

1.1 A bill for an act
1.2 relating to state government; economic development; establishing a private letter
1.3 ruling program; modifying tax assessment and penalty provisions; providing a
1.4 small business tax collection refund; providing funding for small business
1.5 development; appropriating money; amending Minnesota Statutes 2016, sections
1.6 270C.33, by adding a subdivision; 270C.34, subdivision 1; 289A.60, subdivision
1.7 1; proposing coding for new law in Minnesota Statutes, chapters 270C; 297A.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. **[270C.075] PRIVATE LETTER RULINGS.**

1.10 Subdivision 1. **Program established.** By January 1, 2018, the commissioner shall
1.11 establish and implement a program for issuing private letter rulings to taxpayers to provide
1.12 guidance as to how the commissioner will apply Minnesota tax law to a specific transaction,
1.13 arrangement, or other fact situation of the applying taxpayer. In establishing the terms of
1.14 the program, the commissioner may provide that rulings will not be issued in specified
1.15 subject areas, for categories of transactions, or under specified provisions of law, if the
1.16 commissioner determines doing so is in the best interests of the state and sound tax
1.17 administration.

1.18 Subd. 2. **Application procedure; fees.** (a) The commissioner shall establish an
1.19 application procedure and forms for a taxpayer to request a private letter ruling. The
1.20 commissioner may require the taxpayer to provide any supporting factual information and
1.21 certifications that the commissioner determines necessary or appropriate to issue a private
1.22 letter ruling. The requirements may vary based on the type of ruling requested.

1.23 (b) The commissioner may charge an applicant for the actual cost of preparing the private
1.24 letter ruling, including the cost of employee time, but the charge may not exceed \$1,000

2.1 per private letter ruling. Any fees collected under this section must be deposited in the
2.2 Revenue Department service and recovery special revenue fund, established under section
2.3 270C.15, and are appropriated to the commissioner to offset the cost of issuing private letter
2.4 rulings and related administrative costs.

2.5 (c) If the commissioner fails to issue a ruling to the taxpayer within 90 days after the
2.6 taxpayer's filing of a completed application, the commissioner must refund the application
2.7 fee to the taxpayer; however, the commissioner must issue a private letter ruling unless the
2.8 taxpayer withdraws the request.

2.9 Subd. 3. **Effect.** (a) A private letter ruling is binding on the commissioner with respect
2.10 to the taxpayer to whom the ruling is issued, if:

2.11 (1) there was no misstatement or omission of material facts in the application or other
2.12 information provided to the commissioner;

2.13 (2) the facts that subsequently developed were not materially different from the facts
2.14 upon which the ruling was based;

2.15 (3) the applicable statute, administrative rule, federal law referenced by state law, or
2.16 other relevant law has not changed; and

2.17 (4) the taxpayer acted in good faith in applying for and relying on the ruling.

2.18 (b) Private letter rulings have no precedential effect and may not be relied upon by a
2.19 taxpayer other than as provided by paragraph (a).

2.20 Subd. 4. **Public access.** The commissioner shall make private letter rulings issued under
2.21 this section available to the public on the department's Web site. The published rulings must
2.22 redact any information that would permit identification of the requesting taxpayer.

2.23 Subd. 5. **Legislative report.** (a) By January 31 of each odd-numbered year, the
2.24 commissioner shall report, in writing, to the legislature the following information for the
2.25 immediately preceding two calendar years:

2.26 (1) the number of applications for private letter rulings;

2.27 (2) the number of private letter rulings issued, including the number issued within the
2.28 90-day time period under subdivision 2, paragraph (c);

2.29 (3) the amount of application fees refunded, if any;

2.30 (4) the tax types for which rulings were requested;

2.31 (5) the types and characteristics of taxpayers applying for rulings; and

3.1 (6) any other information that the commissioner considers relevant to legislative oversight
 3.2 of the private letter ruling program.

3.3 (b) The report must be filed as provided in section 3.195, and copies must be provided
 3.4 to the chairs and ranking minority members of the committees of the house of representatives
 3.5 and the senate with jurisdiction over taxes and appropriations to the Department of Revenue.

3.6 **EFFECTIVE DATE.** This section is effective the day following final enactment, except
 3.7 that the first legislative report under subdivision 5 is due January 31, 2020.

3.8 Sec. 2. Minnesota Statutes 2016, section 270C.33, is amended by adding a subdivision to
 3.9 read:

3.10 Subd. 4a. **Limitations; sales, corporate, and income taxes.** (a) The provisions of this
 3.11 subdivision are a limitation on the assessment authority of the commissioner under this
 3.12 section.

3.13 (b) The commissioner must not assess additional tax due under chapter 290 or 297A if
 3.14 each of the following requirements are met:

3.15 (1) the tax reported by the taxpayer is consistent with and based on past reporting or
 3.16 other practices of the taxpayer that were fully disclosed to the commissioner and were
 3.17 approved, in writing, to the taxpayer by the commissioner, including by issuing an audit
 3.18 assessing no additional tax liability with respect to that item for a prior taxable period; and

3.19 (2) effective for a taxable period beginning after the period covered by clause (1), neither
 3.20 the statute or administrative rule on which the reporting or other practice is based has been
 3.21 materially changed, nor has the commissioner issued a revenue notice or directly notified
 3.22 the taxpayer, in writing, of a change in the commissioner's position as to the proper reporting
 3.23 or other treatment of the relevant income, transaction, deduction, or other item.

3.24 (c) For an audit of a prior taxable period by the commissioner, paragraph (b), clause (1),
 3.25 applies only to the issues within the scope of and specifically addressed by the audit.

3.26 **EFFECTIVE DATE.** This section is effective for assessments made after June 30,
 3.27 2017.

3.28 Sec. 3. Minnesota Statutes 2016, section 270C.34, subdivision 1, is amended to read:

3.29 Subdivision 1. **Authority.** (a) The commissioner may abate, reduce, or refund any penalty
 3.30 or interest that is imposed by a law administered by the commissioner, or imposed by section
 3.31 270.0725, subdivision 1 or 2, or 270.075, subdivision 2, as a result of the late payment of

4.1 tax or late filing of a return, or any part of an additional tax charge under section 289A.25,
 4.2 subdivision 2, or 289A.26, subdivision 4, if the failure to timely pay the tax or failure to
 4.3 timely file the return is due to reasonable cause, or if the taxpayer is located in a presidentially
 4.4 declared disaster or in a presidentially declared state of emergency area or in an area declared
 4.5 to be in a state of emergency by the governor under section 12.31.

4.6 (b) The commissioner shall abate any part of a penalty or additional tax charge under
 4.7 section 289A.25, subdivision 2, or 289A.26, subdivision 4, attributable to erroneous advice
 4.8 given to the taxpayer in writing by an employee of the department acting in an official
 4.9 capacity, if the advice:

4.10 (1) was reasonably relied on and was in response to a specific written request of the
 4.11 taxpayer; and

4.12 (2) was not the result of failure by the taxpayer to provide adequate or accurate
 4.13 information.

4.14 (c) In addition to the authority under paragraphs (a) and (b), the commissioner may
 4.15 decline to impose or may abate any penalty under section 289A.60 or other law, or an
 4.16 additional tax change under section 289A.25, subdivision 2, or 289A.26, subdivision 4.

4.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.18 Sec. 4. Minnesota Statutes 2016, section 289A.60, subdivision 1, is amended to read:

4.19 Subdivision 1. **Penalty for failure to pay tax.** (a) If a corporate franchise, fiduciary
 4.20 income, mining company, estate, partnership, S corporation, or nonresident entertainer tax
 4.21 is not paid within the time specified for payment, a penalty of six percent is added to the
 4.22 unpaid tax, except that if a corporation or mining company meets the requirements of section
 4.23 289A.19, subdivision 2, the penalty is not imposed.

4.24 (b) For the taxes listed in paragraph (a), in addition to the penalty in that paragraph,
 4.25 whether imposed or not, if a return or amended return is filed after the due date, without
 4.26 regard to extensions, and any tax reported as remaining due is not remitted with the return
 4.27 or amended return, a penalty of five percent of the tax not paid is added to the tax. If the
 4.28 commissioner issues an order assessing additional tax for a tax listed in paragraph (a), and
 4.29 the tax is not paid within 60 days after the mailing of the order or, if appealed, within 60
 4.30 days after final resolution of the appeal, a penalty of five percent of the unpaid tax is added
 4.31 to the tax.

4.32 (c) If an individual income tax is not paid within the time specified for payment, a penalty
 4.33 of four percent is added to the unpaid tax. There is a presumption of reasonable cause for

5.1 the late payment if the individual: (i) pays by the due date of the return at least 90 percent
5.2 of the amount of tax, after credits other than withholding and estimated payments, shown
5.3 owing on the return; (ii) files the return within six months after the due date; and (iii) pays
5.4 the remaining balance of the reported tax when the return is filed.

5.5 (d) If the commissioner issues an order assessing additional individual income tax, and
5.6 the tax is not paid within 60 days after the mailing of the order or, if appealed, within 60
5.7 days after final resolution of the appeal, a penalty of four percent of the unpaid tax is added
5.8 to the tax.

5.9 (e) If a withholding or sales or use tax is not paid within the time specified for payment,
5.10 a penalty must be added to the amount required to be shown as tax. The penalty is five
5.11 percent of the tax not paid on or before the date specified for payment of the tax if the failure
5.12 is for not more than 30 days, with an additional penalty of five percent of the amount of tax
5.13 remaining unpaid during each additional 30 days or fraction of 30 days during which the
5.14 failure continues, not exceeding 15 percent in the aggregate.

5.15 (f) No penalty applies under this subdivision if the total calculated penalty that would
5.16 otherwise apply under paragraphs (a) to (e) is less than \$150.

5.17 **EFFECTIVE DATE.** This section is effective for penalties imposed after June 30,
5.18 2017.

5.19 **Sec. 5. [297A.816] SMALL BUSINESS COLLECTION CREDIT.**

5.20 Subdivision 1. **Eligibility.** A retailer or seller that is a small business may apply to the
5.21 commissioner for a refund for the annual cost of employing a certified service provider or
5.22 a certified automated system to collect and remit the appropriate amount of sales taxes
5.23 collected on their sales.

5.24 Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the
5.25 meanings given in this subdivision.

5.26 (b) "Certified service provider" and "certified automated system" have the meanings
5.27 given in article II of the Streamlined Sales and Use Tax Agreement, as amended through
5.28 December 16, 2016.

5.29 (c) "Small business" means a small business as defined in section 645.445.

5.30 Subd. 3. **Application; administration.** Upon application on forms prescribed by the
5.31 commissioner, a refund of the costs under subdivision 1 must be paid to the qualifying small
5.32 business. The application must provide sufficient information to permit the commissioner

6.1 to verify that the business qualifies and to document the actual costs incurred. An applicant
 6.2 may file one application per calendar year for expenses incurred in its latest fiscal year
 6.3 ending prior to the date of application.

6.4 Subd. 4. **Interest.** Interest must be paid on the refund at the rate in section 270C.405,
 6.5 from 90 days after the refund claim is filed with the commissioner.

6.6 Subd. 5. **Appropriation.** The amount required to pay the refunds under this section is
 6.7 appropriated to the commissioner from the general fund.

6.8 **EFFECTIVE DATE.** This section is effective beginning with costs incurred after June
 6.9 30, 2017.

6.10 Sec. 6. **APPROPRIATIONS; ECONOMIC DEVELOPMENT.**

6.11 Subdivision 1. **Small business development centers.** \$7,000,000 in fiscal year 2018 is
 6.12 appropriated from the general fund to the commissioner of employment and economic
 6.13 development for grants to initiative foundations to provide financing for business start-ups,
 6.14 expansions, and maintenance and for business ownership transition and succession. Of the
 6.15 amount appropriated:

6.16 (1) \$1,000,000 is for a grant to the Southwest Initiative Foundation;

6.17 (2) \$1,000,000 is for a grant to the West Central Initiative Foundation;

6.18 (3) \$1,000,000 is for a grant to the Southern Minnesota Initiative Foundation;

6.19 (4) \$1,000,000 is for a grant to the Northwest Minnesota Foundation;

6.20 (5) \$1,000,000 is for a grant to the Initiative Foundation;

6.21 (6) \$1,000,000 is for a grant to the Northland Foundation; and

6.22 (7) \$1,000,000 is for a grant to the Urban Initiative Board under Minnesota Statutes,
 6.23 chapter 116M. Funds available under this clause are allocated as follows:

6.24 (i) 50 percent of the funds to projects in the counties of Dakota, Ramsey, and Washington;
 6.25 and

6.26 (ii) 50 percent of the funds to projects in the counties of Anoka, Carver, Hennepin, and
 6.27 Scott.

6.28 Subd. 2. **Initiative foundations.** \$..... in fiscal year 2018 and \$..... in fiscal year 2019
 6.29 are appropriated from the general fund to the commissioner of employment and economic
 6.30 development for expansion of business assistance services provided by business development
 6.31 specialists located in the northwest region, northeast region, west central region, southwest

7.1 region, southeast region, and Twin Cities metropolitan region offices established throughout
 7.2 the state. Funds under this section may be used to provide services including but not limited
 7.3 to business start-ups, expansion, location or relocation, finance, regulatory and permitting
 7.4 assistance, and other services determined by the commissioner. Business development
 7.5 specialists must, to the extent feasible, contact owners of new or expanded businesses within
 7.6 90 days of the business start-up or expansion to offer follow-up or consultative services, or
 7.7 other services or assistance upon request. The commissioner may also use funds under this
 7.8 section to increase the number of business development specialists in each region of the
 7.9 state, increase and expand the services provided through each regional office, and publicize
 7.10 the services available and provide outreach to communities in each region regarding services
 7.11 and assistance available through the business development specialist program.

7.12 Subd. 3. **Business development specialists.** (a) \$500,000 in fiscal year 2018 is
 7.13 appropriated from the general fund to the commissioner of employment and economic
 7.14 development for small business development center services to support business transition
 7.15 planning. For the purposes of this section, business transition planning includes but is not
 7.16 limited to:

7.17 (1) succession planning for next generation proprietors. For the purposes of this clause,
 7.18 "next generation proprietors" does not include immediate family members of the current
 7.19 business owner;

7.20 (2) matching business owners seeking to sell existing businesses with aspiring business
 7.21 owners. Matching services under this clause may be targeted to small businesses located in
 7.22 economically disadvantaged communities or areas of declining population. For the purposes
 7.23 of this clause, "economically disadvantaged communities" means communities in which
 7.24 the average household income is less than 80 percent of the statewide median household
 7.25 income as measured by the United States Census Bureau or communities that contain two
 7.26 or more contiguous census tracts in which the average household income is less than 80
 7.27 percent of the statewide median household income as measured by the United States Census
 7.28 Bureau; and

7.29 (3) providing information and counseling services to business owners, prospective
 7.30 owners, and others regarding the importance of business transition and succession planning,
 7.31 the transition and succession process, and financing options and requirements related to the
 7.32 business transition and succession process.

7.33 (b) Funds available under this section may be used to:

7.34 (1) provide the necessary information and services under paragraph (a);

8.1 (2) build small business development center staff capacity to provide business transition
8.2 and succession planning services; and

8.3 (3) match funds under the federal Small Business Development Center Program under
8.4 United States Code, title 15, section 648, and other federal, state, or local funds available
8.5 for the purposes of this section.

8.6 Subd. 4. **Bureau of small business promotion activities.** \$..... in fiscal year 2018 and
8.7 \$..... in fiscal year 2019 are appropriated from the general fund to the commissioner of
8.8 employment and economic development to enhance the outreach and public awareness
8.9 activities of the Bureau of Small Business under Minnesota Statutes, section 116J.68.

8.10 Subd. 5. **Private letter ruling program.** \$..... in fiscal year 2018 and \$..... in fiscal
8.11 year 2019 are appropriated from the general fund to the commissioner of revenue to establish
8.12 and administer the private letter ruling program under Minnesota Statutes, section 270C.075.
8.13 The amounts of these appropriations are reduced by any amounts collected by the
8.14 commissioner under Minnesota Statutes, section 270C.075, subdivision 2, paragraph (b),
8.15 and deposited in the special revenue fund during the applicable fiscal year.