

2011 SPECIAL TAXES LEGISLATIVE BULLETIN

(2011 1st Special Session)

MINNESOTA • REVENUE

Appeals and Legal Services Division
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Unless otherwise noted, the provisions discussed in this bulletin can be found in 2011 Minn. Laws, 1st Special Session, Chapter 7, Articles 7, 8, and 11.

Tobacco Settlement Bonds

Tobacco Settlement Bonds Board. Minn. Stat. § 16A.95, subd. 3, was created which, among other things, provides for a governing board consisting of the commissioners of management and budget, revenue, and health departments. Effective July 21, 2011.

Bonds. Minn. Stat. § 16A.95, subd. 5 (1), was created to provide that information in any register of ownership of bonds or certificates is nonpublic data or private data but can be disclosed for limited purposes including if requested by an authorized representative of the commissioner of revenue, attorney general, or of the United States commissioner of internal revenue, to determine an application of a tax. Effective July 21, 2011.

Exemption from taxation. Minn. Stat. § 16A.95, subd. 10, was created to provide that the property of the authority, its income, and its operations shall be exempt from taxation. The authority shall not be required to pay any fees, taxes, or assessments of any kind, whether state or local, including, but not limited to, fees, taxes, ad valorem taxes on real property, sales taxes or other taxes. Effective July 21, 2011.

Cigarette Tax

Deposit of proceeds from tax and use tax on cigarettes. Minn. Stat. § 297F.10, subd. 1, was amended to decrease the amount of revenue which is credited annually to the medical education and research costs account in the special revenue fund for the commissioner of health. Under current law, the account annually receives \$8,550,000. Starting in fiscal year 2012, the amount will be \$3,937,000. Effective July 21, 2011. 2011 Minn. Laws, 1st Special Session, Chapter 9, Article 2, section 25.

Electronic Waste Recycling Fee

Manufacturer's registration fee. Minn. Stat. § 115A.1314 was amended to specify that registration fees paid by manufacturers of electronic products subject to the electronic waste program be credited to the environmental fund, rather than the electronic waste account which was eliminated from subdivision 2; removes language which set the registration fee during the program's initial year at \$5,000; and eliminates language which had allowed the commissioner of the pollution control agency to refund fees collected in excess of program operations costs to manufacturers, and that had annually appropriated money in the account to that commissioner through June 30, 2011. Effective retroactively from July 1, 2011. 2011 Minn. Laws, 1st Special Session, Chapter 2, Article 4, Section 17.

Duties of the agency. Minn. Stat. § 115A.1320 was amended to remove language requiring the pollution control agency to recommend lowering the registration fee to the legislature if revenue collected exceeds program costs. Effective retroactively from July 1, 2011. 2011 Minn. Laws, 1st Special Session, Chapter 2, Article 4, Section 18.

Petroleum Tank Release Cleanup Fee

Petroleum tank release cleanup fee sunset extended. Minn. Stat. § 115C.13, which repeals the entire chapter 115C [Petroleum Tank Release Cleanup Act], including a repealer of the petroleum tank cleanup fee, is amended. This act was scheduled to be repealed on June 30, 2012. Instead, the repealer is effective June 30, 2017. 2011 Minn. Laws, 1st Special Session, Chapter 2, Article 4, Section 20.

Insurance

Fire safety premium surcharge special account. Minn. Stat. § 297I.06, subd. 3, is amended to increase the amount of funds transferred from the fire safety account to the general fund in each of the next two years in the biennium ending June 30, 2012, and an appropriation is made to public safety for fire marshal functions, \$4,227,000 in fiscal year 2012 and \$4,228,000 in fiscal year 2013. Effective July 21, 2011. 2011 Minn. Laws, 1st Special Session, Chapter 1, Article 1, Section 11, and Article 2, Section 2.

Nonadmitted and Reinsurance Reform Act of 2010

Overview. The following provisions amend Minn. Stat. ch. 297I to comply with the Nonadmitted and Reinsurance Reform Act (NRRA) of 2010, Pub. L. No. 111-203, H.R. 4173, which was signed into law on July 21, 2010. These changes provide that Minnesota will tax the full premiums when Minnesota is either the principal place of business of the insured, or, for an individual, the principal residence. Under current law, the tax is imposed on in-state risk.

Affiliated group. Minn. Stat. § 297I.01 was amended by adding a new subdivision 2a, to define the term “affiliated group”. An affiliated group is an entity or group of entities that includes the insured and controls, is controlled by, or is under common control with the insured. Control is defined as owning, or having the power to vote, 25 percent or more of any class of voting securities, or controlling election of the majority of directors or trustees, of the entity. Effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Gross premiums. Minn. Stat. §297I.01, subd. 9, was amended to modify the term “gross premiums” for purposes of the tax on nonadmitted insurance. It clarifies that the term refers to the total consideration paid for the insurance contract. Effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Home state. Minn. Stat. § 297I.01 was amended by adding a new subdivision 10a, to define home state as the state where the insured has a principal place of business, or in case of an individual, a principal residence. When the total risk is located outside of the home state, the premiums are taxable at the state where the greatest portion of the premiums is allocated. If more than one insured in an affiliated group are insured, home state is the location where the insured with the largest percentage of premiums is located. Effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Independently procured insurance. Minn. Stat. § 297I.01 was amended by adding a new subdivision 10b to define “independently procured insurance” as insurance that is procured directly by an insured from a nonadmitted insurer. Effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Nonadmitted insurance. Minn. Stat. § 297I.01 was amended by adding a new subdivision 10c to define “nonadmitted insurance” as property and casualty insurance procured directly by an insured, or indirectly through a surplus lines broker, from a nonadmitted insurer. Effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Nonadmitted insurance premiums tax. Minn. Stat. § 297I.01 was amended by adding a new subdivision 10d to define “nonadmitted insurance premiums tax” for purposes of the insurance tax, as any tax, or fee, or other charge imposed by the government, on the purchase of nonadmitted insurance. Effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Nonadmitted insurer. Minn. Stat. § 297I.01 was amended by adding a new subdivision 10e to define “nonadmitted insurer” as an insurer that is not licensed in Minnesota. A nonadmitted insurer does not include risk retention groups, as defined under the federal Liability Risk Retention Act of 1986. Effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Surplus lines broker. Minn. Stat. § 297I.01 was amended by adding a new subdivision 15a to define “surplus lines broker” as a person licensed to sell, solicit, or negotiate insurance on properties, risks, or exposures located or to be performed in a state with nonadmitted insurers. This new definition replaces the term “licensee” which is currently used in Minn. Stat. ch. 297I. Effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Taxpayer. Minn. Stat. § 297I.01, subd. 16, was amended to replace the term “surplus lines licensee” with the term “surplus lines broker”. Effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Nonadmitted insurance premium tax. Minn. Stat. § 297I.05, subd. 7, was amended to modify terms consistent with other changes and new definitions in Minn. Stat. ch. 297I. Subdivision 7(a) explains the application of the tax on surplus lines brokers when premiums are paid by an insured whose home state is Minnesota. Subdivision 7(b) explains the application of the tax when insurance is purchased directly from a nonadmitted insurer, without the involvement of a surplus lines broker. Subdivision 7(c) explains that only the home state of the insured can impose a tax, and when Minnesota is the home state, 100 percent of the gross premiums are subject to tax in Minnesota. Effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Other entities. Minn. Stat. § 297I.05, subd. 12, was amended to replace the term “surplus lines licensee” with the term “surplus lines broker”. Effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Due dates for filing returns for entities that purchase insurance directly from a nonadmitted insurer. Minn. Stat. §297I.30, subd. 1, was amended to clarify that when an insured buys insurance directly from a nonadmitted insurer, the return is due annually, on March 1. This is consistent with the way the tax return is currently filed and conforms to other changes made in this chapter. Effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Due dates for filing returns for surplus lines brokers. Minn. Stat. §297I.30, subd. 2, was amended to clarify that when an insured buys insurance from a surplus lines broker, the broker is required to file a return twice a year. This is consistent with the way the tax return is currently filed and conforms to other changes made in this chapter. Effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Repealer. Minn. Stat. § 297I.05, subd. 9 and 10 were repealed. These subdivisions are no longer necessary since they have been incorporated into Minn. Stat. § 297I.05, subd. 7 which combines the tax currently imposed under subd. 9 and subd. 10, into one tax which is imposed when insurance is purchased directly from a nonadmitted insurer, without the involvement of a surplus lines broker.

Minerals

Exemption from property tax for property subject to the net proceeds tax. Minn. Stat. § 272.02 was amended to provide clarity and extend the exemption from property taxes for property subject to the net proceeds tax. In addition to the deposits of ores, metals and minerals exempted in section 73(b), the exemption of deposits is repeated in the newly enacted section 97, and is extended to lands in which the deposits are contained, all real and personal property used in mining, quarrying, producing or refining nonferrous ores, metals or minerals, and on nonferrous concentrate. Effective for taxes payable in 2012 and thereafter.

Exemption for income taxes. Minn. Stat. § 290.05, subd. 1, was amended to conform the exemption language of chapter 290 to the new terms applied to property and activities subject to the net proceeds tax. Effective for taxable years beginning after December 31, 2010.

Nonferrous occupation tax. Minn. Stat. § 298.01, subds. 3 and 3a, were amended to change the property and activities that require the imposition the nonferrous occupation tax. Refining is now an activity included in the values taxed under the occupation tax; metals and minerals are included as products that are taxed under the nonferrous occupation tax. The products and activities that are included in the measure of taxable income are also changed in the same manner. Effective for taxable years beginning after 31, 2010.

Refining, definition of. Minn. Stat. § 298.001, is amended adding subdivision 10, defining refining for the purposes of chapter 298 as refining ores, metals, or mineral products subject to the net proceeds tax. The refining may be done by the mining or quarrying entity or by an affiliated entity. Effective for taxable years beginning after December 31, 2010.

Net proceeds tax imposed, gross proceeds. Minn. Stat. §§ 298.015, subd. 1 and 298.01, subd. 3a, are amended to delete energy resource from imposition of the net proceeds tax and include ores and metals as subject to the tax; activities included in the measure of gross proceeds are mining, extraction, production, and refining. Conforming amendments are made to the definition of gross income in Minn. Stat. § 298.01, subd. 3a. Effective for taxable years beginning after December 31, 2010.

Net proceeds deductions. Minn. Stat. § 298.015, subd. 2, is amended to permit the deductions in computing the net proceeds as are permitted in computing taxable income under the nonferrous occupation tax. Additionally, deductions are permitted for processing, beneficiation or smelting metals or minerals. Effective for taxes payable in 2012 and thereafter.

Net proceeds tax definition of metal or mineral. Minn. Stat. § 298.016, subd. 4, is amended to conform the definition of metal or mineral products to the usage in Minn. Stat. § 298.015, which imposes the net proceeds. Further, obsolete definitions regarding deductible items are deleted. Effective for taxable years beginning after December 31, 2010.

Repealer. Minn. Stat. § 298.017, which permitted deductions solely for the purposes of the net proceeds tax is repealed. Effective for taxable years beginning after December 31, 2010.

MinnesotaCare

Contingent reduction in tax rate. Minn. Stat. § 295.52, subd. 2, was amended by adding a new subdivision 8 to state that starting in 2011, by December 1 of each year, if the actual cash balance in the Health Care Access Fund is adequate as determined by the commissioner of management and budget, and if the projected revenues for the biennium exceed 125 percent of expenditures and transfers, the commissioner of management and budget, in consultation with the commissioner of revenue shall reduce the tax rate imposed under Minn. Stat. ch. 295 for the subsequent calendar year. The new rate shall be reduced by rounding it to the nearest one-tenth of one percent so that projected revenues for the biennium do not exceed 125 percent of expenditures. The calculation will not take into account the repeal of the tax imposed under Minn. Stat. ch. 295 effective January 1, 2020. Effective July 21, 2011. 2011 Minn. Laws, 1st Special Session, Chapter 9, Article 6, Section 83.

Repealer. Repeals all the MinnesotaCare taxes effective for gross revenues received after December 31, 2019. Effective July 21, 2011. 2011 Minn. Laws, 1st Special Session, Chapter 9, Article 6, Section 97.