

This notice was revoked on April 16, 2007 by Revenue Notice # 07-04.

Minnesota revenue notice number 01-01

Individual Income Tax - and Corporate Franchise Tax - 2001 Estimated Tax Requirements of Shareholders of S Corporation Banks, and the Treatment of Estimated Tax Payments of S Corporation Banks Made Prior to the Repeal of the Corporate Franchise Tax on S Corporation Banks

As part of the 2001 Omnibus Tax Bill, Minnesota adopted full federal conformity concerning the taxation of S corporation banks and their shareholders. As a result of this change, S corporation banks are no longer subject to the Minnesota corporate franchise tax. The provision, which was signed into law on June 30, 2001, is effective for tax years beginning after December 31, 2000.

The purpose of this Revenue Notice is to describe four acceptable methods for shareholders to meet their 2001 estimated tax requirements without incurring the additional tax charge imposed under Minnesota Statutes, section 289A.25. It also describes two acceptable methods for the banks to account for the corporate estimated tax deposits made in 2001 prior to the law change.

This Revenue Notice is to provide transitional guidance for 2001 and does not apply to subsequent tax years.

Estimated Tax Liability of Shareholders

1. 100% of Prior Year Liability

The taxpayer may make estimated tax payments equal to 100% (110% for taxpayers with adjusted gross income in excess of \$150,000 in 2000) of their 2000 Minnesota income tax liability after nonrefundable credits (including any S corporation bank tax credit allowed for 2000 under Minnesota Statutes, section 290.06, subdivision 26) as permitted by Minnesota Statutes, section 289A.25, subdivision 5, paragraph (2).

2. 90% of Current Year Liability

The taxpayer may adjust third and fourth quarter estimated tax payments in such a way as to make estimated payments equal to at least 90% of their final 2001 tax liability, without regard to any tax payments made by the S corporation bank, as permitted by Minnesota Statutes, section 289A.25, subdivision 5, paragraph (1).

3. 90% of Current Year Liability Treating Corporate Estimated Tax Deposits as Withholding Deposits of the Shareholders

Strict adherence to the requirements of paragraph 2 could result in a form of double payment since the amount of the catch up payments in the third and fourth quarters would be roughly equal to the amount of estimated payments made in the first two quarters by the S corporation bank. To minimize the harshness of this outcome, the Department of Revenue will allow deposits of estimated tax paid by the S corporation bank prior to June 30, 2001 to be characterized as deposits of withholding tax on account of the shareholders as long as the shareholders and the bank voluntarily agree to such an arrangement.

Under prior law and practice, S corporation banks have made one estimated tax payment each quarter that covering its non-resident withholding liability or composite income tax liability, as well as the estimated franchise tax, the estimated minimum fee and estimated tax on built in gains. At the end of the tax year, the corporation has then designated those deposits to match the separate liabilities of the corporation. Since the corporation will have no corporate franchise tax liability for 2001, the department will permit the corporation to designate the amount of deposits that would have been so designated,

absent the law change, as withholding tax deposits of the shareholders, regardless of the state of residency of the shareholder. The allocation should be made to each shareholder in proportion to the amount of income of the S corporation apportioned to the shareholder. A space for such designation will be on the 2001 Schedule M-KS. For purposes of calculating an additional tax charge, the shareholder should allocate this withholding equally to the first two estimated tax payments. When filing a 2001 tax return, the shareholder should report the amount listed on the M-KS as "tax withheld."

4. 90% of Current Year Liability Disregarding S Corporation Income Attributable to the First Half of 2001

Finally, the Department of Revenue will waive any additional tax charge if:

- The shareholder made timely and correct payments of estimated tax for each of the first two quarters of at least 22.5% of the estimated tax as determined through reference to the law as it existed on the date that the payments were due.
- The S corporation bank made timely and correct deposits of estimated corporate franchise tax for the first two quarters of 2001.
- The shareholder recomputed the 2001 Minnesota estimated tax and made estimated tax payments for each of the third and fourth quarter of at least 22.5% of the recomputed estimated tax.

Affected taxpayers taking advantage of paragraphs 3 or 4 should write "S corporate bank shareholder" on their return to indicate that their estimated tax was computed in compliance with this Revenue Notice.

Estimated Payments of the S Corporation Banks

Since affected S corporation banks are no longer subject to Minnesota franchise tax, they no longer need to make estimated corporate franchise tax payments for any future periods. They are, however, still required to make estimated tax payments, when required to cover liabilities stemming from the minimum fee, the tax on built in gains or composite income tax liability.

S corporation banks, other than those electing to treat the franchise tax deposits as shareholder withholding as discussed above, can only receive a refund of any overpayment of estimated tax made prior to the law change by filing a 2001 return at the end of their tax year.

Terese Mitchell, Director
Appeals and Legal Services Division

Publication Date: August 6, 2001