

File Number: H.F. 1227 **Date:** March 27, 2017
Version: The delete everything amendment (A17-0310)

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Subject: Department of Revenue 2017 Policy Provisions

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Article 1: Department 2017 Policy Provisions: Property tax and Local Government Aids

- 1 Flight property apportionment.** Changes apportionment of the value of flight property from one-third each on total tonnage first received within the state, total flight time in the state, and revenue ton miles in the state to be based on one-half each of the percentage of revenue ton miles flown within the state and total departures within the state.
Effective in assessment year 2018.
- 2 Statement of exemption.** Authorizes the commissioner to determine for which types of exempt property statements of exemption must be annually filed and to publish the list on the DOR website. The commissioner's determinations are not a rule subject to the Administrative Procedures Act.
Effective for applications for exemption submitted in 2018 and thereafter.
- 3 Solar energy production tax reports.** Allows the commissioner to grant an extension of time to file solar energy production tax reports for up to 15 days on a showing of good cause.
Effective for reports filed in 2018 and thereafter.
- 4 Certificate of real estate value threshold.** Increases the threshold amount of consideration paid for real estate that triggers the need for filing a certificate of real estate value from \$1,000 to \$1,500.

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Effective for certificates of value filed after December 31, 2017.

- 5 Certificate of real estate value; paper copies.** Removes the requirement that DOR provide paper certificate of value forms to counties; these certificates are now submitted electronically.
Effective the day following final enactment.
- 6 Certificate of real estate value; paper copies.** Removes the requirement that county auditors provide copies of certificates of real estate value to the assessor and DOR.
Effective for certificates of value filed after December 31, 2017
- 7 Homestead application.** Requires the homestead application to include the name and Social Security number of the applicant's spouse, without regard to whether the spouse lives at the homestead. Extends this requirement to the spouses of relatives who occupy relative homesteads.
Effective beginning with homestead applications filed in 2018.
- 8 Homestead data.** Requires the annual electronic sharing of homestead data by counties with the commissioner to include the name and Social Security number of the property owner's spouse, or, for relative homesteads, the name and Social Security number of the qualifying relative's spouse.
Effective beginning with homestead applications filed in 2018.
- 9 Proof of compliance; local boards.** Requires local boards of appeal and equalization to have at least one member attend training every four years; the powers of boards that fail to meet the requirement are transferred to the county for at least two years.
Effective for board meetings in 2018 and following years.
- 10 Proof of compliance; county boards.** Requires county boards of appeal and equalization to have at least one member attend training every four years; the powers of boards that fail to meet the requirement are transferred to the special board of appeal and equalization for at least two years.
Effective for board meetings in 2018 and following years.
- 11 Repealer.** Repeals section 270.074, subd. 2, which provides for alternative apportionment of air flight property on petition to the commissioner.

Article 2: Department of Revenue Sales and Use, and Special Taxes Policy Provisions

- 1 Use tax on snowmobiles.** Requires the commissioner of revenue or authorized deputy registrars acting as agents of the commissioner to collect use tax when a snowmobile is registered by an individual who does not document payment of the tax and to pay refunds of use tax paid in error.
Effective for registrations after June 30, 2017.
- 2 Use tax on all-terrain vehicles (ATVs).** Requires the commissioner of revenue or authorized deputy registrars acting as agents of the commissioner to collect use tax when an

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ATV is registered by an individual who does not document payment of the tax and to pay refunds of use tax paid in error.

Effective for registrations after June 30, 2017.

- 3 Use tax on watercraft.** Requires the commissioner of revenue or authorized deputy registrars acting as agents of the commissioner to collect use tax when a watercraft is registered by an individual who does not document payment of the tax and to pay refunds of use tax paid in error.

Effective for registrations after June 30, 2017.
- 4 Disclosure to Department of Natural Resources (DNR).** Authorizes the commissioner of revenue to disclose return information related to sales and use taxes on snowmobiles, ATVs, and watercraft to the DNR and authorized deputy registrars of motor vehicles for use in administering use tax under sections 1 to 3.

Effective the day following final enactment.
- 5 Disclosure to Department of Transportation.** Authorizes the commissioner of revenue to disclose return information related to sales and use taxes on aircraft to the Department of Transportation for use in administering sales and use tax on the lease, purchase, or sale of aircraft.

Effective the day following final enactment.
- 6 Purchaser refunds.** Provides that refunds for sales for resale will not be paid to purchasers if the vendor has a published no resale policy.

Effective the day following final enactment.
- 7 Aviation gasoline.** Defines aviation gasoline as gasoline used in airplanes. Aviation gasoline specifically includes gasoline sold as “aviation gasoline” that meets American Society for Testing and Materials (ASTM) standards as appropriate for use in airplanes.

Effective the day following final enactment.
- 8 Agreements related to sales and use tax on snowmobiles, ATVs and watercraft.** Authorizes the commissioner of revenue to enter an agreement with the DNR commissioner, in consultation with the commissioner of public safety, so that the DNR and authorized deputy registrars of motor vehicles are agents of the commissioner of revenue to collect use tax on snowmobiles, ATVs, and watercraft from a person applying for a registration or license if the applicant cannot prove that sales or use tax was paid, that the purchase was exempt, or that the purchase was from a Minnesota dealer as provided in sections 1 to 3. The DNR and deputy registrars may issue refunds of use tax paid in error.

Effective the day following final enactment.
- 9 Motor vehicle sales tax presumption.** Provides that when a foreign business entity purchases a motor vehicle that is under the control of a Minnesota resident, the Minnesota resident is presumed the owner for sales tax purposes if two or more of six listed factors are met. The Minnesota resident is considered to be “in control” of the vehicle if the resident is a

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partner, member or shareholder of the foreign business entity, is insured to drive the vehicle, and operates or stores the vehicle in Minnesota for any period of time.

Effective the day following final enactment.

- 10** **Returns; firefighter relief surcharge.** Reduces the number of tax returns companies for the firefighter relief surcharge from three to two, by combining the March and May filings.

Effective for returns due after October 31, 2017.

- 11** **Repealer.** Repeals Minnesota Rules, part 8125.1300, subpart 3, which addresses refunds of tax paid on gasoline used to propel aircraft and is made obsolete by the changes in section 7.

Effective the day following final enactment.

Article 3: Department of Revenue Paid Preparer Policy Provisions

Overview

Expands provisions related to individuals who prepare income tax returns to apply paid preparers of all types of tax returns.

Authorizes the commissioner of revenue issue a cease and desist order for improper preparer behavior.

Imposes new penalties of:

- up to \$5,000 imposed by the commissioner for each violation of a cease and desist order;
- up to \$10,000 imposed by the court for each violation of a cease and desist order; and
- \$500 for failing to provide a tax preparer identification number.

Recodifies provisions related to definitions of tax preparers, refund anticipation loans (RALs), and refund anticipation checks (RACs).

- 1** **Definitions.** Applies the definitions in section 270C.445, which relates to tax preparation services, continue to apply to refund anticipation loans, and refund anticipation checks, which under the Revisor's instruction in section 21 are recodified from section 270C.445 to the new section 270C.4451, and to injunction actions under section 270C.447. Under current law, section 270C.447 contains its own definition of tax preparer which section 22 repeals. The result is to consolidate definitions related to preparers in this section. Expands the definition of preparers from those who prepare individual income tax returns to include those who prepare any kind of tax return required to be filed with the commissioner of revenue, as well as claims for refunds, claims for homestead credit state refunds or renter property tax refunds, and the credit for military service in a combat zone. Clarifies that certified service providers, third-party bulk filers, and persons copying or providing other mechanical assistance are not preparers.

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- 2 Tax preparers; standards of conduct.** Adds the following prohibitions to the standards of conduct for tax preparers:
- Failing to provide the preparer's identification number on the return if otherwise required under state or federal law.
 - Reporting household income on homestead credit state refund or renter property tax refund returns that the preparer knows or should know is inaccurate.
 - Engaging in conduct subject to civil penalty.
 - Failing to conform to the standards of conduct for preparers in administrative rules.
 - Engaging in incompetent or disreputable conduct as provided in administrative rules.
- 3 Nongame wildlife checkoff.** Changes a reference from "form" to "claim" to be consistent with definitions in section 1.
- 4 Penalty; administrative order.** Prohibits preparers from applying for refunds penalties for violations of the standards of conduct or cease and desist orders.
- Authorizes 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 RALs and RACs. The administrative order is in addition to the current \$1,000 administrative penalty. The subject of a cease and desist order 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.
- Adds 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. This penalty is in addition to the \$1,000 penalty under current law and both are allowed expedited review from the Office of Administrative Hearings.
- Adds a five year statute of limitations for imposing both the administrative penalty in current law and the proposed administrative order.
- 5 Exchange of data; State Board of Accountancy.** Makes conforming cross-reference changes.
- 6 Exchange of data; Lawyers Board of Professional Responsibility.** Makes conforming cross-reference changes.
- 7 Exchange of data; commissioner of revenue.** Makes conforming cross-reference changes.
- 8 Enforcement; civil actions.** Makes conforming cross-reference changes.
- 9 Exemptions; enforcement provisions.** Authorizes the commissioner to impose administrative penalties and issue cease and desist orders to preparers who are otherwise exempt (attorneys, accounting professionals, enrolled agents, or an employee acting at their direction) if the individual has:
- had his or her professional license suspended for cause (other than failure to pay a professional license fee);

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- been convicted of a crime involving dishonesty or breach of trust;
- been censured, suspended, or disbarred under U.S. Treasury Department Circular 230, governing practice before the IRS;
- been sanctioned by a civil or criminal court; or
- demonstrated a pattern of willful disreputable conduct.

Also clarifies that registered accounting practitioners, registered accounting practitioner firms, and certified public accounting firms, all of which are subject to the jurisdiction of the State Board of Accountancy, are exempt from preparer regulations to the same extent as certified public accountants and other exempt individuals. Individuals acting as supervisors to exempt tax preparers are also exempt.

- 10 Powers additional.** Clarifies that the commissioner's powers and authority related to tax preparers are in addition to the commissioner's other powers.
- 11 Publication of list of tax preparers subject to penalties.** Expands the list of circumstances that require the commissioner to include a preparer on the published list of preparers subject to penalty to preparers who have been:
- convicted of crimes related to identity theft;
 - subject to administrative penalty for more than one violation of the standards of conduct or regulations related to RALs and RACs;
 - issued a cease and desist order that has become final; or
 - subject to administrative penalty for failure to obey a cease and desist order.
- Publication does not apply if convictions or orders are under appeal or if the time for appeal has not expired.
- 12 Notice to tax preparer.** Removes the requirement that the written notice to tax preparers of pending publication be made by certified mail; this will allow notice by methods other than the U.S. Mail.
- 13 Form of list.** Conforms language related to the commissioner's discretion over the medium and method of list publication to other changes in the article.
- 14 Removal from list.** Extends from 90 days to three years the time period after satisfaction of the preparer's sentence before the preparer may be removed from list; clarifies that this period includes probation and payment of penalties.
- 15 Civil action.** Requires the court to grant a permanent injunction or other appropriate relief if the commissioner shows that the preparer has violated a law administered by the commissioner or a cease and desist order under section 4 and adds Ramsey County District Court as a venue for DOR's civil action.
- 16 Injunction prohibiting specific conduct.** Adds violation of a cease and desist order under section 4 to the items that may be enjoined.

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- 17 Injunction prohibiting business activities.** Changes references from “tax return preparers” to “tax preparers” consistent with the definitions in section 1.
- 18 Enforcement of cease and desist orders.** Directs the court to consider allegations in a cease and desist order under section 4 as conclusively established for final orders.
- Grants the court new authority to enforce cease and desist orders, including an additional civil penalty of up to \$10,000 per violation of an order. Authorizes the commissioner to collect penalties as income tax liabilities. Prohibits the court from requiring the commissioner to post bond in actions under this section.
- 19 Tax preparers; civil penalties.** Extends the current law \$500 civil penalty for reckless disregard or willful understatement of tax in chapter 289A to claims for credit for military service in a combat zone, and replaces a definition of tax preparer with a reference to the definition in section 1.
- 20 Preparer identification number.** Imposes a \$500 civil penalty for failure to provide a tax preparer identification number. Also conforms chapter 289A requirements for provision of tax preparer identification numbers with changes in the article, including a cross-reference to the definition of tax preparer in section 1. This expands the requirement to additional tax types beyond the individual income tax.
- 21 Revisor instruction.** Directs the Revisor to recodify subdivisions relating to RALs and RACs into a new section 270C.4551 in the next compilation of Minnesota Statutes.
- 22 Repealer.** Repeals:
- section 270C.445, subdivision 1, which specifies the tax preparers subject to DOR oversight; that is replaced by the expanded definitions in section 1.
 - section 270C.447, subdivision 4, a definition of tax return preparer that is replaced by the consolidated definition in section 1.