

2019 SPECIAL TAXES LEGISLATIVE BULLETIN



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

June 17, 2019

Unless otherwise noted, the provisions discussed in this bulletin can be found in 2019 Minn. Laws, 1st Spec. Sess. ch. 6, arts. 9, 11, 15, and 16.

CIGARETTE AND TOBACCO TAXES

Definition of tobacco products. Minn. Stat. § 297F.01, subd. 19, was amended to clarify that the definition of tobacco products specifically includes nicotine solution products. Effective May 31, 2019.

Definition of nicotine solution products. Minn. Stat. § 297F.01, was amended by adding subd. 22b, to define nicotine solution products, which includes solutions containing nicotine consumed through a means that produces vapor or aerosol, electronic cigarettes, cigars, cigarillos, pipes, or similar product or device, batteries, heating elements, or other components, parts, or accessories sold with and meant to be used in the consumption of a solution containing nicotine. The definition includes solutions containing nicotine produced from sources other than tobacco starting January 1, 2020. Effective May 31, 2019.

Definition of wholesale sales price. Minn. Stat. § 297F.01, subd. 23, was amended to clarify that the definition of wholesale sales price of nicotine solution products does not include the cost of electronic cigarettes, cigars, cigarillos, pipes, or similar products, and any batteries, heating elements, and other components, parts, or accessories sold in a kit with a solution containing nicotine if the taxpayer separately sells the solution containing nicotine and can isolate its purchase cost. Effective May 31, 2019.

Sale of stamps. Minn. Stat. § 297F.08, subd. 8, was amended to remove obsolete language related to a discount that no longer exists. Effective May 31, 2019.

Subdivision 8 was also amended to remove duplicative language regarding the price of stamps including tax. Effective August 1, 2019. 2019 Minn. Laws, ch. 50, art. 1, § 98.

Tax stamping machines. Minn. Stat. § 297F.08, subd. 9, was amended to remove obsolete language related to a discount that no longer exists. Effective May 31, 2019.

Costs for cigarette stamps. Minn. Stat. § 297F.08, subd. 5, was repealed. The subdivision, which provided a mechanism for the department to pay for and recover costs associated with cigarette stamps, has been inoperative since the 1999 enactment of § 297F.08, subd. 8a, which

established a revolving account for the benefit of the commissioner to pay for and recover these costs. Effective May 31, 2019.

Accelerated tax payment; cigarette or tobacco products distributor. Minn. Stat. § 297F.09, subd. 10, was amended to change the estimated June liability due two days before June 30 to 87.5 percent for calendar years 2020 and 2021, and 84.5 percent in calendar year 2022 and each calendar year thereafter. In addition, the ten percent penalty exceptions were changed so that the penalty is not imposed if the amount remitted in June equals the lesser of: (1) 87.5 percent of the actual June liability for calendar years 2020 and 2021, and 84.5 percent of the actual June liability for June 2022 and thereafter; or (2) 87.5 percent of the preceding May liability for the calendar years 2020 and 2021, and 84.5 percent of the preceding May liability for June 2022 and thereafter. Effective for sales and purchases made after June 30, 2019. 2019 Minn. Laws, 1st Spec. Sess. ch. 6, art. 3, § 16.

MINNESOTACARE TAXES

Staff model health plan company and legend drugs. Minn. Stat. § 295.50, subd. 3, was amended to replace the term “staff model health carrier” in clause (3) with “staff model health plan company” to allow for consistent use of the term “staff model health plan company” throughout chapter 295, and to remove language related to the term “legend drug” from the definition of “gross revenues” in clause (4) and place it in the definition of “legend drug” in Minn. Stat. § 295.50, subd. 15. Effective May 31, 2019.

Wholesale drug distributor. Minn. Stat. § 295.50, was amended to create subdivisions 2b, 7a, and 16 to define the terms “emergency medical reasons,” “manufacturer,” and “wholesale drug distribution,” and to modify the definition of “wholesale drug distributor” in subd. 14. These amendments were made to preserve the current tax base for purposes of the wholesale drug distributor tax in chapter 295 due to amendments to Minn. Stat. chapter 151 (2019 Minn. Laws, 1st Spec. Sess. ch. 9, art. 10) to conform with federal requirements regarding drugs and licensure. Effective May 31, 2019.

Health care provider. Minn. Stat. § 295.50, subd. 4, was amended to clarify that the definition of health care provider includes an entity, which may otherwise not be a healthcare provider, who employs or contracts with a health care provider to perform, supervise, otherwise oversee, or consult regarding patient services; to clarify that home care providers required to be licensed under chapter 144A are not health care providers as long as the home care services are provided under chapter 144A; and to conform with proposed changes to Minn. Stat. § 295.53 regarding exclusions and exemptions. Effective May 31, 2019.

Patient services. Minn. Stat. § 295.50, subd. 9b, para. (b)(4), was amended to clarify which community support programs and family community support programs are not included in patient services. Effective May 31, 2019.

Legend drug. Minn. Stat. § 295.50, subd. 15, was amended to clarify that the definition of legend drug does not include certain nutritional products and blood and blood components. Reference to these excluded items were previously found at § 295.53, subd. 1. Effective May 31, 2019.

Nexus. Minn. Stat. § 295.51, subd. 1a, was amended in light of the United States Supreme Court's decision in *S. Dakota v. Wayfair, Inc.* 138 S. Ct. 2080, 201 L. Ed. 2d 403 (2018), to clarify the requirements for physical and economic nexus as applied to wholesale drug distributors, persons subject to the legend drug use tax, and persons who sell or repair hearing aids and related equipment or prescription eyewear. The amendment also provides minimum thresholds for taxpayers who have no physical presence in the state of Minnesota. In addition, the amendment provides that once a taxpayer has economic nexus with Minnesota, the taxpayer must continue to file an annual return and remit taxes for subsequent years unless the taxpayer notifies the commissioner by March 15 of the following calendar year that the taxpayer no longer engages in the activities outlined in the statute or no longer meets any of the applicable minimum thresholds. Effective May 31, 2019. Paragraph (b) of the effective date language confirms that the United States Supreme Court decision in *Wayfair, Inc.* provides Minnesota with jurisdiction over persons who do not have physical presence in the state of Minnesota to the extent allowed by the United States Constitution and the laws of the United States.

Hospital Tax. Minn. Stat. § 295.52, subd. 1, was amended to change the tax rate on gross revenues to 1.8 percent. Effective for gross revenues received after December 31, 2019.

Surgical center tax. Minn. Stat. § 295.52, subd. 1a, was amended to change the tax rate on gross revenues to 1.8 percent. Effective for gross revenues received after December 31, 2019.

Provider tax. Minn. Stat. § 295.52, subd. 2, was amended to change the tax rate on gross revenues to 1.8 percent. Effective for gross revenues received after December 31, 2019.

Wholesale drug distributor tax. Minn. Stat. § 295.52, subd. 3, was amended to change the tax rate on gross revenues to 1.8 percent. Effective for gross revenues received after December 31, 2019.

Use tax; legend drugs. Minn. Stat. § 295.52, subd. 4, was amended to change the tax rate on the price paid for legend drugs to 1.8 percent. Effective for legend drugs received or delivered in Minnesota after December 31, 2019.

Exclusions and exemptions. Minn. Stat. § 295.53, subd. 1, was amended to clarify which clauses are exclusions and which clauses are exemptions for ease of tax administration. This proposal also clarified an exemption for payments received for services under the federal Medicare Advantage Program; clarified that Federal Tricare sourced funds are exempt; deleted unnecessary language, "other than nutritional products and blood and blood components," because those items are excluded from the definition of legend drugs in the amended Minn. Stat. § 295.50, subd. 15; and deleted reference to repealed Minn. Stat. § 256B.19, subd. 1c. Also amended statutory references in Minn. Stat. § 295.57, subd. 5, to conform to the reorganization in Minn. Stat. § 295.53. Effective May 31, 2019.

Interest on Tax Overpayments. Minn. Stat. § 295.57, subd. 3, was amended to change the interest provision for MinnesotaCare tax refunds to be the same as provided for in Minn. Stat. § 289A.56, subd. 2. That section provides for the amount refunded to begin to bear interest 90 days from the due date of the tax return or the date on which the original return is filed, whichever is later. Effective for overpayments made on or after January 1, 2020.

Tax expense transfer. Minn. Stat. § 295.582, subd. 1, was amended to reorganize it for readability and to move the definitions of “pharmacy benefits manager” and “third-party purchaser” to Minn. Stat. § 295.50, at new subsd. 10c and 13a, to consolidate these definitions into one section with the other definitions. Effective May 31, 2019.

MinnesotaCare Taxes Sunset Repealed. Minn. Laws 2011, 1st Spec. Sess, ch. 9, art. 6, sec. 97, subd. 6, the sunset of the MinnesotaCare Taxes, was repealed. Minn. Stat. § 295.52, subd. 8, was amended for consistency. Effective May 31, 2019.

PETROLEUM TAXES

Successor Liability. Minn. Stat. § 270C.57, subsd. 1, 2, 3, and 4, were amended to add petroleum tax to the categories of tax types subject to successor liability. Effective for all transfers in bulk that take place after July 31, 2019.

License Qualification Requirements. Minn. Stat. § 296A.03, subd. 2, was amended to prohibit the commissioner from issuing or renewing a distributor’s license, special fuel dealer’s license, or bulk purchaser license to any person: 1) with unpaid petroleum tax; 2) with unfiled petroleum tax returns or reports; 3) whose license has been revoked within the past five years; or 4) who has had an equivalent license revoked within the past five years by another state or Canadian province for failure to pay a tax or file a tax return or report. Additionally, both Minn. Stat. §§ 296A.04 and 296A.05 were amended to each add a new subdivision 1a to apply § 296A.03, subd. 2 (c) to special fuel purchasers and bulk purchasers. Effective for all licenses with an effective date after June 30, 2019.

Suspension of License. Minn. Stat. § 296A.06 was amended to add a new subd. 2, that 1) grants the commissioner authority to suspend the license of a distributor, special fuel dealer, or bulk purchaser for unpaid petroleum tax or unfiled petroleum tax returns or reports; and 2) provides procedures governing the initiation of a suspension, the reinstatement of a license after a suspension, and contested case hearing challenges to a suspension. Effective on July 1, 2019.

Repealer. Eliminates the bonding requirement for petroleum tax licensees through repeal of Minn. Stat. §§ 296A.03, subd. 5, 296A.04, subd. 2, and 296A.05, subd. 2, and Minnesota Rules, part 8125.0410, subpart 1. Effective for all licenses with an effective date after June 30, 2019.

INSURANCE TAXES

Historic structure rehabilitation credit. Minn. Stat. § 297I.20, subd. 3, was amended to update references to fire state aid and police state aid. Effective for aids payable in 2020 and thereafter. 2019 Minn. Laws, 1st Spec. Sess. ch. 6, art. 22, § 3.

Replace “warrant” with “payment.” In this uncodified session law, the Revisor of Statutes is instructed to replace “warrant” with “payment” in various sections of Minnesota Statutes, including section 297I.10, subdivision 1, concerning the Department of Revenue paying cities of the first class the total amount of surcharge collected on certain premiums. Effective July 1, 2019. 2019 Minn. Laws, 1st Spec. Sess. ch. 10, art. 3, § 40.

LIQUOR TAXES

Accelerated tax payment; Liquor. Minn. Stat. § 297G.09, subd. 9, was amended to change the estimated June liability due two days before June 30 to 87.5 percent for calendar years 2020 and 2021, and 84.5 percent in calendar year 2022 and each calendar year thereafter. In addition, the ten percent penalty exceptions were changed so that the penalty is not imposed if the amount remitted in June equals the lesser of: (1) 87.5 percent of the actual June liability for calendar years 2020 and 2021, and 84.5 percent of the actual June liability for 2022 and thereafter; or (2) 87.5 percent of the preceding May liability for the calendar years 2020 and 2021, and 84.5 percent of the preceding May liability for June 2022 and thereafter. Effective for sales and purchases made after June 30, 2019. 2019 Minn. Laws, 1st Spec. Sess. ch. 6, art. 3, § 17.

MINERAL TAXES

Taconite payment and other reductions. Minn. Stat. § 126C.48, subd. 8, cl. (2), was amended to remove an obsolete cross reference. Effective August 1, 2019. 2019 Minn. Laws, ch. 50, art. 1, § 33.

Net proceeds tax distribution date. Minn. Stat. § 298.018, was amended by adding a new subd. 1a to change the net proceeds tax distribution date from July 15 to December 15 to ensure the distributions are administrable. Additionally, Minn. Stat. § 298.018, subd. 1, was amended to conform to that amendment and that of Minn. Stat. § 298.282, subd. 1, which was also amended by adding a conforming paragraph (b) related to the net proceeds tax distribution date. Effective May 31, 2019.

Production tax; guaranteed distribution. Minn. Stat. § 298.225, subd. 1, was amended to change the guarantee percent of the production tax distributions to the Taconite Municipal Aid Account from a variable percentage to one hundred percent of the 1983 production year distributions. Effective for distributions in 2020 and thereafter.

Production tax; cities and towns. Minn. Stat. § 298.28, subd. 3, was amended to escalate the production tax’s 12.5 cents per ton allocation to the Taconite Municipal Aid Account using the same increase as in the production tax rate. Effective for distributions in 2020 and thereafter.

Production tax; remainder. Minn. Stat. § 298.28, subd. 11, was amended to add the City of Iron Junction to the list of Taconite Railroad Grandfather city and township recipients. The amendment provides for a distribution of \$5,000 to Iron Junction and proportionately reduces the other recipients. Effective for aid distributions in 2020 and subsequent years.

Distribution of taconite municipal aid account. Minn. Stat. § 298.282, subd. 1, was amended to remove Breitung Township from the Taconite Municipal Aid Account's formula list and instead provide a fixed payment of \$15,000 each year from the account (this language is now paragraph (a)). Effective beginning with distributions in 2020.

Douglas J. Johnson Economic Protection Trust Fund. Minn. Stat. § 298.296, subd. 2, paragraphs (e) and (f), were amended to clarify cross references to Minn. Stat. § 298.292, subd. 2. Effective August 1, 2019. 2019 Minn. Laws, ch. 50, art. 1, § 99.