

2015 LEGISLATIVE BULLETIN
(2015 Regular and Special Sessions)

MINNESOTA • REVENUE

Appeals and Legal Services Division
600 North Robert Street
Saint Paul, Minnesota 55146-2220

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REGULAR SESSION

MISCELLANEOUS

Electronic Filing, Rulemaking and Contested Cases. Minn. Stat. §§ 14.05, 14.08, 14.16, 14.26, and 14.386, were amended to permit a state agency engaged in rulemaking to electronically file documents and information with the Office of Administrative Hearings; to provide that the chief administrative law judge must file four paper copies or an electronic copy of an adopted rule with the Secretary of State after the agency has provided the judge with a signed order adopting the rule; and to provide that the Secretary of State is to send a copy of each rule filed to the agency, the revisor of statutes, and the governor. Effective for any rule for which a notice of intent to adopt a rule without a hearing, notice of hearing, dual notice, or notice of the proposed rule repeal is published in the State Register on or after January 1, 2016. Additionally Minn. Stat. § 14.58 was amended to permit the electronic filing of documents with the Office of Administrative Hearings by state agencies and any other party to a contested case. Effective for contested cases initiated on or after January 1, 2016. 2015 Minn. Laws, Chapter 63.

Obsolete References. Minn. Stat. § 16D.04, subd. 1, was amended to remove obsolete references to Minn. Stat. § 256.9792 which was repealed in 2014. Effective August 1, 2015. 2015 Minn. Laws, Chapter 21, Article 1, Section 7.

Small cities assistance. Newly-enacted Minn. Stat. § 162.145 creates assistance for small cities to pay for construction and maintenance of roads within an eligible city. These funds will be distributed from a special revenue fund by the Department of Revenue, upon notification from the Department of Transportation as to which cities are eligible for the assistance, and how much. The Department of Transportation is responsible for allocating the funds to eligible cities, based on a statutory formula. The Department of Revenue will distribute the funds in the same manner it pays local government aid. Effective May 23, 2015. 2015 Minn. Laws, Chapter 75, Article 2, Section 13.

Filing fees for federal tax liens. Minn. Stat. § 272.484 was amended by capping, at \$15, the fee that the Secretary of State may charge the Internal Revenue Service for filing a tax lien or other related document. Effective July 1, 2015. 2015 Minn. Laws, Chapter 77, Article 2, Section 53.

Industrial Production. Minn. Stat. § 297A.68, subd. 2(d)(1), was amended by removing an obsolete statutory reference to section 297A.61, subdivision 3, paragraph (m) relating to the taxation of repair and maintenance labor that was deleted during the 2014 Legislative Session. Effective August 1, 2015. 2015 Minn. Laws, Chapter 21, Article 1, Section 64.

Combined receipts tax. Minn. Stat. § 297E.02, subd. 6, was amended to clarify that the tax is imposed on the “combined net receipts” of the gambling organization rather than the “combined

receipts” of the organization. Effective August 1, 2015. 2015 Minn. Laws, Chapter 21, Article 1, Section 65.

Raffle boards. Minn. Stat. § 349.12, subd. 18, was amended and a new subdivision 33a was added to define “raffle board” and to include raffle boards within the definition of “gambling equipment”. Minn. Stat. § 349.163 was amended by adding a subdivision 89 to establish manufacturing standards, including bar codes and serial numbers, that must be used for raffle boards. Effective May 20, 2015. 2015 Minn. Laws, Chapter 45, Sections 2, 4, and 8.

Monthly lawful gambling regulatory fee. Minn. Stat. §349.16, subd. 6a, was amended to increase the monthly gambling enforcement fee collected by the Department of Revenue from organizations engaged in lawful gambling from .1% of gross receipts to .125% of gross receipts for deposit into the lawful gambling regulation account for use by the Gambling Control Board as authorized by law. Effective July 1, 2015. 2015 Minn. Laws, Chapter 77, Article 2, Section 71.

Police and Fire Supplemental Aid. Minn. Stat. § 423A.022, subd. 5, was amended to make police and firefighter retirement supplemental state aid permanent. Effective August 1, 2015. 2015 Minn. Laws, Chapter 68, Article 6, Section 1.

State aids, obsolete references deleted. Obsolete references to various state aids payable in fiscal years prior to fiscal year 2015 were deleted. The state aids are in Minn. Stat. §§ 477A.011, subds. 30 and 30a (pre-1940 housing percentage); 477A.011, subd. 42 (definition of jobs per capita); 477A.013, subds. 8 and 9 (city formula aid); 477A.015, 477A.03, subd. 2a, and 477A.03, subd. 2c (local government aid); 477A.12, subd. 1 (payments made by the commissioner of revenue for wildlife management lands); 477A.12, subd. 2 (payments made by the commissioner of revenue for ditch assessments); and 477A.16, subd. 2 (utility valuation transition aid for local units). Effective July 1, 2015. 2015 Minn. Laws, Chapter 21, Article 1, Sections 79-88 and 90.

Utility valuation, reference to repealed rule deleted. Minn. Stat. § 477A.16, subd. 1, was amended to make wording changes to the definition of “new rule utility net tax capacity”. The change deletes the reference to Minnesota Rules, part 8100.0800 which contains a phase- in provision relating to the valuation of utility property based on rules promulgated in 2007 and valuation under a prior rule and instead refers to “any” phase-in provision. Rule 8100.0800 was repealed in 2014. Effective July 1, 2015. 2015 Minn. Laws, Chapter 21, Article 1, Section 89.

Aquatic invasive species aid. Minn. Stat. § 477A.19, subd. 4, was amended to delete the requirement that in 2014 only, the commissioner must certify aids payable by July 1, 2014. Going forward aids will be certified on August 1. Effective July 1, 2015. 2015 Minn. Laws, Chapter 21, Article 1, Section 91.

Conciliation court jurisdiction. Minn. Stat. § 491A.01 was amended by adding subdivision 11 to give conciliation court jurisdiction over civil actions by a county to recover debts for fees, services, overpayments, and similar obligations, even though the defendant is not a resident of that county, so long as the county has given the defendant sufficient notice of the debt. Effective August 1, 2015. 2015 Minn. Laws, Chapter 27, Section 2.

Fraudulent transfers. Minn. Stat. §§ 513.41-513.51, were amended to change the name of the Uniform Fraudulent Transfer Act to the Uniform Voidable Transactions Act and to make various updates and technical changes to the act. These changes include:

- Definitions in Minn. Stat. § 513.41 were amended to make various technical changes and updates, including adding definitions of “electronic,” “organization,” “record,” and “sign.”
- The specific definition of “insolvency” for partnerships is removed.
- Includes an agricultural lien as an identified interest.
- Clarification that a creditor seeking to claim that a transfer is voidable has the burden of proving the elements of the claim by a preponderance of the evidence.
- Clarification of who bears the burden of proving a transfer is or is not voidable and that the proof of the matter is proven by a preponderance of the evidence.
- Provides that jurisdiction is determined based on where the debtor is located.
- Provides that a debtor who is an individual is located at the individual’s principal residence, a debtor that is an organization and has only one place of business is located at its place of business, and a debtor that is an organization and has more than once place of business is located at its chief executive office.
- Provides definitions of “protected series” and “series organization” and provides that each series organization and protected series of the organization is a separate person.
- Provides that the Uniform Voidable Transactions Act does modify, limit, or supersede the Electronic Signatures in Global and National Commerce Act but does not affect the provisions of that law related to consumer disclosures through electronic means or the provisions that exempt certain transactions from the act including court related matters.

Effective for a transfer made or an obligation incurred on or after August 1, 2015. These provisions do not apply to a transfer made, an obligation incurred, or a right of action accrued before August 1, 2015. Provides that a transfer is made and an obligation is incurred at the time provided in Minn. Stat. § 513.46. 2015 Minn. Laws, Chapter 17.

Income Tax Dependency Exemptions. Minn. Stat. § 518A.38 was amended by adding a new subdivision. The subdivision clarifies the court’s authority to allocate income tax dependency exemptions and provides that if the court allocates dependency exemptions to the parent who has physical custody of the child less than one-half of the year, then the other parent must execute the IRS document releasing claim to the child as a dependent. The subdivision also lists the factors the court must consider when determining the allocation; provides that the court also has the authority to place conditions on a party’s right to claim an exemption; states that absent an agreement by the parties a parent with less than ten percent parenting time is not entitled to receive a dependency exemption; requires the court to make findings supporting its allocation decision, if the allocation is contested; and establishes remedies if a party claims an exemption in violation of a court order or applicable law, or fails or refuses to provide the properly executed declaration releasing the party’s claim to a child as a dependent. Effective August 1, 2015. 2015 Minn. Laws, Chapter 30, Article 1, Section 10.

Apportionment of Estate Taxes and Generation Skipping Tax. Minn. Stat. § 524.3-916 was amended to provide that beneficiaries of qualified terminable interest property trusts established pursuant to Internal Revenue Code § 2056(b)(7) are responsible for the payment of Minnesota estate taxes related to the property that they receive pursuant to the administration of the trusts after the death of the lifetime beneficiaries. Effective for decedents dying after December 31, 2015. 2015 Minn. Laws, Chapter 32, Section 5.

Political Contribution Refund. An uncodified provision provides that, notwithstanding Minn. Stat. § 290.06, subd. 23, or any law to the contrary, the political contribution refund does not apply to contributions made after June 30, 2015, and before July 1, 2017. Effective July 1, 2015. 2015 Minn. Laws, Chapter 77, Article 2, Section 82.

Crow Wing County Auditor-Treasurer and Recorder. An uncodified provision allows Crow Wing County to make the offices of auditor-treasurer and recorder positions appointed by the county board. The county board must notify the public of its intent to make these offices appointed and pass a resolution by an 80% vote. Current officeholders must complete their terms before their offices are made appointive. The county board's resolution is subject to a reverse referendum.

The county board may adopt a resolution to revert back to elective offices but not until at least 3 years after the office was made appointive. This action is also subject to a reverse referendum.

Effective the day after the Crow Wing County Board of Commissioners and its chief clerical officer timely complete their compliance with Minn. Stat. § 645.021, subs. 2 and 3. 2015 Minn. Laws, Chapter 38.

Appropriation; Taxpayer Assistance. Appropriates \$400,000 each year for fiscal years 2016 and 2017 from the general fund for grants to one or more nonprofit organizations, qualifying under section 501(c)(3) of the Internal Revenue Code to coordinate, facilitate, encourage, and aid in providing taxpayer assistance services, as provided under Minn. Stat. § 270C.21. Effective July 1, 2015. 2015 Minn. Laws, Chapter 77, Article 1, Section 14.

FEDERAL UPDATE

Minnesota income and franchise tax is based on “federal taxable income” (FTI) for regular Minnesota tax purposes; “federal alternative minimum taxable income” (AMTI) for Minnesota alternative minimum taxable income; “federal adjusted gross income” (FAGI) for household income used for the Minnesota dependent care credit, education credit, and property tax refund; and “earned income” for the working family credit.

Minnesota law formerly referenced these federal items as amended through March 26, 2014. All reference dates to the Internal Revenue Code (“Code”) were changed to December 31, 2014.

The significant substantive changes made to the Code were adopted in the Tax Increase Prevention Act of 2014 (P. L. 113-295), which was signed into law by President Obama on December 19, 2014. Other changes were contained in an act making amendments to the Federal

Aviation Administration Modernization and Reform Act of 2012 (P. L. 113-243), signed into law on December 18, 2014, the Multiemployer Pension Reform Act of 2014 (contained in P.L. 113-235), signed into law on December 16, 2014, and the Tribal Welfare Exclusion Act of 2014 (P.L. 113-168) signed into law September 26, 2014.

All of the federal update provisions were enacted in 2015 Minn. Laws, Chapter 1.

Federal update to Minnesota administrative provisions. Minn. Stat. §289A.02, subd. 7, was amended to adopt references to the federal administrative provisions found in chapter 289A as defined in the Code as amended through December 31, 2014. Since there were no changes to the Code provisions used in chapter 289A, this change has no substantive effect. Effective January 25, 2015.

Minnesota net income. Minn. Stat. § 290.01, subd. 19, was amended to adopt a number of changes made to federal taxable income between March 26, 2014 and December 31, 2014. Most of the federal changes were one year extensions of items that were previously in effect but had been allowed to sunset and Minnesota had previously adopted most of the provisions for the same years that they were effective for federal purposes. Except where noted, the provisions are effective only for tax year 2014. These changes include:

The deduction in the computation of adjusted gross income of up to \$4,000 of qualified tuition for higher education.

The deduction in the computation of adjusted gross income of up to \$250 of classroom expenses paid by a K-12 grade educator.

The exclusion for discharge of principal residence acquisition indebtedness income.

The ability to claim an itemized deduction for mortgage insurance premiums on a principal residence.

The ability of taxpayers age 70½ or older to exclude from gross income up to \$100,000 of their distributions from an Individual Retirement Account that are made directly to charitable organizations. The amount excluded is not allowed as a charitable deduction.

The ability to expense the first \$15 million of production costs of films and television shows was extended to productions beginning before January 1, 2015.

The ability to depreciate leasehold improvements and qualified restaurant property, including new restaurant property and improvements to retail property over 15 years (rather than 39 years) was extended to property placed in service through 2014.

The ability to use accelerated depreciation of qualified Indian reservation property was extended to property placed in service through 2014.

The basis adjustment to S corporation stock when the S corporation donates appreciated property, which is equal to the tax basis of the property rather than the fair market value, was extended to contributions made in taxable years beginning through 2014.

The ability to depreciate certain motorsports entertainment complex property over 7 years rather than 15 or 39 years was extended to property placed in service through 2014.

The ability to expense 50% of the cost of advanced mine safety equipment was extended to equipment placed in service through 2014.

The special rules to encourage charitable contributions of real property for conservation purposes were extended to contributions made in tax years beginning in 2014.

The ability of entities other than C corporations to take a deduction for contributions to a charity equal to the lesser of the cost basis plus one-half the normal price mark-up of food inventory or twice their basis in the food inventory was extended to contributions made through 2014.

The percentage exclusion for gain from the sale of qualified small business stock sold by an individual was increased from 50% to 100% for original issue C corporation stock acquired in 2014. The exclusion applies to certain stock purchased in businesses with less than \$50 million of assets that is held for at least five years.

The preferential treatment of dividends of regulated investment companies under which dividends paid to foreign shareholders are exempt to the same extent the dividends are exempt if the income had been earned directly by the foreign shareholder was extended through 2014.

The special rule limiting payments from controlled subsidiaries of exempt organizations that are subject to the unrelated business income tax to the amount in excess of allowable payments under arm's length transactions rules was extended through 2014. This applies only if there is a binding written contract between the entities that was in effect on August 17, 2006.

The ability of U.S. shareholders with a 10% or greater interest in a controlled banking or financing corporation to defer recognition of active income earned by the corporation but not distributed to the shareholder was extended to taxable years beginning before January 1, 2015.

The increase in the maximum exclusion for employer provided commuter vehicle or transit pass fringe benefits from \$130 per month to \$250 per month to obtain parity with the exclusion of fringe benefits parking benefits. (By updating to this change, the provisions in Minn. Stat. § 290.01, subd. 19b will not apply for 2014.).

Race horses placed in service in 2014 that are younger than three years old can be depreciated over 3 years rather than 7 years.

An energy efficient commercial building deduction equal to 100% of the cost of property placed in service in 2014 as part of a plan to reduce by 50% or more the cost of lighting, heating,

cooling, ventilation and hot water systems, up to a maximum of \$1.80 per square foot of the building.

Congress extended 50% bonus depreciation for property placed in service in 2014, and 2015 for certain airline property or other long production property, and enhanced 179 expensing (\$500,000 maximum with \$2,000,000 phase out) for property placed in service in 2014. Minnesota treatment of these items will be the same as previous rounds of permanent federal bonus depreciation and enhanced 179 expensing, which means an addition of 80% of the bonus or enhanced expensing in the first year and a subtraction of 20% of the addition in each of the next five years.

Minnesota also adopted legislation that conforms Minnesota tax law to the permanent federal tax treatment of new tax preferred savings accounts for disabled individuals (ABLE accounts). Earnings of, and distributions from, these accounts are exempt from tax if properly used by the disabled individual. Authority to establish an ABLE account program for Minnesota residents was enacted in 2015 Minn. Laws, Chapter 71. The Minnesota ABLE account program will be administered by the Department of Human Services. Contributions to ABLE accounts will be managed by the State Board of Investment. The Minnesota ABLE program must be administered in compliance with federal requirements which will assure favorable federal (and state) tax treatment of investment income and distributions.

Congress modified the date by which an airline must have filed for bankruptcy in order for employees to be eligible to roll over all or part of the payments received as part of the bankruptcy into traditional IRAs to include bankruptcy cases filed on November 29, 2011, the date American Airlines filed for bankruptcy. Taxpayers had 180 days from the time of receipt of payments to elect to make a rollover into a traditional IRA. The income limits on deductible IRA contributions do not apply to the rollovers.

A separate uncodified provision was enacted which extends the time for filing amended returns for an individual who made retroactive IRA rollovers from payments received from an airline in bankruptcy. The period to claim a refund is June 1, 2015 if the general statute of limitations to claim a refund has expired.

Internal Revenue Service regulations providing that the general welfare exclusion applies to payments made by tribes to their members were permanently codified into the Internal Revenue Code, and is effective for all years for which the statute of limitations to claim a refund under IRC § 6511 is still open.

While effective January 25, 2015, all changes are effective for Minnesota purposes at the same time as they are effective for federal purposes.

Update of individual alternative taxable income, wages, built in gains for S corporations and credits. Minn. Stat. § 290.01, subd. 31, was amended to incorporate federal changes that impact Minnesota tax provisions that are not part of the computation of regular tax. For alternative minimum tax the new changes to federal adjusted gross income incorporated into the definition of net income will apply to the computation of Minnesota alternative taxable income.

Similarly, the definition of “income” for purposes of the Minnesota dependent care credit and the education credit have adopted the same federal changes.

The definition of “wages” for purposes of Minnesota wage withholding changes to make employer provided commuter transit fringe benefits exempt from withholding to the same extent they are exempt from federal withholding.

Finally, the recognition period for the tax on built in gains of an S corporation recognized in 2014 changes from 10 years to 5 years.

While effective January 25, 2015, all these changes are effective at the same time as they are effective for federal purposes.

Federal update of property tax refund. Minn. Stat. § 290A.03, subd. 15, was amended to adopt all federal changes that affect household income, which uses the definition of federal adjusted gross income as a starting point. Effective retroactively for refunds based on property taxes payable after December 31, 2014 and rent paid after December 31, 2013.

Federal update of estate tax. Minn. Stat. § 291.005, subd. 1, was amended to adopt references to the federal estate tax provisions found in chapter 291 as defined in the Code as amended through December 31, 2014. While effective January 25, 2015, this change has no substantive effect.

SPECIAL SESSION

Sustainable Forest Incentive Program. Minn. Stat. § 88.491, subd. 2, was amended to remove an obsolete reference to Minn. Stat. § 88.51, subd. 2 which was used in the calculation of tax that a landowner must pay if land is removed from an auxiliary forest contract before the end date of the contract and then transferred to the Sustainable Forest Incentive Program. Section 88.51, subd. 2, was repealed. Instead of referring to § 88.51, subd. 2, the statute now refers to Minnesota Statutes 2014, § 88.51, subd. 2. Effective July 1, 2015. 2015 Minn. Laws, 1st Special Session, Chapter 4, Article 4, Section 50.

Electronic waste registration fee. Minn. Stat. § 115A.1314, subd. 1, was amended to provide a new formula for calculating the electronic waste registration fee for the 9th program year (July 1, 2015 – June 30, 2016) only. The Department of Revenue is required to report information to the Minnesota Pollution Control Agency (PCA) by July 15, 2015, concerning each manufacturer’s share of video display devices for the 8th program year. The PCA will determine each registered manufacturer’s market share of video display devices to be collected and recycled for the 9th program year (July 1, 2015 – June 30, 2016) based on the manufacturer’s share of the total weight of video display devices sold, as reported by July 15, 2015, to the PCA for the 8th program year.

By July 30, 2015, the PCA must notify all registered manufacturers of their recycling obligation for the 9th program year. The obligation is equal to the manufacturer’s market share for the 8th

program year times 16,000,000 pounds. The fee for the 9th program year is calculated using the greater of the obligation assigned by the PCA or 80% of the actual weight of video display devices sold to households by the manufacturer in the 9th program year. A manufacturer who does not report an amount for the 8th or 9th program year is required to pay the fee using 80% of actual video display devices sold to households in the 9th program year.

Effective July 1, 2015, but applies only to the calculation of the fee for the 9th program year. 2015 Minn. Laws, 1st Special Session, Chapter 4, Article 4, Section 106.

Education Aid. Minn. Stat. §§ 126C.10 and 126C.13 were amended by removing obsolete language regarding general education revenue (effective July 1, 2015), by adjusting the basic revenue formula and modifying the capital levy equalizing factors (effective for fiscal year 2016 and later), and by making a technical correction to the definition of general education aid (effective for fiscal year 2015 and later). 2015 Minn. Laws, 1st Special Session, Chapter 3, Article 1, Sections 5-10.

Title examinations for tax forfeited property. Minn. Stat. § 282.011, subd. 3, was amended to make a technical correction regarding title examination requirements for tax forfeited properties that were in the auxiliary forest program. If requested by the purchaser or the county attorney the commissioner must deliver the deed to the county attorney for use under Minnesota Statutes § 88.48.subdivision 5. That provision provided that furnishing a recorded state deed and a certificate of judgment search in lieu of a certificate of title is sufficient to meet a requirement for lands in the auxiliary forest program. Section 282.011, subd. 3, now refers to Minnesota Statutes 2014, § 88.48, subd. 5, instead of § 88.48, subd. 5, because § 88.48 has been repealed. Effective July 1, 2015. 2015 Minn. Laws, 1st Special Session, Chapter 4, Article 4, Section 126.

Working family credit; nonresidents. Minn. Stat. § 290.0671, subd. 1, was amended and makes full-year nonresidents ineligible for the Minnesota working family credit. Effective for tax years beginning after December 31, 2014. 2015 Minn. Laws, 1st Special Session, Chapter 3, Article 11, Section 1.

TANF Maintenance of Effort. Minn. Stat. § 290.0671, subd. 6a, was amended to clarify that funds from Temporary Assistance for Needy Families block grants are only used to pay the portion of working family credit refunds attributable to the increases to the working family credit that were enacted in 2000. Effective retroactively for transfers of funds in fiscal year 2015 and thereafter. 2015 Minn. Laws, 1st Special Session, Chapter 3, Article 11, Section 2.

Local government exemption. Minn. Stat. § 297A.70, subd. 2(d), definition of “local government,” was amended to delete the January 1, 2016, to December 31, 2016, phase-in for joint powers organizations, special districts (excluding the Metropolitan Council), and other instrumentalities of Minnesota cities, counties and towns to qualify for the local government exemption from sales and use tax. Instead, these local governments (including the Metropolitan Council) will qualify for the exemption beginning January 1, 2017 (for purchases made after December 31, 2016). Effective June 14, 2015. 2015 Minn. Laws, 1st Special Session, Chapter 3, Article 6, Section 7.

Destination Medical Center. Minn. Stat. §§ 469.40, subd. 11, as amended by Laws 2015, chapter 1, section 6; 469.43; 469.45, subds. 1 and 2; and 469.47, subd. 4, as amended by Laws 2015, chapter 1, section 10, were amended to do the following: (1) modify the definition of “public infrastructure project” under the Destination Medical Center (DMC) law; (2) clarify the relationship between the city and nonprofit economic development agency (EDA); (3) clarify that the special Rochester city sales taxes (on lodging, food and beverages, and admissions) and the Rochester city general sales tax may be spent for any purposes that qualify as a local matching contribution under the DMC aid program; and (4) provide that any city money spent to support the DMC Corporation or the EDA qualifies as a local matching contribution under the state aid program. Effective the day after the governing body of the city of Rochester and its chief clerical officer comply with Minnesota Statutes, section 645.021, subdivisions 2 and 3, and applies retroactively to the original effective dates of the laws that are amended (except that the amendment to § 469.43 applies retroactively from June 22, 2013). 2015 Laws, 1st Special Session, Chapter 1, Article 8.

Economic Development Grant. Uncodified session law provides a one-time economic grant of \$35,000 for the city of Delano to reimburse the Delano Fourth of July Committee, Incorporated for unanticipated tax liabilities related to past city celebrations. Effective July 1, 2015. 2015 Minn. Laws, 1st Special Session, Chapter 1, Article 1, Section 2, Subdivision 2(p).