

# 2017 SPECIAL TAXES LEGISLATIVE BULLETIN



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

Bulletin Date: June 27, 2017

---

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

## MORTGAGE REGISTRY AND DEED TAXES

**Loans secured by property in more than one county.** Minn. Stat. § 287.08 was amended to require a county that receives payment of tax on a multiple county mortgage that exceeds \$10,000,000 to pay the entire mortgage registry tax, including the 3% portion of the tax that is retained by the county, to the commissioner of revenue. The commissioner is then required to distribute the 3% to the counties with property secured by the mortgage, within 60 days of receipt of the tax, based on the comparative value of property securing the mortgage in each county. Effective for tax collected after June 30, 2017.

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

## PETROLEUM TAXES

**Aviation gasoline.** A number of changes were made to the taxation of aviation gasoline:

**“Aviation gasoline” defined.** Minn. Stat. § 296A.01, subd. 7, was amended to change the definition of “aviation gasoline” to include gasoline used to produce or generate power for propelling internal combustion engine aircraft. Aviation gasoline specifically includes any gasoline marketed as aviation gasoline that meets ASTM standards for aviation gasoline, as well as any gasoline sold to a dealer of aviation gasoline for dispensing directly into the fuel tank of an aircraft. The changes are effective May 31, 2017, except that the change that includes gasoline sold to dealers of aviation gasoline is effective for sales and purchases made after June 30, 2017.

**“Dealer of aviation gasoline” defined.** Minn. Stat. § 296A.01 was amended by adding a new subdivision 13a, that adds a definition for “dealer of aviation gasoline,” which is a person who sells gasoline on the premises of an airport to be dispensed directly into the fuel tank of an aircraft. Effective for sales and purchases made after June 30, 2017.

**Exemption for gasoline sold to a dealer of aviation gasoline.** Minn. Stat. § 296A.07, subd. 4, was amended to exempt gasoline sold to a dealer of aviation gasoline from the regular 28 cent per gallon tax (including surcharge) on gasoline to the extent that the fuel is

intended to be dispensed directly into the fuel tank of an aircraft. Effective for sales and purchases made after June 30, 2017.

**Monthly gasoline report.** Minn. Stat. § 296A.15, subd. 1, was amended to require distributors to report to the Department of Revenue each month the number of gallons of gasoline sold to dealers of aviation gasoline. Effective for sales and purchases made after June 30, 2017.

**Reporting of failure to use gasoline for intended purpose.** Minn. Stat. § 296A.15, subd. 4, was amended to update the law that requires buyers or sellers of aviation gasoline to report to the commissioner when the fuel is used in a motor vehicle to include fuel purchased by or from a dealer of aviation gasoline. Effective for sales and purchases made after June 30, 2017.

**Records retention by aviation gasoline dealers.** Minn. Stat. § 296A.19, subd. 1, was amended to require dealers of aviation gasoline to retain records of purchases and sales of fuel for three and one-half years. Effective for sales and purchases made after June 30, 2017.

**Repeal of rule dealing with taxation of gasoline used in an aircraft.** Minn. R. 8125.1300, subp. 3, which dealt with the tax treatment of gasoline other than aviation gasoline used to propel aircraft, was repealed. The rule was rendered obsolete with the amendment to Minn. Stat. § 296A.01, subd. 7, changing the definition of “aviation gasoline.” Effective May 31, 2017.

**Bulk storage or bulk storage facility.** Minn. Stat. § 296A.01 was amended by adding a new subdivision 9a, to provide a definition of bulk storage or bulk storage facility. Effective May 31, 2017.

**Compressed natural gas.** Minn. Stat. § 296A.01, subd. 12, which defines compressed natural gas, was amended to change the energy content from 1,000 BTUs per cubic foot to 900 BTUs per cubic foot to be consistent with the International Fuel Tax Agreement (IFTA). Effective for sales and purchases made after June 30, 2017.

**Motor fuel definition.** Minn. Stat. § 296A.01, subd. 33, that defines “motor fuel,” was amended to also include gaseous forms of fuel. Effective May 31, 2017.

**Petroleum products definition.** Minn. Stat. § 296A.01, subd. 42, that defines “petroleum products,” was amended to clarify that biobutanol is a petroleum product. Effective May 31, 2017.

**Commissioner’s authority to prescribe forms.** Minn. Stat. § 296A.02 was amended to add subd. 5, which clarifies that the commissioner may prescribe the content, format, and manner of returns and forms required to be filed under chapter 296A. Effective May 31, 2017.

**Biobutanol blends.** Minn. Stat. § 296A.07, subd. 1, was amended to clarify that biobutanol blends are taxable as gasoline. Effective May 31, 2017.

**Compressed natural gas; rate of tax.** Minn. Stat. § 296A.08, subd. 2, was amended to correct a calculation error in the rate of tax applicable to compressed natural gas and bring the tax rate in line with the International Fuel Tax Agreement (IFTA). Effective for sales and purchases made after June 30, 2017.

**Refund of graduated rate petroleum tax.** Minn. Stat. § 296A.17, subd. 3, was amended to allow licensed aerial applicators to claim the graduated rate refund on aviation gasoline or special fuel without regard to whether airflight property is paid on the aircraft. Effective for sales and purchases made after June 30, 2017.

**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. Effective for orders and notices dated after December 31, 2017.

## **GAMBLING TAXES**

**Commissioner's authority to prescribe forms.** Minn. Stat. §§ 297E.02, subd. 3; 297E.04, subd. 1; 297E.05, subd. 4; and 297E.06, subd. 1; were amended to clarify that the commissioner may prescribe the content, format, and manner of returns, forms and reports required to be filed under chapter 297E. Effective May 31, 2017.

**Untaxed gambling product.** Minn. Stat. § 297E.02, subd. 7, was amended to impose a tax at a rate of six percent on the gross receipts from illegal gambling. The tax is due with a return required to be filed by the 20<sup>th</sup> day of the month following the month in which the gambling occurred. Facts contained on the tax return cannot be disclosed, or used in any non-tax related criminal proceedings. Effective for games played or purchased after June 30, 2017.

## **CIGARETTE AND TOBACCO PRODUCTS**

**Premium cigar definition.** Minn. Stat. § 297F.01, subd. 13a, was amended to remove from the definition of "premium cigar" the requirement that the cigar be hand rolled. Effective July 1, 2017.

**Repeal of annual increase in cigarette excise tax rate.** Minn. Stat. § 297F.05, subd. 1a, which required the commissioner to annually adjust the cigarette tax rate, was repealed. As part of this change, Minn. Stat. § 297F.05, subd. 1, was amended to make the cigarette tax rate 15.2 cents per cigarette, which is the rate in effect for 2017. These changes also affect moist snuff which is taxed at 95% of the wholesale sales price, or the tax on a package of 20 cigarettes multiplied by the weight of the container of moist snuff, whichever is greater. Effective July 1, 2017.

**Taxation of premium cigars.** Minn. Stat. § 297F.05, subd. 3a, was amended to lower the maximum tax on a premium cigar from \$3.50 to fifty cents. Effective for cigars brought into the state or manufactured in the state on or after July 1, 2017.

**Consumer use tax on premium cigars.** Minn. Stat. § 297F.05, subd. 4a, was amended to lower the maximum consumer use tax on a premium cigar from \$3.50 to fifty cents. Effective for cigars for which the consumer acquires title to, or possession of, on or after July 1, 2017.

*Note: As of the date of this bulletin, the above cigarette and tobacco tax changes contained in 2017 Minn. Laws, 1<sup>st</sup> Spec. Sess. ch. 1, are the subject of on-going negotiations.*

**Moist snuff.** Minn. Stat. § 297F.05, subd. 3, was amended to make the minimum tax on a container of snuff larger than 1.2 ounces to be equal to the number of ounces in the container divided by 1.2 and then multiplied by the rate of tax on a package of 20 cigarettes. The definition of “container” of moist snuff was changed to mean any consumer sized can, package, or other container that is marketed or packaged for sale to a retail purchaser. The consumer use tax in Minn. Stat. § 297F.05, subd. 4, was also amended to reflect the new minimum tax on the larger containers. Effective July 1, 2017.

**Commissioner’s authority to prescribe returns.** Minn. Stat. § 297F.09, subd. 1, was amended to clarify that the commissioner may prescribe the content, format, and manner of returns required to be filed under chapter 297F. Effective May 31, 2017.

**Distribution of cigarette tax revenues.** Minn. Stat. § 297F.10, subd. 1, was amended to remove obsolete language related to the deposit of funds for fiscal year 2006. Effective August 1, 2017. 2017 Minn. Laws ch. 40, art. 1, § 103.

## LIQUOR TAXES

**Small winery credit.** Minn. Stat. § 297G.03 was amended by adding a new subd. 6, that creates a small winery credit during a fiscal year beginning July 1 equal to the lesser of the liability for tax during the fiscal year or \$136,275. The credit is available to any winery located inside or outside Minnesota that manufactured less than 75,000 barrels of wine in the calendar year immediately preceding the fiscal year for which the credit is claimed. Effective for tax due on sales of wine or cider made after December 31, 2017.

**Commissioner’s authority to prescribe returns.** Minn. Stat. § 297G.09, subd. 1, was amended to clarify that the commissioner may prescribe the content, format, and manner of returns required to be filed under chapter 297G. Effective May 31, 2017.

## ENVIRONMENTAL TAXES

**Closed landfill program payments.** Minn. Stat. § 115B.40, subd. 4, was amended to require a landfill that was permitted by the MPCA and stopped accepting mixed municipal solid waste and

industrial waste for disposal by January 2, 2009, and for which the postclosure care period ended on July 26, 2013, to transfer to the commissioner of revenue for deposit in the remediation fund, an amount of cash that is equal to the sum of their approved current contingency action cost estimate and any funds required for the proof of financial responsibility under § 116.07, subd. 4h, that remain after facility closure and any postclosure and custodial care and response action undertaken by the owner or the operator of the facility, have been reimbursed. This was enacted as part of a law that allows a landfill in Crow Wing County that closed in 1990 to enter the closed landfill program under Minn. Stat. §§ 115B.39 to 115B.46. Effective May 31, 2017. 2017 Minn. Laws ch. 93, art. 2, § 125B.

**Solid waste management tax on construction debris.** Minn. Stat. § 297H.04, subd. 2, was amended to make the weight to volume conversion rate for construction debris 60 cents per cubic yard. Also authorizes the commissioner, after consultation with the commissioner of the Pollution Control Agency, to publish by notice a conversion schedule for construction debris. Effective for sales and purchases made after June 30, 2017.

**Recyclable materials and source-separated compostable materials.** Minn. Stat. § 297H.06, subd. 2, was amended to clarify that the exemption from the solid waste management tax for recycling materials is only available if the price for handling the materials is separately itemized on a bill to the generator of the waste; and to correct terminology regarding the exemption for source-separated compostable materials, consistent with terms used in Minn. Stat. ch. 115A and related rules. Effective May 31, 2017.

## **INSURANCE TAXES**

**Township mutual insurance companies.** Minn. Stat. §§ 69.021, subd. 5; 290.0922, subd. 2; and 297I.05, subd. 2, were amended to replace the term “town and farmers’ mutual insurance companies” with “township mutual insurance companies”. This is consistent with the use of the term in chapter 67A, which deals with these entities. Effective May 31, 2017.

**Firefighter relief surcharge payments.** Minn. Stat. § 297I.10, subs. 1 and 3, were amended to clarify that the commissioner of revenue, not the commissioner of management and budget, determines the amount of payment for the firefighter relief surcharge for cities of the first class. Effective May 31, 2017.

**Firefighter relief surcharge filing dates.** Minn. Stat. § 297I.30, subd. 7, was amended to consolidate the three filing dates for the firefighter relief surcharge to two filing dates. By combining the March and May filings, there will no longer be filing dates for a two-month period. Effective for returns due after October 31, 2017.

**Commissioner’s authority to prescribe returns and other documents.** Minn. Stat. § 297I.30, was amended by adding subdivision 11 to clarify that the commissioner may prescribe the content, format, and manner of returns or other documents filed under chapter 297I. Effective May 31, 2017.

**Denial of claim for refund; remedies.** Minn. Stat. § 297I.60, subd. 2, was amended to clarify that the period of time to file an administrative appeal, Tax Court appeal, or district court action 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.

## MINING TAXES

**Occupation tax apportionment.** Minn. Stat. § 298.01, subs. 3 and 4, were amended by removing obsolete apportionment language. Effective May 31, 2017.

**Occupation tax net operating loss.** Minn. Stat. § 298.01, subd. 4c, was amended to delete a reference to an obsolete net operating loss provision. The repealed provision applies to tax periods for which a net operating loss carryover is no longer available. Effective May 31, 2017.

**Production tax.** Minn. Stat. § 298.24, subd. 1, as amended by 2017 Minn. Laws ch. 40, art. 1, § 107, was amended by separating the language relating to the imposition of tax on other iron-bearing material into a new paragraph, and changing the term "direct reduced iron" to "direct reduced ore," making the term consistent with its use in the rest of chapter 298. Effective May 31, 2017.

**Production tax distribution.** Minn. Stat. § 298.28, subs. 2 and 5, were amended to clarify distributions of production tax revenue to cities and towns affected by mining, and to counties with an electric power plant. Effective May 31, 2017.

**City of Cook.** 2010 Minn. Laws ch. 216, § 58, as amended by 2010 Minn. Laws ch. 347, art. 7, § 1, and 2010 Minn. Laws ch. 389, art. 7, § 20, relating to taconite production tax distributions, was amended to shorten from ten years to five years the period within which the city of Cook must transfer the proceeds to the commissioner of Iron Range Resources and Rehabilitation for deposit in the taconite environmental protection fund if the city sells or otherwise disposes of certain land. Effective May 31, 2017.

**Previously Distributed Taconite Tax Proceeds.** This uncodified provision authorizes the commissioner of Iron Range Resources and Rehabilitation to use money allocated under Minn. Stat. § 298.2961, subd. 5, cl. (19), (2014), that was not spent by May 22, 2016, for the specific purposes identified in that section. Interest accrued on the amount is also to be distributed to the recipient. The amounts do not lapse or cancel under Minn. Stat. § 16A.28. Effective retroactively from May 22, 2016.

## MINNESOTACARE TAX

**Repealer; additional portion of nonfederal share.** Minn. Stat. § 256B.19, subd. 1c, was repealed. [Note: as summarized above, payment authorized under § 256B.19, subd. 1c, was

retroactively exempted from MinnesotaCare taxes under the amendment to § 295.53, subd. 1(a).] Effective July 1, 2017. 2017 Minn. Laws, 1<sup>st</sup> Spec. Sess. ch. 6, art. 4, § 67.

**Supplemental payments.** Minn. Stat. § 256B.196, subds. 2 and 3, were amended to include the University of Minnesota in the supplemental payments already paid to Hennepin County Medical Center and Regions Hospital. Subdivision 2(e) states that the commissioner of human services shall determine an upper payment limit for physicians, dentists, and other billing professionals affiliated with the University of Minnesota and University of Minnesota Physicians and inform the University of the periodic intergovernmental transfers necessary to match federal Medicaid payments. The commissioner of human services shall make supplementary payments to physicians, dentists, and other professionals affiliated with the university. Subdivision 3 states that the intergovernmental transfer payments made by the university shall be used to match federal payments to the university. [Note: as summarized above, payment authorized under § 256.196, was retroactively exempted from MinnesotaCare taxes under the amendment to § 295.53, subd. 1(a).] Effective July 1, 2017; except that paragraph (d) of subd. 2 is effective July 1, 2017 or upon federal approval, whichever is latest. 2017 Minn. Laws, 1<sup>st</sup> Spec. Sess. ch. 6, art. 4, §§ 45 and 46.

**Omission in excess of 25%.** Minn. Stat. § 289A.38, subd. 6, was amended to clarify that a person that omits from the MinnesotaCare tax return an amount of tax that is 25% greater than the amount reported may be assessed within six and one-half years after the due date of the return, or the date the return was filed, whichever is later. Effective May 31, 2017.

**Supplemental or enhanced payments.** Minn. Stat. § 295.53, subd. 1, as amended by 2017 Minn Laws ch. 40, art. 1, § 102 [removing obsolete reference to the general assistance medical care program, repealed in 2010], was amended by adding an exemption from MinnesotaCare taxes for supplemental or enhanced payments authorized under §§ 256B.19, subd. 1c; 256B.196; or 256B.197. Effective retroactively for gross revenues received on or after July 1, 2016.

**Pharmacy refund.** Minn. Stat. § 295.54, subd. 2, was amended to provide that the request for refund has to be filed on an annual return by March 15 of the year following the year in which the drugs were delivered outside Minnesota. A refund will not be allowed if the initial claim for refund is filed later than one year from that date. Effective for qualifying legend drugs delivered outside Minnesota after December 31, 2016.

**Fire safety account.** Minn. Stat. § 297I.06, subd. 3, was amended to delete an obsolete provision. This provision directed the transfer of certain amounts from the fire safety account in the special revenue fund to the general fund in fiscal years 2012 through 2015. Effective August 1, 2017. 2017 Minn. Laws ch. 40, art. 1, § 104.

## TAX COURT

**Petroleum tax appeals to Tax Court.** Minn. Stat. § 296A.26 was amended to clarify that the period of time to appeal to Tax Court is 60 days from the notice date designated on the order. Effective for orders dated after December 31, 2017.

**Cigarette and tobacco products tax appeals to Tax Court.** Minn. Stat. § 297F.23 was amended to clarify that the period of time to appeal to Tax Court is 60 days from the notice date designated on the order. Effective for orders dated after December 31, 2017.

**Liquor tax appeals to Tax Court.** Minn. Stat. § 297G.22 was amended to clarify that the period of time to appeal to Tax Court is 60 days from the notice date designated on the order. Effective for orders dated after December 31, 2017.