be deducted and withheld from such wages by such employer.

(b) If a lender, surety, or other person supplies funds to or for the account of an employer for the specific purpose of paying wages of the employees of such employer, with actual notice or knowledge that such employer does not intend to or will not be able to make timely payment or deposit of the amounts of tax required by section 290.92 to be deducted and withheld by such employer from such wages, such lender, surety, or other person shall be liable personally to the commissioner in a sum equal to the taxes which are not paid over to the commissioner by such employer with respect to such wages.

(c) For purposes of this section, a person shall be deemed for purposes of a particular transaction to have actual notice or knowledge of any fact from the time such fact is brought to the attention of the individual conducting such transaction, and in any event from the time such fact would have been brought to such individual's attention if the person had exercised due diligence. A person exercises due diligence by maintaining reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the person to communicate information unless such communication is part of the individual's regular duties or unless the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

(d) Any amounts paid to the commissioner pursuant to this section shall be credited to the liability of the employer.

History: *2005 c 151 art 1 s 66*

270C.60 FAILURE TO COMPLY WITH WITHHOLDING PROVISIONS.

(a) When a person who is required to deduct, withhold, pay over, or deposit any tax imposed by chapter 290, at the time and in the manner prescribed by law or rules fails to deduct, withhold, or pay over the tax, or fails to make deposits or payments of the tax and is notified of the failure by notice served upon the person in the manner prescribed for service of a summons in civil actions, then the requirements of paragraph (b)

shall be met. In the case of a corporation, partnership or trust, notice served upon an officer, partner or trustee shall, for purposes of this subdivision, be considered notice served upon the corporation, partnership, or trust and their officers, partners, or trustees.

(b) A person who is required to deduct, withhold, pay over, or deposit a tax imposed by chapter 290, if notice has been served upon that person in accordance with paragraph (a), shall after that date deduct, withhold, and collect the taxes and shall (not later than the end of the second banking day after any amount of such taxes is deducted, withheld or collected) deposit the taxes in a separate account in a bank, savings bank or savings association and shall keep the amount of the taxes in that account until paid to the state of Minnesota. The account constitutes and must be designated as a special fund in trust for the state of Minnesota payable to the state of Minnesota by that person as trustee. The person upon whom notice is served shall notify the commissioner of revenue in writing of the name and address of the bank, savings bank or savings association wherein the account is kept, together with other information the commissioner may require. In lieu of the trust fund account, the commissioner may, when necessary to secure the withholding of the tax imposed by chapter 290, require an employer to file with the Department of Revenue a bond in an amount determined by the commissioner, or in lieu of it, security in a form and in an amount the commissioner determines, not more than twice the estimated average liability for future monthly withholding tax periods.

(c) The commissioner of revenue, on being satisfied with respect to any notification made under paragraph (a) that the requirements of law and rules with respect to the taxes imposed by chapter 290 have been and will be complied with, may cancel the notification. The cancellation shall take effect at the time specified in the notice of the cancellation. All notices authorized or required under this section must be in the form the commissioner determines.

History: *1961 c 213 art 1 s 1; Ex1961 c 91 art 2 s 1-3,7; 1963 c 355 s 15-17; 1963 c 666 s 1,2; 1965 c 464 s 2; 1965 c 884 art 1 s 7; 1967 c 42 s 2; 1967 c 587 s 1; 1967 c 902 s 1; Ex1967 c 32 art 14 s 11; 1969 c 97 s 5; 1969 c 325 s 7-9; 1969 c 326 s 1; 1969 c 399 s 29,30; 1969 c 654 s 1; 1971 c 55 s 2; 1971 c 147 s 1,2; 1971 c 510 s 1; 1971 c 514 s 1; 1971 c 729 s 1; 1971 c 769 s 2; Ex1971 c 31 art 18 s 5; 1973 c 73 s 1-8; 1973 c 492 s 14; 1973 c 501 s 4-12; 1973 c 582 s 3; 1973 c 711 s 3; 1974 c 60 s 1; 1975 c 349 s 21,22,29; 1975 c 377 s 14,15; 1976 c 2 s 110; 1976 c 181 s 2; 1977 c 111 s 1,2; 1977 c 258 s 1; 1977 c 386 s 8; 1978 c 766 s 8; 1980 c 419 s 31-34; 1980 c 607 art 1 s 32; 1981 c 13 s 1; 1981 c 60 s 21; 1981 c 178 s 104-107; 1981 c 343 s 24-29; 1Sp1981 c 4 art 2 s 29; 1982 c 523 art 1 s 51-55; art 2 s 36-38; art 28 s 4; art 40 s 10,14; 1983 c 15 s 27; 1983 c 180 s 12,13; 1983 c 207 s 30-33,43; 1983 c 247 s 123; 1983 c 294 s 3; 1983 c 342 art 1 s 37-39,43; 1984 c 502 art 2 s 13,14; 1984 c 514 art 1 s 6,8; 1985 c 101 s 13,14; 1985 c 210 art 1 s 12-15; 1985 c 248 s 70; 1Sp1985 c 14 art 1 s 53-56; art 15 s 7,8; art 16 s 4; art 21 s 42,49; 1986 c 444; 1986 c 446 s 3; 1Sp1986 c 1 art 1 s 9; art 3 s 18; 1987 c 268 art 1 s 105-110,126; art 9 s 11-20; art 17 s 18; 1988 c 719 art 1 s 17-19; art 3 s 12; 1989 c 28 s 19,20,25; 1989 c 184 art 2 s 23-25; 1Sp1989 c 1 art 10 s 34-36; 1990 c 480 art 1 s 29-32; art 2 s 16; art 5 s 7,8; 1990 c 516 s 9; 1990 c 604 art 2 s 16; 1991 c 199 art 2 s 1; 1991 c 233 s 109; 1991 c 291 art 6 s 34-39,46; art 16 s 11; 1992 c 511 art 6 s 19; 1993 c 137 s 9; 1993 c 375 art 8 s 14; 1994 c 483 s 1; 1994 c 488 s 8; 1994 c 587 art 1 s 24; 1995 c 202 art 1 s 25; 1995 c 264 art 10 s 12; art 13 s 13; 1997 c 31 art 1 s 17; 1997 c 231 art 5 s 10; 1998 c 300 art 1 s 8; 1999 c 107 s 66; 2000 c 343 s 4; 2000 c 490 art 4 s 29-32; 1Sp2001 c 5 art 7 s 43; 2004 c 206 s 52; 2005 c 151 art 2 s 17; art 6 s 18; art 9 s 20*

270C.61 LEGAL ACTION; CONFESSION OF JUDGMENT.

Subdivision 1. **Legal action.** (a) In addition to all other methods authorized by law for the collection of tax, if any tax payable to the commissioner or to the department, including penalties and interest thereon, is not paid within 60 days after it is required by law to be paid, the commissioner may proceed under this subdivision. Within five years after the date of assessment of the tax or at any time a lien filed under section

270C.63 is enforceable, or, if the action is to renew or enforce a judgment, at any time before the judgment's expiration, the commissioner may bring an action in court against the person liable for the payment or collection of the tax, in the name of the state, for the recovery of the tax and interest and penalties due in respect thereof. The action may be commenced by the commissioner in the same manner as any other civil action.

(b) The commissioner may also serve the summons and complaint by mailing a copy to the taxpayer's last known address by certified mail. Service by certified mail is complete when mailed in acceptable form with the United States Postal Service or with the central mail system of the state of Minnesota.

Subd. 2. **Court-ordered returns.** In addition to other remedies that may be available, the commissioner may bring an action in equity by the state against a taxpayer for an injunction ordering the taxpayer to file a complete and proper return or amended return. The district courts of this state have jurisdiction over the action and disobedience of an injunction issued under this subdivision will be punished as a contempt of district court. The action may be commenced by the commissioner in the same manner as any other civil action.

Subd. 3. **Prosecuting authority.** The commissioner may request the county attorney or the attorney general to conduct the proceedings on behalf of the state.

Subd. 4. **Appeals.** Either party to an action or a judgment for the recovery of any taxes, interest, or penalties under subdivision 1 may appeal the judgment as in other civil cases.

Subd. 5. **Tax presumed valid.** The tax, as assessed by the commissioner, with any penalties included therein, shall be presumed to be valid and correctly determined and assessed, and the burden shall be upon the taxpayer to show its incorrectness or invalidity. A statement filed by the commissioner showing the amount of the tax and penalties as determined or assessed by the commissioner, is admissible in evidence and shall establish prima facie the facts set forth therein.

Subd. 6. **Confession of judgment.** (a) The commissioner may, within 3-1/2 years after any return is filed, notwithstanding section 541.09, enter judgment on any confession of judgment contained in the return after ten days' notice served upon the taxpayer by mail at the address shown in the return. The judgment shall be entered by the court administrator of district court upon the filing of a photocopy or similar reproduction of that part of the return containing the confession of judgment along with a statement of the commissioner or an agent that the tax has not been paid. The commissioner may prescribe the words for the confession of judgment statement contained on the return.

(b) Notwithstanding any other provision of the law to the contrary, the commissioner may, within five years after a written agreement is signed by the taxpayer and the commissioner under the provisions of section 270C.52, subdivision 2, enter judgment on the confession of judgment contained within the agreement after ten days' notice served upon the taxpayer at the address shown in the agreement. Such judgment shall be entered by the court administrator of district court upon the filing of the agreement or a certified copy thereof along with a statement of the commissioner or an agent that the tax has not been paid.

History: *2005 c 151 art 1 s 67*

270C.62 DATE OF ASSESSMENT; DEFINITION.

For purposes of taxes, the term "date of assessment" means the date a liability reported on a return was entered into the records of the commissioner or the date a return should have been filed, whichever is later; or, in the case of taxes assessed by the commissioner, "date of assessment" means the date of the order assessing taxes or date of the return made by the commissioner; or, in the case of an amended return filed

by the taxpayer, the assessment date is the date additional liability reported on the return, if any, was entered into the records of the commissioner; or, in the case of a consent agreement signed by the taxpayer under section 270C.33, subdivision 9, the assessment date is the notice date shown on the agreement; or, in the case of a check from a taxpayer that is dishonored and results in an erroneous refund being given to the taxpayer, remittance of the check is deemed to be an assessment and the "date of assessment" is the date the check was received by the commissioner.

History: *2005 c 151 art 1 s 68,116; art 9 s 11*

270C.63 LIEN FOR TAXES.

Subdivision 1. **Creation of lien.** Tax, and interest and penalties imposed with respect thereto, including any recording fees, sheriff fees, or court costs that may accrue, shall become a lien upon all the property within this state, both real and personal, of the person liable for the payment or collection of the tax, except property exempt under subdivision 8, from and after the date of assessment of the tax.

Subd. 2. **Filing of liens necessary for enforceability against certain persons.** The lien imposed by subdivision 1 is not enforceable against any purchaser, mortgagee, pledgee, holder of a Uniform Commercial Code security interest, mechanic's lienor, or judgment lien creditor whose interest has been duly perfected or is a conveyance or interest entitled to protection against judgments and attachments under section 507.34 or under any other applicable provisions of state law, until a notice of lien has been filed by the commissioner in the office of the county recorder of the county in which real property is situated, or in the case of personal property in the Office of the Secretary of State.

Subd. 3. **Method of filing.** Notices of liens, and lien releases, transcriptions, and renewals, in a form prescribed by the commissioner, may be filed with the county recorder or the secretary of state by mail, personal delivery, or by electronic transmission by the commissioner or an agent of the department into the computerized filing system of the secretary of state. The secretary of state shall transmit the notice electronically to the office of the county recorder, if that is the place of filing, in the county or counties shown on the computer entry. The filing officer, whether the county recorder or the secretary of state, shall endorse and index a printout of the notice in the same manner as if the notice had been mailed or delivered.

Subd. 4. **Entry of information into central database.** County recorders and the secretary of state shall enter information relative to lien notices, transcriptions, renewals, and releases filed in their offices into the central database of the secretary of state. For notices filed electronically with the county recorders, the date and time of transmission of the notice and county recorder's file number, and for notices filed electronically with the secretary of state, the secretary of state's recording information, must be entered by the filing officer into the central database before the close of the working day following the day of the original data entry by the department. For notices filed electronically with the county recorder, the date and time of filing is no later than 5:00 p.m. on the business day following transmission of the notice by the secretary of state.

Subd. 5. **Conformity with federal Lien Registration Act.** The filing and indexing of all notices must be in accordance with the filing and indexing of notices of federal liens, certificates of release, and refiled notices under section 272.483.

Subd. 6. **Payment of recording fees.** Notwithstanding any other law to the contrary, the department is exempt from payment of fees when a lien, lien renewal, or lien transcription is offered for recording. The recording fees must be paid along with the release fee at the end of the month in which the release of lien is recorded, after receipt of a monthly statement from a county recorder or the secretary of state. The department shall add the recording fees to the delinquent tax liability of the taxpayer. Notwithstanding any

other law to the contrary, the fee for filing or recording a notice of lien, or lien release, transcription, or renewal is $15.

Subd. 7. **Appropriation.** There is appropriated to the commissioner an amount representing the cost of payment of recording fees to the county recorders and the secretary of state. The commissioner shall keep a separate accounting of the costs and of payments for recording fees remitted by taxpayers, and make the records available to the legislature upon request.

Subd. 8. **Exempt property.** The lien imposed on personal property by this section, even though properly filed, is not enforceable: (1) against a purchaser with respect to tangible personal property purchased at retail in the ordinary course of the seller's trade or business, unless at the time of purchase the purchaser intends the purchase to or knows the purchase will hinder, evade, or defeat the collection of a tax; or (2) against the personal property listed as exempt in (i) Minnesota Statutes 2022, section 550.37, and (ii) sections 550.38 and 550.39.

Subd. 9. **Period of limitations.** The lien imposed by this section shall, notwithstanding any other provision of law to the contrary, be enforceable from the time the lien arises and for ten years from the date of filing the notice of lien, which must be filed by the commissioner within five years after the date of assessment of the tax or final administrative or judicial determination of the assessment. A notice of lien filed at the Office of the Secretary of State may be transcribed to any county within ten years after the date of its filing, but the transcription does not extend the period during which the lien is enforceable. A notice of lien filed in one county may be transcribed to the secretary of state or to any other county within ten years after the date of its filing, but the transcription shall not extend the period during which the lien is enforceable. A notice of lien may be renewed by the commissioner before the expiration of the ten-year period for an additional ten years. The taxpayer must receive written notice of the renewal.

Subd. 10. **Enforceability of lien.** The lien imposed by this section shall be enforceable by levy as authorized in section 270C.67, or by judgment lien foreclosure as authorized in chapter 550.

Subd. 11. **Notice of mortgage foreclosure or contract termination.** In the case of a mortgage foreclosure upon real property commenced under chapter 580, or a termination of contract of sale of real property commenced under section 559.21, if the commissioner has filed a lien under this section before the foreclosure sale or date of termination, notice of the mortgage foreclosure or termination of contract of sale shall be mailed to the commissioner not less than 25 days prior to the foreclosure sale or date of termination. Provided, notice need not be given pursuant to this subdivision if the lien of the commissioner has been filed within 30 days or less prior to the foreclosure sale or date of termination. The notice must contain the following information: (1) the name and address of the taxpayer; (2) a copy of the notice of mortgage foreclosure or contract for deed cancellation; (3) a copy of the lien filed by the commissioner; (4) the total unpaid balance of the mortgage or contract for deed; (5) a legal description of the property; and (6) the fair market value of the property.

Subd. 12. **Filing entitlement.** Execution of notices of liens or of other notices affecting state tax liens by the original or facsimile signature of the commissioner entitles them to be filed, and no other attestation, certification, or acknowledgment is necessary. For purposes of this subdivision, transmission of notices under subdivision 3 constitutes execution.

Subd. 13. **Lien search fees.** Upon request of any person, the filing officer shall issue a certificate showing whether there is recorded in that filing office, on the date and hour stated in the certificate, any notice of lien or certificate or notice affecting any lien filed on or after ten years before the date of the search certificate, naming a particular person, and giving the date and hour of filing of each notice or certificate naming the

person. The fee for a certificate shall be as provided by section 336.9-525 or 357.18, subdivision 1, clause (3). Upon request, the filing officer shall furnish a copy of any notice of state lien, or notice or certificate affecting a state lien, for a fee of $1 per page, except that section 5.12, subdivision 1, governs the fee charged by the secretary of state for a copy or electronically transmitted image.

Subd. 14. **Limitation for homestead property.** A lien imposed under this section upon property defined as homestead property in sections 510.01 and 510.02 may not be enforced against homestead property by levy under section 270C.67, or by judgment lien foreclosure under chapter 550, but notwithstanding section 510.07, is enforceable against the proceeds from the sale, conveyance, or transfer of the homestead.

Subd. 15. **Erroneous liens.** After the filing of a notice of lien under this section on the property or rights to property of a person, the person may appeal to the commissioner, in the form and at the time prescribed by the commissioner, alleging an error in the filing of the lien and requesting its release. If the commissioner determines that the filing of the notice of any lien was erroneous, within 14 days after the determination, the commissioner must issue a certificate of release of the lien. The certificate must include a statement that the filing of the lien was erroneous. In the event that the lien is erroneous and is not released within the 14-day period, reasonable attorney fees shall be paid. Damages must be paid in accordance with section 3.736, subdivision 7. Even if a lien is not erroneous, the commissioner may withdraw the lien if the filing of the lien was premature or not in accordance with administrative procedures of the commissioner, or withdrawal of the lien will facilitate the collection of the tax liability.

Subd. 16. **Lien release fee.** A fee of $25 must be paid to the commissioner for each duplicate of an original release of lien.

Subd. 17. **Forty-five day rule.** A notice of tax lien filed under this section has priority over a security interest arising under article 9 of the Uniform Commercial Code that is perfected before the date of filing of the lien imposed by this section, but only if:

(1) the perfected security interest secures property acquired by the taxpayer or advances made by the secured party after the notice of tax lien is filed; and

(2) the property is acquired or the advance is made after the 45th day following the day on which the notice of tax lien is filed, or after the secured party has actual notice or knowledge of the tax lien filing, whichever is earlier.

Subd. 18. **Registered land.** When a lien is filed with a county recorder under subdivisions 2 to 5, the county recorder shall search the registered land records in that county and cause the lien to be memorialized on every certificate of title or certificate of possessory title of registered land in that county which can be reasonably identified as owned by the taxpayer who is named on the lien. The fees for memorializing the lien shall be paid in the manner prescribed by subdivision 6. The county recorders, and their employees and agents, shall not be liable for any loss or damages arising from failure to identify a parcel of registered land owned by the taxpayer who is named on the lien.

Subd. 19. **Assignment of liens.** The commissioner may sell and assign to a third party the right of redemption in specific real property for liens filed under this section. The redemption in the hands of the assignee shall not be enforceable by any of the collection remedies provided to the commissioner by law. The assignee is limited to the same rights of redemption the commissioner would have in any mortgage foreclosure proceeding, but in any bankruptcy proceeding does not obtain the priority of the commissioner as a tax claimant. Should the taxpayer or its assigns exercise the right of redemption the assignment by the commissioner is extinguished.

Subd. 20. **Attachment to proceeds of property.** Any lien imposed under this section attaches to the proceeds of property with the same priority that the lien has with respect to the property itself. "Proceeds of property" means proceeds from the sale, lease, license, exchange, or other disposition of the property, including insurance proceeds arising from the loss or destruction of the property.

History: *2005 c 151 art 1 s 69,116; art 9 s 13; 2008 c 154 art 15 s 8; 2009 c 98 s 6; 2009 c 101 art 2 s 72; 2024 c 114 art 3 s 33; 2025 c 20 s 225*

270C.64 CREDIT OF OVERPAYMENT OR PAYMENT TO DELINQUENT TAX LIABILITIES.

Notwithstanding any other provision of law to the contrary, in the case of an overpayment of any tax collected by the commissioner, or any refund, credit, claim, or other payment payable by the commissioner to any person under a law administered by the commissioner, the commissioner may credit the amount of such overpayment or payment against any uncontested delinquent tax liability on the part of the person who is entitled to the overpayment or payment. An overpayment or payment may be credited under this section only if the uncontested delinquent liability has been assessed within ten years of the date on which the overpayment or payment is credited. However, this limitation shall not be applicable if the delinquent liability has been entered into judgment or if legal action is pending for collection of the liability or for renewal of the judgment. An amount paid as tax shall constitute an overpayment even if in fact there was no tax liability with respect to which such amount was paid.

History: *2005 c 151 art 1 s 70; 2011 c 112 art 5 s 5*

270C.65 RIGHT OF SETOFF.

Subdivision 1. **Certification by commissioner.** The commissioner of revenue is authorized to certify to the commissioner of management and budget, or to any state agency described in subdivision 3 which disburses its own funds, that a taxpayer has an uncontested delinquent tax liability owed to the commissioner of revenue. The certification must be made within ten years after the date of assessment of the tax. Once certification is made, the commissioner of management and budget or the state agency shall apply to the delinquent tax liability funds sufficient to satisfy the unpaid tax liability from funds appropriated for payment of an obligation of the state or any of its agencies that are due and owing the taxpayer. No setoff shall be made against any funds exempt under Minnesota Statutes 2022, section 550.37, or those funds owed an individual taxpayer who receives assistance under the provisions of chapter 256.

Subd. 2. **Setoff satisfies state obligation.** All funds, whether general or dedicated, shall be subject to setoff in the manner herein provided. Transfer of funds as herein provided is payment of the obligation of the state or any of its agencies to such taxpayer and any actions for said funds, if any, shall be had against the Department of Revenue on the issue of such tax liability. Nothing in this section shall be construed to limit the previously existing right of the state or any of its agencies to setoff.

Subd. 3. **Agencies shall maintain records.** Notwithstanding any provision to the contrary, every person, organization, or corporation doing business (hereafter called vendor) with the state of Minnesota or any of its departments, agencies, or educational institutions including the University of Minnesota (all hereafter called agency) shall provide that agency with either their Social Security number, federal taxpayer identification number, or Minnesota tax identification number. The commissioner may verify to the agency the identifying information provided by a vendor. The agency shall maintain records of this information, and shall make these records available, on request, to the commissioner for the sole purpose of identifying people who have not filed state tax returns or who have not paid uncontested tax liabilities (hereafter called delinquent taxpayer). When an agency is notified by the commissioner that a vendor is a delinquent taxpayer, payments shall not be made by the agency to the vendor until the commissioner notifies the agency that the

vendor no longer is a delinquent taxpayer. Furthermore, if the vendor has an uncontested delinquent tax liability, the setoff provided in subdivision 1 may be implemented. The commissioner shall determine that a vendor no longer is a delinquent taxpayer when the vendor has filed all delinquent returns and (1) paid all uncontested tax liabilities or (2) entered into an agreement with the commissioner which provides for the payment of these liabilities.

History: *2005 c 151 art 1 s 71; 2009 c 101 art 2 s 109; 2024 c 114 art 3 s 34*

270C.66 CONTRACTS WITH STATE; WITHHOLDING.

No department of the state of Minnesota, nor any political or governmental subdivision of the state shall make final settlement with any contractor under a contract requiring the employment of employees for wages by said contractor and by subcontractors until satisfactory showing is made that said contractor or subcontractor has complied with the provisions of section 290.92. A certificate by the commissioner shall satisfy this requirement with respect to the contractor or subcontractor. If, at the time of final settlement, there are any unpaid withholding taxes, penalties, or interest arising from the government contract, the commissioner shall issue a certification to the contractor or subcontractor upon payment, with certified funds, of any unpaid withholding taxes, penalties, and interest. Payment is received by the commissioner upon delivery of the certified funds to the central office located in St. Paul, or any district or subdistrict office located throughout the state.

History: *2005 c 151 art 1 s 72*

270C.67 LEVY AND DISTRAINT.

Subdivision 1. **Authority.** If any tax payable to the commissioner or to the department is not paid when due, such tax may be collected by the commissioner within five years after the date of assessment of the tax, or if a lien has been filed, during the period the lien is enforceable, or if the tax judgment has been filed, within the statutory period of enforcement of a valid tax judgment, by a levy upon all property and rights to property, including any property in the possession of law enforcement officials, of the person liable for the payment or collection of such tax or property on which there is a lien provided in section 270C.63. For this purpose, "tax" includes any penalty, interest, and costs, properly payable.

Subd. 1a. **Exempt property.** A levy under this section is not enforceable against:

(1) a purchaser with respect to tangible personal property purchased at retail in the ordinary course of the seller's trade or business, unless at the time of purchase the purchaser intends the purchase to or knows the purchase will hinder, evade, or defeat the collection of a tax; or

(2) the personal property listed as exempt in (i) Minnesota Statutes 2022, section 550.37, and (ii) sections 550.38 and 550.39.

Subd. 2. **Writ of entry.** The term "levy" includes the power of distraint and seizure by any means; provided, no entry can be made upon the business premises or residence of a taxpayer in order to seize property without first obtaining a writ of entry listing the property to be seized and signed by a judge of the district court of the district in which the business premises or residence is located.

Subd. 3. **Notice and demand; collection by levy.** Before a levy is made, notice and demand for payment of the amount due must be given to the person liable for the payment or collection of the tax at least 30 days prior to the levy. The notice required under this subdivision must be sent to the taxpayer's last known address and must include a brief statement that sets forth in simple and nontechnical terms:

(1) the administrative appeals available to the taxpayer with respect to the levy and sale; and

(2) the alternatives available to the taxpayer that can prevent a levy, including installment payment agreements under section 270C.52, subdivision 2.

Subd. 4. **Manner of execution and sale.** In making the execution of the levy and in collecting the taxes due, the commissioner shall have all of the powers provided in chapter 550 and in any other law for purposes of effecting an execution against property in this state. The sale of property levied upon, and the time and manner of redemption therefrom, shall, to the extent not provided in sections 270C.7101 to 270C.7109, be governed by chapter 550. The seal of the court, subscribed by the court administrator, as provided in section 550.04, shall not be required. The levy for collection of taxes may be made whether or not the commissioner has commenced a legal action for collection of such taxes.

Subd. 5. **Stay of sale.** (a) Where a jeopardy assessment or any other assessment has been made by the commissioner, the property seized for collection of the tax shall not be sold until the time has expired for filing an appeal of the assessment with the Tax Court pursuant to chapter 271. If an appeal has been filed, no sale shall be made unless the taxes remain unpaid for a period of more than 30 days after final determination of the appeal by the Tax Court or by the appropriate judicial forum.

(b) Notwithstanding paragraph (a), seized property may be sold if:

(1) the taxpayer consents in writing to the sale; or

(2) the commissioner determines that the property is perishable or may become greatly reduced in price or value by keeping, or that such property cannot be kept without great expense.

(c) The Tax Court has jurisdiction to review a determination made under paragraph (b), clause (2). Review is commenced by motion of the commissioner or the taxpayer. The order of the court in response to the motion is reviewable in the same manner as any other decision of the Tax Court.

Subd. 6. **Probate proceedings.** Where a levy has been made to collect taxes pursuant to this section and the property seized is properly included in a formal proceeding commenced under sections 524.3-401 to 524.3-505 and maintained under full supervision of the court, such property shall not be sold until the probate proceedings are completed or until the court so orders.

Subd. 7. **Bond or security to release seizure.** The property seized shall be returned by the commissioner if the owner gives a surety bond equal to the appraised value of the owner's interest in the property, as determined by the commissioner, or deposits with the commissioner security in such form and amount as the commissioner deems necessary to insure payment of the liability, but not more than twice the liability.

Subd. 8. **Injunction.** Notwithstanding any other provision to the contrary, if a levy or sale pursuant to this section would irreparably injure rights in property which the court determines to be superior to rights of the state in such property, the district court may grant an injunction to prohibit the enforcement of such levy or to prohibit such sale.

Subd. 9. **Optional remedy.** Any action taken by the commissioner pursuant to this section shall not constitute an election by the state to pursue a remedy to the exclusion of any other remedy.

Subd. 10. **Equitable relief.** After the commissioner has seized the property of any person, that person may, upon giving 48 hours notice to the commissioner and to the court, bring a claim for equitable relief before the district court for the release of the property to the taxpayer upon such terms and conditions as the court may deem equitable.

Subd. 11. **Levy and sale by sheriff.** If any tax payable to the commissioner or to the department is not paid as provided in subdivision 3, the commissioner may, within the time periods provided in subdivision 1 for collection of taxes, delegate the authority granted by subdivision 1, by means of issuing a warrant to the sheriff of any county of the state commanding the sheriff, as agent for the commissioner, to levy upon and sell the real and personal property of the person liable for the payment or collection of the tax and to levy upon the rights to property of that person within the county, or to levy upon and seize any property within the county on which there is a lien provided in section 270C.63, and to return the warrant to the commissioner and pay to the commissioner the money collected by virtue thereof by a time to be therein specified not less than 60 days from the date of the warrant. The sheriff shall proceed thereunder to levy upon and seize any property of the person and to levy upon the rights to property of the person within the county (except the person's homestead or that property which is exempt from execution pursuant to Minnesota Statutes 2022, section 550.37), or to levy upon and seize any property within the county on which there is a lien provided in section 270C.63. For purposes of the preceding sentence, "tax" includes any penalty, interest, and costs, properly payable. The sheriff shall then sell so much of the property levied upon as is required to satisfy the taxes, interest, and penalties, together with the sheriff's costs; but the sales, and the time and manner of redemption therefrom, shall, to the extent not provided in sections 270C.7101 to 270C.7109, be governed by Minnesota Statutes 2022, chapter 550. The proceeds of the sales, less the sheriff's costs, shall be turned over to the commissioner, who shall then apply the proceeds as provided in section 270C.7108.

Subd. 12. **Priority of levy.** Notwithstanding section 52.12, a levy by the commissioner made pursuant to the provisions of this section upon a taxpayer's funds on deposit in a financial institution located in this state, shall have priority over any unexercised right of setoff of the financial institution to apply the levied funds toward the balance of an outstanding loan or loans owed by the taxpayer to the financial institution. A claim by the financial institution that it exercised its right to setoff prior to the levy by the commissioner must be substantiated by evidence of the date of the setoff, and shall be verified by the sworn statement of a responsible corporate officer of the financial institution. Furthermore, for purposes of determining the priority of any levy made under this section, the levy shall be treated as if it were an execution made pursuant to chapter 550.

Subd. 13. **Effect of honoring levy.** Any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made who, upon demand by the commissioner, surrenders the property or rights to property (or who pays a liability under section 270C.70, subdivision 1) shall be discharged from any obligation or liability to the person liable for the payment or collection of the delinquent tax with respect to the property or rights to property so surrendered or paid.

Subd. 14. **Notice of levy.** Notwithstanding any other provision of law to the contrary, the notice of any levy authorized by this section may be served by mail or by delivery by an agent of the department.

Subd. 15. **Uneconomical levy.** No levy may be made on property if the amount of the expenses that the commissioner estimates would be incurred by the department with respect to the levy and sale of the property exceeds the fair market value of the property at the anticipated time of levy.

Subd. 16. **Levy on appearance date of subpoena.** No levy may be made on the property of a person on the day on which the person, or an officer or employee of the person, is required to appear in response to a subpoena issued by the commissioner to collect unpaid taxes, unless the commissioner determines that the collection of the tax is in jeopardy.

History: *2005 c 151 art 1 s 73; 2006 c 259 art 8 s 5,6; 2024 c 114 art 3 s 35,36*

270C.68 CONTINUOUS LEVY.

Subdivision 1. **Authority.** The commissioner may, within five years after the date of assessment of the tax, or if a lien has been filed under section 270C.63, within the statutory period for enforcement of the lien, give notice to a person to withhold the amount of any tax, interest, or penalties, due from a taxpayer. The amounts withheld shall be transmitted to the commissioner at the times the commissioner designates.

Subd. 2. **Levy continuous.** The levy made under subdivision 1 is continuous from the date the notice is received until the amount due stated on the notice has been withheld or the notice has been released by the commissioner under section 270C.7109, whichever occurs first.

Subd. 3. **Amount to be withheld.** The amount required to be withheld under this section is the least of:

(1) the amount stated on the notice;

(2) if the taxpayer is not a natural person, 100 percent of the payment; or

(3) if the taxpayer is an individual, 25 percent of the payment.

Subd. 4. **Payments covered.** For purposes of this section, the term "payments" does not include wages as defined in section 290.92 or funds in a deposit account as defined in section 336.9-102(a)(29). The term payments does include the following:

(1) payments due for services of independent contractors, dividends, rents, royalties, residuals, patent rights, and mineral or other natural resource rights;

(2) payments or credits under written or oral contracts for services or sales whether denominated as wages, salary, commission, bonus, or otherwise, if the payments are not covered by section 270C.69; and

(3) any other periodic payments or credits resulting from an enforceable obligation to the taxpayer.

Subd. 5. **Determination of status; effect.** A determination of a taxpayer's status as an independent contractor under this section does not affect the determination of the taxpayer's status for the purposes of any other law or rule.

History: *2005 c 151 art 1 s 74*

270C.69 WITHHOLDING BY EMPLOYER OF DELINQUENT TAXES.

Subdivision 1. **Notice and procedures.** (a) The commissioner may, within five years after the date of assessment of the tax, or if a lien has been filed under section 270C.63, within the statutory period for enforcement of the lien, give notice to any employer deriving income which has a taxable situs in this state regardless of whether the income is exempt from taxation, that an employee of that employer is delinquent in a certain amount with respect to any taxes, including penalties, interest, and costs. The commissioner can proceed under this section only if the tax is uncontested or if the time for appeal of the tax has expired. The commissioner shall not proceed under this section until the expiration of 30 days after mailing to the taxpayer, at the taxpayer's last known address, a written notice of (1) the amount of taxes, interest, and penalties due from the taxpayer and demand for their payment, and (2) the commissioner's intention to require additional withholding by the taxpayer's employer pursuant to this section. The effect of the notice shall expire one year after it has been mailed to the taxpayer provided that the notice may be renewed by mailing a new notice which is in accordance with this section. The renewed notice shall have the effect of reinstating the priority of the original claim. The notice to the taxpayer shall be in substantially the same form as that provided in Minnesota Statutes 2022, section 571.72. The notice shall further inform the taxpayer of the

wage exemptions contained in Minnesota Statutes 2022, section 550.37, subdivision 14. If no statement of exemption is received by the commissioner within 30 days from the mailing of the notice, the commissioner may proceed under this section. The notice to the taxpayer's employer may be served by mail or by delivery by an agent of the department and shall be in substantially the same form as provided in Minnesota Statutes 2022, section 571.75. Upon receipt of notice, the employer shall withhold from compensation due or to become due to the employee, the total amount shown by the notice, subject to the provisions of Minnesota Statutes 2022, section 571.922. The employer shall continue to withhold each pay period until the notice is released by the commissioner under section 270C.7109. Upon receipt of notice by the employer, the claim of the state of Minnesota shall have priority over any subsequent garnishments or wage assignments. The commissioner may arrange between the employer and the employee for withholding a portion of the total amount due the employee each pay period, until the total amount shown by the notice plus accrued interest has been withheld.

(b) The "compensation due" any employee is defined in accordance with the provisions of Minnesota Statutes 2022, section 571.921. The maximum withholding allowed under this section for any one pay period shall be decreased by any amounts payable pursuant to a garnishment action with respect to which the employer was served prior to being served with the notice of delinquency and any amounts covered by any irrevocable and previously effective assignment of wages; the employer shall give notice to the commissioner of the amounts and the facts relating to such assignments within ten days after the service of the notice of delinquency on the form provided by the commissioner as noted in this section.

(c) Within ten days after the expiration of such pay period, the employer shall remit to the commissioner, in the manner prescribed by the commissioner, the amount withheld during each pay period under this section. The employer must file all wage levy disclosure forms and remit all wage levy payments by electronic means.

Subd. 2. **Termination of employment.** If the employee ceases to be employed by the employer before the full amount set forth in a notice of delinquency plus accrued interest has been withheld, the employer shall immediately notify the commissioner in writing of the termination date of the employee and the total amount withheld. No employer may discharge any employee by reason of the fact that the commissioner has proceeded under subdivision 1. If an employer discharges an employee in violation of this provision, the employee shall have the same remedy as provided in section 571.927, subdivision 2.

Subd. 3. **Application to government employer.** Subdivisions 1 and 2 apply to cases in which the employer is the United States or any instrumentality thereof or this state or any municipality or other subordinate unit thereof. The provisions imposing liability on the employer for failure to withhold or remit under section 270C.70 do not apply to such government employers.

Subd. 4. **Refund to employee.** The commissioner shall refund to the employee excess amounts withheld from the employee under this section. If any excess results from payments by the employer because of payments made under section 270C.70, the excess attributable to the employer's payment shall be refunded to the employer.

Subd. 5. **Additional interest, costs, charges.** Employers required to withhold delinquent taxes, penalties, interest, and costs under this section shall not be required to compute any additional interest, costs or other charges to be withheld.

Subd. 6. **Legal effect.** The collection remedy provided to the commissioner by this section shall have the same legal effect as if it were a levy made pursuant to section 270C.67.

History: *2005 c 151 art 1 s 75; 2013 c 142 art 5 s 3; 2024 c 114 art 3 s 37*

270C.70 PERSONAL LIABILITY FOR FAILURE TO HONOR A LEVY.

Subdivision 1. **Surrender of property subject to levy.** A person who fails or refuses to surrender property or rights to property subject to a levy served on the person under section 270C.67, 270C.68, or 270C.69 is liable in an amount equal to the value of the property or rights not surrendered, or the amount of taxes, penalties, and interest for the collection of which the levy was made, whichever is less. A financial institution need not surrender funds on deposit until ten days after service of the levy.

Subd. 2. **Penalty.** In addition to the personal liability imposed by subdivision 1, if a person required to surrender property or rights to property fails to do so without reasonable cause, the person is liable for a penalty equal to 25 percent of the amount under subdivision 1.

Subd. 3. **Person defined.** The term "person" as used in this section includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to surrender the property or rights to property or to respond to the levy.

Subd. 4. **Order assessing liability.** The liability imposed by this section may, after demand to honor a levy has been made, be assessed by the commissioner within 60 days after service of the demand. The assessment may be based on information available to the commissioner. The assessment is presumed to be valid, and the burden is on the person assessed to show it is incorrect or invalid. An order assessing liability for failure to honor a levy is reviewable administratively under section 270C.35, and is appealable to Tax Court under chapter 271. The amount assessed, plus interest at the rate specified in section 270C.40, may be collected by any remedy available to the commissioner for the collection of taxes. The proceeds collected are applied first to the liability of the original taxpayer to the extent of the liability under subdivision 1 plus interest, and then to the penalty under subdivision 2.

History: *2005 c 151 art 1 s 76*

270C.7101 SALE OF SEIZED PROPERTY.

Subdivision 1. **Notice of seizure.** As soon as practicable after seizure of property, notice in writing shall be given by the commissioner to the owner of the property (or, in the case of personal property, the possessor thereof), and shall be served in like manner as a summons in a civil action in the district court. If the owner cannot be readily located, or has no dwelling or place of business within this state, the notice may be mailed to the last known address. The notice shall specify the sum demanded and shall contain, in the case of personal property, an account of the property seized and, in the case of real property, a description with reasonable certainty of the property seized.

Subd. 2. **Notice of sale.** The commissioner shall as soon as practicable after the seizure of the property give notice of sale of the property to the owner, in the manner of service prescribed in subdivision 1. In the case of personal property, the notice shall be served at least ten days prior to the sale. In the case of real property, the notice shall be served at least four weeks prior to the sale. The commissioner shall also cause public notice of each sale to be made. In the case of personal property, notice shall be posted at least ten days prior to the sale at the county courthouse for the county where the seizure is made, and in not less than two other public places. For purposes of this requirement, the Internet is a public place for posting the information. In the case of real property, six weeks' published notice shall be given prior to the sale, in a newspaper published or generally circulated in the county. The notice of sale provided in this subdivision shall specify the property to be sold, and the time, place, manner, and conditions of the sale. Whenever levy is made without regard to the 30-day period provided in section 270C.67, subdivision 3, public notice of sale of the property seized shall not be made within the 30-day period unless section 270C.7102 (relating to sale of perishable goods) is applicable.

Subd. 3. **Sale of indivisible property.** If any property liable to levy is not divisible, so as to enable the commissioner by sale of a part thereof to raise the whole amount of the tax and expenses, the whole of the property shall be sold.

Subd. 4. **Time and place of sale.** The time of sale shall be after the expiration of the notice periods prescribed in subdivision 2. The place of sale shall be within the county in which the property is seized, except by special order of the commissioner.

Subd. 5. **Manner and conditions of sale.** (a) Before the sale the commissioner shall determine a minimum price for which the property shall be sold, and if no person offers for the property at the sale the amount of the minimum price, the property shall be declared to be purchased at the minimum price for the state of Minnesota; otherwise the property shall be declared to be sold to the highest bidder. In determining the minimum price, the commissioner shall take into account the expense of making the levy and sale. The announcement of the minimum price determined by the commissioner may be delayed until the receipt of the highest bid.

(b) The sale shall not be conducted in any manner other than:

(1) by public auction;

(2) by public sale under sealed bids; or

(3) in the case of items which individually or in usually marketable units have a value of $50 or less, by public or private proceedings as a unit or in parcels at any time and place and on any terms, but every aspect of the disposition including the method, manner, time, place, and terms must be commercially reasonable.

(c) In the case of seizure of several items of property, the items may be offered separately, in groups, or in the aggregate, and shall be sold under whichever method produces the highest aggregate amount, except that sales under paragraph (b), clause (3), must produce a reasonable amount under the circumstances.

(d) Payment in full shall be required at the time of acceptance of a bid, except that a part of the payment may be deferred by the commissioner for a period not to exceed 30 days.

(e) Other methods (including advertising) in addition to those prescribed in subdivision 2 may be used in giving notice of the sale.

(f) The commissioner may adjourn the sale from time to time for a period not to exceed 30 days.

(g) If payment in full is required at the time of acceptance of a bid and is not then and there paid, the commissioner shall forthwith proceed to again sell the property in the manner provided in this section. If the conditions of the sale permit part of the payment to be deferred, and if the part is not paid within the prescribed period, suit may be instituted against the purchaser for the purchase price or that part thereof as has not been paid, together with interest at the rate specified in section 549.09 from the date of the sale; or, in the discretion of the commissioner, the sale may be declared by the commissioner to be null and void for failure to make full payment of the purchase price and the property may again be advertised and sold as provided in this section. In the event of a readvertisement and sale, any new purchaser shall receive the property or rights to property free and clear of any claim or right of the former defaulting purchaser, of any nature whatsoever, and the amount paid upon the bid price by the defaulting purchaser shall be forfeited.

Subd. 6. **Right to request sale of seized property within 60 days.** The owner of property seized by levy may request that the commissioner offer to sell the property within 60 days after the request, or within

a longer period requested by the owner. The request must be complied with unless the commissioner determines and notifies the owner within that period that compliance is not in the best interests of the state of Minnesota. A determination by the commissioner not to comply with the request is appealable to the Tax Court in the manner provided by law.

Subd. 7. **Sale of seized securities.** (a) At the time of levy on securities, the commissioner shall provide notice to the taxpayer that the securities may be sold after ten days from the date of seizure.

(b) If the commissioner levies upon nonexempt publicly traded securities and the value of the securities is less than or equal to the total obligation for which the levy is done, after ten days the person who possesses or controls the securities shall liquidate the securities in a commercially reasonable manner. After liquidation, the person shall transfer the proceeds to the commissioner, less any applicable commissions or fees, or both, which are charged in the normal course of business.

(c) If the commissioner levies upon nonexempt publicly traded securities and the value of the securities exceeds the total amount of the levy, the owner of the securities may, within seven days after receipt of the commissioner's notice of levy given pursuant to subdivision 1, instruct the person who possesses or controls the securities which securities are to be sold to satisfy the obligation. If the owner does not provide instructions for liquidation, the person who possesses or controls the securities shall liquidate the securities in an amount sufficient to pay the obligation, plus any applicable commissions or fees, or both, which are charged in the normal course of business, beginning with the nonexempt securities purchased most recently. After liquidation, the person who possesses or controls the securities shall transfer to the commissioner the amount of money needed to satisfy the levy.

History: *2005 c 151 art 1 s 77*

270C.7102 SALE OF PERISHABLE GOODS.

If the commissioner determines that any property seized is liable to perish or become greatly reduced in price or value by keeping, or that the property cannot be kept without great expense, the commissioner shall appraise the value of the property, and if the owner of the property can be readily found, the commissioner shall give the owner notice of the determination of the appraised value of the property. The property shall be returned to the owner if, within the time specified in the notice, the owner (a) pays to the commissioner an amount equal to the appraised value, or (b) gives bond in the form, with the sureties, and in the amount as the commissioner prescribes to pay the appraised amount at the time the commissioner determines to be appropriate in the circumstances. If the owner does not pay the amount or furnish the bond in accordance with this section, the commissioner shall as soon as practicable make public sale of the property in accordance with section 270C.7101.

History: *2005 c 151 art 1 s 78*

270C.7103 REDEMPTION OF PROPERTY.

Subdivision 1. **Before sale.** Any person whose property has been levied upon shall have the right to pay the amount due, together with the expenses of the proceeding, if any, to the commissioner at any time prior to the sale thereof, and upon payment the commissioner shall restore the property to the person, and all further proceedings in connection with the levy on the property shall cease from the time of payment.

Subd. 2. **Redemption of real estate after sale.** The owners of any real property sold as provided in this section, their heirs, executors, or administrators, or any person having any interest therein, or a lien thereon, or any person in their behalf, shall be permitted to redeem the property sold, or any particular tract of the property, at any time within six months, or in case the real property sold exceeds ten acres in size, at any

time within 12 months, after the sale thereof. The property or tract of property shall be permitted to be redeemed upon payment to the purchaser (or if not found in the county in which the property to be redeemed is situated, then to the commissioner, for the use of the purchaser, or the purchaser's heirs or assigns) of the amount paid by the purchaser together with interest at the rate of 20 percent per annum.

Subd. 3. **Record.** When any lands sold are redeemed as provided in this section, the commissioner shall cause entry of the fact to be made upon the record required by section 270C.7106 and the entry shall be evidence of the redemption.

History: *2005 c 151 art 1 s 79*

270C.7104 CERTIFICATE OF SALE.

In the case of property sold as provided in section 270C.7101, the commissioner shall give to the purchaser a certificate of sale upon payment in full of the purchase price. In the case of real property the certificate shall set forth the real property purchased, for whose taxes the property was sold, the name of the purchaser, and the price paid. If real property is declared purchased by the state of Minnesota, the commissioner shall within ten days from the sale cause the certificate of sale to be duly recorded by the county recorder of the county in which the real property is located.

History: *2005 c 151 art 1 s 80*

270C.7105 EFFECT OF CERTIFICATE OF SALE.

Subdivision 1. **Personal property.** (a) In all cases of sale pursuant to section 270C.7101 of personal property, the certificate of sale given pursuant to section 270C.7104 shall be prima facie evidence of the right of the commissioner to make the sale, and conclusive evidence of the regularity of the proceedings in making the sale. The certificate shall transfer to the purchaser all right, title, and interest of the party delinquent in and to the property sold.

(b) If the property consists of stocks, the certificate of sale shall be notice, when received, to any corporation, company, or association of the transfer, and shall be authority to the corporation, company, or association to record the transfer on its books and records in the same manner as if the stocks were transferred or assigned by the party holding the same, in lieu of any original or prior certificate, which shall be void, whether canceled or not.

(c) If the subject of sale is securities or other evidences of debt, the certificate of sale shall be a good and valid receipt to the person holding the same, as against any person holding or claiming to hold possession of the securities or other evidences of debt.

(d) If the property consists of a motor vehicle, the certificate of sale shall be notice, when received, to the registrar of motor vehicles of this state of the transfer, and shall be authority to the registrar to record the transfer on the books and records in the same manner as if the certificate of title to the motor vehicle were transferred or assigned by the party holding the same, in lieu of any original or prior certificate, which shall be void, whether canceled or not.

Subd. 2. **Real property.** In the case of the sale of real property pursuant to section 270C.7101, the certificate of sale given pursuant to section 270C.7104 shall be prima facie evidence of the facts therein stated, and shall be considered and operate as a conveyance of all the right, title, and interest the party delinquent had in and to the real property thus sold at the time the lien of the state of Minnesota attached thereto.

Subd. 3. **Junior encumbrances.** A certificate of sale of personal property or real property given pursuant to section 270C.7104 shall discharge the property from all liens, encumbrances, and titles over which the lien of the state of Minnesota with respect to which the levy was made had priority.

History: *2005 c 151 art 1 s 81*

270C.7106 RECORDS OF SALE.

The commissioner shall maintain a record of all sales of property under section 270C.7101 and of redemptions of real property. The record shall set forth the tax for which the sale was made, the dates of seizure and sale, the name of the party assessed and all proceedings in making the sale, the amount of expenses, the names of the purchasers, and the date of the certificate of sale. A copy of the record, or any part thereof, certified by the commissioner shall be evidence in any court of the truth of the facts therein stated.

History: *2005 c 151 art 1 s 82*

270C.7107 EXPENSE OF LEVY AND SALE.

The commissioner shall determine the expenses to be allowed in all cases of levy and sale.

History: *2005 c 151 art 1 s 83*

270C.7108 APPLICATION OF PROCEEDS OF LEVY.

Subdivision 1. **Collection of liability.** Any money realized by proceedings under this chapter, whether by seizure, by surrender under section 270C.67, by sale of seized property, by sale of property redeemed by the state of Minnesota (if the interest of the state of Minnesota in the property was a lien arising under the provisions of section 270C.63), or by agreement, arrangement, or any other means shall be applied as follows:

(a) First, against the expenses of the proceedings; then

(b) If the property seized and sold is subject to a tax that has not been paid, the amount remaining after applying clause (a) shall next be applied against the tax liability (and, if the tax was not previously assessed, it shall then be assessed); and

(c) The amount, if any, remaining after applying clauses (a) and (b) shall be applied against the tax liability in respect of which the levy was made or the sale was conducted.

Subd. 2. **Surplus proceeds.** Any surplus proceeds remaining after the application of subdivision 1 shall, upon application and satisfactory proof in support thereof, be credited or refunded by the commissioner to the person or persons legally entitled thereto.

History: *2005 c 151 art 1 s 84*

270C.7109 AUTHORITY TO RELEASE LEVY AND RETURN PROPERTY.

Subdivision 1. **Release of levy.** The commissioner shall release a levy on all or part of the property or rights to property levied on and shall promptly notify the person on whom the levy was made that the levy has been released if: (1) the liability for which the levy was made is satisfied or has become unenforceable by lapse of time; (2) release of the levy will facilitate collection of the liability; (3) the taxpayer has entered into an installment payment agreement under section 270C.52, subdivision 2, unless the agreement provides otherwise, or unless release of the levy will jeopardize the status of the department as a secured creditor; or (4) the fair market value of the property exceeds the liability, and release of the levy on a part of the property

can be made without hindering collection. In the case of tangible personal property essential in carrying on the trade or business of the taxpayer, the commissioner shall provide for an expedited determination under this subdivision. A release of levy under this subdivision does not prevent a subsequent levy on the property released.

Subd. 2. **Return of property.** If the commissioner determines that property has been wrongfully levied upon, it shall be lawful for the commissioner to return:

(a) The specific property levied upon, at any time;

(b) An amount of money equal to the amount of money levied upon, at any time before the expiration of nine months from the date of the levy; or

(c) An amount of money equal to the amount of money received by the state of Minnesota from a sale of the property, at any time before the expiration of nine months from the date of the sale.

For purposes of clause (c), if property is declared purchased by the state of Minnesota at a sale pursuant to section 270C.7101, subdivision 5 (relating to manner and conditions of sale), the state of Minnesota shall be treated as having received an amount of money equal to the minimum price determined pursuant to section 270C.7101, subdivision 5, or, if larger, the amount received by the state of Minnesota from the resale of the property.

History: *2005 c 151 art 1 s 85*

270C.711 ACQUISITION AND RESALE OF SEIZED PROPERTY.

For the purpose of enabling the commissioner to purchase or redeem seized property in which the state of Minnesota has an interest arising from a lien for unpaid taxes, or to provide for the operating costs of collection activities of the department, there is appropriated to the commissioner an amount representing the cost of such purchases, redemptions, or collection activities. Seized property acquired by the state of Minnesota to satisfy unpaid taxes shall be resold by the commissioner. The commissioner shall preserve the value of seized property while controlling it, including but not limited to the procurement of insurance. For the purpose of refunding the proceeds from the sale of levied or redeemed property which are in excess of the actual tax liability plus costs of acquiring the property, there is hereby created a levied and redeemed property refund account in the agency fund. All amounts deposited into this account are appropriated to the commissioner. The commissioner shall report annually on the status of this program to the chairs and ranking minority members of the legislative committees having jurisdiction over taxes and finance of the house of representatives and senate.

History: *2005 c 151 art 1 s 86; 2011 c 112 art 5 s 6*

270C.72 TAX CLEARANCE; ISSUANCE OF LICENSES.

Subdivision 1. **Tax clearance required.** (a) The state or a political subdivision of the state may not issue, transfer, or renew, and must revoke, a license for the conduct of a profession, occupation, trade, or business, if the commissioner notifies the licensing authority that the applicant owes the state delinquent taxes payable to the commissioner, penalties, or interest. The commissioner may not notify the licensing authority unless the applicant taxpayer owes $500 or more in delinquent taxes, penalties, or interest, or has not filed returns. If the applicant taxpayer does not owe delinquent taxes, penalties, or interest, but has not filed returns, the commissioner may not notify the licensing authority unless the taxpayer has been given 90 days' written notice to file the returns or show that the returns are not required to be filed.

(b) Within ten days after receipt of the notification from the commissioner under paragraph (a), the licensing authority must notify the license holder by certified mail of the potential revocation of the license for the applicable reason under paragraph (a). The notice must include a copy of the commissioner's notice to the licensing agency and information, in the form specified by the commissioner, on the licensee's option for receiving a tax clearance from the commissioner. The licensing authority must revoke the license 30 days after receiving the notice from the commissioner, unless it receives a tax clearance from the commissioner as provided in paragraph (c).

(c) A licensing authority that has received a notice from the commissioner may issue, transfer, renew, or not revoke the applicant's license only if (1) the commissioner issues a tax clearance certificate and (2) the commissioner or the applicant forwards a copy of the clearance to the authority. The commissioner may issue a clearance certificate only if the applicant does not owe the state any uncontested delinquent taxes, penalties, or interest and has filed all required returns.

Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings given.

(a) "Delinquent taxes" do not include a tax liability if (i) an administrative or court action which contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the tax liability has not expired, or (iii) the applicant has entered into a payment agreement and is current with the payments.

(b) "Applicant" means an individual, if the license is issued to or in the name of an individual, or the corporation or partnership, if the license is issued to or in the name of a corporation or partnership. "Applicant" also means an officer of a corporation, a member of a partnership, or an individual who is liable for delinquent taxes, either for the entity for which the license is at issue or for another entity for which the liability was incurred, or personally as a licensee. In the case of a license transfer, "applicant" also means both the transferor and the transferee of the license. "Applicant" also means any holder of a license.

(c) "License" means any permit, registration, certification, or other form of approval authorized by statute or rule to be issued by the state or a political subdivision of the state as a condition of doing business or conducting a trade, profession, or occupation in Minnesota, specifically including, but not limited to, a contract for space rental at the Minnesota State Fair and authorization to operate concessions or rides at county and local fairs, festivals, or events.

(d) "Licensing authority" includes the Minnesota State Fair Board and county and local boards or governing bodies.

Subd. 3. **Notice and hearing.** (a) Prior to notifying a licensing authority pursuant to subdivision 1 to revoke a license, the commissioner must send a notice to the applicant of the commissioner's intent to require revocation of the license and of the applicant's right to a hearing. If the applicant requests a hearing in writing within 30 days of the date of the notice, a contested case hearing must be held. The hearing must be held within 45 days of the date the commissioner refers the case to the Court of Administrative Hearings. Notwithstanding any law to the contrary, the applicant must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the applicant. The notice may be served personally or by mail. A license is subject to revocation when 30 days have passed following the date of the notice in this paragraph without the applicant requesting a hearing, or, if a hearing is timely requested, upon final determination of the hearing under section 14.62, subdivision 1.

(b) The commissioner may notify a licensing authority under subdivision 1 only after the requirements of paragraph (a) have been satisfied.

(c) A hearing under this subdivision is in lieu of any other hearing or proceeding provided by law arising from any action taken under subdivision 1.

Subd. 4. **Licensing authority; duties.** All licensing authorities must require the applicant to provide the applicant's Social Security number or individual taxpayer identification number and Minnesota business identification number, as applicable, on all license applications. Upon request of the commissioner, the licensing authority must provide the commissioner with a list of all applicants, including the name, address, business name and address, and Social Security number or individual taxpayer identification number and business identification number, as applicable, of each applicant. The commissioner may request from a licensing authority a list of the applicants no more than once each calendar year.

History: *2005 c 151 art 1 s 87; 2014 c 308 art 8 s 3,4; 1Sp2017 c 1 art 16 s 11; 2025 c 39 art 2 s 68*

270C.721 REVOCATION OF CERTIFICATES OF AUTHORITY TO DO BUSINESS IN THIS STATE.

When a foreign corporation authorized to do business in this state under chapter 303, or a foreign limited liability company or partnership authorized to do business in this state under chapter 322C, fails to comply with a law administered by the commissioner that imposes a tax, the commissioner may serve the secretary of state with a certified copy of an order finding such failure to comply. The secretary of state, upon receipt of the order, shall revoke the authority to do business in this state, and shall reinstate the entity under section 303.19 or 322C.0706 only when the corporation or limited liability company or partnership has obtained from the commissioner an order finding that the corporation or limited liability company or partnership is in compliance with such law. An order requiring revocation of a certificate shall not be issued unless the commissioner gives the corporation or limited liability company or partnership 30 days' written notice of the proposed order, specifying the violations of law, and affording an opportunity to request a contested case hearing under chapter 14.

History: *2005 c 151 art 1 s 88; 2014 c 157 art 2 s 3,29,31; 2016 c 158 art 1 s 153*

270C.722 REVOCATION OF SALES TAX PERMITS.

Subdivision 1. **Notice of revocation; hearings.** (a) If: (1) a person fails to comply with chapter 297A or the sales and use tax provisions of chapter 289A or the rules related to sales tax, or (2) any retailer purchases for resale from an unlicensed seller more than 20,000 cigarettes or $500 or more worth of tobacco products, without reasonable cause, the commissioner may give the person 30 days' notice in writing, specifying the violations, and stating that based on the violations the commissioner intends to revoke the person's permit issued under section 297A.84. The notice must also advise the person of the right to contest the revocation under this subdivision. It must also explain the general procedures for a contested case hearing under chapter 14. The notice may be served personally or by mail in the manner prescribed for service of an order of assessment.

(b) If the person does not request a hearing within 30 days after the date of the notice of intent, the commissioner may serve a notice of revocation of permit upon the person, and the permit is revoked. If a hearing is timely requested, and held, the permit is revoked after the commissioner serves an order of revocation of permit under section 14.62, subdivision 1.

Subd. 2. **New permits after revocation.** (a) The commissioner shall not issue a new permit after revocation or reinstate a revoked permit unless the taxpayer applies for a permit and provides reasonable evidence of intention to comply with the sales and use tax laws and rules. The commissioner may require the applicant to provide security, in addition to that authorized by section 297A.92, in an amount reasonably

necessary to ensure compliance with the sales and use tax laws and rules. If the commissioner issues or reinstates a permit not in conformance with the requirements of this subdivision or applicable rules, the commissioner may cancel the permit upon notice to the permit holder. The notice must be served by first class and certified mail at the permit holder's last known address. The cancellation shall be effective immediately, subject to the right of the permit holder to show that the permit was issued in conformance with the requirements of this subdivision and applicable rules. Upon such showing, the permit must be reissued.

(b) If a taxpayer has had a permit or permits revoked three times in a five-year period, the commissioner may refuse to issue a new permit or reinstate the revoked permit until 24 months have elapsed after revocation and the taxpayer has satisfied the conditions for reinstatement of a revoked permit or issuance of a new permit imposed by this section and rules adopted under this section.

(c) For purposes of this subdivision, "taxpayer" means:

(1) an individual, if a revoked permit was issued to or in the name of an individual, or a corporation or partnership, if a revoked permit was issued to or in the name of a corporation or partnership; and

(2) an officer of a corporation, a member of a partnership, or an individual who is liable for delinquent sales taxes, either for the entity for which the new or reinstated permit is at issue, or for another entity for which a permit was previously revoked, or personally as a permit holder.

History: *2005 c 151 art 1 s 89; 2006 c 259 art 3 s 1*

270C.725 POSTING OF TAX DELINQUENCY; SALE OF LIQUOR OR BEER.

Subdivision 1. **Posting, notice.** Pursuant to the authority to disclose under section 270B.12, subdivision 4, the commissioner shall, by the 15th of each month, submit to the commissioner of public safety a list of all taxpayers who are required to pay, withhold, or collect the tax imposed by section 290.02, 290.0922, 290.92, 290.9727, 290.9728, 290.9729, or 297A.62, or local sales and use tax payable to the commissioner, or a local option tax administered and collected by the commissioner, and who are ten days or more delinquent in either filing a tax return or paying the tax.

The commissioner is under no obligation to list a taxpayer whose business is inactive. At least ten days before notifying the commissioner of public safety, the commissioner shall notify the taxpayer of the intended action.

The commissioner of public safety shall post the list in the same manner as provided in section 340A.318, subdivision 3. The list will prominently show the date of posting. If a taxpayer previously listed files all returns and pays all taxes specified in this subdivision then due, the commissioner shall notify the commissioner of public safety within two business days.

Subd. 2. **Sales prohibited.** Beginning the third business day after the list is posted, no wholesaler, manufacturer, or brewer may sell or deliver any product to a taxpayer included on the posted list.

Subd. 3. **Penalty.** A wholesaler, manufacturer, or brewer of intoxicating liquor or 3.2 percent malt liquor who violates subdivision 2 is subject to the penalties provided in section 340A.304.

History: *2005 c 151 art 1 s 90*

270C.726 POSTING OF TAX DELINQUENCY; SALE OF CANNABIS.

Subdivision 1. **Posting; notice.** (a) Pursuant to the authority to disclose under section 270B.12, subdivision 4a, the commissioner shall, by the 15th of each month, submit to the Office of Cannabis Management a list of all taxpayers subject to the tax imposed by section 295.81 that are required to pay, withhold, or collect the tax imposed by section 290.02, 290.0922, 290.92, 290.9727, 290.9728, 290.9729, 295.81, or 297A.62; or a local sales and use tax payable to, or administered and collected by, the commissioner, and who are ten days or more delinquent in either filing a tax return or paying the tax.

(b) The commissioner is under no obligation to list a taxpayer whose business is inactive. At least ten days before notifying the Office of Cannabis Management, the commissioner shall notify the taxpayer of the intended action.

(c) The Office of Cannabis Management shall post the list required by this section on the Office of Cannabis Management website. The list must prominently show the date of posting. If a previously listed taxpayer files all returns and pays all taxes specified in this subdivision then due, the commissioner shall notify the Office of Cannabis Management within two business days.

Subd. 2. **Sales prohibited.** Beginning the third business day after the list is posted, no cannabis cultivator, cannabis manufacturer, cannabis microbusiness, cannabis mezzobusiness, medical cannabis combination business, cannabis wholesaler, or industrial hemp grower as defined in chapter 342 may sell or deliver any product to a taxpayer included on the posted list.

Subd. 3. **Penalty.** A cannabis cultivator, cannabis manufacturer, cannabis microbusiness, cannabis mezzobusiness, medical cannabis combination business, cannabis wholesaler, or industrial hemp grower as defined in chapter 342 who violates subdivision 2 is subject to the penalties provided in sections 342.19 and 342.21.

History: *2023 c 63 art 2 s 3*

270C.728 PUBLICATION OF NAMES OF DELINQUENT TAXPAYERS.

Subdivision 1. **Commissioner may publish.** (a) Notwithstanding any other law, the commissioner may publish a list or lists of taxpayers who owe delinquent taxes, and who meet the requirements of paragraph (b).

(b) For purposes of this section, a taxpayer may be included on a list if:

(1) the taxes owed remain unpaid at least 180 days after the dates they were due;

(2) the taxpayer's total liability for the taxes, including penalties, interest, and other charges, is at least $5,000; and

(3) a tax lien has been filed or a judgment for the liability has been entered against the taxpayer before notice is given under subdivision 3.

(c) In the case of listed taxpayers that are business entities, the commissioner may also list the names of responsible persons assessed pursuant to section 270C.56 for listed liabilities, who are not protected from publication by subdivision 2, and for whom the requirements of paragraph (b) are satisfied with regard to the personal assessment.

(d) Before any list is published under this section, the commissioner must certify in writing that each of the conditions for publication as provided in this section has been satisfied, and that procedures were followed to ensure the accuracy of the list and notice was given to the affected taxpayers.

Subd. 2. **Required and excluded taxpayers.** (a) The commissioner may publish lists of some or all of the taxpayers described in subdivision 1. A list must include the taxpayers with the largest unpaid liabilities of the kind used to define the list, subject to the limitations of paragraphs (b) and (c).

(b) For the purposes of this section, a tax is not delinquent if:

(1) an administrative or court action contesting the amount or validity of the taxpayer's liability has been filed or served and is unresolved at the time when notice would be given under subdivision 3;

(2) an appeal period to contest the liability has not expired; or

(3) the liability is subject to a payment agreement and there is no delinquency in the payments required under the agreement.

(c) Unpaid liabilities are not subject to publication if:

(1) the commissioner is in the process of reviewing or adjusting the liability;

(2) the taxpayer is a debtor in a bankruptcy proceeding and the automatic stay is in effect;

(3) the commissioner has been notified that the taxpayer is deceased; or

(4) the time period for collecting the taxes has expired.

Subd. 3. **Notice to taxpayer.** (a) At least 30 days before publishing the name of a delinquent taxpayer, the commissioner shall mail a written notice to the taxpayer, detailing the amount and nature of each liability and the intended publication of the information listed in subdivision 4 related to the liability. The notice must be mailed by first class and certified mail addressed to the last known address of the taxpayer. The notice must include information regarding the exceptions listed in subdivision 2 and must state that the taxpayer's information will not be published if the taxpayer pays the delinquent obligation, enters into an agreement to pay, or provides information establishing that subdivision 2 prohibits publication of the taxpayer's name.

(b) After at least 30 days has elapsed since the notice was mailed and the delinquent tax has not been paid and the taxpayer has not proved to the commissioner that subdivision 2 prohibits publication, the commissioner may publish in a list of delinquent taxpayers the information about the taxpayer that is listed in subdivision 4.

Subd. 4. **Form of list.** The list may be published by any medium or method. The list must contain the name, address, type of tax, and period for which payment is due for each liability, including penalties, interest, and other charges owed by each listed delinquent taxpayer.

Subd. 5. **Removal from list.** The commissioner shall remove the name of a taxpayer from the list of delinquent taxpayers after the commissioner receives written notice of and verifies any of the following facts about the liability in question:

(1) the taxpayer has contacted the commissioner and arranged resolution of the liability;

(2) an active bankruptcy proceeding has been initiated for the liability;

(3) a bankruptcy proceeding concerning the liability has resulted in discharge of the liability; or

(4) the commissioner has written off the liability.

Subd. 6. **Names published in error.** If the commissioner publishes a name under subdivision 1 in error, the taxpayer whose name was erroneously published has a right to request a retraction and apology. If the taxpayer so requests, the commissioner shall publish a retraction and apology acknowledging that the taxpayer's name was published in error. The retraction and apology must appear in the same medium and the same format as the original list that contained the name listed in error.

Subd. 7. **Payment of damages.** Actions against the commissioner or the state of Minnesota arising out of the implementation of this program must be brought under section 270C.275. If an action results in damages awarded to a taxpayer, the damages must be paid out of the department's operating budget rather than in accordance with section 3.736, subdivision 7.

History: *2005 c 151 art 1 s 91*

OVERSIGHT AND ADMINISTRATION OF PROPERTY TAX SYSTEM

270C.85 ADMINISTRATION OF PROPERTY TAX LAWS; POWERS AND DUTIES.

Subdivision 1. **General supervision.** The commissioner shall have and exercise general supervision over the administration of the property tax laws, assessors, town, county, and city boards of review and equalization, and all other assessing officers in the performance of their duties, to the end that all assessments of property be made relatively just and equal in compliance with the laws of the state.

Subd. 2. **Powers and duties.** The commissioner shall have and exercise the following powers and duties in administering the property tax laws:

(1) confer with, advise, and give the necessary instructions and directions to local assessors and local boards of review throughout the state as to their duties under the laws of the state;

(2) direct proceedings, actions, and prosecutions to be instituted to enforce the laws relating to the liability and punishment of public officers and officers and agents of corporations for failure or negligence to comply with the provisions of the property tax laws, and cause complaints to be made against local assessors, members of boards of equalization, members of boards of review, or any other assessing or taxing officer, to the proper authority, for their removal from office for misconduct or negligence of duty;

(3) require county attorneys to assist in the commencement of prosecutions in actions or proceedings for removal, forfeiture, and punishment, for violation of the property tax laws in their respective districts or counties;

(4) require town, city, county, and other public officers to report and certify information, at the parcel level or in the aggregate, as to the assessment and taxation of real and personal property, and such other information as may be needful in the work of the commissioner. The commissioner shall prescribe the content, format, manner, and time of filing of all required reports and certifications;

(5) transmit to the governor, on or before the third Monday in December of each even-numbered year, and to each member of the legislature, on or before November 15 of each even-numbered year, the report of the department for the preceding years, showing all the taxable property subject to the property tax laws and the value of the same, in tabulated form;

(6) inquire into the methods of assessment and taxation and ascertain whether the assessors faithfully discharge their duties; and

(7) assist local assessors in determining the estimated market value of industrial special-use property. For purposes of this clause, "industrial special-use property" means property that:

(i) is designed and equipped for a particular type of industry;

(ii) is not easily adapted to some other use due to the unique nature of the facilities;

(iii) has facilities totaling at least 75,000 square feet in size; and

(iv) has a total estimated market value of $10,000,000 or greater based on the assessor's preliminary determination.

History: *2005 c 151 art 1 s 92; 2008 c 366 art 6 s 2; 1Sp2019 c 6 art 18 s 1*

270C.86 POWER TO ABATE; CORRECTION OF ERRORS.

Subdivision 1. **Powers of commissioner; application for abatement; orders.** (a) Except for matters delegated to the various boards of county commissioners under section 375.192, and except as otherwise provided by law, the commissioner shall have power to grant such reduction or abatement of net tax capacities, taxes imposed by the property tax laws, or special assessments, and of any costs, penalties, or interest thereon as the commissioner may deem just and equitable, and to order the refundment, in whole or in part, of any taxes or special assessments, and costs, penalties, or interest thereon which have been erroneously or unjustly paid. Application therefor shall be submitted with a statement of facts in the case and the favorable recommendation of the county board or of the board of abatement of any city where any such board exists, and the county auditor of the county wherein such tax was levied or paid. No reduction, abatement, or refundment of any special assessments made or levied by any municipality for local improvements shall be made unless it is also approved by the board of review or similar taxing authority of such municipality.

(b) The commissioner shall forward to the county auditor a copy of the order made by the commissioner in all cases in which the approval of the county board is required.

(c) An appeal may not be taken to the Tax Court from any order of the commissioner made in the exercise of the discretionary authority granted in paragraph (a) with respect to the reduction or abatement of real or personal property taxes in response to an application for an abatement, reduction, or refund of taxes, net tax capacities, costs, penalties, or interest.

Subd. 2. **Examination of application; reductions; appeals.** (a) The commissioner shall examine all applications submitted by a county board pursuant to section 375.192, subdivision 3. If the applicant has previously submitted a claim for property tax relief pursuant to chapter 290A based on the property taxes payable prior to receiving the abatement, the commissioner may approve the application in an amount reduced by the relief provided pursuant to chapter 290A.

(b) An appeal may be taken to the Tax Court from an order of the commissioner made pursuant to this subdivision.

Subd. 3. **Correction of errors.** On application of the county auditor with the approval of the county board, the commissioner may order the correction of any administrative and clerical errors in the assessment, levy, and extension of taxes under the property tax laws, other than valuation.

History: *2005 c 151 art 1 s 93*

270C.87 REVISION OF MINNESOTA ASSESSORS' MANUAL.

In accordance with the provisions of section 270C.85, the commissioner shall periodically revise the Minnesota assessors' manual.

History: *2005 c 151 art 1 s 94; 2010 c 389 art 8 s 2*

270C.88 ORDERS; DECISIONS.

Subdivision 1. **In writing.** Any order or decision of the commissioner increasing or decreasing any tax, assessment, or other obligation by a sum exceeding $1,000 on real or personal property, or the net tax capacity thereof, or other obligation relating thereto, the result of which is to increase or decrease the total amount payable under the property tax laws, including penalties and interest, by a sum exceeding $1,000, must bear the written signature or facsimile signature of the commissioner or the commissioner's delegate. Written approval of the commissioner or a delegate shall not be required with respect to orders reducing net tax capacity of property by reason of its classification as a homestead.

Subd. 2. **Only official actions of county board or other agency acted upon.** No action requiring the recommendation or approval of any county board or other public agency shall be taken by the commissioner, or any other employees or agents of the department, unless such recommendation or approval shall have been made upon official action by such county board or other agency, entered upon the minutes or record of its proceedings as a public record, showing the names of the taxpayers and other persons concerned and the amounts involved, and so certified by the recording officer of such board or agency.

History: *2005 c 151 art 1 s 95*

270C.89 COUNTY ASSESSOR'S REPORTS OF ASSESSMENT FILED WITH COMMISSIONER.

Subdivision 1. **Initial report.** Each county assessor shall file with the commissioner a copy of preliminary assessment information that the commissioner may require under section 270C.85, subdivision 2, clause (4), that will be acted upon by the local and county boards of review. The assessor of each county in the state shall file with the commissioner, within ten working days following final action of the local board of review or equalization and within five days following final action of the county board of equalization, any changes made by the local or county board.

Subd. 2. **Final report.** The final assessment information after adjustments by the State Board of Equalization and inclusion of any omitted property shall be reported to the commissioner under section 270C.85, subdivision 2, clause (4).

History: *2005 c 151 art 1 s 96,116; art 5 s 2; 1Sp2017 c 1 art 15 s 10; 1Sp2019 c 6 art 18 s 2,3*

270C.90 [Renumbered 275.079]

270C.91 RECORD OF PROCEEDINGS CHANGING NET TAX CAPACITY; DUTIES OF COUNTY AUDITOR.

A record of all proceedings of the commissioner affecting any change in the net tax capacity of any property, as revised by the State Board of Equalization, shall be kept by the commissioner and a copy thereof, duly certified, shall be mailed each year to the auditor of each county wherein such property is situated, on or before June 30. This record shall specify the amounts or amount, or both, added to or deducted from the net tax capacity of the real property of each of the several towns and cities, and of the real property not in towns or cities, also the percent or amount of both, added to or deducted from the several classes of personal property in each of the towns and cities, and also the amount added to or deducted from the assessment of

any person. The county auditor shall add to or deduct from such tract or lot, or portion thereof, of any real property in the county the required percent or amount, or both, on the net tax capacity thereof as it stood after equalized by the county board, adding in each case a fractional sum of 50 cents or more, and deducting in each case any fractional sum of less than 50 cents, so that no net tax capacity of any separate tract or lot shall contain any fraction of a dollar; and add to, or deduct from, the several classes of personal property in the county the required percent or amount, or both, on the net tax capacity thereof as it stood after equalized by the county board, adding or deducting in manner aforesaid any fractional sum so that no net tax capacity of any separate class of personal property shall contain a fraction of a dollar, and add to or deduct from assessment of any person, as they stood after equalization by the county board, the required amounts to agree with the assessments as returned by the commissioner.

History: *2005 c 151 art 1 s 98; 1Sp2019 c 6 art 18 s 4*

270C.92 IMPROPER OR NEGLIGENT ADMINISTRATION OF PROPERTY TAX LAWS.

Subdivision 1. **Examination of complaints; proceedings.** The commissioner shall receive complaints and examine all cases where it is alleged that property subject to taxation has not been assessed or has been fraudulently or for any reason improperly or unequally assessed, or the law in any manner evaded or violated, and cause to be instituted such proceedings as will remedy improper or negligent administration of the property tax laws.

Subd. 2. **Change of market values.** In administering the property tax laws, the commissioner shall raise or lower the market value of any real or personal property, including the power to raise or lower the market value of the real or personal property of any person; provided, that before any such assessment against the property of any person is so raised, notice of an intention to raise such market value and of the time and place at which a hearing thereon will be held shall be given to such person, by mail, addressed to the person at the place of residence listed upon the assessment book, at least five days before the day of such hearing.

All relevant and material evidence concerning the market value of the real or personal property shall be submitted at the hearing, and the hearing shall not be a "contested case" within the meaning of section 14.02, subdivision 3. The person notified of the hearing, or any other person having an interest in the property, may present evidence and argument bearing upon the market value of the property.

Subd. 3. **Appearances before the commissioner.** A property owner, other than a public utility or mining company, for which the original assessments are determined by the commissioner, may not appear before the commissioner for the purposes provided in subdivision 1 or 2 unless a timely appearance in person, by counsel, or by written communication has been made before the county board of equalization as provided in section 274.13, to appeal the assessment of the property, or that the property owner can establish not receiving notice of market value at least five days before the local board of review meeting.

The commissioner may refuse to hear an appeal that is within the jurisdiction of the Small Claims Division of the Tax Court as stated in section 271.21, subdivision 2. The property owner shall be notified by the commissioner of the right to appeal to the Small Claims Division whenever an appeal to the commissioner is denied.

History: *2005 c 151 art 1 s 99*

270C.921 MUNICIPALITY MAY BE PARTY TO TAX HEARING.

Any city, town, school district, or county (all of which governmental subdivisions shall be embraced in the word "municipality" as used in sections 270C.921 to 270C.928) may appear at and become a party to any proceedings before the commissioner under section 270C.92 held for the purpose of equalizing or

assessing any real or personal property in the municipality, or reducing the net tax capacity of any such property. For that purpose the municipality may employ counsel and disburse money for other expenses in connection with the proceedings, on duly itemized, verified claims, which shall be audited and allowed as now provided by law for the allowance of claims against a municipality. It shall be the duty of the commissioner, at the time of a hearing, to grant the municipality, at its request, any further reasonable time as may be necessary for the municipality to prepare for further hearing. Before granting any reduction in net tax capacity exceeding $100,000, it shall be the duty of the commissioner, when any taxpayer or property owner has applied to the commissioner after June 30, 1983, for a reduction of the net tax capacity of any real or personal property in an amount exceeding $100,000, to give written notice to the officials of the municipality where the property is located and to permit the municipality to have reasonable opportunity to be heard at any proceedings concerning such reduction.

History: *2005 c 151 art 1 s 100*

270C.922 MUNICIPALITY MAY REQUEST TAX HEARING.

Any municipality may, at any time within ten days after the final adjournment of the county board of equalization of the county in which the municipality is located or within ten days after the filing with the auditor of such county of any order of the commissioner reducing the net tax capacity of any property in the municipality, file a written request with the commissioner for a hearing under section 270C.92 upon the equalization or assessment of any property within the municipality, specifying the property and the name and address of the owner thereof, as they appear from the assessment books. The commissioner shall then order a hearing and mail a notice stating the time and place of the hearing to the municipality and to the owner of the property. It shall be the duty of the commissioner, at the time of a hearing, to grant the municipality, at its request, such further reasonable time as may be necessary for the municipality to prepare for further hearing.

History: *2005 c 151 art 1 s 101*

270C.923 WITNESSES SUMMONED.

In any hearing before the commissioner under section 270C.92, the commissioner shall, upon the request of a municipality or any other party to the proceedings, issue subpoenas and summon witnesses to appear and give testimony, and to produce books, records, papers, and documents. For the purpose of preparing for and participating in a hearing the municipality shall have access to, and use of, all the data, records, and files of the commissioner pertaining to the property in question. Upon demand of any party a record shall be kept by the commissioner of all evidence offered or received at a hearing, the cost thereof to be paid by the party making such demand.

History: *2005 c 151 art 1 s 102*

270C.924 FINDINGS OF FACT AND ORDER; APPEALS.

Subdivision 1. **Findings of fact.** For hearings held under section 270C.92, the commissioner shall determine the controversy upon the evidence produced at the hearing and shall make and file written findings of fact and an order determining the controversy. In the equalization and determination of net tax capacities, the findings and net tax capacities as given by the assessor of the local assessment district shall be considered as prima facie correct. Copies of the order and findings shall be mailed to all parties appearing at the hearing and to the auditor of the county in which the property is located.

Subd. 2. **Appeal by municipality.** Any municipality which has appeared in the proceedings, and which is aggrieved by the order of the commissioner reducing the net tax capacity of any of the property, or failing

to increase the net tax capacity, may have the order of the commissioner reviewed by appeal to the court of appeals, on either of the following grounds: (1) that the determination of the commissioner was not in accordance with the property tax laws, or that the commissioner committed any other error of law; or (2) that the findings of fact and determination of net tax capacity were unwarranted by or were contrary to the weight of the evidence.

Subd. 3. **Appeal by property owner.** Any owner of property who has appeared in the proceedings and who is aggrieved by the order of the commissioner raising the net tax capacity of the property, or failing to reduce the net tax capacity, may have the order of the commissioner reviewed on appeal to the court of appeals in like manner and upon the same grounds as provided for review on the appeal of any municipality.

History: *2005 c 151 art 1 s 103*

270C.925 NOTICE OF APPEAL.

To secure review of a determination made by the commissioner under section 270C.924, the municipality shall, within 30 days after mailing of notice of the determination, serve upon the commissioner a notice of appeal to the court of appeals from the order of the commissioner and file the original, with proof of service, with the clerk of the appellate courts, paying the filing fee provided by law for appeals in civil actions. The filing of the notice of appeal shall vest the court with jurisdiction and the appeal shall be heard and disposed of as in other civil cases.

The court shall reverse or affirm the order of the commissioner or remand the cause to the commissioner for a new hearing or further proceedings or for other disposition, with further directions as the court deems proper.

History: *2005 c 151 art 1 s 104*

270C.926 APPEAL DOES NOT STAY COLLECTION.

The institution of any appeal under sections 270C.924 and 270C.925 from the order of the commissioner does not stay any proceedings for the assessment or collection of taxes against the property involved therein. Notwithstanding such appeal, the commissioner shall file with the auditor of the county in which such property is situated an order confirming, increasing, decreasing, or determining the net tax capacity thereof, and the county auditor shall extend and levy against such property, or the owner thereof, the taxes thereupon for such year according to such assessment, and all subsequent proceedings for the determination of the taxes and the collection thereof shall be taken as if no appeal from such order were pending. When the matter is finally determined on review a properly authenticated copy of the findings, order, or judgment shall be filed with the auditor of the county in which the land or property referred to in the proceedings is situated. If such order or judgment lowers the net tax capacity of the land or property referred to in the proceedings, the commissioner, upon petition of the owner, approved by the county board, shall abate so much of the taxes against such property as is attributable to the excessive net tax capacity thereof. If such tax has been paid, the county auditor, upon petition of the owner, approved by the county board and the commissioner, shall refund so much of such payment as is attributable to such excess net tax capacity. Upon such refund being made the county auditor shall charge the same to the state and the various governmental subdivisions thereof that participated in such excessive payment, in proportion to their respective shares therein, and deduct the same in the next tax apportionment.

History: *2005 c 151 art 1 s 105*

270C.927 INCREASE IN NET TAX CAPACITY; ADDITIONAL TAXES.

If the final order and judgment in a hearing before the commissioner under section 270C.92, or any appeal thereof, result in raising the net tax capacity of the property affected by the proceedings, the county officers shall, for the next ensuing year, in addition to the regular taxes levied for such ensuing year, levy, extend, and spread against such property, if real property, or against the owner thereof, if personal property, a tax equal to the difference between the taxes actually levied and extended against such property, or owner, for the year in question and the taxes which should have been levied or extended against such property, or owner, at the increased net tax capacity as finally determined.

History: *2005 c 151 art 1 s 106*

270C.928 PROCEEDINGS TO DETERMINE NET TAX CAPACITY.

The proceedings provided in sections 270C.92 to 270C.927 are for determining the net tax capacity upon the basis of which taxes are spread against property, or its owner, in the first instance. The order of the commissioner, or the final order for judgment of the court of appeals on it, shall not be a bar to any defense against the taxes interposed at the time of the proceedings for judgment on them. All defenses which may be set up against the proceedings for judgment upon the taxes may be asserted notwithstanding the determination of the commissioner or the court. If the taxes are levied or extended pending review of the order of the commissioner by the court, a judgment entered upon the taxes in the tax delinquency proceedings shall not be a bar to the spreading of further taxes against the property for that year, in the event the net tax capacity of the property is raised as herein provided. In the proceedings for the collection of any taxes which include an additional levy because of the raising of the net tax capacity of any property, the owner may answer separately to the proceedings to obtain judgment for the excess levy.

History: *2005 c 151 art 1 s 107*

REASSESSMENT OF OMITTED OR UNDERVALUED PROPERTIES

270C.94 PROPERTY OMITTED OR UNDERVALUED; REASSESSMENT; APPOINTMENT OF SPECIAL ASSESSOR.

Subdivision 1. **Property omitted or undervalued.** When it shall be made to appear to the commissioner, by complaint or by the finding of a court or of the legislature, or either body of the legislature, or any committee of the legislature, or any city council or county board, that any considerable amount of property has been improperly omitted from the tax list or assessment roll of any district or county for any year, or, if assessed, that the same has been undervalued or overvalued, as compared with like property in the same county or in the state so that the assessment for such year in such district or county is grossly unfair and inequitable, whether or not the same has been equalized by the county board of equalization or the commissioner, the commissioner shall examine into the facts in the matter and, if satisfied that it would be for the best interests of the state that a reassessment of such property be made, the commissioner shall appoint a special assessor and such deputy assessors as may be necessary and cause a reassessment to be made of all or any of the real and personal property, or either, in any such district or county as the commissioner may deem best, to the end that all property in such district or county shall be assessed equitably as compared with like property in such district or county.

Subd. 2. **Special assessors, deputies; reassessments.** The commissioner shall appoint a special assessor and deputies and cause to be made, in any year, a reassessment of all or any real and personal property, or either, in any assessment district, when in the commissioner's judgment such reassessment is desirable or

necessary, to the end that any and all property in such district shall be assessed equitably as compared with like property in the county wherein such district is situated.

Subd. 3. **Failure to appraise.** When an assessor has failed to properly appraise at least one-fifth of the parcels of property in a district or county as provided in section 273.01, the commissioner may appoint a special assessor and deputy assessor as necessary and cause a reappraisal to be made of the property due for reassessment in accordance with law.

History: *2005 c 151 art 1 s 108,116; art 5 s 3; 2010 c 389 art 8 s 3*

270C.95 QUALIFICATION OF ASSESSORS; REASSESSMENT, HOW MADE.

Every special assessor and deputy appointed under the provisions of section 270C.94 shall subscribe and file with the commissioner an oath to faithfully and fairly perform the duties of office. Such special assessor, assisted by deputies, shall thereupon proceed to carefully examine and reassess the property so to be reassessed and prepare duplicate lists of such reassessment in such form as the commissioner may prescribe, showing the property or person so reassessed, the amount of the original assessment thereof made in such year, and opposite the same the reassessment so made by such special assessor. The special assessor shall file both copies of such list with the commissioner; and the commissioner shall thereupon examine, equalize, and correct such reassessment so as to substantially conform with the assessment of like property throughout the state and transmit to the auditor of the county wherein such reassessment was so made one copy of such reassessment by the commissioner so corrected and equalized. Such list shall for all purposes supersede and be in place of the original assessment made for such year upon such property and the county auditor, upon receipt thereof, shall extend and levy against such property so reassessed the taxes thereon for such year according to such reassessment in the same manner as though such list was the original assessment list of such property. Any person feeling aggrieved by an assessment so made against the person, or upon any property at that time owned by the person, may appeal therefrom to the district court of the county in which such assessment is made. To render the appeal effective for any purpose, the appellant shall file a notice of the appeal with the auditor of such county within 30 days after the making of the assessment, which notice shall specify the ground upon which the appeal was taken, and no other or different service shall be required to perfect it. Upon the filing of the notice the county auditor shall make and file in the office of the court administrator of the district court a certified copy of the notice and of the particular assessment appealed from and notify the county attorney of such county of the pendency of the appeal. Thereupon the district court shall be deemed to have acquired jurisdiction of the matter and proceed to hear and determine it in like manner as other tax matters are tried and determined in the district courts of this state. The county attorney of such county shall appear for and defend the interests of the state in such matter.

History: *2005 c 151 art 1 s 109*

270C.96 REASSESSMENT; COMPENSATION; REIMBURSEMENT BY COUNTIES.

The compensation of each special assessor and deputies, appointed under the provisions of section 270C.94 and the expenses as such, shall be fixed by the commissioner and paid out of money appropriated for operation of the department. The commissioner on August 1 shall notify the auditor of each affected county of the amount thereof paid on behalf of such county since August 1 of the preceding year, whereupon the county auditor shall levy a tax upon the taxable property in the assessment district or districts wherein such reassessment was made sufficient to pay the same. One-half of such tax shall be levied in the year in which the commissioner so notifies the county auditor and the remaining one-half shall be levied in the following year. The respective counties shall reimburse the state by paying one-half of the tax so assessed on or before July 1 and the remaining one-half on or before December 1 in the year in which the tax is

payable, whether or not the tax was collected by the county. The reimbursement shall be credited to the general fund. If any county fails to reimburse the state within the time specified herein, the commissioner is empowered to order withholding of state aids or distributions to such county equal to the amount delinquent.

History: *2005 c 151 art 1 s 110; 2006 c 212 art 1 s 14*

270C.97 OMITTED PROPERTY.

The commissioner shall require the county auditor to place upon the assessment rolls omitted property which may be discovered to have escaped assessment and taxation in previous years.

History: *2005 c 151 art 1 s 111*

SENIOR ACCREDITATION

270C.98 SENIOR ACCREDITATION.

The legislature finds that the property tax system would be enhanced by requiring that every senior appraiser in the Property Tax Division of the department obtain senior accreditation from the State Board of Assessors. Every senior appraiser, including the department's regional representatives, and every county assessor within two years of the first appointment under section 273.061, must obtain senior accreditation from the State Board of Assessors. The board shall provide the necessary courses or training. If a department senior appraiser or regional representative fails to obtain or maintain senior accreditation, the failure shall be grounds for dismissal, disciplinary action, or corrective action. Except as provided in section 273.061, subdivision 2, paragraph (c), the commissioner must not approve the appointment of a county assessor who is not senior accredited by the State Board of Assessors. No employee hired by the commissioner as a senior appraiser or regional representative shall attain permanent status until the employee obtains senior accreditation.

History: *2005 c 151 art 1 s 112*

OFFICE OF ASSESSOR

270C.99 CERTAIN TOWNSHIPS AND CITIES OPTION TO ELECT TO REINSTATE THE OFFICE OF ASSESSOR.

Notwithstanding the provisions of section 273.05, subdivision 1, a city or township in which the office of assessor has been eliminated because of failure to fill a vacancy in the office within 90 days pursuant to section 273.05, subdivision 1, may elect, with the approval of the commissioner, to have the office of assessor reinstated by hiring a certified or accredited assessor. This section shall not apply to Ramsey County or to cities and townships located in counties which have elected a county assessment system in accordance with section 273.055.

History: *2005 c 151 art 1 s 113*

ASSESSOR ACCREDITATION

270C.9901 ASSESSOR ACCREDITATION; WAIVER.

Subdivision 1. **Accreditation.** Every individual who appraises or physically inspects real property for the purpose of determining its valuation or classification for property tax purposes must obtain licensure as

an accredited Minnesota assessor from the State Board of Assessors by July 1, 2022, or within five years of that person having become licensed as a certified Minnesota assessor, whichever is later.

Subd. 2. **Waiver.** (a) An individual may apply to the State Board of Assessors for a waiver from licensure as an accredited Minnesota assessor as required by subdivision 1 if the individual:

(1) was first licensed as a certified Minnesota assessor before July 1, 2004;

(2) has had an assessor license since July 1, 2004;

(3) has successfully passed a comprehensive examination substantially equivalent to the requirements by the State Board of Assessors for the accredited Minnesota assessor license designation before May 1, 2020; and

(4) submits an application to the State Board of Assessors no later than July 1, 2022.

The examination can only be taken once to fulfill the requirements of the waiver.

(b) The commissioner of revenue, in consultation with the State Board of Assessors and the Minnesota Association of Assessing Officers, must determine the contents of the waiver application and the comprehensive examination.

(c) A county assessor in any jurisdiction assessed by an applicant may submit additional information to the State Board of Assessors to be considered as part of the waiver review proceedings.

(d) The State Board of Assessors must not grant a waiver unless the applicant has met the requirements in paragraph (a) and has the ability to perform the duties of assessment required in each jurisdiction in which the applicant appraises or physically inspects real property for the purposes of determining its valuation or classification for property tax purposes.

(e) An individual granted a waiver under this subdivision is allowed to continue assessment duties at the individual's licensure level, provided the individual complies with the continuing education requirements for the accredited Minnesota assessor designation as prescribed by the State Board of Assessors.

(f) An individual granted a waiver under this section:

(1) is not considered to have achieved the designation as an accredited Minnesota assessor and may not represent himself or herself as an accredited Minnesota assessor; and

(2) is not authorized to value income-producing property as defined in section 273.11, subdivision 13, unless the individual meets the requirements of that section.

(g) A waiver granted by the State Board of Assessors under this section remains in effect unless the individual's licensure is revoked. If the individual's licensure is revoked, the waiver is void and the individual is subject to the requirements of subdivision 1.

(h) A decision of the State Board of Assessors to grant or deny a waiver under this subdivision is final and is not subject to appeal.

(i) Waivers granted under this subdivision expire on June 30, 2032.

(j) This subdivision expires July 1, 2032.

History: *2013 c 143 art 4 s 11; 1Sp2017 c 1 art 2 s 2*

PROPERTY TAX SYSTEM ACCOUNTABILITY AND EVALUATION

270C.991 PROPERTY TAX SYSTEM BENCHMARKS AND CRITICAL INDICATORS.

Subdivision 1. **Purpose.** State policy makers should be provided with the tools to create a more accountable and efficient property tax system. This section provides the principles and available tools necessary to work toward achieving that goal.

Subd. 2. **Property tax principles.** To better evaluate the various property tax proposals that come before the legislature, the following basic property tax principles should be taken into consideration. The property taxes proposed should be:

(1) transparent and understandable;

(2) simple and efficient;

(3) equitable;

(4) stable and predictable;

(5) compliance and accountability;

(6) competitive, both nationally and globally; and

(7) responsive to economic conditions.

Subd. 3. **Major indicators.** There are many different types of indicators available to legislators to evaluate tax legislation. Indicators are useful to have available as benchmarks when legislators are contemplating changes. Each tool has its own limitation, and no one tool is perfect or should be used independently. Some of the tools measure the global characteristics of the entire tax system, while others are only a measure of the property tax impacts and its administration. The following is a list of the available major indicators:

(1) property tax principles scale, the components of which are listed in subdivision 2, as they relate to the various features of the property tax system;

(2) price of government report, as required under section 16A.102;

(3) tax incidence report, as required under section 270C.13;

(4) tax expenditure budget and report, as required under section 270C.11;

(5) state tax rankings;

(6) property tax levy plus aid data, and market value and net tax capacity data, by taxing district for current and past years;

(7) effective tax rate (tax as a percent of market value) and the equalized effective tax rate (effective tax rate adjusted for assessment differences);

(8) assessment sales ratio study, as required under section 273.1325;

(9) "Voss" database, which matches homeowner property taxes and household income;

(10) revenue estimates under section 270C.11, subdivision 5, and state fiscal notes under section 477A.03, subdivision 2b; and

(11) local impact notes under section 3.987.

Subd. 4. MS 2013 Supp [Repealed, 2014 c 286 art 1 s 5; 2014 c 308 art 9 s 94]

Subd. 5. **Taxes Committee review and resolution.** On or before March 1, 2012, and every two years thereafter, the house of representatives and senate Taxes Committees must review the major indicators as contained in subdivision 3, and ascertain the accountability and efficiency of the property tax system. The house of representatives and senate Taxes Committees shall prepare a resolution on targets and benchmarks for use during the current biennium.

Subd. 6. **Department of Revenue; revenue estimates.** As provided under section 270C.11, subdivision 5, the Department of Revenue is required to prepare an estimate of the effect on the state's tax revenues which result from the passage of a legislative bill establishing, extending, or restricting a tax expenditure. Beginning with the 2011 legislative session, those revenue estimates must also identify how the property tax principles contained in subdivision 2 apply to the proposed tax changes. The commissioner of revenue shall develop a scale for measuring the appropriate principles for each proposed change. The department shall quantify the effects, if possible, or at a minimum, shall identify the relevant factors so that legislators are aware of possible outcomes, including administrative difficulties and cost. The interaction of property tax shifting should be identified and quantified to the degree possible.

Subd. 7. **Appropriation.** The sum of $30,000 in fiscal year 2011 and $25,000 in each fiscal year thereafter is appropriated from the general fund to the commissioner of revenue to carry out the commissioner's added responsibilities under subdivision 6.

History: *2010 c 389 art 2 s 3; 1Sp2011 c 7 art 5 s 2; 2012 c 187 art 1 s 45; 2013 c 143 art 14 s 110*