

HOUSE RESEARCH

Bill Summary

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Article 1: Chapter 270 Recodification - Commissioner General Powers

This article was a part of the original bill, a Department of Revenue (DOR) proposal to recodify the Commissioner of Revenue's powers (primarily in chapters 270 and 289A, but also in a variety of the substantive tax chapters as well) into a new chapter 270C. A detailed summary of the provisions of this article are available on DOR's website as part of the revenue estimate for the H.F. 2228, as introduced, at:
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http://www.taxes.state.mn.us/taxes/legal_policy/revenue_analysis/2005_2006/house_files/0506_house_files.shtml

In general, the article reorganizes the extracted provisions of the sections of existing statutes (mainly chapters 270 and 289A) without making major substantive changes in the law. Definitions are added to increase consistency and readability and to shorten the statute. The DOR summary describes the changes in the law for each section that are made as a result of the recodification. The DOR summary also shows the statutory section from which the bill language for each section was derived.

Article 2: Chapter 270 Recodification - Conforming Changes

This article is the second part of the original Department of Revenue recodification bill for the Commissioner of Revenue's powers. It contains conforming changes to statutory sections that will remain in effect (i.e., that are not repealed in article 1). In some cases it eliminates language in statutory sections that is moved to the new chapter 270C, but where the entire section is not repealed by article 1. In other cases, it changes existing statutory cross-references to refer to the new chapter 270C or to individual sections of chapter 270C. It also contains a cross-reference table as part of Revisor instructions for substituting chapter 270C references for existing statutory cross-references.

Article 3: Property Taxes

Overview

1. Provides personal property tax exemptions for eight new or expanded electric generating plants
 2. Includes many minor or technical property tax provisions from the House and Senate tax bills
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1. 1 Biomass generation facility-Benson. Extends the date by two years that construction must begin by in order for a facility to qualify for a personal property tax exemption from December 31, 2003, to December 31, 2005.

A personal property exemption was granted by the 2001 Legislature for this plant that was

to be built in the City of Benson (Swift County). It was designed to generating power using poultry litter as a primary fuel source to satisfy a portion of the Prairie Island biomass mandate under section 216B.2424. Construction was to begin by December 31, 2002. The 2003 Legislature amended the construction date to December 31, 2003. This section provides an additional two years.

Effective for taxes levied in 2005, payable in 2006 and thereafter.

- 2 Hydroelectric generation facility-Minneapolis. Extends the date by two years that construction must begin in order for a facility to qualify for a personal property tax exemption from January 1, 2005, to January 1, 2007.

A personal property exemption was granted by the 2002 Legislature for this plant to be built in the City of Minneapolis. It was a 3.2 megawatts run-of-the-river hydroelectric generation facility. Construction was to begin by January 1, 2004. The 2003 Legislature amended the construction date to January 1, 2005. This section provides an additional two years to January 1, 2007, and deletes the requirement (in current law) that this generating facility be located on publicly owned land.

Effective for taxes levied in 2005, payable in 2006 and thereafter.

- 3 Electric generation facility personal property-Mankato. Alters the requirements that apply to an exemption from the tax on personal property of an electric generation facility that was enacted in 2003. The capacity of the plant is reduced from 550 megawatts to 300 megawatts. Current law provides that the exemption applies to a facility in which the construction is begun between January 1, 2004, and December 31, 2006. This section provides that any expansion of the facility will also be eligible for the exemption under this provision, without regard to the date when the construction of the expansion begins.

Effective for taxes levied in 2005, payable in 2006 and thereafter.

- 4 Electric generation facility personal property-Cannon Falls. (a) Exempts from personal property tax attached machinery and other personal property that is part of a proposed simple-cycle combustion-turbine electric generation facility that exceeds 290 megawatts of installed capacity. The facility would utilize natural gas as a primary fuel and be designed to provide peaking capacity energy and ancillary services. Requires local approval from the county, city, and school district where the proposed facility is to be located.

(b) Provides that construction of the facility must be commenced after January 1, 2005, and before January 1, 2009.

Effective for assessment year 2006, taxes payable in 2007, and thereafter.

- 5 Electric generation facility personal property-Faribault. (a) Exempts from personal property tax attached machinery and other personal property that is part of an electric generation facility that exceeds 150 megawatts of installed capacity. The facility will be designed as a combined-cycle facility, although initially it will be operated as a simple-cycle combustion turbine. It will utilize natural gas as a primary fuel.

(b) Provides that to qualify under this subdivision, an agreement must be negotiated between the municipal power agency (that will own and operate the facility) and the host

city for a payment in lieu of property taxes to the host city.

(c) Provides that construction of facility must be commenced after January 1, 2004, and before January 1, 2006.

Effective for assessment year 2005, taxes payable in 2006, and thereafter.

- 6 Electric generation facility personal property-Shakopee. (a) Exempts from personal property tax attached machinery and other personal property which is part of an existing simple-cycle, combustion-turbine electric generation facility that exceeds 300 megawatts of installed capacity, utilizes natural gas as a primary fuel, and is designed to provide peaking, emergency backup, or contingency services. The facility must have received approval from the governing body of county and city for the exemption.

(b) Provides that construction of facility expansion must be commenced after January 1, 2004, and before January 1, 2005. This exemption is for the new attached machinery and personal property for the expansion of an existing plant in Shakopee.

Effective for assessment year 2005, taxes payable in 2006, and thereafter.

- 7 Electric generation facility personal property-Cambridge. (a) Exempts from personal property tax attached machinery and other personal property that is part of a single-cycle combustion-turbine electric generation facility that exceeds 150 megawatts of installed capacity. The facility must be designed to utilize natural gas as a primary fuel, and is designed to provide peaking, emergency backup, or contingency services. The facility must have received approval from the governing body of the county and the township for the exemption

(b) Construction of the facility must be commenced after January 1, 2005, and before January 1, 2009. This exemption is for a proposed generating facility is to be built by Great River Energy in the City of Cambridge (Isanti County.)

Effective for assessment year 2006, taxes payable in 2007, and thereafter.

- 8 Electric generation facility personal property-Blooming Grove Township (Waseca County). (a) Exempts from personal property tax the attached machinery and other personal property that is either part of (i) a simple-cycle, combustion-turbine electric generation facility, or (ii) a combined-cycle, combustion-turbine electric generation facility that does not exceed 325 megawatts of installed capacity. The facility must be designed as either a peaking or intermediate load facility, and must utilize either a simple-cycle or a combined-cycle combustion-turbine generator fueled by natural gas. The facility must have received approval from the governing body of the county for the exemption.

(b) Construction of the facility must be commenced after January 1, 2006, and before January 1, 2008.

Effective for assessment year 2005, payable in 2006, and thereafter.

- 9 Electric generation facility; efficiency determination and certification. Clarifies the formula for determining a plant's efficiency for the market value exclusion under this section. It uses a ratio of energy output to energy input during normal base load operation.

Effective for assessment year 2005, payable in 2006, and thereafter.

10 Electric generation facility; sliding scale exclusion. Increases the threshold for a generating facility to qualify for the sliding scale market value exclusion from 35 percent to 40 percent, and increases the exclusion for each percentage point above the threshold from 5 percent to 8 percent. This increase is to update the sliding scale exclusion to today's efficiency standards, given the new technology currently available. This has not been updated since it was enacted in 1996.

Effective for assessment year 2005, payable in 2006, and thereafter.

11 Agricultural homestead; special provisions. Extends agricultural homestead classification and benefits to agricultural property that is actively farmed by the grandson or granddaughter of the property's owner or the owner's spouse. (Under current law, property qualifies for agricultural homestead classification under this "special agricultural homestead" provision if the property is actively farmed by the son or daughter of the owner or the owner's spouse.)

Effective for 2005 assessment, taxes payable in 2006, and thereafter.

12 Class 4c noncommercial aircraft storage hangars.

Provides that privately owned noncommercial aircraft storage hangars and the land on which they are located receive class 4c classification if the land abuts a public airport, and the owner agrees to prohibit commercial use or activity at the hangar. The class rate will be 1.25 percent.

Background: The 2000 omnibus tax law created a separate category in class 4c for privately owned noncommercial aircraft storage hangars on leased public land. However, the 2000 legislation did not address privately owned noncommercial aircraft storage hangars located on private land. This section extends the same 4c classification to those properties, provided they meet the specified criteria.

Also strikes obsolete language in the subdivision.

Effective for assessment year 2005, payable in 2006 and thereafter.

13 Early payment; e-file property tax refund claims. Authorizes the commissioner of revenue to pay property tax refunds up to 30 days earlier than permitted under present law for claims submitted electronically.

Present law provides for payment of property tax refunds as follows:

- For renters and homeowners of a manufactured home or park trailers - between August 1 and August 15 or 60 days after filing the claim, whichever is later;
- For homeowners - between September 15 and September 30.

Effective the day following final enactment.

14 Total revenue defined. Defines "total revenue" for town spending purposes as property taxes payable in that year as well as revenue from other sources and amounts carried

forward from previous years. Provides that a town must not spend more than its total revenue without a vote by the electors (current law refers only to property taxes levied).

This change is in response to a clarification of a town's spending authority by the Minnesota Association of Townships and a letter from the State Auditor endorsing the need for this clarification.

15 Amount voted at meeting is tax limit. Clarifies that a town may impose a tax as authorized by other laws in addition to those voted on at the annual town meeting (e.g., subordinate service districts, special assessments, etc.).

16 Charges for emergency services; collections. Allows a town that has not been paid for a service to collect the unpaid amount as a charge against any real property owned by the recipient in the state, rather than just within the town (see also section 0).

17 Collection of unpaid service charges. Expands the authority of a town to seek reimbursement for emergency services it has provided. Permits a town that has not been paid for a service to collect the unpaid amount as a charge against any real property owned by the recipient within the state, not only on property within the town. Allows the town to certify any unpaid service charge to the county auditor of the county in which the recipient owns real property. These charges shall be collected along with the property taxes levied against the property. When collected, the county auditor shall remit the amount to the appropriate town.

Effective the day following final enactment.

18 Recapture; Caponi Art Park. Allows the Caponi Art Park property to be exempted from paying any of the deferred /additional taxes if the transfer for ownership or public easement rights is made to: (i) one or more nonprofit foundations or corporations, and (ii) one or more local governments. Those entities shall separately or jointly operate the property as an art park. Some of the property may also be used for other public purposes as determined by the local governments.

Further provides that if the portion of the property transferred to the nonprofit foundation or corporation for the art park is not used as an art park providing the required services for the full 10 years (as required by the legislation that granted them the benefits of the "green acres" tax deferral if the property continued to be used as an art park), the county board, with the approval of the city council, would determine the amount of additional taxes due on that portion of the property no longer utilized as an art park. No interest and penalties may be imposed on these additional taxes provided that they are paid within 30 days of the county's notice. (Section 0 is also related to the Caponi Art Park.)

Effective March 1, 2005.

19 Emergency medical services special taxing district. Extends the sunset date for establishing new emergency medical services (EMS) special taxing districts by two years from taxes payable in 2008 to taxes payable in 2010. These EMS taxing districts largely support volunteer ambulance providers and other emergency responders in rural Minnesota.

This new type of special taxing district was established by the legislature in the 2001 First Special Session. Since it was anticipated that it would take time for startup as a special taxing district, the first allowable levy granted was for taxes levied in 2002, payable in 2003, and were then given a 5-year sunset date to establish new districts. (Once a district is

established, it can continue to levy even if the sunset expired.) This section extends the date by an additional two years.

20 Disabled Veterans Rest Camp; Big Marine Lake. Makes the property exemption for the Disabled Veterans Rest Camp on Big Marine Lake in Washington County effective for taxes payable in 2005. This property became exempt under Laws 2005, Chapter 43, section 1; this section makes that 2005 law retroactive to taxes payable in 2005.

21 School property exemption. Exempts the Great River School, located in St. Paul, from property taxes for taxes payable in 2005.

Background: Existing law provides that the property purchased by an exempt organization is taxable for taxes payable in the following year unless the property is transferred before July 1. Great River School finalized the purchase of its building on July 14, 2004. The 2005 taxes are about \$57,000 (based upon a commercial classification). This section exempts the Great River School building from taxes payable in 2005. They are already exempted for taxes payable in 2006 and thereafter.

Effective the day following final enactment.

22 Repealer. Repeals the special assessment provisions in the 1998 law related to the Caponi Art Park since all of the required special assessments have already been paid to the City of Eagan.

Effective day following final enactment.

Article 4: Property Tax Aids and Credits

Overview

3. Standardizes estimation and certification of population and household estimates prepared by the demographer and the metropolitan council.
4. Provides a transition period for cities moving from the small city to the large city "need" formula.
5. Makes a change in the Anoka and Washington aid offset for the final phase of the state court takeover.
6. Modifies the calculation of the homestead market value credit for partial homesteads.
7. Makes various technical corrections.

1. 1 State demographer. Modifies the dates by which the state demographer must prepare and certify population and household estimates for counties, cities, and towns to match the timelines required for the metropolitan council population and household estimates under section 0. Currently, the demographer must certify estimates to political subdivisions by May 1, and the political subdivisions have until June 10th to challenge the estimates. Under the proposal, the dates are moved to June 1 and June 24. Also requires that the demographer certify estimates to the commissioner of revenue by July 15 for use in calculating state aids.

Effective the day after final enactment.

2 Residential homestead market value credit. Changes the computation of homestead market value credits for residences that are part homestead and part nonhomestead. This happens when one or more of the owners, or a spouse of the owner, does not use the property as their homestead. Under current law, the credit is computed using the value of the homestead portion. This can result in a larger credit (and lower taxes) for a part-owner residing in a home, than if a full-owner resided in that same home; depending on the value of the home. The proposed language will prevent that from occurring by prorating the credit in those situations based on the occupant's percentage of ownership or to 50% in the case of an absent spouse.

Effective for taxes payable in 2006 and thereafter.

3 Population. Changes the effective date for population estimates used in the Iron Range fiscal disparities calculations to match the certification date in section 1.

Effective the day after final enactment.

4 Population estimates. Requires the metropolitan council to prepare and certify population and household estimates for all counties, cities, and towns in the metropolitan area on the same schedule followed by the state demographer for all other political subdivisions under section 1. Although the metropolitan council has traditionally prepared these numbers, it has never been subject to any formal timetable for finalizing the estimates, nor has a formal process existed for challenging estimates.

Effective the day after final enactment.

5 Population. Changes the effective date for population estimates used in the metropolitan area fiscal disparities calculations to match the certification date in section 0.

Effective the day after final enactment.

6 Population. Changes the effective date for population estimates used in LGA and county program aid calculations to match the certification dates in sections 1 and 0.

Effective the day after final enactment.

7 City revenue need. This section provides a transition period of five years to phase cities from the small city need measure to the large city need measure when they cross the 2,500 population threshold. There are currently two formulas for measuring city "need"-one applies to small cities with a population less than 2,500 and one applies to cities with a population of 2,500 or more. These formulas were modified in 2003.

During the five-year transition period a city's "need" is based on both formulas in the following proportions:

Year after reaching 2,500 population	Percent of need based on small city formula	Percent of need based on large city formula
1 st year	80%	20%
2 nd year	60%	40%
3 rd year	40%	60%
4 th year	20%	80%

5 th year	0	100%
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The transition period applies to all cities that cross the 2,500-population threshold after the new LGA need formulas went into effect. It is effective beginning with aids payable in 2006. Four cities are currently affected-the cities of Wells, Crystal Lake, Rush City and Cohasset.

8 City aid base. Provides a one year increase in city aid of \$25,000 for aids payable in 2006 only to a city if its 2003 population is at least 1,000 and a state park comprises at least 14 percent of the total geographic area within the city in 2000. The city of Taylor Falls is the only city to qualify.

9 Household size. Changes the effective date for household size estimates used in LGA calculations to match the certification dates in sections 1 and 0.

Effective the day after final enactment.

10 Definitions (county program aid). Changes the effective date for estimates of population over 65 used in county program aid calculations to match the certification dates in sections 1 and 0.

Effective the day after final enactment.

11 County tax-base equalization aid. Provides that beginning with aids payable in 2006, that \$73,259 is allocated to Anoka county and \$59,664 is allocated to Washington county to pay postretirement health insurance costs for court employees. This is part of an aid and budget base adjustment agreed to between the districts courts and these counties related to aid offsets due to the state takeover of courts. The other related provisions are in sections 0, 0, and 0.

12 Counties (appropriation). Beginning with aids payable in 2006, provided an additional \$132,923 to the annual county tax base equalization aid appropriation to fund the extra aid paid to Anoka and Washington counties under section 0.

13 2004 city aid reductions. Retroactively corrects some language in the provision for calculating the 2004 city aid reductions to reflect the procedure used.

14 Definition (county aid reductions). Retroactively corrects some language in the provision for calculating the 2004 county aid reductions to reflect the procedure used.

15 **Court aid adjustment.** Makes a one-time adjustment to the court aid paid in calendar year 2005 to Anoka and Washington counties equal to one-half of the payment under section 0. Only half the payment amount is needed since the state assumption of the court costs occurs July 1, 2005, six months into the calendar year.

16 **District court budget.** Provides a base adjustment to the district court general fund appropriation beginning in fiscal year 2006 to offset the appropriation increases in sections 0 and 0.

Effective the day after final enactment.

Article 5: Department of Revenue Property Taxes

Overview

This article consists mainly of property tax provisions from the Department of Revenue's tax bill.

1. 1 Payment of current taxes requirement for manufactured homes. Clarifies a 2003 law change that requires all personal property taxes on a manufactured home to be paid before the title may be transferred. The proposed changes clarify that these include taxes payable in the current year. Current law refers to taxes levied on the manufactured home, but since the levy date for manufactured home taxes is May 30, there would otherwise be a five-month window during which the new owner could obtain a certificate of title without paying all the personal liability taxes assessed to the seller. Collection problems would arise if these taxes are not paid when the title is transferred because neither the property nor the new owner would be liable for those taxes without this proposed change.

Effective the day following final enactment.

- 2 Reporting range area fiscal disparities values. Specifies that the assessment abstracts submitted to the commissioner of revenue include the range area fiscal disparities contribution values, rather than continuing to collect this data under the commissioner's general power to collect the necessary information from local officials.

Effective the day following final enactment.

- 3 Quintile assessments. Corrects a provision that refers to appraising one-fourth of the parcels rather than one-fifth. A 2003 law changed the requirement to appraise one-fourth of the listed parcels annually to appraising one-fifth of the parcels. Other statutes referring to a quartile assessment were amended to refer to a quintile assessment, but this section was inadvertently omitted.

Effective the day following final enactment.

- 4 Exemption for property used under cooperative farming agreements and for leased housing and redevelopment authority property. Includes in the list of property exemptions, property used under a cooperative farming agreement and housing and redevelopment authority (HRA) leased property that is exempt from property tax elsewhere in statutes. These do not create new exemptions since these uses are exempt under other sections of statute.

Effective the day following final enactment.

- 5 Property tax exemptions. Replaces obsolete references to repealed provisions with a general reference to other provisions of applicable law.

Effective the day following final enactment.

- 6 Property subject to taconite production tax or net proceeds tax. Adds a new subdivision that describes the property tax exemptions related to the taconite production tax and net proceeds tax (not a new exemption).

Effective the day following final enactment.

- 7 Cross-reference to exemption for religious corporations. Adds a new subdivision providing a cross-reference in the property tax chapter to language in the nonprofit corporation chapter that exempts real and personal property that a religious corporation necessarily uses for a religious purpose (not a new exemption).
- Effective the day following final enactment.
- 8 Cross-reference to exemption for children's homes. Adds a new subdivision providing a cross-reference in the property tax chapter to language in the nonprofit corporation chapter that exempts property owned by children's home corporations (not a new exemption).
- Effective the day following final enactment.
- 9 Cross-reference to exemption for housing and redevelopment authority property and tribal housing authority property. Adds a new subdivision providing a cross-reference in the property tax chapter to language in the economic development chapter that exempts property owned by a housing and redevelopment authority or a tribal housing authority (not a new exemption).
- Effective the day following final enactment.
- 10 Cross-reference to exemption for housing and redevelopment authority property. Adds a new subdivision providing a cross-reference in the property tax chapter to language in the economic development chapter that exempts project property owned by a housing and redevelopment authority (not a new exemption).
- Effective the day following final enactment.
- 11 Cross-reference to exemption for regional rail authority property. Adds a new subdivision providing a cross-reference in the property tax chapter to language in the regional rail authority chapter that exempts property owned by a regional rail authority (not a new exemption).
- Effective the day following final enactment.
- 12 Cross-reference to exemption for Spirit Mountain Recreation Area authority property. Adds a new subdivision providing a cross-reference in the property tax chapter to language in Laws 1973 that exempts property owned by the Spirit Mountain recreation authority (not a new exemption).
- Effective the day following final enactment.
- 13 Definition of installed capacity. Adds a new subdivision that defines "installed capacity" as "generator nameplate capacity" for purposes of determining qualification for utility personal property exemptions. Generator nameplate capacity is a standard definition used in the electric generator industry.
- Effective the day following final capacity.
- 14 Annual reporting dates for wind energy production tax (WEPT). Advances the annual reporting dates for WEPT from March 1 to February 1. Earlier filing of production reports from owners of these systems will allow the deadline for the Department of Revenue to notify companies and counties to also be advanced from March 31 to February 28. The earlier notification of current year tax amounts will help townships to better anticipate

WEPT revenues for the following year when adopting levies in March.

Effective for reports and certifications due in 2006 and thereafter.

- 15 New distribution formula for wind energy production tax (WEPT). Clarifies that the distribution of the WEPT revenues for taxes payable in 2004 and 2005 are based upon the local tax rates; i.e., the proportion that each of the local taxing jurisdiction's tax rates are to the total tax rate where the wind energy conversion system is located. The state is not included in the distribution of revenues.

Provides that beginning with taxes payable in 2006, the distribution of the WEPT will be set percentages: 80% to counties, 14% to cities/townships, and 6% to school districts.

Effective the day following final enactment.

- 16 Cross-reference; cooperatives organized under chapter 308B. Updates a property tax exemption cross-reference so that limited equity cooperative apartments receive the same tax treatment whether they are organized under chapter 308A or chapter 308B, enacted in 2003.

Effective for taxes payable in 2004 and thereafter.

- 17 Cross-reference; cooperatives organized under chapter 308B. Updates a property tax exemption cross-reference so that cooperatives receive the same tax treatment whether they are organized under chapter 308A or chapter 308B, enacted in 2003.

Effective for taxes payable in 2004 and thereafter.

- 18 Cross-reference; cooperatives organized under chapter 308B. Updates a cross-reference so that leasehold cooperatives receive the same property tax treatment whether they are organized under chapter 308A or chapter 308B, enacted in 2003.

Effective for taxes payable in 2004 and thereafter.

- 19 Agricultural homesteads for entity-owned land. Clarifies that a limited liability company must operate a "family farm" in order to receive an agricultural homestead classification.

Effective the day following final enactment.

- 20 Counties to provide certain information to DOR; beginning in 2007. Requires counties to provide the commissioner with certain information for each parcel of homestead property by electronic means on or before April 30 each year, beginning in 2007. This information will be used primarily to verify the accuracy of homeowner property tax refund claims under chapter 290A.

- 21 Agricultural homesteads for entity-owned land. Clarifies that in order to receive an agricultural homestead classification, limited liability companies must operate a "family farm" as defined in Minn. Stat. § 500.24. Also allows certain trust-held property to qualify for the homestead classification. Provides that the person actively farming the trust-held land must be a qualified relative of the person who created the trust in order to qualify for the benefits. Contains a "grandfather" provision for those who currently qualify under the changes made in this section.

Effective for taxes payable in 2006 and thereafter.

- 22 Determination dates for the blind/disabled homestead classification. Provides that an

applicant's blind or disabled status must be established by July 1 of the assessment year in order for the property to be eligible for this classification for that year.

Effective the day following final enactment.

- 23 Cross-reference to exemption for cooperative farming agreements and leased HRA property. Provides that cooperative farming agreements and occupancy agreements are not considered leases and do not cause property to become subject to property tax. These are cross-references to existing laws and do not create new exemptions.

Effective the day following final enactment.

- 24 Utility and railroad; proceedings and appeals. Clarifies two procedural matters for Tax Court appeals of property taxes involving state-assessed property: (1) the case must be brought before the commissioner of revenue in Ramsey County, and (2) there must be one petition that includes all parcels in the state owned by the petitioner for which the petitioner claims the value or tax is incorrect. Also clarifies the administrative and judicial appeals. The language is reorganized and rewritten to make the procedures easier to understand.

Effective September 1, 2005, and thereafter.

- 25 Appeals and equalization course. Clarifies that local boards of equalization and review have until the meeting dates in 2006 to achieve training requirements related to that year.

Effective the day following final enactment.

- 26 Local boards of appeal and equalization; documentation of annual quorum and training requirements. Provides that any city or town that conducts local boards must notify the county assessor by December 1, 2006, and each year thereafter that they are in compliance with the training requirement. Also, clarifies that the proofs of compliance with annual quorum and training requirements that local boards must provide in December of each year, beginning in 2006, refer to compliance in the current year, rather than to compliance in the prior year.

Effective the day following final enactment.

- 27 County board meeting dates. Strikes obsolete language that allowed county boards of equalization to meet on any ten consecutive days in June, rather than the last ten days, if the actual meeting days were listed on the valuation notices. Other provisions of law require meeting dates to be listed on the valuation notices, making the stricken language superfluous. Also clarifies that "meeting day" excludes Saturdays and Sundays.

Effective the day following final enactment.

- 28 Disparity reduction aid; technical. Strikes language requiring levies to be reduced by Disparity Reduction Aid (DRA), since DRA acts to reduce disparities in local tax rates, not levies. This change will not affect the amount of DRA received by a jurisdiction.

Effective the day following final enactment.

- 29 Reporting special levies on surveys. Gives the commissioner the option of excluding detailed special levy information from the levy information county auditors annually report.

Effective the day following final enactment.

- 30 Transmittal of state property tax levy receipts. Changes the date by which county treasurers

must transmit the state's share of property tax receipts to the commissioner of revenue from "on or before June 29" to "on or before June 28." This insures that the property taxes transmitted to the state are within the same fiscal year of receipt by the county, even during years in which June 29 falls on a Saturday.

Effective the day following final enactment.

- 31 Tax-forfeited property; prohibited purchasers. Clarifies the language prohibiting county auditors, treasurers, attorneys, court administrators, and assessors from purchasing or from having someone purchase on their behalf tax-forfeited land. Clarifies that these prohibitions only apply to tax-forfeited land in the county for which the specified office-holders perform duties. Lastly, provides that a person prohibited from purchasing property under this section must not directly or indirectly have another person purchase it on their behalf for their benefit or gain.

Effective the day following final enactment.

- 32 Apportionment of forfeited tax sale fund net proceeds. Changes the annual apportionment of net proceeds in each county's forfeited tax sale fund to eliminate the state's share. Under a provision enacted in 2003, the first claim on net proceeds in the fund are the amounts necessary (if any) to pay the state general property tax levies (payable in 2004 and thereafter) on any parcel that was sold or rented-out during the year. Effective the day following final enactment for state general tax levy amounts payable in 2004 and thereafter.
- 33 Taxability of certain forfeited lands upon sale. Conforms the tax status of tax-forfeited land in a reforestation area classified as suitable for agriculture that is sold to be consistent with general provisions relating to tax-forfeited lands. Under current law, when such land in a reforestation is sold it becomes taxable in the next assessment year, while other tax-forfeited land that is sold becomes taxable in the current assessment year. This change makes tax-forfeited land suitable for agriculture in a reforestation area taxable in the assessment year in which it is sold.

Effective for sales occurring on or after July 1, 2005.

- 34 Tax-forfeited land; conservation areas. Provides that the commissioner of natural resources (rather than the commissioner of finance) is responsible for issuing conveyances for tax-forfeited land in conservation areas. The commissioner of natural resources is currently issuing these conveyances.

Effective the day following final enactment.

- 35 Tax-forfeited land; agricultural lands in the Red Lake Preserve. Clarifies that the commissioner of natural resources' responsibilities with respect to issuing conveyances of tax forfeited property apply only to tax forfeited agricultural lands in the Red Lake Preserve. Effective the day following final enactment.
- 36 Tax-forfeited land; duties of the commissioner of revenue. Clarifies that statutory procedures and the duties of the commissioner of revenue with respect to repurchases of tax-forfeited land relate to all repurchases of tax forfeited land authorized in chapter 282.

Effective the day following final enactment.

- 37 Senior citizens' property tax deferral program. Extends the senior citizens' deferred property tax amount to include any amount billed on the property tax statement for the property, including special assessments (assessment, fee, or any charge that is on the property tax

statement), subject to the existing dollar amount limitations of the program.

Effective for amounts deferred in 2006 and thereafter.

- 38 Sustainable forest incentive act annual certification. Clarifies that failure to return the annual certification required under the sustainable forest program by the due date is treated like any other program violation and does not result in immediate removal from the program. Current language requires that land be removed from the program immediately upon failure to return the annual certification by the due date; however it has been administered to treat late filing of the annual certification like other program violations and allow 60 days for appeal.

Effective the day following final enactment.

- 39 Sustainable forest incentive act; length of covenant. Adds a new section to the sustainable forest incentive act that addresses issues related to the length of the covenant. It:

- specifies the covenant remains in effect for a minimum of 8 years, unless an exception applies;
- explains the 4-year waiting period in § 290C.10 functions and
- explains how to determine when the covenant ends.

This language is elsewhere in statute, but having it in one section, makes it easier to use and understand.

Effective the day following final enactment.

- 40 Sustainable forest incentive act; early withdrawal. Allows early withdrawal of land from the sustainable forest program if a government entity or any other entity that has the power of eminent domain acquires title or possession for a public purpose. The proposed change also clarifies that when land is acquired in this manner, only the land acquired is removed from the program and land not so acquired remains in the program. The current language allows early withdrawal from the program "in cases of condemnation for a public purpose."

Effective the day following final enactment.

- 41 State may guarantee county building debt. Repeals obsolete references to state aid payments to counties that may be offset if the state pays a debt service obligation on behalf of the county under this program. References to (i) homestead and agricultural credit aid ("HACA"); (ii) county criminal justice aid; and (iii) family preservation aid for counties are replaced by the new county program aid.

Effective for aid payable in 2005 and thereafter.

- 42 Border city development zone property tax reimbursements. Changes the date by which city officials must certify the amount of its tax credit allocation that it wishes to use to reimburse the county and/or city for property tax reductions granted under the border city development zone program. The current deadline is October 1 of the assessment year. The new deadline will be October 1 of the taxes payable year. The payment date for the reimbursements (December 26 of the taxes payable year) will remain the same.

Effective for reimbursements of taxes payable in 2005 and thereafter.

43 Property tax proceeds to state by electronic funds transfer. Changes the effective date for a provision enacted in 2003 that eliminated the state from the list of taxing authorities to which funds are apportioned on the various settlement days provided for in general law, and also from the list of authorities for which the county auditor issues a warrant for payment. The provision and the provision in section 0 took effect for taxes payable in 2004 and thereafter; this change makes it effective for distributions occurring on or after June 10, 2003. The new effective date is the same as that provided for a corresponding 2003 provision that added new language requiring county treasurers and auditors who collect the state levy amounts to transmit those collections to the commissioner of revenue by electronic means annually on or before June 29, December 2, and the following January 25 (these dates are the three settlements when the treasurer distributes property tax revenues to all taxing districts).

44 Property tax proceeds to state by electronic funds transfer. Changes the effective date for a provision enacted in 2003 that eliminated the state from the list of taxing authorities to which the county treasurer makes payment of property tax collections following issuance of a warrant by the auditor after each of the various settlement days that are provided for in general law. The new effective date is the same as that provided for a corresponding 2003 provision relating to county treasurers and auditors.

45 Township levy adjustment for wind production tax; payable 2004 only. Grants the authorization (notwithstanding the normal township levy deadlines), to towns located in Lincoln and Pipestone county to adjust their payable 2004 levy for all or a portion of their estimated wind energy production tax amounts for 2004, as computed by the commissioner of revenue. Also grants the authorization or the county auditors of Lincoln and Pipestone counties to make the necessary adjustments for those towns that recertified their levies by March 15, 2004. This provision was in the 2004 Omnibus, which was not enacted.

46 Repealer. Paragraph (a) repeals

- § 273.19, subd. 5, which provides a limited exemption for some hydroelectric facilities on government owned sites, duplicating a non-limited exemption provided in § 272.02, subd. 15.
- § 274.05, which is obsolete certification between county auditors and assessors
- § 275.15, containing obsolete language relating to levy limits.
- § 275.61, subd. 2, an expired subdivision
- § 283.07, containing obsolete language relating to refunding of property taxes on railroad property in certain circumstances.

Effective the day following final enactment.

Paragraph (b) repeals language allowing the Alexandria Lake Area sanitary sewer district and the Central Lakes region sanitary sewer district to levy property taxes on an alternative tax base that is not going to be used.

Paragraph (c) repeals sections 270.85; 270.88; and 273.37 which are all related to the proceedings and appeals for utility and railroad valuations that was rewritten in section 0. Effective September 1, 2005.

Article 6: Income, Corporate Franchise, and Estate Taxes

Overview

This article makes various minor changes, including many recommended by the Department of Revenue. The more significant changes:

1. Impose a penalty on fraudulent claims for income tax refunds or property tax refunds, equal to 50 percent of the refund claimed
2. Clarify the rules for determining if "grandfathered" non-grantor type trusts are resident trusts
3. Exempt publicly traded partnerships from the withholding Minnesota income tax on income shares distributed to nonresident partners.
4. Clarify computation of the estate tax to avoid a circular computation reference to the federal estate tax

1. 1 Electronic payment of refunds. Requires corporations to include information on returns to allow the commissioner to pay tax refunds electronically.

Effective for returns filed after December 31, 2005.

- 2 Fractional year returns of unitary corporations. Permits a corporate member of a unitary group to file a fractional year return on the same date the unitary group's corporate return is due.

Effective for fractional years closing after December 31, 2004.

- 3 Extension to file estate tax return. Replaces the requirement that the commissioner find good cause in allowing a Minnesota estate tax return filing extension with an automatic filing extension for requests received within nine months of the decedent's death.

Effective for estates of decedents dying after December 31, 2004.

- 4 Limits on recalculation of separate spouse liability. Exempts the commissioner from recalculating separate liability for an ex-spouse when a request is made six years or longer after the due date of the return. Also exempts the commissioner from recalculating separate liability if the remaining unpaid liability for which the recalculation is requested is \$100 or less.

Effective for requests for relief made on or after the day following final enactment.

- 5 Federal tax changes. Clarifies that corporate franchise tax returns are included among the returns that must be filed by a taxpayer when the taxpayer is notified of changes to a federal return.

Effective the day following final enactment.

6 Filing extension for service members. Extends the time for appealing property valuations for service members serving in combat zones, from April 30 of the year in which the taxes are payable to 180 days after the service member returns from the combat zone or from hospitalization resulting from injury in the combat zone. This extension matches current law extensions for individuals serving in combat zones for filing tax returns, paying taxes, and appealing to tax court.

7 Electronic payment of refunds. Authorizes the commissioner to require corporations to include information on returns to allow the commissioner to pay tax refunds electronically.

Effective for returns filed after December 31, 2005.

8 Penalty for improperly claiming a refundable credit. Imposes a penalty on returns that fraudulently claim a refund equal to 50 percent of the portion of the refund claim that is found to be fraudulent and strikes language that disallowed the amount of a fraudulent property tax refund claim without imposing any additional penalty.

9 Property tax refund; penalty. Strikes language that disallowed the amount of a fraudulent property tax refund claim without imposing any additional penalty. Fraudulent property tax refund claims will be subject to the new 50 percent penalty in section 0.

10 Preparer penalty. Extends the preparer penalties to those who act with reckless disregard of the law or rules. Present law applies only to "willful" actions. The penalty is \$500.

Effective for returns submitted after December 31, 2005.

11 Resident trust. Modifies the rules for determining whether "grandfathered" non-grantor type trusts are resident trusts. The modification only applies to trusts not covered by the changes made to the law in 1995; these are trusts that became irrevocable by December 31, 1995, or were administered in Minnesota by that date. Present law treats these trusts as Minnesota resident trusts if they are "administered in Minnesota." (This test does not appear in the current statutory language, but was in the law in 1995 before the current test was enacted prospectively-for trusts that became irrevocable or were administered in Minnesota by December 31, 1995-and, thus, continues to apply to these "old" trusts, even though it is not in the current edition of the statutes.)

The section establishes a clearer or more "bright line" test of resident status for these trusts. If the trust meets two out of three criteria, it is treated as a Minnesota resident trust:

- A majority of the discretionary investment decisions are made in Minnesota (However, hiring an agent to make investments is not considered making an investment decision, if the relationship meets the test described below.);
- A majority of discretionary distribution decisions are made in Minnesota; and
- The official books and records of the trust are kept in Minnesota.

Decisions by an appropriately hired agent or custodian are not taken into account, if the trustees (1) can revoke the delegation and (2) regularly monitor the agent or custodian's performance. Put another way, the agent or custodian cannot be the *de facto* trustee.

Effective for tax year 2005.

12 Individuals; additions to taxable income. Makes two changes:

- Changes references from "income taxes" to "taxes based on net income" to be consistent with other statutes;
- Eliminates the addition for expenses attributable to interest on U.S. bonds. Instead these expenses will be netted in computing the subtraction for U.S. bond interest.

Effective for tax years beginning after December 31, 2004.

13 Individuals; subtractions from taxable income. Makes three changes:

- Provides that the subtraction for interest on U.S. bonds is interest net of expenses.
- Eliminates the subtraction for Youth Works post-service benefits. These federal benefits were last paid in 2002, and while the benefits are still authorized at the federal level no funding is available.
- Allows owners of an "S" corporation that converted from a "C" corporation to claim pro-rata subtractions of any remaining bonus depreciation subtractions remaining that resulted from the add-back of 80 percent of federal bonus depreciation required by the predecessor "C" corporation.

The elimination of the Youth Works subtraction, and the subtraction for U.S. interest income are effective for tax years beginning after December 31, 2004. The change to the bonus depreciation subtraction is retroactively effective to tax years beginning after December 31, 2001.

14 Corporations; additions to federal taxable income. Makes two changes:

- Eliminates the subtraction for the federal environmental tax. This tax has not been imposed since 1995.
- Clarifies a reference to bonus depreciation in the Internal Revenue Code.

Effective the day following final enactment.

15 Credit for taxes paid to other states; income taxes paid to other states. Changes references from "taxes on or measured by net income" to "taxes based on net income" to be consistent with other statutes. Corrects a cross-reference.

Effective for tax years beginning after December 31, 2004.

16 Working family credit; definition. Updates a reference to adjusted gross income; the old reference was to a language in the Internal Revenue Code that has been repealed.

17 K-12 education credit; qualifying curriculum areas. Updates a reference specifying curriculum areas of study for which fees for instruction qualify for the education credit, made necessary by the 2003 repeal of the graduation standards and profiles of learning.

- 18 Withholding by publicly traded partnerships. Exempts publicly traded partnerships from the requirement that the partnership withhold Minnesota income tax on income shares distributed to nonresident partners. Under present law, this withholding requirement only applies when the amount assignable to Minnesota exceeds \$1,000. Publicly traded partnerships are defined by reference to federal law, which defines them as partnerships whose interests trade on an established securities market (e.g., the New York Stock Exchange or the NASDAQ) or are readily tradable on a secondary market. Under federal law, many of these entities are taxed as C corporations (i.e., they are subject to an entity level tax, not flow through taxation of the partners), not as partnerships. This exemption would not affect entities taxed as corporations, since the withholding requirement applies only to entities taxed as partnerships. Effective date: Beginning for tax year 2005.
- 19 Estate tax; definition of "Minnesota taxable estate." Defines "Minnesota adjusted taxable estate" to disallow the federal deduction for state death taxes incurred by the estate.
- 20 Effective for estates of decedents dying after December 31, 2004.
- 20 Estate tax computation. Provides that the Minnesota estate tax is calculated based on the value of the Minnesota adjusted taxable estate. State death taxes became deductible in computing federal taxable estate beginning with estates of decedents dying after December 31, 2004. This change prevents a circular computation (i.e., subtracting Minnesota estate tax in calculating the taxable estates for the Minnesota tax). Effective for estates of decedents dying after December 31, 2004.
- 21 Rule repealer. Repeals:
- Minnesota Rules, part 8093.2000, providing guidance for corporate taxpayers subject to estimated tax provisions, and recently replaced with statutory language.
 - Minnesota Rules, part 8093.3000, permitting the commissioner to grant a reasonable extension of time for filing a declaration of estimated tax. The corresponding subdivision of statute was recently repealed.

Article 7: Sales and Use Taxes

Overview

8. Makes modifications in the taxation of medicines and medical devices, and other related areas, to bring the state into compliance with the Streamlined Sales Tax Agreement (SSTA) in the most revenue neutral way possible.
 9. Makes technical and other minor and clarifying changes to sales tax provisions.
1. 1 Omission of use tax. Clarifies that the period for assessing additional taxes is 61/2 years after the due date of the return if the return omits use tax in excess of 25 percent of the amount of use tax reported. Current law references only sales and withholding tax returns

and omits the complementary use tax. Effective the day following final enactment.

2 Time limitation for assessments; purchaser filed refund claims. Extends the time for the commissioner to make an assessment against a seller when a purchaser refund claim is filed for tax improperly paid on an improvement to realty or on the purchase of nontaxable services. Currently the tax must be assessed on the seller's taxable inputs within 31/2 years of the sale but this provision would provide that the assessment may be made within 31/2 years of the sale or within one year after the date of the refund order, whichever is later. Effective for purchaser refund claims filed on or after July 1, 2005.

3 Definition of "bad debt." Clarifies that the exclusions from the definition of "bad debt" enacted in 2003, as part of conforming to the Streamlined Sales Tax Agreement, only apply to sales tax refund claims attributable to a loss from a bad debt. The definition for purposes of refund claims for other taxes continues to follow the federal definition.

4 Time limitation on purchaser filed refund claims. Provides that purchaser filed refund claims, must be filed within 31/2 years from the 20th day of the month following the month of the invoice date of the purchase or one year from the date of an order assessing tax. Effective for refund claims filed on or after the day following final enactment.

5 Time limitation on capital equipment refund claims. Provides that capital equipment sales and use tax refund claims must be filed by the later of 31/2 years from the 20th day of the month following the month of the invoice date of the purchase or one year from the date of an order assessing tax. Effective for refund claims filed on or after the day following final enactment.

6 Sale and purchase. Clarifies that dietary supplements are a taxable food item. Dietary supplements are currently taxable but are not included in the definition of food. This change is made to conform to the Streamlined Sales Tax Agreement (SSTA) definition of food. This provision also clarifies that lodging is exempt if a person has a written agreement to stay in a specific facility for a continuous period of 30 days or more and the agreement requires a prior notice to terminate the agreement.

Effective the day following final enactment.

7 Retail sales. Clarifies that for a purchase to be considered a "purchase for resale" rather than a retail sale, items must be purchased to be resold, subleased or sub rented in the "normal course of business" of the purchaser. The normal course of business is defined in Minn. Stat. § 297A.61, subd. 21, as activities that demonstrate a commercial continuity or consistency of making sales or services for the purpose of attaining profit or producing income. Effective the day following final enactment.

Effective the day after final enactment.

8 Vehicle rental tax and fee. Amends Minn. Stat. § 297A.64, subd. 4, to clarify that if a vehicle rental is exempt from the general state sales tax it is also exempt from the short-term rental motor vehicle tax and fee. Effective the day following final enactment.

9 Sourcing; watercraft, aircraft, modular homes, manufactured homes, and mobile homes. Clarifies that the sourcing provisions enacted as part of the Streamlined Sales Tax Project apply to sourcing for watercraft, aircraft, modular homes, manufactured homes, and mobile homes. The Streamlined Sales Tax Agreement does not require member states to apply the sourcing rules to these items, but Minnesota does so. Effective the date following final enactment.

10 Sourcing of transportation equipment purchases. Adds:

- aircraft operated by air carriers for the transport of persons or property in interstate commerce
- containers designed for use on and component parts attached or secured on railcars, tracks, and aircraft

to the list of items subject to the sourcing provisions for transportation equipment. These items are included in the definition of transportation equipment in the Streamlined Sales Tax Agreement, and were inadvertently omitted from the 2003 legislation. Effective for sales and purchases made on or after January 1, 2004, consistent with the effective date of the language enacted in 2003.

- 11 Dietary supplements. Clarifies that dietary supplements are excluded from the food exemption. This is necessary because dietary supplements are included in the definition of food in section 0. The net effect is that dietary supplements remain taxable. Effective for sales made on or after the day following final enactment.
 - 12 Drugs; medical devices. Changes the tax exemption for drugs and medical devices to conform to definitional requirements for these items contained in the Streamlined Sales Tax Agreement (SSTA). Under current law, only analgesics and prescribed medicine are exempt. The change would exempt all medicine. This change would also exempt all mobility enhancing devices (currently limited to prosthetic devices), limit the exemption for durable medical equipment to purchases for home use only (currently some of these items are exempt while others are taxable but taxability is not based on where the item is used); and continue the exemption for single use medical devices, insulin, oxygen and prescription eyeglasses. Effective for sales after June 30, 2005.
 - 13 Baby products. Makes changes to conform with standard product definitions in SSTA by removing shampoos, powders, ointments and lotions from the exemption for baby products. Some ointments, lotions, and powders may continue to be exempt under the definition of medicine in section 0.
 - 14 Materials consumed in industrial production. Clarifies that the definition of industrial production does not include providing services that were added to the sales tax base in 1987. Materials used in providing these services are exempt under another statutory provision. Effective the day following final enactment.
- The clarification is effective the day after final enactment.
- 15 Capital equipment. Clarifies that the provision of taxable services and prepared foods are not considered to be tangible personal property and equipment used in restaurants or in providing these services are not eligible for the capital equipment exemption. Effective the day following final enactment.

Corrects a reference to equipment used primarily in providing online data retrieval services that was inadvertently omitted during recodification. Effective the day following final enactment.

Also clarifies that repair parts for ready-mixed concrete trucks qualify as capital equipment. This codifies current practice. Both the purchase and lease of ready-mixed concrete trucks are currently exempt from sales tax. Effective the day following final enactment.

- 16 Medical supplies. As part of the SSTA conforming provisions, removes durable medical

equipment from the exemption for medical supplies purchased by a licensed health care facility or professional. Also removes a reference to nonprescription drugs that are now exempt under the general exemption for medicine in section 0. Effective for purchases made after June 30, 2005.

- 17 Preexisting construction contracts and bids. Clarifies that the transition period for preexisting construction contracts and construction bids applies to tax rate increases in addition to sales tax base changes. Effective the day following final enactment.
- 18 Chairs, lifts, ramps, elevators. Modifies the exemption to include elevators and building materials used to install chair lifts, ramps, and elevators. The actual chair lifts and ramps would now be exempt under the new SSTA definition of mobility enhancing equipment in section 0. Effective for sales made after June 30, 2005.
- 19 Tax collected (refunds). Makes a technical correction to reflect the change in section 0. Effective for sales made after June 30, 2005.
- 20 Seller's permit or alternative statement. Expands the alternatives of documentation that a organizer of a flea market or similar event must obtain from all sellers at an event to include a written statement that the seller meets the requirements for the isolated and occasional sales exemption allowed in section 0. The written statement must contain the seller's name, address, and telephone number. Effective for selling events occurring after June 15, 2005.
- 21 Occasional sales provisions applicable under limited circumstances. Allows a seller at a flea market or other similar event to qualify for the isolated and occasional sales exemption in current law for persons not engaged in business provided that:

- the seller participates in only one event per calendar year and for no more than three days;
- the seller makes sales of \$500 or less during the calendar year; and
- the seller provides a written statement to that effect to the organizer of the event.

The isolated and occasional sales provision for business continues to be disallowed for sales at these events. Effective for selling events occurring after June 15, 2005.

- 22 Local sales tax base (sourcing). Provides that sourcing provisions for general local sales taxes are the same as the sourcing provisions that apply to the state general sales tax. Effective for sales made on or after January 1, 2004.
- 23 Repeal of obsolete sales and use tax rules. Repeals sales and use tax rules that are obsolete or that merely duplicate statutory language. Some are obsolete due to specific law changes; some were incorporated into statute as part of the 2001 sales tax recodification; while others conflict with language enacted as part of the Streamlined Sales Tax Project.
- Minnesota Rules, parts 8130.0110, subpart 4, stating that the order of subject matter in the sales and use tax rules follows the order in statutes;
 - 8130.0200, subparts 5 and 6, relating to the tax incidence on the transfer of title for special tooling, and stating that sales tax on title transfers not specifically described in the rule must be decided on the basis of relevant facts;
 - 8130.0400, subpart 9, providing guidance for distinguishing a lease from a

conditional sales contract;

- 8130.1200, subparts 5 and 6, relating to the application of sales tax to construction contracts;
- 8130.2900, providing that all sales are presumed to be subject to sales tax unless the seller proves otherwise;
- 8130.3100, subpart 1, specifying the content of sales tax exemption certificates;
- 8130.4000, subparts 1 and 2, specifying the incidence of the duty to collect sales tax;
- 8130.4200, subpart 1, relating to the duty to obtain a sales tax permit;
- 8130.4400, subpart 3, limiting the credit paid to other states;
- 8130.5200, relating to sales taxation of cartons and containers used by moving and transfer companies;
- 8130.5600, subpart 3, relating to the sales taxation of paper and ink products;
- 8130.5800, subpart 5, relating to sales by nonprofit organizations;
- 8130.7300, subpart 5, relating to remitting local use taxes; and
- 8130.8800, subpart 4, relating to exemption certificates presented to commercial artists and photographers.

Effective the day following final enactment.

Article 8: Special Taxes

Overview

This article various minor changes, including many recommended by the Department of Revenue. The more significant changes:

1. Exempt armories from the mortgage registry tax
2. Provide definitions for administering gambling taxes for linked bingo games
3. Clarify reporting requirements for cigarettes transported outside of Minnesota
4. Clarify that the taconite production tax is not imposed on direct reduced ore during until the third year of commercial production (defines commercial production)

1. 1 Mortgage registry tax; armory exemption. Provides that the mortgage registry tax does not apply to mortgages on armories.

Effective the day following final enactment.

- 2 Fur tax. Modifies the estimated payment rules under the gross receipts tax on fur clothing. Present law requires taxpayers to make quarterly payments based on 90 percent of the current year liability, or 100 percent of the previous year liability. The payment option based on 90 percent of the total liability in the current year is replaced with an alternative payment based on the gross revenue actually received during the quarter.

Effective for gross revenues received after December 31, 2004.

- 3 Petroleum tax penalty abatement. Provides general penalty abatement authority to the commissioner under the petroleum tax and specifies a time frame for appealing penalty abatement denials.

Effective for penalties imposed on or after the day following final enactment.

- 4 Distributor. Expands the definition of distributor under the gambling taxes to include a linked bingo game provider, requiring reporting of sales of gambling products.

Effective the day following final enactment.

- 5 Gambling product. Expands the definition of gambling product to include linked bingo paper sheets.

Effective the day following final enactment.

- 6 Linked bingo game. Defines "linked bingo game" for use in administering the gambling tax.

Effective the day following final enactment.

- 7 Linked bingo game provider. Defines "linked bingo game provider" for purposes of the gambling tax.

- Effective the day following final enactment.
- 8 Business records. Provides that business records include copies of new electronic checks (under 2003 federal law) for purposes of the gambling taxes.
- Effective July 1, 2005.
- 9 Inspection rights. Authorizes the commissioner of revenue to inspect the place of business of a linked bingo game provider and the books, records, and other documents required to be maintained under law.
- Effective the day following final enactment.
- 10 Cigarettes in interstate commerce. Clarifies that reporting requirements for cigarettes transported outside of Minnesota only apply to cigarettes manufactured by companies that are not participating manufacturers in the Master Settlement Agreement with other states.
- Effective the day following final enactment.
- 11 Bond requirement. Authorizes the commissioner of revenue to require cigarette distributors that are delinquent in paying tax or filing returns to post surety bonds or certified checks.
- Effective the day following final enactment.
- 12 Cigarette tax returns; June acceleration. Clarifies the due dates of returns for May and June liability for cigarette distributors subject to the June accelerated payment requirements.
- Effective the day following final enactment.
- 13 Tobacco products tax return; June acceleration. Clarifies the due dates of returns for May and June liability for tobacco products distributors subject to the June accelerated payment requirements.
- Effective the day following final enactment.
- 14 Bad debt. Amends the cigarette tax bad debt provisions to clarify when the offset may be claimed and that any recovery of the debt must be reimbursed to the commissioner.
- Effective for claims filed on or after July 1, 2005.
- 15 Quarterly or annual returns and payments . Allows for quarterly or annual rather than monthly liquor tax returns and payments in certain situations.
- Effective for tax returns and payments due on or after January 1, 2006.
- 16 Reinsurance. Defines "reinsurance" for purposes of the insurance premiums tax. The tax applies to gross premiums, less reinsurance.
- Effective the day following final enactment.
- 17 Gross premiums tax. Clarifies that the gross premiums tax on health maintenance organizations, nonprofit health service plan corporations, and community integrated service networks does not apply to return premiums on direct business whether received in cash or otherwise.
- Effective January 1, 2005.
- 18 Production tax; direct reduced ore. Clarifies the time periods before the production tax is imposed on the direct reduced ore by: (i) providing that no tax is imposed during the

facility's noncommercial production of direct reduced ore (i.e., during the experimental/research phase), (ii) providing that no tax is imposed during the first two years of the facility's "commercial production," and (iii) phasing in the tax over the next three years. Defines "commercial production" as more than 50,000 tons per year and "noncommercial production" as 50,000 or less tons per year.

Iron concentrate used to produce the direct reduced ore (i.e., the iron nuggets) will be taxed like other taconite concentrates and pellets during the noncommercial production years. However, in the first two years of commercial production, no tax will be paid on the iron concentrate or on the direct reduced ore. After the facility has been in commercial production for two years, the direct reduced ore will be subject to the phased-up tax (i.e., 25% in the 3rd year, 50% in the 4th year, 75% in the 5th year, and 100% beginning in 6th year).

The three-year average production does not include production of direct reduced ore in any noncommercial year. The three-year average production for a direct reduced facility that has noncommercial production is the average of the commercial production for the current year and the previous two commercial years.

- 19 Effective for direct reduced ore produced after the day following final enactment. Metropolitan solid waste landfill fee penalty. Clarifies that the penalties provided for corporate franchise taxes apply to determine penalties under the metropolitan solid waste landfill fee. Present law applies the penalties under the tax in chapter 290 and it is unclear whether this refers to corporate franchise or individual income tax penalties.

- 20 Effective the day following final enactment. Repealer. Repeals a lawful gambling tax provision dealing with allocation of payments since Minnesota Statutes, section 270.652 already deals with allocation of payments.

Effective the day following final enactment.

Article 9: Miscellaneous

Overview

This article makes a number of changes in various tax administration and penalty provisions. In addition, it:

1. Modifies the regulation of tax preparers and directs the Commissioner of Revenue to publish a list of preparers who have been penalized under the law.
 2. Adds fines imposed for petty misdemeanors to the definition of debt for the revenue recapture program.
-
1. 1 Taxpayer rights advocate as case reviewer. Authorizes the taxpayer rights advocate to act as case reviewer in the collection of non-tax debt and to issue debtor assistance orders if the

manner in which state non-tax debt collection is being administered would create an unjust and inequitable result for the debtor. The taxpayer rights advocate has this authority under present law for tax debts.

Effective the day following final enactment.

- 2 Scope. Deletes language excluding certain tax preparers from provisions regulating tax
preparation services. Section 0 provides similar exclusions.
- 3 Itemized bill requirement. Removes the requirement that tax preparers separately itemize
the cost of electronic filing on bills provided to clients.
- 4 Penalties; tax preparers. Clarifies that administrative penalties already authorized in statute
are public data.
- 5 Exchange of data; State Board of Accountancy. Directs the State Board of Accountancy to
refer complaints it receives about tax preparers who are not subject to its jurisdiction to the
commissioner of revenue.
- 6 Exchange of data; Lawyers Board of Professional Responsibility. Authorizes the Lawyers
Board of Professional Responsibility to refer complaints it receives about tax preparers who
are not subject to its jurisdiction to the commissioner of revenue.
- 7 Exchange of data; commissioner of revenue. Directs the commissioner to refer complaints
that the Department of Revenue receives about tax preparers who are accountants to the
State Board of Accountancy, and to refer complaints about tax preparers who are lawyers to
the Lawyers Board of Professional Responsibility.
- 8 Data privacy. Provides that data shared as provided in sections 0 to 0 remain private until a
penalty is imposed either as provided in statute or by the Lawyers Board of Professional
Responsibility.
- 9 Exemptions; enforcement provisions. Exempts from all tax preparer regulation provisions
except refund anticipation loan disclosure requirements:

- attorneys,
- accountants,
- enrolled agents
- fiduciaries, and
- individuals who provide tax preparation services to fewer than six clients per
calendar year; a spouse, parent, grandparent, child, or sibling of the individual;
or the individual's employer.

The principal change from present law is to exempt attorneys, accountants, enrolled agents
and fiduciaries from the itemized bill requirement.

- 10 Publication of list of tax preparers subject to penalties.

Subd. 1. Publication of list. Requires the commissioner of revenue to publish a list of
tax preparers who have been subject to penalties.

Subd. 2. Required and excluded preparers. Requires the commissioner to include on

the list preparers who have been convicted of a criminal offense under chapter 289A.

Provides that penalties are not considered to have been assessed for purposes of triggering inclusion on the list if:

- the preparer is contesting the penalty; or
- the appeal period has not expired.

Excludes penalties from publication if:

- the commissioner is reviewing or adjusting the penalty; or
- the preparer is deceased.

Subd. 3. Notice to tax preparer. Requires the commissioner to provide written notice by certified mail to tax preparers 30 days prior to publishing their names on the list, and to include in the written notice information about exceptions to publication provided under the preceding subdivision.

Subd. 4. Form of list. Gives the commissioner discretion over the medium and method of list publication. Requires the list to include the name, associated business name or names, address, and violation(s) for which a penalty was imposed for each preparer included on the list.

Subd. 5. Removal from list. Requires the commissioner to remove preparers from the list if

- the preparer was included in error;
- 90 days have elapsed since the preparer has paid all fines imposed and completed all required remedial actions; or
- the preparer is deceased.

Subd. 6. Names published in error. Requires the commissioner to publish a retraction and apology to preparers whose names are included on the list in error and who request an apology.

Subd. 7. Payment of damages. Provides for actions against the commissioner for civil damages resulting from publication of the list.

Inclusion on the list applies only to preparers convicted of crimes occurring on or after August 1, 2005.

Date of assessment; consent agreement. Clarifies that in the case of a consent agreement in which the taxpayer agrees to a change in tax as the result of an audit, the date of assessment

is the notice date shown on the consent form signed by the taxpayer.

Effective the day following final enactment.

- 12 Offer in compromise deposit requirement. Provides that taxpayers making compromise proposals must submit a nonrefundable deposit of \$250 when making the proposal. The deposit will be applied to the compromise amount if the compromise is accepted and to the taxpayer's tax debts if the compromise is rejected. Allows for waiver of the deposit requirement in cases of financial hardship.

Effective for offers submitted after August 31, 2005.

- 13 Transcription of liens. Provides that state tax liens filed in a county may be transcribed to the secretary of state within ten years of the date of filing. Under current law state tax liens filed in one county may be transcribed to any other county. In no case does the transcription extend the period in which the lien is enforceable.

- 14 Definition of "debt," revenue recapture program. Adds fines imposed for petty misdemeanors to the definition of debt for the revenue recapture program. Under present law, courts may submit debts for criminal fines to revenue recapture program, but the definition does not currently include fines for petty misdemeanors.

- 15 Cross-reference. Updates a reference to be consistent with the changes in section 0(commissioner's authority to suspend a preparer's ability to file returns electronically) and strikes outdated language.

- 16 Sending orders of assessment by electronic mail. Provides that an order of assessment may be sent by electronic mail to the taxpayer's electronic mailing address, as set forth in the Uniform Electronic Transactions Act.

Effective the day following final enactment.

- 17 Penalty for extended delinquency. Imposes a penalty on taxpayers who fail to file a tax return within 30 days of receiving a written demand for filing the return from the department. The penalty equals \$100 or five percent of the tax not paid prior to the demand for filing the return, whichever is greater.

Effective for returns originally due on or after August 1, 2005.

- 18 Penalty for submitting incorrect employee withholding exemption certificate to employer. Modifies the standard for imposing the \$500 penalty on an employee who gives an employer an incorrect withholding tax exemption certificate to parallel the federal penalty. The standard would shift from the employee having "reason to know" that the withholding certificate contains a materially incorrect statement to the employee having "no reasonable basis" for the information provided on the statement.

Effective for certificates filed after December 31, 2005.

- 19 Termination or suspension of electronic filing authority. Authorizes the commissioner to terminate or suspend the authority to file returns electronically for preparers who are assessed civil penalties under chapter 289A. Present law allows the commissioner to terminate electronic filing authority of preparers who are assessed administrative penalties under chapter 270.

- 20 Personal liability standard for withholding tax. Makes the personal liability standard in the withholding tax statute consistent with the general standard of personal liability for trust taxes, by clarifying the definition of employer to mean someone with either actual or legal

control over the payment of wages.

- 21 Effective the day following final enactment.
Unfair cigarette sales act. Strikes language authorizing revocation of a cigarette distributor's license by the commissioner of commerce since licensure is under the authority of the commissioner of revenue.

Effective the day following final enactment.