

# 2023 SPECIAL TAXES LEGISLATIVE BULLETIN



Appeals, Legal Services, and Disclosure Division  
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FINAL

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**Tribal population for tax agreements.** Minn. Stat. §270C.19, subs. 1 and 2, were amended to provide that the population used to compute refunds and payments under tax agreements between the commissioner of revenue and tribal governments is the number of enrolled members of the tribe who live on or adjacent to the reservation as reported to the commissioner by the tribe. Prior law required the use of population from a Bureau of Indian Affairs report that is no longer submitted by the tribes or published by the Bureau.

The law was also amended to clarify that refunds are meant to approximate the tax paid on the reservation by tribal members, or the amount they would have paid on the reservation if there was no agreement. Finally, the law was amended to provide guidance on how estimates should be calculated.

Effective for agreements entered into after December 31, 2022. 2023 Minn. Laws, Ch. 64, Art. 15, § 5 and Art. 19, § 1.

## ENVIRONMENTAL TAXES

**Allocation of revenue from solid waste management tax.** Minn. Stat. § 297H.13, subd. 2, was amended in three ways. First, 70 percent of amounts remitted under Chapter 297H must be credited to the environmental fund established in Minn. Stat. § 16A.531, subd. 1. Second, beginning in fiscal year 2024 and thereafter, three percent of amounts remitted under Chapter 297H shall be deposited into the resource management account in the environmental fund. Third, beginning in fiscal year 2024 and annually thereafter, the just-described three percent allocation is appropriated to the commissioner of the Pollution Control Agency for distribution to counties under section 115A.557, subd. 2, para. (a), clauses (1) to (7) and (9) to (11). Effective May 25, 2023. 2023 Minn. Laws, Ch. 64, Art. 15, § 11.

## LAWFUL GAMBLING TAXES

**Combined net receipts tax.** Minn. Stat. § 297E.02, subd. 6, was amended to change the tax rates and liabilities as follows:

If the combined net receipts  
for the fiscal year are:

The  
tax is:

Not over \$87,500	eight percent
Over \$87,500, but not over \$122,500	\$7,000 plus 17 percent of the amount over \$87,500, but not over \$122,500
Over \$122,500, but not over \$157,500	\$12,950 plus 25 percent of the amount over \$122,500, but not over \$157,500
Over \$157,500	\$21,700 plus 33.5 percent of the amount over \$157,500

Effective for games reported as played after June 30, 2023. 2023 Minn. Laws, Ch. 64, Art. 13, § 3.

**Calculation of “available revenues.”** Minn. Stat. § 297E.021, subd. 3, was amended to remove the reduction in revenues resulting from the sales tax exemptions under section 297A.71, subd. 43, because Minn. Stat. § 297A.71, subd. 43, is expired. Effective August 1, 2023. 2023 Minn. Laws, Ch. 25, § 165.

**Annual Audit, certified inventory, and cash count.** Minn. Stat. § 297E.06, subd. 4(a), was amended to provide that for purposes of subd. 4, “gross receipts” does not include a licensed organization’s receipts from electronic pull-tabs regulated under Chapter 349 provided the electronic pull-tab manufacturer has completed an annual system and organization controls audit, containing standards that must incorporate and be consistent with standards prescribed by the American Institute of Certified Public Accountants. Effective for audits conducted after June 30, 2024. 2023 Minn. Laws, Ch. 64, Art. 13, § 4.

**Purpose.** Minn. Stat. § 349.11 was amended to make technical corrections and add that one of the purposes of sections 349.11 to 349.22 is to authorize only those games or game features discussed in Chapter 349. Effective for games approved after August 1, 2023. 2023 Minn. Laws, Ch. 64, Art. 13, § 5.

**Electronic bingo device.** Minn. Stat. § 349.12, subd. 12a, was amended to change the definition of “Electronic bingo device” to provide that an electronic bingo device contains no spinning reels or other representations that mimic a video slot machine, including but not limited to free plays, bonus games, screens, or game features that are triggered after the initial symbols are revealed that display the results of the game. Effective for games approved after August 1, 2023. 2023 Minn. Laws, Ch. 64, Art. 13, § 6.

**Electronic pull-tab device.** Minn. Stat. § 349.12, subd. 12b, was amended to add paragraph (b), which provides that an electronic pull-tab device must not include representations that mimic the display or user interface of a video slot machine by requiring a player to manually activate the reveal or result of each single row of symbols with a separate and distinct action for each electronic pull-tab ticket. Effective for games approved after August 1, 2023. 2023 Minn. Laws,

Ch. 64, Art. 13, § 7.

**Electronic pull-tab game.** Minn. Stat. § 349.12, subd. 12c, was amended to insert a designation of paragraph (a) to apply to clauses (1) through (9) and the newly created clauses (10) and (11). In addition, the amendment added language to paragraph (a)(9) to clarify that spinning reels or other representations that mimic a video slot machine include but are not limited to free plays, bonus games, screens, or game features that are triggered after the initial symbols are revealed that display the result of the game. Added clauses (10) and (11) to add additional mechanism requirements to electronic pull-tab games. Adds paragraph (b), to require that each electronic pull-tab game must include a certification from a board-approved testing laboratory that the game and device meets the standards and requirements established in Minnesota Statutes and Minnesota Rules and is in conformance with game procedures provided by the manufacturer. Effective for games approved after August 1, 2023. 2023 Minn. Laws, Ch. 64, Art. 13, § 8.

**Definition of “lawful purpose.”** Minn. Stat. § 349.12, subd. 25, was amended to delete a reference to Minn. Stat. § 297E.02, subd. 5, in paragraph (8) because this statute was renumbered to Minn. Stat. § 349.213, subd. 3, and add a reference to Minn. Stat. § 349.213, subd. 3. Effective August 1, 2023. 2023 Minn. Laws, Ch. 25, § 169.

**Manually activate.** Minn. Stat. § 349.12, was amended to add subd. 25e, to define “manually activate,” for purposes of Minn. Stat. § 349.12, to mean that a person must either touch an icon on the electronic pull-tab device screen or press a button located elsewhere on the electronic pull-tab device, or, exclusively for purposes of accommodating use by a player who is visually impaired, perform some other action that initiates activity on an electronic pull-tab device. Effective for games approved after August 1, 2023. 2023 Minn. Laws, Ch. 64, Art. 13, § 9.

**Electronic pull-tab devices and electronic pull-tab game system.** Minn. Stat. § 349.151, subd. 4d, was amended to add paragraph (f), to provide that the Gambling Control Board, or its director if authorized by the Board, may remove pull-tab devices containing non-conforming electronic pull-tab games from the inventories of distributors and organizations. Effective July 1, 2024. 2023 Minn. Laws, Ch. 64, Art. 13, § 10.

**Lawful Gambling; Removal of Inventories.** This uncodified provision provides that the Gambling Control Board must remove games not meeting the requirements of 2023 Minn. Laws, Ch. 64, Art. 13, from the inventories of licensed distributors and licensed organizations by December 31, 2024. Effective August 1, 2023. 2023 Minn. Laws, Ch. 64, Art. 13, § 15.

**Appropriation; Optional Debt Payoff.** This uncodified provision provides in paragraph (a) that if the commissioner of management and budget elects to apply an amount from the general reserve account established in Minn. Stat. § 297E.021, subd. 4, to prepay the debt issued under Minn. Stat. § 16A.965, during fiscal year 2023, then the commissioner of management and budget may also use the appropriation in paragraph (b) for the same purpose. Paragraph (b) provides that the amount necessary, when added to the amount in the general reserve account established in Minn. Stat. § 297E.021, to prepay in fiscal year 2023 the entire debt issued under Minn. Stat. § 16A.965, including any accrued interest and associated financing costs, is appropriated from the general fund to the commissioner of management and budget in fiscal year 2023. Paragraph (c) provides that the appropriation is only effective to the extent available and to the extent the amount in the general reserve account established in Minn. Stat. § 297E.021, is not

sufficient to prepay the debt in full in fiscal year 2023, including any accrued interest and associated financing costs. Effective May 25, 2023. 2023 Minn. Laws, Ch. 64, Art. 13, § 17.

**Repealer.** Minn. Stat. § 297E.021 is repealed if the commissioner of management and budget certifies that the bonds authorized under Minn. Stat. § 16A.965, are no longer outstanding. Effective 60 days after the commissioner of management and budget certifies that the bonds are no longer outstanding. The commissioner of management and budget must notify the revisor of statutes within 30 days of the certification. 2023 Minn. Laws, Ch. 64, Art. 13, § 18.

## **INSURANCE TAXES**

**Fire safety premium surcharge rate.** Minn. Stat. §§ 297I.06, subd. 1, was amended to increase the fire safety premium surcharge rate on homeowner’s, commercial fire, and commercial nonliability policies from .5% to .65%. Effective July 1, 2023. 2023 Minn. Laws, Ch. 52, Art. 5, §10.

**Guaranty association assessment offsets.** Minn. Stat. § 297I.20, subd. 1, was amended to strike three references to the insurance code provisions “61B.01 to 61B.16.” These provisions were repealed in 1993 and are obsolete. Effective August 1, 2023. 2023 Minn. Laws, Ch. 25, § 167.

**Insurance premium tax credit for short line railroad infrastructure modernization.** Minn. Stat. § 297I.20 was amended by adding a new subd. 6, to allow a credit against premium tax. Minn. Stat. § 290.0695 was created to allow an income tax credit equal to 50 percent of eligible expenses, subject to certain limits and conditions, for qualified railroad reconstruction or replacement expenditures. Minn. Stat. § 290.0695 makes insurers subject to Chapter 297I premium tax the sole “eligible transferee” of the credit, which means taxpayers that qualify for the income tax credit may transfer it to an insurer via a written transfer agreement. The credit transferer and the insurer transferee must file a copy of the transfer agreement with the commissioner within 30 days of the transfer. The commissioner must issue a credit certificate to the insurer within 30 days of the filing.

The new subdivision 6 of Minn. Stat. § 297I.20 allows an insurer to claim a credit against premium tax equal to the credit certificate amount provided the insurer is not also claiming a Chapter 290 credit for the same expenditures. The new subdivision also addresses how the credit carries over to future taxable years if the credit amount exceeds the insurer’s premium tax liability. The insurance premium tax credit does not affect the calculation of fire and police state aid and expires January 1, 2031, for taxable years beginning after December 31, 2030. Effective for taxable years beginning after December 31, 2022. 2023 Minn. Laws, Ch. 64, Art. 1, § 48.

**Certain tax credits and calculation of amount of fire and police state aid available for apportionment.** Minn. Stat. §§ 477B.03, subd. 2, and 477C.03, subd. 2, were amended to clarify that the Department calculation of the amount of fire and police state aid available for apportionment based on insurance premium data, is not affected by premium tax credits received under 297I.20, subd. 3 (historic structure insurance premium tax credit), subd. 4 (film production insurance premium tax credit), subd. 5 (housing insurance premium tax credit), and subd. 6 (short line railroad infrastructure modernization credit). This change aligns Chapters 477B and 477C with Minn. Stat. § 297I.20, subsd. 3, 4, 5, and 6, which state that the credits do not affect the calculation. These amendments are effective May 25, 2023.

Minn. Stat. § 477C.03, subd. 2, is amended to delete vague language describing adjustments to aid payments. This amendment is effective for aids payable in calendar year 2024 and thereafter. 2023 Minn. Laws, Ch. 64, Art. 17, §§ 14 and 22.

### MINNESOTACARE TAXES

**Health care provider.** Minn. Stat. § 295.50, subd. 4, was amended to clarify that a health care provider does not include a person or entity that receives all their payments for patient services from a source of funds that is excluded from tax under sections 295.50 to 295.59 and replace the words “this chapter” with “sections 295.50 to 295.59” since Chapter 295 also includes the unrelated liquor gross receipts tax, and this provision is not applicable to that tax. Effective May 25, 2023. 2023 Minn. Laws, Ch. 64, Art. 19, § 2.

**Repeal of the definition of “regional treatment center.”** Minn. Stat. § 295.50, subd. 10b, was repealed because the term “regional treatment center” is no longer relevant for MinnesotaCare Tax purposes. Effective August 1, 2023. 2023 Minn. Laws, Ch. 25, § 190, subd. 13.

### PETROLEUM TAXES

**Indexing gasoline and special fuel tax rates.** Minn. Stat. §§ 296A.07, subd. 3 and 296A.08, subd. 2, were amended, to raise fuel tax rates when there are increases in the inflation-measuring Minnesota Highway Construction Cost Index (“Index”). If there is an increase in inflation based on Index data supplied by the Minnesota Department of Transportation, the Department is required to adjust the gasoline and special fuel tax rates to equal the current rate, multiplied by one plus the percentage increase, if any, in the Index. By August 1 of each year, the Department must publish the new rate for the upcoming 12-month period beginning January 1. There are no limits on the tax rate percentage change determined to be applicable to taxes imposed in 2024 and 2025. The annual tax rate change determined to be applicable to taxes imposed in 2026 and later is limited to three percent. Effective July 1, 2023, and applies for taxes imposed on or after January 1, 2024. 2023 Minn. Laws, Ch. 68, Art. 3, §§ 22-23.

**Surcharge publication date.** Minn. Stat. § 296A.083, subd. 3, was amended to move the annual deadline for publication of the debt service surcharge from April 1 to May 1. This change is necessary because the Department cannot publish the debt service surcharge until Minnesota Management and Budget publishes its debt service forecast, which is now due April 1 of each year. The amendment also removes outdated language from the subdivision. Effective May 25, 2023. 2023 Minn. Laws, Ch. 64, Art. 19, § 3.

### TOBACCO TAXES

**Nicotine solution products obsolete language.** Minn. Stat. § 297F.01, subd. 22b, was amended to remove obsolete language that expired on December 31, 2019. Effective August 1, 2023. 2023 Minn. Laws, Ch. 25, § 166.

**Repealer - Cigarette inventory transition.** Minn. Stat. 299F.851, subd. 7, allowed cigarette wholesalers and retailers to sell cigarette inventory that did not meet updated Chapter 299F state fire safety standards if the inventory met certain criteria, including that Chapter 297F tax stamps

were affixed to the cigarettes before December 1, 2008. Because the cigarette inventory transition at issue occurred in and around 2008 and is now complete, this subdivision is obsolete and has been repealed. Effective August 1, 2023. 2023 Minn. Laws, Ch. 25, § 190, subd. 16.

## MINERAL TAXES

The following provisions are all found in 2023 Minn. Laws, Ch. 64, Art. 6.

**Sections Conforming to the Gross Proceeds Tax on Mining.** The following Minnesota statutory provisions that previously referenced the Net Proceeds Tax now reference the Gross Proceeds Tax:

- **Property subject to taconite production or gross proceeds tax.** Minn. Stat. § 272.02, subd. 73. Effective beginning with assessment year 2023.
- **Taconite, other ores, metals, or minerals; production materials.** Minn. Stat. § 297A.68, subd. 4. Effective May 25, 2023.
- **Distribution Date.** Minn. Stat. § 298.018, subd. 1a. Effective May 25, 2023.
- **Temporary Loan Authority.** Minn. Stat. § 298.296, subd. 4. Effective May 25, 2023.

**Taconite Assistance Area.** Minn. Stat. § 273.1341 was amended to expand the “taconite assistance area” to include a school district that contains a municipality which is (1) located in a county which is already partially included in the taconite assistance area, and (2) where active mining of materials subject to the Gross Proceeds Tax is occurring or where a mine subject to the minimum payment under section 298.015, subd. 3 is located. Effective for taxable years beginning after December 31, 2022.

**Gross Proceeds Tax on Mining.** Minn. Stat. § 298.015, subs. 1 and 2 were amended to replace the Net Proceeds Tax with a Gross Proceeds Tax at a rate equal to 0.4 percent of the gross proceeds from the mining of ores, metals and minerals subject to the Tax (e.g., copper and nickel). Section 298.015, subd. 3, imposes an annual minimum payment of \$2,000,000 on a person who has obtained all required permits to mine the ores, metals and minerals subject to the Tax unless certain stated exceptions apply. The amount of the minimum payment is prorated when a person is only subject to the Tax for a limited number of months during the calendar year. Effective for taxable years beginning after December 31, 2022.

**Distribution of Gross Proceeds Tax; Within taconite assistance area.** Minn. Stat. § 298.018, subd. 1, was amended to modify the distribution of the Gross Proceeds Tax to the various recipients within the taconite assistance area. This amendment requires that, for the first five years that distributions of the Tax are made, ten percent of those proceeds will be distributed to the municipalities of Aurora, Babbitt, Ely, and Hoyt Lakes (each receiving twenty percent), and Biwabik and Embarrass Township (each receiving ten percent). The remaining 90 percent of the proceeds will be distributed as set forth in subdivision 1, as amended. Effective for distributions beginning after December 31, 2022.

**Division and Distribution of Production Tax Revenue.** Minn. Stat. § 298.28 was amended to change the distribution of the Production Tax as follows:

- **Counties.** Subdivision 5 was amended to maintain the distribution to counties at 21.05 cents per taxable ton. Under prior law, the distribution would have increased to 26.05 cents per taxable ton beginning with distributions in 2024. Effective May 25, 2023.
- **Iron Range School consolidation and cooperatively operated school account.** Subdivision 7a was amended to maintain the distribution to the Iron Range School consolidation and cooperatively operated school account (“Iron Range School Account”) ten cents per taxable ton. Under prior law, the distribution would have decreased to five cents per taxable ton beginning with distributions in 2024. Effective May 25, 2023.
- **Transfer.** A new subdivision 16 was added, to provide that, of the amount of Production Tax proceeds annually distributed to the Douglas J. Johnson Economic Protection Trust Fund (“DJJ Fund”) under § 298.28, \$3,500,000 shall be transferred to the Iron Range School Account. Any remaining portion of the amount annually distributed to the DJJ Fund shall be transferred to the Iron Range resources and rehabilitation account under subdivision 7. These transfers must be made within ten days of the August payment. Effective beginning with production year 2023.

**Production Tax -Transfers of 2023 Distribution Only.** Uncodified session laws provide for the following two transfers of Production Tax proceeds in 2023 only:

- **Transfer to Iron Range Resources and Rehabilitation Account.** The law provides for a one-time transfer in 2023 from the Property Tax Relief Account established under Minn. Stat. § 298.28, subd. 6, to the Iron Range resources and rehabilitation account an amount not to exceed \$6,000,000 within ten days of the August 2023 payment. The law directs the commissioner of Iron Range resources and rehabilitation how the transferred amount is to be distributed. Effective May 25, 2023 and only applies to the 2023 distribution. 2023 Minn. Laws, Ch. 64, Art. 6, § 11.
- **Transfer to Iron Range School Consolidation and Cooperatively Operated School Account.** The law provides for a one-time transfer in 2023 from the Douglas J. Johnson Economic Protection Trust Fund to the Iron Range school consolidation and cooperatively operated school account in the amount of \$3,500,000 within ten days of the August payment. Effective May 25, 2023 and only applies to the 2023 distribution. 2023 Minn. Laws, Ch. 64, Art. 6, § 12.

**Iron Range Resources and Rehabilitation Commissioner; Bonds Authorized.** This uncodified session law directs the commissioner of Iron Range resources and rehabilitation to issue revenue bonds in a principal amount up to \$42,000,000, plus costs, and allows the commissioner to issue bonds to refund those bonds. The bonds must be used to pay cost of

issuance and to make grants to specified school districts. There is annually appropriated from the distribution of the Production Tax revenues, prior to the calculation of the amount of the remainder under Minn. Stat. § 298.28, subd. 11, an amount sufficient to pay principal and interest on the bonds. If the appropriation is insufficient to pay the principal and interest on the bonds, an additional amount is appropriated from the Douglas J. Johnson Economic Protection Trust Fund to make up the deficiency. Effective May 25, 2023 and applies beginning with the 2023 distribution of the Production Tax. 2023 Minn. Laws, Ch. 64, Art. 6, § 13.