

# 2017 MISCELLANEOUS LEGISLATIVE BULLETIN



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

Bulletin Date: June 27, 2017

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## APPEAL PERIODS, SUFFICIENCY OF NOTICE AND NOTICE DATE

Unless otherwise noted, the provisions discussed in this section can be found in 2017 Minn. Laws, 1st Spec. Sess. ch. 1, and are effective for orders and notices dated after December 31, 2017

**Collections; prohibition during appeal period of an order.** Minn. Stat. § 270C.33, subd. 5, was amended to clarify the period of time to appeal as 60 days from the notice date designated on the order.

**Sufficiency of notice; assessments.** Minn. Stat. § 270C.33, subd. 8, was amended to provide that notice of an assessment is sufficient if it is sent on or before the notice date designated on the assessment.

**Request for abatement; procedure.** Minn. Stat. § 270C.34, subd. 2, was amended to provide that the period of time to request an abatement of penalty is 60 days from the notice date designated on the order.

**Administrative appeals; notice date.** Minn. Stat. § 270C.35, subd. 3, was amended to clarify that the notice date which begins the period to appeal is the notice date designated on the order.

**Sufficiency of notice; determinations and actions.** Minn. Stat. § 270C.38, subd. 1, was amended to provide that notice of a determination or action is sufficient if it is sent on or before the notice date designated on the notice.

**Tax Court; appeals; Rules of Civil Procedure.** Minn. Stat. § 271.06, subs. 2 and 7, were amended to provide that an appeal to Tax Court must be served and filed within 60 days of the notice date of an order; no extension of time is provided for if order is mailed. Notice date is newly defined as the notice date designated on the order.

**Claim for refund; denial; remedies.** Minn. Stat. § 289A.50, subd.7, was amended to provide that the period of time to appeal or sue on the denial of a claim for refund begins with the notice date designated on the order. Effective for claims for refund denied after December 31, 2017.

**Sustainable forest incentive; administrative appeal.** The effective date for the following change made in 2016 was delayed to be effective for notices dated after December 31, 2017. In 2016 Minn. Laws ch. 187, § 5, Minn. Stat. § 290C.13, subd. 3, was amended to provide that the period of time to file an administrative appeal from an adverse determination begins with the notice date designated on the order or notice.

**Petroleum tax; request for abatement procedure.** Minn. Stat. § 296A.22, subd. 9, was amended to provide that the period of time to request an abatement of penalty is 60 days from the notice date designated on the order or other notice.

**Petroleum tax; cigarette and tobacco taxes; liquor taxes; appeal to Tax Court.** Minn. Stat. §§ 296A.26, 297F.23, and 297G.22, were amended to clarify that the period of time to appeal to Tax Court is 60 days from the notice date designated on the order.

**Insurance tax; denial of claim for refund; remedies.** Minn. Stat. § 297I.60, subd. 2, was amended to clarify that the period of time to appeal or sue on the denial of a claim for refund begins with the notice date designated on the order.

**JOBZ; request for waiver of assessment.** Minn. Stat. § 469.319, subd. 5, was amended to clarify that the period of time to request a waiver of repayment following an assessment by an order begins with the notice date designated on the order.

## CONTENT, FORMAT AND MANNER AUTHORITY

Unless otherwise noted, the provisions discussed in this section can be found in 2017 Minn. Laws, 1st Spec. Sess. ch. 1. Effective May 31, 2017.

**Commissioner’s authority.** Minn. Stat, § 270C.30, was amended to clarify that the commissioner may prescribe the content, format, and manner of returns and forms. Sections were amended (see list below) to cross reference §270C.30 and conform to this language so that language regarding the commissioner’s authority to prescribe how returns and forms are filed is uniform.

270.072	272.115	290B.11	297E.05
270.82	273.124	293.15	297E.06
272.02	273.371	295.55	297F.09
272.0211	289A.08	296A.02	297G.09
272.025	289A.09	297D.02	297I.30
272.029	289A.11	297E.02	
272.0295	290A.19	297E.04	

Sections 270.072, 270.82, 272.02, 272.0211, 272.025, 272.029, and 273.371 regarding property tax forms are also amended to cross reference the definition of “electronic signature” in § 270C.304 because the existing definition in Chapter 270C does not apply to these property tax laws.

## PAID PREPARERS

Unless otherwise noted, the provisions discussed in this section can be found in 2017 Minn. Laws, 1<sup>st</sup> Spec. Sess. ch. 1, and are effective for returns and claims filed after December 31, 2017.

**Tax preparer; defined.** Minn. Stat. § 270C.445, subd. 2, was amended to expand the definition of “tax preparer” used throughout Minn. Stat., ch. 270C and cross-referenced in the preparer penalties in Minn. Stat. §§ 289A.60, subds. 13(f) and 28. Expands the definition to include all required returns, as well as claims for refunds, claims for homestead credit refunds and renter property tax refunds, and the credit for military service in a combat zone. Certified service providers and third-party bulk filers are expressly excluded from the definition of tax preparer. The definitions of tax preparer in Minn. Stat. §§ 270C.445, subd. 1, and 270C.447, subd. 4, were repealed and replaced by the definition of “tax preparer” in Minn. Stat. § 270C.445, subd. 2(h).

**Tax preparers; standards of conduct.** Minn. Stat. § 270C.445, subd. 3, was amended to expand the standards of conduct for tax preparers by prohibiting preparers from: failing to provide, if required, their tax preparer identification number (PTIN); reporting household income on a property tax refund that the preparer knows or should know is inaccurate; engaging in conduct subject to certain civil penalties; and failing to meet standards of due diligence, competence and reputable conduct provided in Minn. Rules pt. 8052.0300.

**Nongame wildlife checkoff.** Minn. Stat. § 270C.445, subd. 5a, was amended to make a technical cross-reference update to the property tax refund statute, Minn. Stat., ch. 290A.

**Penalty; administrative cease and desist order.** Minn. Stat. § 270C.445, subd. 6, was amended to authorize the commissioner to issue an administrative cease and desist order to a preparer who has violated: the standards of conduct for preparers, the requirement that preparers issue itemized receipts, or requirements related to refund anticipation loans and checks. A preparer may request administrative review of the order under the contested case procedure by filing a hearing request within 30 days. The hearing must be conducted within ten days after receipt of the request, but timelines can be extended by agreement. Once final, a cease and desist order is public. The commissioner may impose a penalty of up to \$5,000 for each violation of a cease and desist order, and may collect the penalty as an income tax liability. Provides new statutes of limitations for imposing existing \$1,000 administrative penalty and new cease and desist orders authorized in Minn. Stat. § 270C.445, subd. 6. The penalty or an order can be issued for improper conduct with respect to a return within the same time periods allowed to assess tax on the return. Also provides a five-year statute of limitation if improper conduct does not relate to a return.

**Exchange of data; State Board of Accountancy and Lawyers Board of Professional Responsibility.** Minn. Stat. § 270C.445, subds. 6a and 6b, were amended to make technical cross reference updates.

**Exchange of data; commissioner of revenue.** Minn. Stat. § 270C.445, subd. 6c, was amended to make technical cross reference updates and to clarify that the department can refer violations to other agencies based on information it has obtained as well as complaints it receives.

**Enforcement; civil actions.** Minn. Stat. § 270C.445, subd. 7, was amended to make a technical cross reference update.

**Exemptions; enforcement provisions.** Minn. Stat. § 270C.445, subd. 8, was amended to authorize the commissioner to impose administrative penalties and issue cease and desist orders against preparers who are otherwise exempt (attorneys, accounting professionals, and enrolled agents) if the individual has been sanctioned by a court, regulatory authority, or is not in compliance with their own tax obligations. Changes the description of persons licensed by the State Board of Accountancy to clarify that only licensed accounting professionals are exempt.

**Powers additional.** Minn. Stat. § 270C.445, subd. 10, was added to specify that the commissioner's powers and authority related to tax preparers are in addition to all other powers of the commissioner.

**Publication of tax preparers subject to penalties.** Minn. Stat. § 270C.446, subd. 2, was amended to expand the list of circumstances when the name of a preparer must be published because they have been subject to a civil or criminal penalty relating to improper conduct. Clarified that publication does not apply if a conviction or civil order is under appeal or if the time for appeal has not expired. Minn. Stat. § 270C.446, subd. 3, was amended to remove the requirement that pre-publication notice be made by certified mail. Minn Stat. § 270C.446, subd 4, was amended to provide that the list must specify the violation or violations that make a preparer subject to publication. Minn. Stat. § 270C.446, subd. 5, was amended to extend from 90 days to three years the time period during which a preparer may be published.

**Civil action; injunctions.** Minn. Stat. § 270C.447, subs. 1 and 2, were amended to expand a court's authority to issue an injunction or other appropriate relief if the commissioner shows that a preparer has violated a cease and desist order issued by the commissioner or the criminal identity theft statute. Ramsey County District Court was added as a venue for a civil injunction action by commissioner. Minn Stat § 270C.447, subd. 3, was amended to adopt the updated term "tax preparer." Minn. Stat. § 270C.447, subd. 3a, was added to authorize a court to enforce the commissioner's cease and desist orders, including an additional civil penalty of up to \$10,000 per violation. Authorizes the commissioner to collect these penalties as income tax liabilities. Directs a court to consider the allegations in a final cease and desist order to be conclusively established when the commissioner seeks to enforce such an order. Prohibits a court from requiring the commissioner to post a bond in actions under this section.

**Preparer identification number; civil penalties.** Minn. Stat. § 289A.60, subd. 13, was amended to authorize a new \$500 civil penalty for failure to provide a preparer tax identification number ("PTIN") when a person prepares returns without a PTIN. Also

expanded so that both the penalties in this section apply to additional tax types; under current law, only applies to individual income tax.

**Tax preparers; civil penalties.** Minn. Stat. § 289A.60, subd. 28, was amended to extend the current \$500 civil penalty for reckless disregard or willful understatement of tax to apply to claims for credit for military service in a combat zone, claims for property tax refunds, and cross-references the new definition of tax preparer in Minn. Stat. § 270C.445, subd. 2.

**Refund anticipation loans and refund anticipation checks.** The Revisor was directed to recodify the subdivisions relating to refund anticipation loans and checks into their own section, Minn. Stat. § 270C.4451. Effective May 31, 2017.

## MISCELLANEOUS

Unless otherwise noted, the provisions discussed in this bulletin can be found in 2017 Minn. Laws, Spec. Sess. ch. 1.

**Legislative Budget Office.** A new statute was enacted, Minn. Stat. § 3.8853, to establish a Legislative Budget Office under the control of the Legislative Coordinating Commission. The office will provide the House and Senate with information on the fiscal impact of proposed legislation. Also, Minn. Stat. §§ 3.971; 3.98; and 3.987, were amended to reflect the establishment of this office. Effective January 8, 2019. 2017 Minn. Laws, 1<sup>st</sup> Spec. Sess. ch. 4, art. 2, §§ 3,7,8,9.

**Income property assessment data.** Minn. Stat. § 13.51, subd. 2, regarding income property assessment data, was amended to add data collected by the state to the list of data collected by political subdivisions that are classified as private or nonpublic data pursuant to §13.02, subs. 9 and 12. Effective May 31, 2017.

**Interagency agreements and intra-agency transfers.** Minn. Stat. § 15.0395 was created to require the head of each agency to provide annual reports to the chairs and ranking minority members of the legislative committees with jurisdiction over the department or agency's budget on:

- (1) interagency agreements or service-level agreements and any renewals or extensions of existing interagency or service-level agreements with another agency if the cumulative value of those agreements is more than \$100,000 in the previous fiscal year; and
- (2) transfers of appropriations between accounts within or between agencies, if the cumulative value of the transfers is more than \$100,000 in the previous fiscal year.

The first report is due October 15, 2018.

Effective July 1, 2017. 2017 Minn. Laws, 1st Spec. Sess. ch. 4, art. 2, § 16.

**Revenue recapture definition of debtor.** Minn. Stat. § 270A.03, subd. 5, was amended to clarify the calculation that is used when evaluating whether a medical care debt may be

submitted to the department's revenue recapture system to have tax refunds applied to the debt. This clarified that the income of the debtor's spouse is included in the calculation and that the spouse is considered a dependent. Additionally, the threshold income amounts listed in the statute are updated. Effective retroactively for debts incurred after December 31, 2014.

**Disclosure to commissioner of human services.** Minn. Stat. § 270B.14, subd. 1 (h), was amended to allow disclosure of return information to the Minnesota Department of Human Services as necessary for income verification for eligibility and premium payment under the MinnesotaCare program, under section 256L.05, subd. 2, as well as the medical assistance program under ch. 256B. Effective May 31, 2017.

**Department of Natural Resources; authorized deputy registrars of motor vehicles.** Minn. Stat. § 270B.14, subd. 20, was added, allowing disclosure of return information related to the taxes imposed by ch. 297A to the Department of Natural Resources, but only if the commissioner has an agreement with the commissioner of natural resources under § 297A.825, subd. 1, and to the extent necessary for the DNR or an authorized deputy registrar, as agents for the commissioner, to verify that the applicable sales or use tax has been paid or that a sales tax exemption applies on the purchase of a snowmobile, all-terrain vehicle, or watercraft, and to administer § 84.82, subd. 10; 84.922, subd. 11; 86B.401, subd. 12; and 297A.825, regarding either their collection of use tax or their issuance of refunds to applicants of use tax paid to them in error. Effective May 31, 2017.

**Department of Transportation.** Minn. Stat. 2016, § 270B.14, subd. 21, was added allowing disclosure of return information related to the taxes imposed by ch. 297A to the Department of Transportation, but only if the commissioner has an agreement with the commissioner of transportation under § 297A.82, subd. 7; and to the extent necessary for the Department of Transportation, as agent for the commissioner, to verify that the applicable sales or use tax has been paid or that a sales tax exemption applies on the lease, purchase, or sale of an aircraft by an individual or business who owns and operates the aircraft that must be registered or licensed in Minnesota under § 360.018, and to otherwise administer § 297A.82, regarding the collection of tax by the Department of Transportation. Effective May 31, 2017.

**Returns and other documents; format; furnishing.** Minn. Stat. § 270C.30, regarding the format and furnishing of returns and other documents, was expanded to give the commissioner the authority to prescribe the content, format, and now manner of all returns and other forms required to be filed under a law administered by the commissioner. Effective May 31, 2017.

**Administrative appeal.** Minn. Stat. § 270C.35 was amended by adding a new subdivision 11, to clarify that if a taxpayer files an administrative appeal for an order of the commissioner and also files an appeal to the Tax Court for that same order, the administrative appeal is dismissed and the commissioner no longer has to make a determination. Effective for all administrative appeals filed after June 30, 2017.

**Individual tax identification number.** Minn. Stat. § 270C.72, subd. 4, was amended to clarify that for purposes of the license clearance program, a licensing authority may accept an individual

tax identification number or a social security number and Minnesota business identification numbers. Effective May 31, 2017.

**Homestead application.** Minn. Stat. § 273.124, subd. 13, regarding homestead applications, was amended to expand the authority of the commissioner to prescribe the content, format, and now the manner of the homestead application required to be filed under this chapter pursuant to § 270C.30. Effective May 31, 2017.

**Reports of utility companies.** Minn. Stat. § 273.371, subds. 1 and 2, were amended and subd. 3, was added. The changes to subd. 1 and 2 are technical changes that refer to utility and pipeline companies doing business in Minnesota and states that an extension to file the report must not exceed 15 days. These changes also provide conforming language to the new subdivision 3. The new subdivision 3 provides that if the utility company does not file the report required, the commissioner may file a report for the company or make valuations based on information available to, or in the commissioner's possession. Effective May 31, 2017.

**Deed tax on school forest.** Minn. Stat. § 287.2205 was amended to clarify that the deed tax for a conveyance of tax-forfeited land for a governmental subdivision for a school forest is \$1.65. Effective May 31, 2017.

**Partnership return due date.** Minn. Stat. § 289A.18 was amended to require that partnerships, like corporations, file their tax returns on the same day that the equivalent federal return is due. Effective May 31, 2017.

**Erroneous refund statute of limitations.** Minn. Stat. § 289A.37, subd. 2, was amended to define what constitutes an "erroneous refund" and further clarifies that assessments of tax that do not involve an erroneous refund are conducted under Minn. Stat. § 289A.38. Effective July 1, 2017.

**Taxpayer assistance services.** An uncodified session law appropriated \$400,000 in each of fiscal years 2018 and 2019 from the general fund for grants to nonprofit organizations to provide taxpayer assistance services for low-income, elderly, and disadvantaged Minnesota residents. Effective May 31, 2017. 2017 Minn. Laws, 1<sup>st</sup> Spec. Sess. ch. 4, art. 1, § 14.

**Information technology service projects.** An uncodified session law provided that ongoing Department of Revenue information technology costs must be incorporated into the service level agreement and must be paid to the Office of MN.IT Services by the commissioner of revenue under the rates and mechanism specified in that agreement. Effective May 31, 2017. 2017 Minn. Laws, 1<sup>st</sup> Spec. Sess. ch. 4, art. 1, § 14.

**Budget structure.** An uncodified session law provided that for FY2020-2021, the commissioner of revenue must develop a budget structure that reflects actual spending to the budget activity level and be available in the Budget Planning and Analysis System. Effective May 31, 2017. 2017 Minn. Laws, 1<sup>st</sup> Spec. Sess. ch. 4, art. 1, § 14.

**Appropriations transfer.** An uncodified session law provided that an executive branch agency commissioner may transfer certain appropriations within the agency to meet statutory obligations. The provision also required the commissioner doing so, to quarterly inform the chairs and ranking minority members of the committees in the House and Senate with jurisdiction over state government finance about the transfers. Effective July 1, 2017. 2017 Minn. Laws, 1<sup>st</sup> Spec. Sess. ch. 4, art. 1, § 40.

**Minnesota Administrative Rules Status System (MARSS) working group.** This uncodified provision created a working group to identify the requirements of the Minnesota Administrative Rules Status System (MARSS) system and define a funding mechanism to share the cost to build and maintain the MARSS system among state agencies and departments. This provision explains the concept of the online system as being the central depository of official rulemaking records, with public access; and requires the group to convene and to report to the legislature by specified dates. Effective July 1, 2017. 2017 Minn. Laws, 1<sup>st</sup> Spec. Sess. ch. 4, art. 2, §60.

## MINNESOTA TAX COURT

**Timely filing.** Minn. Stat. § 271.06, subd. 2a, was amended to provide that when a notice of a tax court appeal is mailed to the Tax Court or the proof of service to the Commissioner, and there is no United States Postal Service postmark, then the taxpayer may submit an affidavit and United States Postal Service dated receipt to show proof of timely mailing. Effective May 31, 2017 and applies to notices mailed after June 30, 2017.

**Manner of filing.** Minn. Stat. § 271.06, subd. 6, was amended to provide that the parties to a Tax Court appeal may file documents with the court in a manner approved by the court. Effective May 31, 2017.

**Motions.** Minn. Stat. § 271.08, subd. 1, was amended to change the time period for serving a motion for rehearing, motion for amended findings of fact, conclusions of law, or a new trial from 15 days after mailing of the notice by the court to 30 days after the mailing of the notice. Effective for petitions and appeals filed after June 30, 2017.

**Representation by judges or court employees.** Minn. Stat. § 271.18 was amended to remove the one year waiting period for former Tax Court employees, to represent taxpayers before the court or the Department of Revenue and to remove the one year waiting period for former judges to represent taxpayers before the Department of Revenue. Also amended to prevent former Tax Court Judges from representing government entities before the court for one year after their office has terminated. Effective May 31, 2017.

**Small Claims Division.** Minn. Stat. §271.21 was amended to raise the eligibility level for cases to be filed in the small claims division of tax court from an amount in controversy not exceeding \$5000 to an amount not exceeding \$15,000. Effective May 31, 2017. 2017 Minn. Laws ch. 95 art. 2.

**Filing fee.** Minn. Stat. § 357.021, subd.2, was amended to lower the tax court filing fee for regular division cases from \$310 to \$285. Effective July 1, 2017. 2017 Minn. Laws ch. 95, art. 4.