

House Research Act Summary

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Article 1: Department Policy: Individual Income and Withholding Taxes

Overview

Makes policy changes recommended by the Department of Revenue:

- Makes several changes to provide for S corporations to make estimated tax payments subject to the requirements that apply to other pass-through entities (i.e., partnerships) rather than under the provisions that apply to C corporations.
- Allows residents to exclude military pay for federal active service in determining if they meet the filing requirements.
- Requires certain third party payers of sick pay to file an annual report on the amount of sick pay paid and tax withheld, in order to allow reconciliation of tax amounts remitted through withholding and reported on W-2s.
- Provides that individuals who are partners in a partnership are not required to make estimated tax payments if the partnership pays composite estimated tax.

Also clarifies that the remedy for an unconstitutional exemption of tax exempt bond interest only applies to interest paid on bonds of the same type, not all Minnesota tax-exempt bond interest.

- 1 Additional tax charge abatement. Allows the commissioner to abate for reasonable cause the additional tax charge for underpayment of estimated taxes imposed on individuals, corporations, trusts, S corporations and partnerships.
Effective for taxable years beginning after December 31, 2010.
- 2 Filing requirements for active duty members of military. Allows Minnesota residents to exclude military pay for federal active service in determining if they are subject to the Minnesota individual income tax filing requirements. Under current law, only income from pay for active service performed outside Minnesota is excluded in determining the Minnesota filing requirement.
Effective beginning in tax year 2011.
- 3 Composite estimated tax. Provides that an individual who is a partner in a partnership is not required to make estimated payments when the partnership pays composite estimated tax.
Effective beginning in tax year 2011.
- 4 Third party payers of sick pay. Requires certain third party payers of sick pay to file an annual report with the commissioner of revenue, listing the names and identification numbers of employers for whom the third party is making sick pay payments, the names and social security numbers of the employees who received sick pay, and the amount of sick pay paid and tax withheld.
Under present law, some third party payers of sick pay withhold income tax on the sick pay, but then allow the employer to include the amount withheld on the employee's W-2. As a result, the W-2 shows a greater amount of tax withheld than was reported on the employer's

withholding return, since the withholding tax on the sick pay was remitted by the third party payer. Requiring reporting by the third-party payers will allow the department to reconcile tax amounts reported on the W-2 with the sum of amounts remitted by the employer and the third party. The report is due by March 1 of the year following the year that the sick pay is paid.

Effective for benefits paid after December 31, 2010.

- 5 Estimated tax; pass-through entities. Along with the changes in section 8, moves the requirement that S corporations make estimated payments from the section that applies to corporations in general to the section that applies to pass-through entities. Also clarifies that the requirement to pay estimated tax applies to the sum of tax estimated to be due under both chapter 290 and the composite tax in chapter 289A. The threshold for payment of estimated taxes remains at \$500.

Effective beginning in tax year 2011.

- 6 Estimated tax; first-year exception to additional tax. Clarifies that the additional tax for underpayment of estimated tax does not apply to individuals if the individual did not have liability in the preceding year, had a tax year of 12 months, and was a Minnesota resident for the entire year, and that the additional tax does not apply to trusts, S corporations, and if the entity was not subject to tax under either chapter 290 or under the composite estimated tax required in chapter 289A in any previous year.

Effective beginning in tax year 2011.

- 7 Estimated tax; short taxable year. Adds a subdivision to provide for payment of estimated tax when a trust, S corporation or partnership has a short taxable year of at least four months, but fewer than 12 months.

Effective beginning in tax year 2011.

- 8 Estimated tax; corporations. Exempts S corporations from the estimated tax payment requirement applied to corporations in general; section 5 makes S corporations subject to the estimated tax payment for pass-through entities.

Effective beginning in tax year 2011.

- 9 Refund of unconstitutional taxes on tax exempt bond interest. Clarifies that the statute specifying the remedy for an unconstitutional exemption of tax exempt bond interest is to impose the tax on all interest only applies to interest paid on bonds of the same type, not all Minnesota tax exempt bond interest. This reflects the decision of the U.S. Supreme Court in *Kentucky v. Davis*, which held state discriminatory taxes on governmental bonds did not violate the commerce clause, but reserved the issue of discriminatory treatment of private activity bonds. This would limit the remedy of imposing the tax on exempt interest to private activity bonds, if the court were to hold that Minnesota discriminatory treatment of private activity bonds violates the commerce clause.

Effective the day following final enactment.

Article 2: Department Policy: Estate Tax

Overview

This article modifies the Minnesota estate tax in response to the 2010 federal legislation that reenacted the estate tax for 2010. Under prior federal law the estate tax had expired for decedents dying in 2010, but those estates would be subject to carryover basis rules for income tax purposes. The 2010 federal tax act retroactively imposed a federal estate tax on estates of decedents dying in 2010 (with a step-up in basis) while allowing those estates to opt out of the federal estate tax (but this election would result in the modified carry-over basis rules applying to the heirs of the estate).

The article also extends the period for auditing estate tax returns from 6 months to a 3-1/2 year period, the same as the federal estate tax.

- 1 Estate tax return due date. Conform Minnesota's return due date to the federal return due date for decedents dying after December 31, 2009, and before December 17, 2010. For those estates, a Minnesota estate tax return is not due before September 19, 2011. The current filing due date, including an automatic six-month extension, is fifteen months after the date of death.
Effective for estates of decedents dying after December 31, 2009.
- 2 Assessments. Authorizes the commissioner to audit and assess estate tax and requires the commissioner to notify the estate whether it is under examination within 9 months after the filing date of the return. Section 5 allows a 3-1/2 year audit period for estate tax returns.
- 3 False or fraudulent return; audit period. Repeals a cross reference to subdivision 3, which is repealed by section 5.
- 4 Minnesota qualified terminable interest property (QTIP). Maintains an irrevocable QTIP election on the Minnesota estate tax return for estates of decedents dying during 2010, if the estate elects out of the federal tax. For taxpayers subject to the federal estate tax, the QTIP election will be as made as elected under the federal estate tax.
Effective for estates of decedents dying after December 31, 2009.
- 5 Repealer; audit period. Repeals the 180-day limit on audits of estate tax returns. This will allow audits within the 31/2-year limit that applies to most other state taxes (e.g., the individual income tax) and under the federal estate tax.

Article 3: Department Policy: Property Tax

Overview

This article contains a number of property tax policy provisions from the Department of Revenue's policy bill. It also modifies a provision enacted in 2010 pertaining to class 1c (homestead resort) property.

- 1 Correction to county assessor. Allows the commissioner to issue corrected certifications of railroad valuations to the county assessor until August 31 of the assessment year if the

amounts certified on or before June 30 are in error. Under current law the valuations cannot be corrected after June 30. Effective for taxes payable in 2012 and thereafter.

- 2 Correction of errors. Allows the commissioner to correct errors in the amount of wind energy production tax certified to the counties and the taxpayer. Corrections would have to be made by April 1 of the taxes payable year. Effective beginning with certifications due February 28, 2012.
- 3 Homestead owned by or leased to family farm corporation. Clarifies the provision enacted in 2010 that allows the remainder of an individual's first-tier agricultural homestead class-rate benefit to extend to land that is not already a homestead, but which is owned by an entity of which the person is a member, shareholder or partner. The following clarifications are made: (1) the provision grants a class-rate benefit; (2) as in the case of a homestead, the provision covers both class 2a land and contiguous 2b land of the claimant; (3) the claimant's homestead parcel must be owner-occupied; and (4) the benefit only applies to nonhomestead property. Effective retroactively for taxes payable in 2011 and thereafter.
- 4 **Class 1c.** Provides for a minor modification to the law governing qualification for class 1c (homestead resort) classification. In the 2010 tax bill, a provision was adopted that provided if the owner-occupant of a 1c resort moved to another 1c resort in the same township, but continued to own the first one, the first property would be combined with the second as a single class 1c property. This section modifies the provision slightly by eliminating the requirement that the owner must have moved from one property to the other, requiring only that if the owner of a class 1c property owns a second property in the same township that could qualify for class 1c classification if owner-occupied, the two will be treated as a single class 1c property.
- This section also provides that the two properties can be combined for tax purposes in this way if they are each owned by different limited liability companies, as long as they have the same membership.
- Effective for taxes payable in 2012 and thereafter
- 5 Listing and assessment by commissioner. Allows the commissioner to correct pipeline company values until October 1 of the assessment year if the amounts certified on or before August 1 are in error. Under current law the valuations cannot be corrected after August 1. Effective for taxes payable in 2012 and thereafter.
- 6 Listing and assessment by commissioner. Allows the commissioner to correct electric utility transmission and distribution line values until October 1 of the assessment year if the amounts certified on or before August 1 are in error. Under current law the valuations cannot be corrected after August 1. Effective for taxes payable in 2012 and thereafter.
- 7 Recommended and ordered values. Allows the commissioner to correct electric utility values until October 1 of the assessment year if the amounts certified on or before August 1 are in error. Under current law the valuations cannot be corrected after August 1. Also clarifies that when the commissioner provides recommended values, those values must be certified at the same time that ordered values are certified. Effective for taxes payable in 2012 and thereafter.
- 8 Values finalized. Allows the commissioner to correct electric utility values until October 1 of the assessment year if the amounts certified on or before August 1 are in error. Under current law the valuations cannot be corrected after August 1. Effective for taxes payable in 2012 and thereafter.

Article 4: Department Policy: Sales and Use Tax

Overview

Provides an extra safe harbor provision for certain vendors subject to the monthly accelerated sales tax remittance requirements enacted in 2010 to help with the state cash flow. Makes some technical changes required under the Streamlined Sales and Use Tax Agreement. Corrects some other cross reference and drafting errors.

- 1 Accelerated monthly payment. Provides an additional safe harbor for those vendors that make an accelerated payment equal to 67 percent of the previous month's liability by the 20th day of the month in which the taxable event occurs. The penalty for underpayment will not be imposed if the amount remitted is equal to the actual liabilities for the month in which the taxable event occurred. Also removes some redundant language. Effective for sales and purchases after June 30, 2011.
- 2 Transitional period for services; sales tax. States that a sales tax rate increase is effective beginning with the first billing period for taxable services starting after the date of the rate change. For a rate decrease, the new rate will apply to bills mailed on or after the date of the rate change. This is current administrative practice and is being codified to comply with the Streamlined Sales and Use Tax Agreement (SSUTA). Effective the day after final enactment.
- 3 Transitional period for services; use tax. Adds the same language in section 2 to the complementary use tax provisions. This is another SSUTA compliance provision.
- 4 Advertising and promotional material. Defines advertising and promotional direct mail and continues to apply the current sourcing rules. Removes obsolete references to direct pay permits, since these are now one type of exemption certificate rather than a separate permit. For SSUTA compliance, the state must adopt the "other direct mail" definition in section 5.
- 5 Other direct mail. Defines "other direct mail" and simplifies the sourcing rules for this item. Under current law, if the purchaser does not provide an exemption certificate or direct pay permit, the seller must source the mail based on each mailing address. This will allow the mail to be sourced to the address of the purchaser instead. Also removes obsolete references to direct pay permits, since these are now one type of exemption certificate rather than a separate permit. This is an SSUTA compliance provision.
- 6 St. Paul lodging related services. Amends the special law for the St. Paul local sales tax on lodging at establishments having 50 or more lodging rooms by requiring it to be based on the consideration paid for both lodging and related services. St. Paul imposes two different taxes on lodging, and the tax base for each currently differs slightly. The first 3% applies to charges for lodging and related services. The additional 3% applies to lodging at establishments with 50 or more rooms available, but only uses the term "lodging," without the words "related services." This would provide for consistent language for both taxes. Effective for sales and purchases made after June 30, 2011.

Article 5: Department Policy: Miscellaneous

Overview

Makes a number of minor changes in tax provisions primarily taken from the miscellaneous articles of the Department of Revenue's technical and policy bills.

- 1** Police and fire aids. Starts accrual of interest on late payments of fire or police state aids on October 1, the due date of the payment. Under present law, interest accrues from July 1 if the payment is not made by October 1.

Effective the day following final enactment.
- 2** Application for business registration. Provides that application for a business entity registration by a governmental entity need not include names, home addresses, and social security numbers of officers and directors.

Effective the day following final enactment.
- 3** Rounding on tax forms. Authorizes the commissioner to require rounding of line item amounts less than a dollar to the nearest dollar on all tax forms, for those tax types which do not already have rounding authority. Currently, income tax, sales tax, and property tax refunds each have a statutory provision for rounding.

Effective the day following final enactment.
- 4** Notice of subpoena. Provides that notice of a third party record keeper subpoena does not have to be given to the taxpayer when there is a criminal investigation, and prohibits the party served with the subpoena from notifying the taxpayer of the subpoena or the criminal investigation.

Effective for subpoenas served after the day following final enactment.
- 5** Credit of payments against delinquent tax liabilities. Allows the commissioner to credit any payments due against a person's delinquent uncontested liability. Current law only allows overpayments of tax to be credited; the change would allow other payments, such as sustainable forest incentive payments.

Effective for liabilities becoming delinquent after the day of final enactment.
- 6** Levied and redeemed property refund account. Changes the commissioner's report on the status of the seizure program from a quarterly to an annual report. Also updates the names of the legislative committees that receive the report.

Effective the day following final enactment.
- 7** Mortgage registry tax, mortgage supplements. Clarifies that an existing mortgage is taxable to the extent that it is modified to secure new funds advanced to the debtor, on which the tax has not been paid; even though the new outstanding amount of debt does not exceed the amount previously secured by the mortgage. This does not apply to line-of-credit mortgages for which there is an existing allowance in statute.

Effective the day following final enactment.
- 8** Repealer. Repeals the rounding authority for the income tax and for the property tax refund. The rounding authority for these tax types will remain the same and is recodified in chapter 270C in section 3.

Effective the day following final enactment.

Article 6: Department Technical: Income Tax Overview

Makes technical changes recommended by the Department of Revenue:

- Revises the income tax subtractions for military pay to eliminate an ambiguity that could result in double-subtraction of some military pay
- Makes various changes to clarify state tax treatment of 2008 and 2009 net operating losses allowed to be carried back five years at the federal level, but only two years at the state level.
- Clarifies application of JOBZ benefits related to the corporate minimum fee.

1 Additions to taxable income; individuals, estates, and trusts. Requires an addition to federal taxable income for deductions allowed in the computation of federal taxable income that are attributable to net operating losses which the taxpayer carried back for federal purposes for more than two years. The federal Worker, Homeownership, and Business Assistance Act of 2009, Public Law 111-92, allows net operating losses generated in 2008 or 2009 to be carried back for up to five years. In Laws 2010, Chapter 216, Minnesota did not conform to the expanded federal carryback, but instead maintained the two-year carryback and 20-year carryforward of net operating losses allowed under previous federal law. This section, along with sections 2, 3, 4 and 6 clarify administration of this deviation from federal law.

Effective retroactively for losses generated in taxable years beginning after December 31, 2007.

2 Subtractions from taxable income; individuals, estates, and trusts. Makes two changes.

Military pay. Modifies the three clauses relating to subtraction of military pay to eliminate an ambiguity that could be interpreted to allow subtraction of some limited categories of military pay twice. Does not change the categories of pay that may be subtracted from taxable income. Under the proposed language, pay received by members of the National Guard and reserves for state active service is allowed as a subtraction under clause (10), pay received by members of the full-time military, National Guard, and reserves for federal active service is allowed as a subtraction under clause (11), and pay received by individuals who are not residents of Minnesota for active service performed in Minnesota is allowed as a subtraction under clause (14). The clause (14) subtraction is required under the federal Servicemembers' Civil Relief Act.

Net operating losses. Allows a subtraction for net operating losses that were subtracted at the federal level in prior tax years under the expanded five-year carryback, but are subtracted at the state level in a later tax year under the state's 20-year carryforward.

Effective date: The change relating to military pay is effective following final enactment. The change relating to net operating losses is effective retroactively for losses generated in taxable years beginning after December 31, 2007.

3 Individual income tax apportionment for nonresidents and part-year residents. Modifies the

formula used to determine the tax of nonresidents and part-year residents by changing the numerator of the fraction to include the Minnesota portion of the addition to federal taxable income and the subtraction from federal taxable income attributable to net operating losses which the taxpayer carried back for federal purposes. Also changes the denominator of the fraction to include the total addition and subtraction from federal taxable income attributable to those net operating losses.

Effective retroactively for losses generated in taxable years beginning after December 31, 2007.

- 4 Alternative minimum tax. Requires an addition to alternative minimum taxable income for 2008 and 2009 net operating losses that were carried back for more than two years at the federal level but required to be added to state taxable income under section 1. Also allows a subtraction from alternative minimum taxable income for 2008 and 2009 net operating losses that were subtracted at the federal level in prior tax years under the expanded five-year carryback, but are subtracted at the state level in a later tax year under the state's 20-year carryforward.

Effective retroactively for losses generated in taxable years beginning after December 31, 2007.

- 5 Corporate minimum fee; JOBZ exemption. Clarifies that the JOBZ exemption from the minimum fee imposed on corporations and partnerships is available to entities that have all of their property and payroll located in a job opportunity building zone only if they are a "qualified business" and have entered into a JOBZ business subsidy agreement.

Effective the day following final enactment.

- 6 JOBZ definitions; Minnesota property and payroll. Clarifies that in determining the corporate minimum fee for a business in a JOBZ, only the property and payroll of a "qualified business" within the zone (i.e., a business that has signed a business subsidy agreement) are excluded from the definitions of "Minnesota property" and "Minnesota payrolls."

Effective the day following final enactment.

- 7 Carryback and carryover adjustments; net operating losses. Clarifies that the amount of net operating losses that may be carried to future tax years is the excess of unused losses over the greater of taxable net income or alternative minimum taxable income.

Effective retroactively for losses generated in taxable years beginning after December 31, 2007.

Article 7: Department Technical: Property Tax

Overview

Makes technical changes in property tax law recommended by the Department of Revenue.

- 1 Homestead property. Changes an incorrect reference to class 1c homestead dwellings pertaining to destroyed properties. Class 1c is for the resort portion of homesteaded seasonal resorts. Homestead dwellings (i.e., the house, garage, and surrounding one acre) located on

the properties are technically either class 1a or 1b.) Eliminating the "1c" reference corrects that error. Effective the day following final enactment.

2 General homestead rules. Paragraph (d), adds the parents of the owner's spouse to those relatives of the owner who can occupy the property and have it qualify as a homestead under this provision. The list of eligible occupants will be: parents, siblings, children or grandchildren of the owner or the owner's spouse. This change, along with the similar change in section 3 will provide an identical list of qualifying relatives for homestead treatment under both the agricultural relative-homestead provision and the special agricultural homestead provision. This brings more consistency and lessens administrative burdens.

Paragraph (e), allows a full homestead for each spouse, instead of a 50% homestead, if the spouses are living apart due to one of the four reasons prescribed in statute, even if the spouses did not previously occupy one of the homesteads together.

Both changes are effective for taxes payable in 2012 and thereafter.

3 Agricultural homesteads; special provisions. Paragraph (b), clauses (i)(1) and (iv) clarify that contiguous class 2b rural vacant land is included for the purpose of administering the 40-acre minimum applicable to real property that can qualify for a special agricultural homestead. The existing requirements regarding farming the land are unchanged.

Paragraph (b)(i)(2), adds "parents" to the list of who can be actively farming the land in order for it to qualify for the homestead classification under this allowance. The list of eligible active-farmers will be: grandchild, child, sibling, or parent of the owner or the owner's spouse.

Effective the day following final enactment, except for the change adding parents is effective for taxes payable in 2012 and thereafter.

4 Conveyance to public entities (use deeds). Makes a technical change in the definition of a "park" for purposes of an authorized public use, to require that the land include park-like improvements instead of mere amenities, to limit potential disagreements over what constitutes an amenity. Effective the day following final enactment.

5 Deed of conveyance; form; approvals. Clarifies which of the new restrictions and allowances enacted in 2010 apply to use deeds executed both before and after the effective date of those laws. Effective the day following final enactment.

6 Reverter for failure to use; conveyance to state. Clarifies which of the new restrictions and allowances enacted in 2010 apply to use deeds executed both before and after the effective date of those laws. Also provides a 15-year limit on how long a political subdivision may keep these properties for a planned future use. Effective the day following final enactment.

7 Deed preparation fees. Makes use deeds that do not involve typical sales (such as "targeted community" conveyances) subject to the \$25 preparation fee. "Use" deeds and replacement deeds are exempted because they have separate, specific provisions. Effective for deeds executed by the commissioner of revenue after June 30, 2011.

8 Minerals. Clarifies that minerals are reserved to the state in transactions involving forfeited lands, even if the transaction is not a traditional sale. Effective retroactively from July 1, 2010.

9 Repealer. Repeals the following provisions:

- Section 272.02, subdivision 34: This subdivision states that the property tax

exemptions in § 272.02, subdivisions 1 through 33 are subject to certain limits or restrictions that are either redundant (given the limits and restrictions in § 272.02, subd. 1a), or obsolete (given the changes in the property tax treatment of low-income housing over recent years). Effective the day following final enactment.

- Section 273.124, subdivision 10: This subdivision, for people prevented from occupying newly-purchased property on January 2 of the assessment year, is redundant because subdivision 9 of this statute recognizes any new homestead established before December 1 of the assessment year. Effective the day following final enactment.
- Section 281.37: This section prescribes an interest rate to apply to delinquent taxes in cases where the land has erroneously not been placed on the current year's delinquent tax list; but that conflicts with the more recent interest provisions in section 279.03, subdivision 1a(a). Effective the day following final enactment.

Article 8: Department Technical: Sales and Use Tax

Overview

Makes technical changes recommended by the Department of Revenue.

- 1 Sales and purchase. Clarifies the taxability of third party delivery charges for concrete block by deleting a coma and replacing it with a semi-colon. Effective the day after final enactment.
- 2 Construction materials for qualified low-income housing projects. Replaces a reference to a repealed low-income housing property tax provision (Minn. Stat. § 273.126) with a reference to its replacement (Minn. Stat. § 273.128). Effective the day following final enactment.
- 3 Direct pay. Eliminates a reference to a direct pay permit and clarifies that the commissioner does not issue direct pay exemption certificates to purchasers; rather, purchasers designate their direct pay status on a fully completed exemption certificate that they provide to retailers. Effective the day following final enactment.
- 4 Sales tax on motor vehicle paid to another state. Clarifies that for a credit on taxes paid in other states on motor vehicle purchases, the state rate used for comparison is the 6.5% motor vehicle sales tax rate and not the general sales tax rate of 6.875% imposed in chapter 297A. The motor vehicle sales tax rate in Chapter 297B was delinked from the general rate in Chapter 297A when the legacy tax was enacted. Effective the day following final enactment.

Article 9: Department Technical: Special Taxes

Overview

This article makes a number of changes in various special taxes from the Department of Revenue's technical bill.

- 1 Apportionment. Clarifies that the petroleum tax additional debt service surcharge (under the 2008 increase in the highway fuels tax) is subject to apportionment to the special funds for the tax attributable to non-highway use on the same basis as the regular motor fuels tax.
Effective the day following final enactment.
- 2 Computation of nonhighway use amounts. Recodifies the provisions of subdivision 9 (repealed by section 6) as a new subdivision 6a to clarify the computation and provides for transfer of these moneys to special accounts for taxes derived from the different types of off-highway uses of motor fuels. (These are accounts for taxes paid by motorboat, snowmobile, all-terrain vehicle, off-highway motorcycle, and off-road vehicle use.)
Effective the day following final enactment.
- 3 Forest road. Recodifies the language in the motor fuels excise tax on interest and penalties of subdivision 9 (repealed by section 6).
Effective the day following final enactment.
- 4 Federal Employees Health Benefits Act. Exclude payments from the Federal Employees Health Benefits Program from taxes and surcharges that are imposed under the insurance premiums tax chapter.
Effective the day following final enactment.
- 5 Production tax school district distributions. Clarifies that overages in all taconite school district overages are distributed to cities and townships located in the school district in proportion to their share of the school district's net tax capacity.
Effective the day following final enactment.
- 6 Repealer. Repeals Minn. Stat. § 296A.18, subd. 9, the language of which section 2 moves to a new subdivision 6a.
Effective the day following final enactment.

Article 10: Department Technical: Miscellaneous

Overview

This article contains provisions from the miscellaneous article of the Department of Revenue's technical bill.

- 1 Refund definition; revenue recapture. Corrects a reference to "sustainable forest tax payments" to be to "sustainable forest payments"; these payments are included in the definition of refunds subject to revenue recapture.

- 2 Tax forms. Clarifies that the commissioner can prescribe the content and format of all forms required to be filed under a law administered by the commissioner.
Effective the day following final enactment.
- 3 Waiver authority. Clarifies that a single sixty-day limitation period applies for taxpayers to request a waiver of the obligation to repay JOBZ tax benefits.
Effective for waivers requested in response to notices issued after the day following final enactment.

Article 11: Miscellaneous

Overview

Prohibits contracts for tax fraud detection or prevention or audits from compensating vendors based on a percentage of collections.

Adds licensed ambulance service to the list of claimant agencies eligible to submit revenue recapture claims.

Provides clarifying and minor changes to the angel investment credit recommended by the Department of Employment and Economic Development.

Makes minor and clarifying changes in the rules governing the documents that property owners must provide to assessors in cases challenging the valuations of income-producing properties.

Allows certain properties used for raising waterfowl to be classified as agricultural.

Contains some clarifying provisions related to the St. Louis County fairs and fairgrounds, and Anoka County public safety financing.

Makes the following changes related to tax increment financing:

- TIF rules permitting the special pooling allocation for low-income housing to be used for market-rate housing, if the housing has been vacant for six months and has been foreclosed.
- A one-year extension of the special TIF authority granted in the 2010 jobs bill (Laws 2010, chapter 216) for expanded use of economic development districts and surplus increments.
- A 10-year duration extension for a TIF district in the city of Lino Lakes.
- A series of corrections and modifications to the 2010 special TIF law enacted for the city of Ramsey.
- Authority for the city of Cohasset to use tax increment to repay its general fund for some of its outlays for TIF district projects.
- Authority for the city of Sauk Rapids to include parcels that are withdrawn from Green Acres in a TIF district.

- 1 Contracts for tax-related activities. Prohibits any state agency from entering a contract for tax fraud prevention or detection, or audit, in which the contract compensates the vendor

based on a percentage of taxes collected.

Effective date: day following final enactment.

- 2 Definitions; angel investment credit.** Defines "intern" for the angel investment tax credit program to mean a student or recent graduate (within six months) of an accredited higher education institution employed on a temporary basis (less than nine months duration).
- Effective retroactive to January 1, 2011.
- 3 Certification of qualified small business; angel investment credit.** Provides for a reduced minimum wage required to be paid to interns. Non-interns must be paid at least 175 percent of the federal poverty guidelines for a family of four. Interns must be paid at least 175 percent of the federal minimum wage used for federally covered employers. Raises the limit from \$2 million to \$4 million for the amount of previously received private equity investment that a business may have received and still be certified as a qualifying small business.
- Effective retroactive to January 1, 2011.
- 4 Certification of qualified funds; angel investment credit.** Provides that a fund seeking certification must have at least three separate investors that make investments in the certified business and who seek a tax credit allocation, qualify as qualified investors who are natural persons and certify that they will invest in a transaction that is exempt under regulated securities requirements, or in a security registered under the small corporate offerings registration. Current law requires all of the fund's investors to meet these requirements.
- Effective retroactive to January 1, 2011.
- 5 Revenue recapture; claimant agency.** Adds licensed ambulance service to the list of claimant agencies eligible to submit revenue recapture claims. Strikes existing law that permits counties to submit revenue recapture claims on behalf of licensed ambulance services; under this bill the ambulance services would be authorized to submit claims directly. Effective day following final enactment.
- 6 Fee for administering claim.** Strikes language allowing counties to charge ambulance services a fee to offset the cost of submitting claims on their behalf. Under section 5, counties would no longer be authorized to submit claims on behalf of ambulance services; making the fee obsolete.
- 7 St. Louis County; fairs.** Makes a conforming change related to the exemption for county fairs in St. Louis County provided in section 11.
- 8 Class 2 - agricultural.** Expands eligibility for agricultural classification to include licensed game farms that produce game birds or waterfowl for sale, provided that at least 500 birds were raised or used for breeding stock on the property during the year. Currently, only those operations that produce these birds for use on a shooting preserve may be classified agricultural. Effective for taxes payable in 2012 and thereafter.
- 9 Dismissal of petition; exclusion of certain evidence.** Makes a number of minor and clarifying changes in the rules that require property owners to provide documents to the county assessor in cases challenging the property tax valuations of income-producing properties (e.g., office buildings, retail properties, apartment buildings, and similar

properties).

Under current law, these rules require the property owner to automatically provide a listed set of documents within 60 days of the filing deadline. Failure to comply with that requirement results in dismissal of the lawsuit.

This section changes these rules in several ways:

- The 60-day deadline is replaced with a deadline of August 1 of the taxes payable year.
- The requirement to provide copies of all lease agreements (which is not explicitly contained in the statutory language but has been interpreted by the tax court to apply) is eliminated, but the assessor is authorized to request copies of lease agreements. (The property owner must still provide identification of all lease agreements, including tenant names, dates, rent rates, and so forth, but not full copies of the leases.) Failure to comply with the assessor's request is subject to standard court-imposed sanctions or penalties for failure to comply with discovery requirements under Rule 37 of the Rules of Civil Procedure, rather than dismissal of the lawsuit.
- The listing of information related to rent rolls is made an all-inclusive list (i.e., failure to provide only listed information can be grounds for dismissal), whereas present law is an open-ended list ("including ...").

Effective date: Beginning for petitions filed contesting the 2010 assessments.

- 10 St. Louis County fair.** Modifies the St. Louis county law to permit the county to appropriate money for multiple county fairs. Current law limits this authority to \$2,000 for one fair. Effective for taxes payable in 2012 and thereafter.

Background. St. Louis County has four county fairs (two of which are called regional fairs). Because its law only allows the county to appropriate money for one county fair (and the general law similarly appears to limit counties to one county fair), this called into question the tax exempt status of the fairground property as government or public property. The assessor has exempted the fairground property under the statute that exempts property owned by institutions of purely public charity. However, 2009 changes (effective for taxes payable in 2011) in that exemption required these properties to be owned by section 501(c)(3) entities, which these fairgrounds are not. As a result, this change, along with section 11, clarifies that the county may have multiple fairs and the property is exempt from property taxation.

- 11 Property tax exemption; fairgrounds.** Provides that land and buildings used exclusively as the site as the county or community fairgrounds is exempt from property tax. Section 383C.161 authorizes the county to appropriate money to community fair associations. This appears to be the statutory term for the county's "regional" fairs. Effective for taxes payable in 2012 and thereafter.

- 12 Anoka County bonding.** Modifies a 2002 special law authorizing Anoka county to issue \$12.5 million in bonds for 800 MHz public safety communications system infrastructure. Laws 2002, chapter 390, section 27, effective May 23, 2002 (codified in Minn. Stat. ch. 383E in 2005). Debt was issued under this authority in 2002. The section makes five changes:

- It expands the purposes for which bonds may be issued to include any countywide

public safety improvements and equipment acquisition.

- It converts the cap on the total amount of bonds that may be issued from \$12.5 million to a limit on the outstanding principal amount of \$8 million. This will permit additional issuance of bonds, so long as no more than \$8 million are outstanding at any one time, while existing law would eliminate the ability to issue bonds under this authority once \$12.5 million in bonds have been issued.
- It requires the Anoka County Joint Law Enforcement Council (a joint powers board established in 1970 that includes representatives of law enforcement, city councils, and the county board) to approve issuance of any debt for public safety purposes;
- It excludes debt issued under the special law from the county's net debt limits.
- It extends the county's authority to issue debt under this law so it expires January 1, 2024, instead of in 2012 (ten years after the county first issued debt under this law).

13 Economic development districts. Extends by one year (from July 1, 2011, through July 1, 2012) the 2010 jobs bill's economic development district authority.

Laws 2010, chapter 216, allows economic development districts to be used for any type of project if the following conditions are met:

- The municipality finds the project will create new jobs in the state, including construction jobs, and the project otherwise would not have begun before July 1, 2011, without the assistance
- Construction of the project begins no later than July 1, 2011
- The request for certification is made by June 30, 2011

This section extends each of these dates by one year, except the authority for projects to assist housing is extended by only six months and may not be used for income-restricted housing. Under prior law, economic development districts could only be used for (1) manufacturing, (2) warehousing, (3) research and development, and (4) tourism in selected counties.

14 Use of surplus increments. Extends by one year, the 2010 job bill's expanded authority to spend excess and surplus tax increments, notwithstanding the pooling limits, 5-year rule, and so forth. This authority applies to construction of new or substantial rehabilitation of existing buildings, if:

- Construction begins before July 1, 2011
- The development will create new jobs (including construction jobs)
- The development would not have occurred without provision of the assistance

This authority includes the ability to make equity investments in the development, for example, if it is necessary to obtain financing. The municipality (usually the city) must approve and must hold a public hearing with published notice (following the same rules as apply to approving a new TIF plan).

This section extends each of those dates by one year, except the authority for market-rate housing projects is limited to a 6-month extension and income-restricted housing is allowed no extension.

- 15** Pooling rules; market rate housing. Modifies the special pooling rules for housing projects. Under present law, an additional 10 percent of increment from a district may be used outside of the area of the district from which it was collected (that is, it may be "pooled" with other moneys to pay development costs) for income-restricted housing. This bill expands the use of that 10 percent of increment to include funding of certain costs related to developing market-rate housing.

This would allow use for owner-occupied housing with a value up to 150 percent of the average market value of housing in the city, but not to exceed:

- \$200,000 in the seven-county metropolitan area; or
- \$125,000 elsewhere in the state.

The money could be used to acquire the houses, demolish or relocate them, rehab them, do site preparation, or pollution cleanup. To qualify, the sites or housing must meet both of the following conditions:

- Be a 1- to 4-unit dwelling that has been vacant for at least six months; and
- Be in a foreclosure after the redemption period has expired.

This authority is sunset on December 31, 2016, but can be used to continue paying outstanding bonds that were issued before that date.

Effective date: Applies to all TIF districts subject to the pooling rules.

- 16** Ramsey; TIF. Modifies the 2010 special TIF law enacted for the city of Ramsey. It corrects the boundary description in the 2010 law to add an eastern boundary for the district. In addition, it expands the exemptions from general law TIF rules that apply to this district:

- The requirement that 90 percent of redevelopment district increments be spent to correct blight would not apply. The 2010 law provided exceptions from this requirement for various expenditures (e.g., the transit station and related infrastructure), while this provision provides a complete exemption.
- Increments are specifically authorized to be used for costs incurred prior to establishing the TIF district for: (1) land that the city or its housing and redevelopment authority acquired and (2) public improvements installed in the district.
- The city is allowed to capture increment from two parcels, which under general law would be disqualified as prior planned improvements. Under the prior planned improvement rule, the value of improvements for which building permits were issued within 18 months before approval of the TIF plan is added to the district's original tax capacity. This prevents these improvements, which were contemplated before the plan for the district was finalized, from generating tax increment, rather than general taxes for all of the taxing districts.

Effective date: Local approval by city.

- 17** Cohasset TIF. Allows the city of Cohasset to use tax increments from two TIF districts to reimburse its general fund for expenditures made on behalf of the TIF districts. Under general law, this would be allowed only if the authority and the city had entered into a

written interfund loan agreement before the city made the expenditures.

18

Lino Lakes; TIF. Authorizes the City of Lino Lakes to collect increments from its TIF district No. 1-10 through December 31, 2023. District No. 1-10 is an economic development TIF district, which otherwise would be required to be decertified at the end of 2013, so this is a 10-year extension.

If the city elects to use this authority, it must use increments collected from the district after 2/1/2011 only to pay debt service on bonds issued to finance:

- The county road 23 interchange with I-35W; and
- The Legacy at Woods Edge development.

These expenditures would not be subject to the general law restrictions on pooling, including the 5-year rule, and limits on the type of purposes for which economic development district increments may be spent.

Effective date: Upon local approval by city, county, and school district.

19

Sauk Rapids TIF. Allows the city of Sauk Rapids to include three parcels that are enrolled in the green acres program in a tax increment financing (TIF) district, if the owner withdraws the parcels from green acres by June 30, 2011.

Under general law, parcels that have been in the green acres program within the last five years may only be included in a TIF district, if:

- the district is a housing district; or
- 85 percent or more of the buildings will be used for a combination of manufacturing and distribution.