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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 1838

- 03/01/2017 Authored by Sauke and Davids
- 03/06/2017 The bill was read for the first time and referred to the Committee on Government Operations and Elections Policy
- 03/06/2017 By motion, recalled and re-referred to the Committee on Public Safety and Security Policy and Finance
- 03/15/2017 Adoption of Report: Re-referred to the Committee on Taxes

1.1 A bill for an act

1.2 relating to taxation; modifying certain notice provisions; amending Minnesota

1.3 Statutes 2016, sections 270C.33, subdivisions 5, 8; 270C.34, subdivision 2;

1.4 270C.35, subdivision 3; 270C.38, subdivision 1; 271.06, subdivisions 2, 7; 289A.50,

1.5 subdivision 7; 296A.22, subdivision 9; 296A.26; 297F.23; 297G.22; 297I.60,

1.6 subdivision 2; 469.319, subdivision 5; Laws 2016, chapter 187, section 5.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2016, section 270C.33, subdivision 5, is amended to read:

1.9 Subd. 5. **Prohibition against collection during appeal period of an order.** No collection

1.10 action can be taken on an order of assessment, or any other order imposing a liability,

1.11 including the filing of liens under section 270C.63, and no late payment penalties may be

1.12 imposed when a return has been filed for the tax type and period upon which the order is

1.13 based, during the appeal period of an order. The appeal period of an order ends: (1) 60 days

1.14 after the ~~order has been mailed to the taxpayer~~ notice date designated by the commissioner

1.15 on the order; (2) if an administrative appeal is filed under section 270C.35, 60 days after

1.16 the notice date designated by the commissioner on the written determination of the

1.17 administrative appeal; (3) if an appeal to Tax Court is filed under chapter 271, when the

1.18 decision of the Tax Court is made; or (4) if an appeal to Tax Court is filed and the appeal

1.19 is based upon a constitutional challenge to the tax, 60 days after final determination of the

1.20 appeal. This subdivision does not apply to a jeopardy assessment under section 270C.36,

1.21 or a jeopardy collection under section 270C.36.

1.22 **EFFECTIVE DATE.** This section is effective for orders dated after December 31,

1.23 2017.

2.1 Sec. 2. Minnesota Statutes 2016, section 270C.33, subdivision 8, is amended to read:

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

2.10 **EFFECTIVE DATE.** This section is effective for assessments dated after December
 2.11 31, 2017.

2.12 Sec. 3. Minnesota Statutes 2016, section 270C.34, subdivision 2, is amended to read:

2.13 Subd. 2. **Procedure.** (a) A request for abatement of penalty under subdivision 1 or
 2.14 section 289A.60, subdivision 4, or a request for abatement of interest or additional tax
 2.15 charge, must be filed with the commissioner within 60 days of the notice date of the notice
 2.16 ~~was mailed to the taxpayer's last known address, stating that a penalty has been imposed or~~
 2.17 additional tax charge. For purposes of this section, "notice date" means the notice date
 2.18 designated by the commissioner on the order or other notice that a penalty or additional tax
 2.19 charge has been imposed.

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

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

2.26 **EFFECTIVE DATE.** This section is effective for orders and notices dated after
 2.27 December 31, 2017.

2.28 Sec. 4. Minnesota Statutes 2016, section 270C.35, subdivision 3, is amended to read:

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

3.1 **EFFECTIVE DATE.** This section is effective for orders and notices dated after
3.2 December 31, 2017.

3.3 Sec. 5. Minnesota Statutes 2016, section 270C.38, subdivision 1, is amended to read:

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

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

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

3.19 **EFFECTIVE DATE.** This section is effective for notices dated after December 31,
3.20 2017.

3.21 Sec. 6. Minnesota Statutes 2016, section 271.06, subdivision 2, is amended to read:

3.22 Subd. 2. **Time; notice; intervention.** Except as otherwise provided by law, within 60
3.23 days after the notice of the making and filing date of an order of the commissioner of revenue,
3.24 the appellant, or the appellant's attorney, shall serve a notice of appeal upon the commissioner
3.25 and file the original, with proof of such service, with the Tax Court administrator or with
3.26 the court administrator of district court acting as court administrator of the Tax Court;
3.27 provided, that the Tax Court, for cause shown, may by written order extend the time for
3.28 appealing for an additional period not exceeding 30 days. For purposes of this section,
3.29 "notice date" means the notice date designated by the commissioner on the order. The notice
3.30 of appeal shall be in the form prescribed by the Tax Court. Within five days after receipt,
3.31 the commissioner shall transmit a copy of the notice of appeal to the attorney general. The
3.32 attorney general shall represent the commissioner, if requested, upon all such appeals except
3.33 in cases where the attorney general has appealed in behalf of the state, or in other cases

4.1 where the attorney general deems it against the interests of the state to represent the
 4.2 commissioner, in which event the attorney general may intervene or be substituted as an
 4.3 appellant in behalf of the state at any stage of the proceedings.

4.4 Upon a final determination of any other matter over which the court is granted jurisdiction
 4.5 under section 271.01, subdivision 5, the taxpayer or the taxpayer's attorney shall file a
 4.6 petition or notice of appeal as provided by law with the court administrator of district court,
 4.7 acting in the capacity of court administrator of the Tax Court, with proof of service of the
 4.8 petition or notice of appeal as required by law and within the time required by law. As used
 4.9 in this subdivision, "final determination" includes a notice of assessment and equalization
 4.10 for the year in question received from the local assessor, an order of the local board of
 4.11 equalization, or an order of a county board of equalization.

4.12 The Tax Court shall prescribe a filing system so that the notice of appeal or petition filed
 4.13 with the district court administrator acting as court administrator of the Tax Court is
 4.14 forwarded to the Tax Court administrator. In the case of an appeal or a petition concerning
 4.15 property valuation for which the assessor, a local board of equalization, a county board of
 4.16 equalization or the commissioner of revenue has issued an order, the officer issuing the
 4.17 order shall be notified of the filing of the appeal. The notice of appeal or petition shall be
 4.18 in the form prescribed by the Tax Court.

4.19 **EFFECTIVE DATE.** This section is effective for orders dated after December 31,
 4.20 2017.

4.21 Sec. 7. Minnesota Statutes 2016, section 271.06, subdivision 7, is amended to read:

4.22 Subd. 7. **Rules.** Except as provided in section 278.05, subdivision 6, the Rules of
 4.23 Evidence and Civil Procedure for the district court of Minnesota shall govern the procedures
 4.24 in the Tax Court, where practicable. The Rules of Civil Procedure do not apply to alter the
 4.25 60-day period of time to file a notice of appeal provided in subdivision 2. The Tax Court
 4.26 may adopt rules under chapter 14.

4.27 **EFFECTIVE DATE.** This section is effective for orders dated after December 31,
 4.28 2017.

4.29 Sec. 8. Minnesota Statutes 2016, section 289A.50, subdivision 7, is amended to read:

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

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

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

5.5 (b) An action in the district court on a denied claim for refund must be brought within
 5.6 18 months of the notice date of the denial of the claim by the commissioner. For the purposes
 5.7 of this section, "notice date" has the meaning given in section 270C.35, subdivision 3.

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

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

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

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

5.19 **EFFECTIVE DATE.** This section is effective for claims for refund denied after
 5.20 December 31, 2017.

5.21 Sec. 9. Minnesota Statutes 2016, section 296A.22, subdivision 9, is amended to read:

5.22 Subd. 9. **Abatement of penalty.** (a) The commissioner may by written order abate any
 5.23 penalty imposed under this section, if in the commissioner's opinion there is reasonable
 5.24 cause to do so.

5.25 (b) A request for abatement of penalty must be filed with the commissioner within 60
 5.26 days of the notice date of the ~~notice stating that a penalty has been imposed was mailed to~~
 5.27 ~~the taxpayer's last known address.~~ For purposes of this section, "notice date" means the
 5.28 notice date designated by the commissioner on the order or other notice that a penalty has
 5.29 been imposed.

5.30 (c) If the commissioner issues an order denying a request for abatement of penalty, the
 5.31 taxpayer may file an administrative appeal as provided in section 270C.35 or appeal to Tax
 5.32 Court as provided in section 271.06. If the commissioner does not issue an order on the

6.1 abatement request within 60 days from the date the request is received, the taxpayer may
6.2 appeal to Tax Court as provided in section 271.06.

6.3 **EFFECTIVE DATE.** This section is effective for orders and notices dated after
6.4 December 31, 2017.

6.5 Sec. 10. Minnesota Statutes 2016, section 296A.26, is amended to read:

6.6 **296A.26 JUDICIAL REVIEW; APPEAL TO TAX COURT.**

6.7 In lieu of an administrative appeal under section 270C.35, any person aggrieved by an
6.8 order of the commissioner fixing a tax, penalty, or interest under this chapter may, within
6.9 60 days from the notice date of ~~the notice~~ of the order, appeal to the Tax Court in the manner
6.10 provided under section 271.06. For purposes of this section, "notice date" means the notice
6.11 date designated by the commissioner on the order fixing a tax, penalty, or interest.

6.12 **EFFECTIVE DATE.** This section is effective for orders dated after December 31,
6.13 2017.

6.14 Sec. 11. Minnesota Statutes 2016, section 297F.23, is amended to read:

6.15 **297F.23 JUDICIAL REVIEW.**

6.16 In lieu of an administrative appeal under section 270C.35, a person aggrieved by an
6.17 order of the commissioner fixing a tax, penalty, or interest under this chapter may, within
6.18 60 days from the notice date of ~~the notice~~ of the order, appeal to the Tax Court in the manner
6.19 provided under section 271.06. For purposes of this section, "notice date" means the notice
6.20 date designated by the commissioner on the order fixing a tax, penalty, or interest.

6.21 **EFFECTIVE DATE.** This section is effective for orders dated after December 31,
6.22 2017.

6.23 Sec. 12. Minnesota Statutes 2016, section 297G.22, is amended to read:

6.24 **297G.22 JUDICIAL REVIEW.**

6.25 In lieu of an administrative appeal under this chapter, a person aggrieved by an order of
6.26 the commissioner fixing a tax, penalty, or interest under this chapter may, within 60 days
6.27 from ~~the date~~ of the notice date of the order, appeal to the Tax Court in the manner provided
6.28 under section 271.06. For purposes of this section, "notice date" means the notice date
6.29 designated by the commissioner on the order fixing a tax, penalty, or interest.

7.1 **EFFECTIVE DATE.** This section is effective for orders dated after December 31,
7.2 2017.

7.3 Sec. 13. Minnesota Statutes 2016, section 297I.60, subdivision 2, is amended to read:

7.4 Subd. 2. **Remedies.** (a) If the taxpayer is notified that the refund claim is denied in whole
7.5 or in part, the taxpayer may contest the denial by:

7.6 (1) filing an administrative appeal with the commissioner under section 270C.35;

7.7 (2) filing an appeal in Tax Court within 60 days of the notice date of the ~~notice~~ of denial;

7.8 or

7.9 (3) filing an action in the district court to recover the refund.

7.10 (b) An action in the district court must be brought within 18 months ~~following~~ of the
7.11 notice date of the ~~notice~~ of denial. For purposes of this section, "notice date" has the meaning
7.12 given in section 270C.35, subdivision 3. An action for refund of tax or surcharge must be
7.13 brought in the district court of the district in which lies the taxpayer's principal place of
7.14 business or in the District Court for Ramsey County. If a taxpayer files a claim for refund
7.15 and the commissioner has not issued a denial of the claim, the taxpayer may bring an action
7.16 in the district court or the Tax Court at any time after the expiration of six months from the
7.17 time the claim was filed.

7.18 **EFFECTIVE DATE.** This section is effective for claims for refund denied after
7.19 December 31, 2017.

7.20 Sec. 14. Minnesota Statutes 2016, section 469.319, subdivision 5, is amended to read:

7.21 Subd. 5. **Waiver authority.** (a) The commissioner may waive all or part of a repayment
7.22 required under subdivision 1, if the commissioner, in consultation with the commissioner
7.23 of employment and economic development and appropriate officials from the local
7.24 government units in which the qualified business is located, determines that requiring
7.25 repayment of the tax is not in the best interest of the state or the local government units and
7.26 the business ceased operating as a result of circumstances beyond its control including, but
7.27 not limited to:

7.28 (1) a natural disaster;

7.29 (2) unforeseen industry trends; or

7.30 (3) loss of a major supplier or customer.

8.1 (b)(1) The commissioner shall waive repayment required under subdivision 1a if the
8.2 commissioner has waived repayment by the operating business under subdivision 1, unless
8.3 the person that received benefits without having to operate a business in the zone was a
8.4 contributing factor in the qualified business becoming subject to repayment under subdivision
8.5 1;

8.6 (2) the commissioner shall waive the repayment required under subdivision 1a, even if
8.7 the repayment has not been waived for the operating business if:

8.8 (i) the person that received benefits without having to operate a business in the zone and
8.9 the business that operated in the zone are not related parties as defined in section 267(b) of
8.10 the Internal Revenue Code of 1986, as amended through December 31, 2007; and

8.11 (ii) actions of the person were not a contributing factor in the qualified business becoming
8.12 subject to repayment under subdivision 1.

8.13 (c) Requests for waiver must be made no later than 60 days after the earlier of the notice
8.14 date of an order issued under subdivision 4, paragraph (d), or the date of a tax statement
8.15 issued under subdivision 4, paragraph (c). For purposes of this section, "notice date" means
8.16 the notice date designated by the commissioner on the order.

8.17 **EFFECTIVE DATE.** This section is effective for orders of the commissioner of revenue
8.18 dated after December 31, 2017.

8.19 Sec. 15. Laws 2016, chapter 187, section 5, the effective date, is amended to read:

8.20 **EFFECTIVE DATE.** This section is effective for orders and notices dated after
8.21 ~~September 30, 2015~~ December 31, 2017.

8.22 **EFFECTIVE DATE.** This section is effective retroactively from September 30, 2015.