

2016 SPECIAL TAXES LEGISLATIVE BULLETIN

(2016 Regular Session)



Appeals and Legal Services Division
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LAWFUL GAMBLING

Minnesota Laws 2016, chapter 138 made a number of changes to chapters 297E and 349 to add references to raffle boards. These include:

Unaccounted for raffle boards. Minn. Stat. § 297E.02, subd. 6a, was amended to add raffle boards to the list of unaccounted games that licensed distributors must pay six percent of ideal gross tax on unaccounted games. Effective August 1, 2016

Untaxed gambling product. Minn. Stat. § 297E.02, subd. 7, was amended to add raffle boards to the list of games that unlicensed persons, organizations or business entities must pay the six percent of ideal gross tax on untaxed gambling product. Effective August 1, 2016.

Contraband defined – raffle boards. Minn. Stat. § 349.2125, subd. 1, was amended to add “raffle boards” as a game that can fall within the definition of “contraband”. Effective August 1, 2016.

False information related to raffle boards. Minn. Stat. § 349.2127, subd. 3, was amended to make it a felony to present to the Department of Revenue raffle board invoices that contain materially false information. Effective August 1, 2016.

Transporting unstamped raffle boards. Minn. Stat. § 349.2127, subd. 4, was amended to make it a gross misdemeanor to transport or receive raffle boards that are not properly bar coded under chapters 349 or 297E. Effective August 1, 2016.

Gross receipts. Minn. Stat. § 297E.01, subd. 8, was amended to remove a cross reference to section 349.18, subd. 3, that was repealed in 2009, and replace it with the language that was formerly codified in that repealed section. Effective August 1, 2016. 2016 Minn. Laws, ch. 158, art. 1, § 164.

ELECTRONIC WASTE

Minn. Laws 2016, chapter 166 made significant substantive changes to the fees on electronic waste. The changes include:

Computer monitor. Minn. Stat. § 115A.1310, subd. 6, was amended to remove laptop computers from the definition of “computer monitor.” Effective August 1, 2016.

Covered electronic device. Minn. Stat. § 115A.1310, subd. 7, was amended to add tablet computers and laptop computers to the definition of “covered electronic device.” Effective August 1, 2016.

Portable battery. Minn. Stat. § 115A.1310 was amended by adding a subd. 12a to define a “portable battery.” Effective July 1, 2016.

Phase 1 recycling credits. Minn. Stat. § 115A.1310 was amended by adding a subd. 12b to define “phase 1 recycling credits.” The credit is equal to the number of pounds of covered electronic devices recycled by a manufacturer from households during program years one through nine, minus the product of the number of pounds of video display devices sold during the same program year multiplied by the proportion of sales a manufacturer is required to recycle. Effective August 1, 2016.

Phase 2 recycling credits. Minn. Stat. § 115A.1310 was amended by adding a subd. 12c to define “phase 2 recycling credits.” The credit is equal to the number of pounds of covered electronic devices recycled by a manufacturer during a program year from households located outside the 11 county metropolitan area minus the manufacturer’s recycling obligation for the same program year. This credit applies to program years beginning July 1, 2019.

Video display device. Minn. Stat. § 115A.1310, subd. 20, was amended to remove laptop computers from the definition of “video display device”; to include all flat panel screen televisions and monitors; and to exclude all telephones from the definition. Effective July 1, 2016.

Manufacturer’s registration. Minn. Stat. § 115A.1312, subd. 2, was amended to require manufacturers of video display devices sold in Minnesota to register with the Pollution Control Agency (PCA) by August 15 of each year (rather than September 1 of each year). Effective July 1, 2016.

Collector’s registration. Minn. Stat. § 115A.1312, subd. 3, was amended to require collectors of covered household electronic devices to register with the PCA by July 15 of each year, to certify compliance with local government regulations, and to indicate end-of-life fees that will be charged on collection. Effective July 1, 2016.

Recycler’s registration. Minn. Stat. § 115A.1312, subd. 4, was amended to require recyclers of household video display devices to register with the PCA by July 15 of each year. The registration form must include information related to facilities under the direct control of the recycler that may receive covered electronic devices (rather than video display devices). Effective July 1, 2016.

Manufacturer registration fee. Minn. Stat. § 115A.1314, subd. 1, was amended in many ways.

1. Manufacturers who sell fewer than 100 video display devices during the previous calendar year do not have to pay a registration fee.
2. Manufacturers must pay the fee by August 15 of each year on a form and in a manner prescribed by the commissioner.

3. The registration fee is equal to \$2,500 plus a variable recycling fee.
4. The variable recycling fee is calculated according to a formula of $[A - (B + C)] \times D$, where:

“A” is the manufacturer’s recycling obligation for the year;

“B” is the number of pounds of covered electronic devices recycled by the manufacturers from households during the immediately preceding program year;

“C” is the number of phase I or phase II recycling credits the manufacturer elects to use ; and

“D” is the estimated per-pound cost of recycling, which is 50 cents per pound for manufacturers who recycle less than 50% of their recycling obligations, 40 cents per pound for manufacturers who recycle at least 50% but less than 90% of their recycling obligations, 30 cents per pound for manufacturers who recycle 90% but less than 100% of their recycling obligations, and ZERO for manufacturers who recycle 100% of their recycling obligations.

5. A manufacturer can petition the PCA to direct the Department of Revenue to waive the variable recycling fee if the PCA finds that the manufacturer has made a good faith effort to meet its recycling obligations.
6. A manufacturer can only use credits to offset up to 25% of their recycling obligations for a year.

For purposes of calculating the fee in program years beginning in 2016, 2017, and 2018, the weight of covered electronic devices collected from households outside the 11 county metropolitan area must be based on actual weight. Beginning with program years beginning July 1, 2019, those fees can be based on 1.5 times the weight of covered electronic devices collected from households outside the 11 county metropolitan area.

All of the changes are effective July 1, 2016.

Reporting requirements. Minn. Stat. § 115A.1316 was amended to change various manufacturer, recycler and collector reporting requirements.

Manufacturers. By August 1, 2016, each manufacturer must report to the PCA the total weight of each specific model of video display devices sold to households in the previous program year and the total weight, or estimated weight of those devices.

By March 1 each year, beginning March 1, 2017, each manufacturer must report to the PCA the total weight of video display devices sold to households in the previous calendar year and the total weight, or estimated weight of those devices.

By August 15 of each year, each manufacturer must report:

- The total covered electronic devices the manufacturer collected from households and recycled or arranged to have collected and recycled during the preceding program year.
- The number of phase I and phase II recycling credits the manufacturer has purchased or sold during the preceding program year.
- The number of phase I and phase II recycling credits the manufacturer elects to use in calculating its recycling fee.

- The number of phase I and phase II recycling credits the manufacturer retains at the beginning of the current program year.

The reports due August 15 of each year go to the Department of Revenue until June 30, 2017, and to the PCA thereafter.

Upon request of the commissioner of revenue, the PCA is required to give a copy of each report to the Department of Revenue.

Recyclers. By July 15 of each year, recyclers of covered electronic devices must report to the PCA the total weight of video display devices and covered electronic devices, including information related to portable batteries and mercury-containing lamps. Previously recyclers were to report to both PCA and the Department of Revenue by August 1. Upon request of the commissioner of revenue, the PCA is required to give a copy of each report to the Department of Revenue.

Collectors. By July 15 of each year, collectors must report to the PCA on a form prescribed by the PCA, the total pounds of covered electronic devices collected, a list of all recyclers to whom the collector delivered covered electronic devices and whether the collector had a contract with a recycler or manufacturer to provide pounds towards meeting a manufacturer's obligation.

All of these reporting changes are effective July 1, 2016.

PCA and Department of Revenue duties. Minn. Stat. § 115A.1320 was amended to clarify and make changes to the duties and responsibilities of the PCA and the Department of Revenue in administering the electronic waste fees. The changes to the duties of the Department of Revenue relate to the amendments concerning the reporting of items to PCA that formerly had been reported to the Department of Revenue. Changes to the duties of PCA of interest to the Department of Revenue include:

- By September 1, 2016, and by May 1, 2017, and each May 1 thereafter, the PCA will publish statewide recycling goals of all video display device waste based on the average video display devices collected for recycling during the three most recently completed program years, excluding the most recently concluded year. For program years starting July 1 of 2016, 2017 and 2018, the goals are 25, 23 and 21 million tons respectively, allocated 80% to televisions and 20% to computer monitors.
- By September 1, 2016 (for program year starting July 1, 2016), and by May 1, 2017, and each May 1 thereafter (for the program year beginning the following July 1), the PCA will determine each manufacturer's recycling goal. Upon request of the commissioner of revenue, the PCA is required to give a copy of each report to the Department of Revenue.

These changes are effective July 1, 2016.

MISCELLANEOUS

Owner or operator of dry cleaning facility. Minn. Stat. § 115B.48, was amended to add subd. 10 to define "owner or operator" of a dry cleaning facility as a person who owns or has owned a dry

cleaning facility during the time the dry cleaning facility operated or who operates or has operated a dry cleaning facility. This replaces the prior definition in repealed subd. 9. Effective May 20, 2016. 2016 Minn. Laws, ch. 123, §§ 1 and 6.

Apportionment of deed tax proceeds. Minn. Stat. § 287.29, subd. 1, was amended to remove an obsolete cross-reference to § 287.39, repealed in 2005, replacing it with § 287.385. Effective August 1, 2016. 2016 Minn. Laws, ch. 158, art. 1, § 158.

Terminology. Minn. Stat. §§ 296A.15, subd. 3; 297E.14, subd. 5; 297F.18, subd. 5; and 297G.17, subd. 5; were amended via revisor's instructions to replace the words "the department" with the words "the commissioner" in those subdivisions. Effective August 1, 2016. 2016 Minn. Laws, ch. 158, art. 1, § 214, subd. 1.

MINERAL TAXES

Recodification references. Minn. Stat. § 298.01, subs. 3b, 4b, and 4c, were amended to update references due to the recodification of Minn. Stat. § 290.01. Effective for taxable years beginning after December 31, 2016. 2016 Minn. Laws, ch. 158, art. 3, §§ 27-29.

Obsolete distributions, transfers, allocations, and payments. Several obsolete references relating to distributions, transfers, allocations, and payments from taconite production tax related funds were removed from the following:

- Minn. Stat. § 298.223, subd. 1, distributions from the taconite environmental protection fund (local public works projects in 2009);
- Minn. Stat. § 298.294, transfers from the Douglas J. Johnson economic protection trust fund (relating to 1982, 1983, 2010, and 2011); and
- Minn. Stat. § 298.2961, subd. 4, allocations and payments from the Douglas J. Johnson economic protection trust fund (allocations related to 2005 and 2006; payments related to 2007 and 2008).

Effective August 1, 2016. 2016 Minn. Laws, ch. 158, art. 1, §§ 165, 167, and 168.

Obsolete references. Minn. Stat. § 298.28, subd. 4, was amended to remove an obsolete reference to § 298.23, repealed in 1998, replacing it with 298.24 and 298.25 and removing an obsolete reference to § 126C.21, subd. 4, which was repealed in 2009. Effective August 1, 2016. 2016 Minn. Laws, ch. 158, art. 1, § 166.

Repealer. Minn. Stat. § 298.2961, subs. 5-7, distributions from the Douglas J. Johnson economic protection trust fund (relating to distributions to special funds created for 2007, 2009, and 2010), were repealed as obsolete. Effective August 1, 2016. 2016 Minn. Laws, ch. 158, art. 1, § 215.