

**SENATE**  
**STATE OF MINNESOTA**  
**NINETIETH SESSION**

**S.F. No. 3712**

(SENATE AUTHORS: CHAMBERLAIN, Rest and Dziedzic)

DATE  
03/21/2018

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Introduction and first reading  
Referred to Taxes

OFFICIAL STATUS

1.1 A bill for an act

1.2 relating to taxation; making policy changes to property taxes, partnership tax, and

1.3 other miscellaneous tax provisions; amending Minnesota Statutes 2016, sections

1.4 162.145, subdivision 3; 270.41, subdivision 3; 270B.08, subdivision 2; 287.21,

1.5 subdivision 1; 289A.38, subdivision 10; 289A.42; 289A.60, subdivision 24;

1.6 297A.84; 297A.85; 297F.17, subdivision 6; 297G.16, subdivision 7; 469.190,

1.7 subdivisions 1, 7; 469.319, subdivision 4; Minnesota Statutes 2017 Supplement,

1.8 sections 270C.445, subdivision 6; 272.115, subdivision 1; 289A.31, subdivision

1.9 1; 289A.37, subdivision 2; 290.31, subdivision 1; proposing coding for new law

1.10 in Minnesota Statutes, chapter 289A; repealing Minnesota Statutes 2016, section

1.11 289A.38, subdivisions 7, 8, 9.

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

1.13 **ARTICLE 1**

1.14 **PROPERTY TAX**

1.15 Section 1. Minnesota Statutes 2016, section 162.145, subdivision 3, is amended to read:

1.16 Subd. 3. **Administration.** (a) Subject to funds made available by law, the commissioner

1.17 shall allocate all funds as provided in subdivision 4 and shall ~~notify~~, by June 1, certify to

1.18 the commissioner of revenue the amounts to be paid.

1.19 (b) Following ~~notification~~ certification from the commissioner of ~~transportation~~, the

1.20 commissioner of revenue shall distribute the specified funds to cities in the same manner

1.21 as local government aid under chapter 477A. An appropriation to the commissioner of

1.22 ~~transportation~~ under this section is available to the commissioner of revenue for the purposes

1.23 specified in this paragraph.

1.24 (c) Notwithstanding other law to the contrary, in order to receive distributions under

1.25 this section, a city must conform to the standards in section 477A.017, subdivision 2. A city

that receives funds under this section must make and preserve records necessary to show that the funds are spent in compliance with subdivision 4.

**EFFECTIVE DATE.** This section is effective for aids payable in 2018 and thereafter.

Sec. 2. Minnesota Statutes 2016, section 270.41, subdivision 3, is amended to read:

Subd. 3. **Assessor sanctions; refusal to license.** (a) Following a recommendation from the commissioner of revenue, the board may (i) refuse to grant or renew, or may suspend or revoke, a license of an applicant or licensee, or (ii) censure, warn, or fine any licensed assessor, or any other person employed by an assessment jurisdiction or contracting with an assessment jurisdiction for the purpose of valuing or classifying property for property tax purposes, for any of the following causes or acts:

(1) failure to complete required training;

(2) inefficiency or neglect of duty;

(3) failure to comply with the Code of Conduct and Ethics for Licensed Minnesota Assessors adopted by the board pursuant to Laws 2005, First Special Session chapter 3, article 1, section 38;

(4) conviction of a crime involving moral turpitude;

(5) failure to faithfully and fully perform his or her duties through malfeasance, misfeasance, or nonfeasance; or

(6) any other cause or act that in the board's opinion warrants a refusal to issue a license or the imposition of a sanction provided under this subdivision.

(b) When appropriate for the level of infraction, a written warning must be given to assessors who have no prior identified infractions. The warning must identify the infraction and, as appropriate, detail future expectations of performance and behavior. Fines must not exceed \$1,000 for the first occurrence and must not exceed \$3,000 for each occurrence thereafter, and suspensions must not exceed one year for each occurrence, depending in each case upon the severity of the infraction and the level of negligence or intent. The commissioner of revenue shall give notice to an applicant or licensee of the commissioner's recommendation that the board impose sanctions or refuse to grant or renew a license. An action by the board to impose a ~~sanction~~ fine, to suspend or revoke a license, or to refuse to grant or renew a license is subject to review in a contested case hearing under chapter 14. A licensee must submit a request for a hearing to the board within 30 days of the notice

3.1 date of the commissioner's recommendation for sanctions or for refusal to grant or renew  
3.2 a license.

3.3 **EFFECTIVE DATE.** This section is effective for sanctions or refusals to grant or renew  
3.4 a license recommended by the commissioner of revenue after June 30, 2018.

3.5 Sec. 3. Minnesota Statutes 2017 Supplement, section 272.115, subdivision 1, is amended  
3.6 to read:

3.7 Subdivision 1. **Requirement.** Except as otherwise provided in subdivision 5, 6, or 7,  
3.8 whenever any real estate is sold for a consideration in excess of ~~\$1,000~~ \$3,000, whether by  
3.9 warranty deed, quitclaim deed, contract for deed or any other method of sale, the grantor,  
3.10 grantee or the legal agent of either shall file a certificate of value with the county auditor  
3.11 in the county in which the property is located when the deed or other document is presented  
3.12 for recording. Contract for deeds are subject to recording under section 507.235, subdivision  
3.13 1. Value shall, in the case of any deed not a gift, be the amount of the full actual consideration  
3.14 thereof, paid or to be paid, including the amount of any lien or liens assumed. The items  
3.15 and value of personal property transferred with the real property must be listed and deducted  
3.16 from the sale price. The certificate of value shall include the classification to which the  
3.17 property belongs for the purpose of determining the fair market value of the property, and  
3.18 shall include any proposed change in use of the property known to the person filing the  
3.19 certificate that could change the classification of the property. The certificate shall include  
3.20 financing terms and conditions of the sale which are necessary to determine the actual,  
3.21 present value of the sale price for purposes of the sales ratio study. If the property is being  
3.22 acquired as part of a like-kind exchange under section 1031 of the Internal Revenue Code  
3.23 of 1986, as amended through December 31, 2006, that must be indicated on the certificate.  
3.24 The commissioner of revenue shall promulgate administrative rules specifying the financing  
3.25 terms and conditions which must be included on the certificate. The certificate of value  
3.26 must include the Social Security number or the federal employer identification number of  
3.27 the grantors and grantees. However, a married person who is not an owner of record and  
3.28 who is signing a conveyance instrument along with the person's spouse solely to release  
3.29 and convey their marital interest, if any, in the real property being conveyed is not a grantor  
3.30 for the purpose of the preceding sentence. A statement in the deed that is substantially in  
3.31 the following form is sufficient to allow the county auditor to accept a certificate for filing  
3.32 without the Social Security number of the named spouse: "(Name) claims no ownership  
3.33 interest in the real property being conveyed and is executing this instrument solely to release  
3.34 and convey a marital interest, if any, in that real property." The identification numbers of  
3.35 the grantors and grantees are private data on individuals or nonpublic data as defined in

section 13.02, subdivisions 9 and 12, but, notwithstanding that section, the private or nonpublic data may be disclosed to the commissioner of revenue for purposes of tax administration. The information required to be shown on the certificate of value is limited to the information required as of the date of the acknowledgment on the deed or other document to be recorded.

**EFFECTIVE DATE.** This section is effective for certificates of value filed after December 31, 2018.

Sec. 4. Minnesota Statutes 2016, section 287.21, subdivision 1, is amended to read:

Subdivision 1. **Determination of tax.** (a) A tax is imposed on each deed or instrument by which any real property in this state is granted, assigned, transferred, or otherwise conveyed. The tax applies against the net consideration. For purposes of the tax, the conversion of a corporation to a limited liability company, a limited liability company to a corporation, a partnership to a limited partnership, a limited partnership to another limited partnership or other entity, or a similar conversion of one entity to another does not grant, assign, transfer, or convey real property.

(b) The tax is determined in the following manner: (1) when transfers are made by instruments pursuant to (i) consolidations or mergers, or (ii) designated transfers, the tax is \$1.65; (2) when there is no consideration or when the consideration, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, is ~~\$500~~ \$3,000 or less, the tax is \$1.65; or (3) when the consideration, exclusive of the value of any lien or encumbrance remaining at the time of sale, exceeds ~~\$500~~ \$3,000, the tax is .0033 of the net consideration.

(c) If, within six months from the date of a designated transfer, an ownership interest in the grantee entity is transferred by an initial owner to any person or entity with the result that the designated transfer would not have been a designated transfer if made to the grantee entity with its subsequent ownership, then a tax is imposed at .0033 of the net consideration for the designated transfer. If the subsequent transfer of ownership interests was reasonably expected at the time of the designated transfer, the applicable penalty under section 287.31, subdivision 1, must be paid. The deed tax imposed under this paragraph is due within 30 days of the subsequent transfer that caused the tax to be imposed under this paragraph. Involuntary transfers of ownership shall not be considered transfers of ownership under this paragraph. The commissioner may adopt rules defining the types of transfers to be considered involuntary.

(d) The tax is due at the time a taxable deed or instrument is presented for recording, except as provided in paragraph (c). The commissioner may require the tax to be documented in a manner prescribed by the commissioner, and may require that the documentation be attached to and recorded as part of the deed or instrument. The county recorder or registrar of titles shall accept the attachment for recording as part of the deed or instrument and may not require, as a condition of recording a deed or instrument, evidence that a transfer is a designated transfer in addition to that required by the commissioner. Such an attachment shall not, however, provide actual or constructive notice of the information contained therein for purposes of determining any interest in the real property. The commissioner shall prescribe the manner in which the tax due under paragraph (c) is to be paid and may require grantees of designated transfers to file with the commissioner subsequent statements verifying that the tax provided under paragraph (c) does not apply.

**EFFECTIVE DATE.** This section is effective for deeds recorded after December 31, 2018.

## ARTICLE 2

### MISCELLANEOUS

Section 1. Minnesota Statutes 2016, section 270B.08, subdivision 2, is amended to read:

Subd. 2. **Revocation or cancellation.** When a taxpayer's sales tax permit has been revoked or canceled under section 270C.722 or 297A.84, the commissioner may disclose to any person data identifying the holder of the revoked or canceled permit, ~~stating~~ the basis for the revocation or cancellation, the date of the revocation or cancellation, and ~~stating~~ whether the if a revoked or canceled permit has been reinstated, the date upon which the permit was reinstated.

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

Sec. 2. Minnesota Statutes 2016, section 297A.84, is amended to read:

### **297A.84 PERMITS ISSUED AND NOT ISSUED; CANCELLATION.**

Subdivision 1. **Definitions.** (a) The following definitions apply for the purposes of this section.

(b) "Applicant" means an individual, corporation, or partnership. Applicant also includes any officer of a corporation or member of a partnership.

(c) "Delinquent sales tax" means tax not paid by the date the tax was due and payable under section 289A.20, subdivision 4, or an assessment not paid if the applicant has been issued an order assessing sales and use tax under section 270C.33, subdivision 4.

Subd. 2. **Permits issued.** Except as provided in subdivision 3, the commissioner shall  
must issue a permit to each applicant who has complied with section 297A.83, and with section 297A.92 if security is required. A person is considered to have a permit if the person has a Minnesota tax identification number issued by the commissioner that is currently active for taxes imposed by this chapter. A permit is valid until canceled or revoked. It is not assignable and is valid only for the person in whose name it is granted and for the transaction of business at the places designated on the permit.

Subd. 3. **Permits not issued.** (a) Except as provided in paragraph (b), the commissioner must not issue a permit to an applicant if the applicant is liable for delinquent sales tax.

(b) The commissioner must issue a permit to an applicant if an appeal period of an order assessing sales tax under section 270C.33, subdivision 5, has not ended. The commissioner may cancel a permit issued under this paragraph in the manner provided in subdivision 4 if the applicant owes delinquent sales tax after the appeal period has ended.

Subd. 4. **Nonconforming permits; cancellation; reissue.** (a) If the commissioner issues a permit that does not conform with the requirements of this section or applicable rules, the commissioner may cancel the permit upon notice to the permit holder. The notice must be served by first class and certified mail at the permit holder's last known address. The cancellation is effective immediately.

(b) If a permit holder shows that a canceled permit was issued in conformance with the requirements of this section and applicable rules, the commissioner must reissue the permit.

**EFFECTIVE DATE.** This section is effective for permit applications filed after December 31, 2018.

Sec. 3. Minnesota Statutes 2016, section 297A.85, is amended to read:

**297A.85 CANCELLATION OF PERMITS.**

The commissioner may cancel a permit if one of the following conditions occurs:

(1) the permit holder has not filed a sales or use tax return for at least one year;

(2) the permit holder has not reported any sales or use tax liability on the permit holder's returns for at least two years;

(3) the permit holder requests cancellation of the permit; ~~or~~

(4) the permit is subject to cancellation ~~pursuant to~~ under section 270C.722, subdivision 2, paragraph (a); or

(5) the permit is subject to cancellation under section 289A.84.

**EFFECTIVE DATE.** This section is effective for permit applications filed after December 31, 2018.

Sec. 4. Minnesota Statutes 2016, section 469.190, subdivision 1, is amended to read:

Subdivision 1. **Authorization.** (a) Notwithstanding section 477A.016 or any other law, a statutory or home rule charter city may by ordinance, and a town may by the affirmative vote of the electors at the annual town meeting, or at a special town meeting, impose a tax of up to three percent on the gross receipts from the furnishing for consideration of lodging at a hotel, motel, rooming house, tourist court, or resort, other than the renting or leasing of it for a continuous period of 30 days or more. A statutory or home rule charter city may by ordinance impose the tax authorized under this subdivision on the camping site receipts of a municipal campground.

(b) Regardless of whether the tax is collected locally or by the state, the tax imposed under this subdivision or under a special law applies to the entire consideration paid to obtain access to lodging, including ancillary or related services, such as services provided by an accommodations intermediary as defined in section 297A.61, subdivision 47, and similar services.

**EFFECTIVE DATE; APPLICATION.** This section is effective the day following final enactment. In enacting this section, the legislature confirms that Minnesota Statutes, section 469.190, its predecessor provisions, and any special laws authorizing political subdivisions to impose local lodging taxes, were and are intended to apply to the entire consideration paid to obtain access to lodging, including ancillary or related services, such as services provided by an accommodations intermediary as defined in Minnesota Statutes, section 297A.61, subdivision 47, and similar services. The provisions of this section must not be interpreted to imply a narrower construction of the tax base under the lodging tax provisions of Minnesota law prior to the enactment of this section.

Sec. 5. Minnesota Statutes 2016, section 469.190, subdivision 7, is amended to read:

Subd. 7. **Collection.** (a) The statutory or home rule charter city may agree with the commissioner of revenue that a tax imposed pursuant to this section shall be collected by the commissioner together with the tax imposed by chapter 297A, and subject to the same

interest, penalties, and other rules and that its proceeds, less the cost of collection, shall be remitted to the city.

(b) If a tax under this section or a special law is not collected by the commissioner of revenue, the local government imposing the tax may by ordinance limit the required filing and remittance of the tax by an accommodations intermediary as defined in section 297A.61, subdivision 47, to once every calendar year. If the ordinance limits the filing and remittance of the tax in this manner, then:

(1) the due date is October 20;

(2) the local government must inform the accommodations intermediary of the due date of the filing and remittance; and

(3) local government must also electronically provide an accommodations intermediary with geographic and zip code information necessary to collect the tax.

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

### ARTICLE 3

#### PARTNERSHIP TAX

Section 1. Minnesota Statutes 2017 Supplement, section 270C.445, subdivision 6, is amended to read:

Subd. 6. **Enforcement; administrative order; penalties; cease and desist.** (a) The commissioner may impose an administrative penalty of not more than \$1,000 per violation of subdivision 3 or 5, or section 270C.4451, provided that a penalty may not be imposed for any conduct for which a tax preparer penalty is imposed under section 289A.60, subdivision 13. The commissioner may terminate a tax preparer's authority to transmit returns electronically to the state, if the commissioner determines the tax preparer engaged in a pattern and practice of violating this section. Imposition of a penalty under this paragraph is subject to the contested case procedure under chapter 14. The commissioner shall collect the penalty in the same manner as the income tax. There is no right to make a claim for refund under section 289A.50 of the penalty imposed under this paragraph. Penalties imposed under this paragraph are public data.

(b) In addition to the penalty under paragraph (a), if the commissioner determines that a tax preparer has violated subdivision 3 or 5, or section 270C.4451, the commissioner may issue an administrative order to the tax preparer requiring the tax preparer to cease and



9.1 desist from committing the violation. The administrative order may include an administrative  
9.2 penalty provided in paragraph (a).

9.3 (c) If the commissioner issues an administrative order under paragraph (b), the  
9.4 commissioner must send the order to the tax preparer addressed to the last known address  
9.5 of the tax preparer.

9.6 (d) A cease and desist order under paragraph (b) must:

9.7 (1) describe the act, conduct, or practice committed and include a reference to the law  
9.8 that the act, conduct, or practice violates; and

9.9 (2) provide notice that the tax preparer may request a hearing as provided in this  
9.10 subdivision.

9.11 (e) Within 30 days after the commissioner issues an administrative order under paragraph  
9.12 (b), the tax preparer may request a hearing to review the commissioner's action. The request  
9.13 for hearing must be made in writing and must be served on the commissioner at the address  
9.14 specified in the order. The hearing request must specifically state the reasons for seeking  
9.15 review of the order. The date on which a request for hearing is served by mail is the postmark  
9.16 date on the envelope in which the request for hearing is mailed.

9.17 (f) If a tax preparer does not timely request a hearing regarding an administrative order  
9.18 issued under paragraph (b), the order becomes a final order of the commissioner and is not  
9.19 subject to review by any court or agency.

9.20 (g) If a tax preparer timely requests a hearing regarding an administrative order issued  
9.21 under paragraph (b), the hearing must be commenced within ten days after the commissioner  
9.22 receives the request for a hearing.

9.23 (h) A hearing timely requested under paragraph (e) is subject to the contested case  
9.24 procedure under chapter 14, as modified by this subdivision. The administrative law judge  
9.25 must issue a report containing findings of fact, conclusions of law, and a recommended  
9.26 order within ten days after the completion of the hearing, the receipt of late-filed exhibits,  
9.27 or the submission of written arguments, whichever is later.

9.28 (i) Within five days of the date of the administrative law judge's report issued under  
9.29 paragraph (h), any party aggrieved by the administrative law judge's report may submit  
9.30 written exceptions and arguments to the commissioner. Within 15 days after receiving the  
9.31 administrative law judge's report, the commissioner must issue an order vacating, modifying,  
9.32 or making final the administrative order.

(j) The commissioner and the tax preparer requesting a hearing may by agreement lengthen any time periods prescribed in paragraphs (g) to (i).

(k) An administrative order issued under paragraph (b) is in effect until it is modified or vacated by the commissioner or an appellate court. The administrative hearing provided by paragraphs (e) to (i) and any appellate judicial review as provided in chapter 14 constitute the exclusive remedy for a tax preparer aggrieved by the order.

(l) The commissioner may impose an administrative penalty, in addition to the penalty under paragraph (a), up to \$5,000 per violation of a cease and desist order issued under paragraph (b). Imposition of a penalty under this paragraph is subject to the contested case procedure under chapter 14. Within 30 days after the commissioner imposes a penalty under this paragraph, the tax preparer assessed the penalty may request a hearing to review the penalty order. The request for hearing must be made in writing and must be served on the commissioner at the address specified in the order. The hearing request must specifically state the reasons for seeking review of the order. The cease and desist order issued under paragraph (b) is not subject to review in a proceeding to challenge the penalty order under this paragraph. The date on which a request for hearing is served by mail is the postmark date on the envelope in which the request for hearing is mailed. If the tax preparer does not timely request a hearing, the penalty order becomes a final order of the commissioner and is not subject to review by any court or agency. A penalty imposed by the commissioner under this paragraph may be collected and enforced by the commissioner as an income tax liability. There is no right to make a claim for refund under section 289A.50 of the penalty imposed under this paragraph. A penalty imposed under this paragraph is public data.

(m) If a tax preparer violates a cease and desist order issued under paragraph (b), the commissioner may terminate the tax preparer's authority to transmit returns electronically to the state. Termination under this paragraph is public data.

(n) A cease and desist order issued under paragraph (b) is public data when it is a final order.

(o) Notwithstanding any other law, the commissioner may impose a penalty or take other action under this subdivision against a tax preparer, with respect to a return, within the period to assess tax on that return as provided by ~~section~~ sections 289A.38 to 289A.384.

(p) Notwithstanding any other law, the imposition of a penalty or any other action against a tax preparer under this subdivision, other than with respect to a return, must be taken by the commissioner within five years of the violation of statute.

**EFFECTIVE DATE.** This section is effective for tax years beginning after December 31, 2017, except that for partnerships that make an election under Code of Federal Regulations, title 26, section 301.9100-22T, this section is effective retroactively and applies to the same tax periods to which the election relates.

Sec. 2. Minnesota Statutes 2017 Supplement, section 289A.31, subdivision 1, is amended to read:

Subdivision 1. **Individual income, fiduciary income, mining company, corporate franchise, and entertainment taxes.** (a) Individual income, fiduciary income, mining company, and corporate franchise taxes, and interest and penalties, must be paid by the taxpayer upon whom the tax is imposed, except in the following cases:

(1) the tax due from a decedent for that part of the taxable year in which the decedent died during which the decedent was alive and the taxes, interest, and penalty due for the prior years must be paid by the decedent's personal representative, if any. If there is no personal representative, the taxes, interest, and penalty must be paid by the transferees, as defined in section 270C.58, subdivision 3, to the extent they receive property from the decedent;

(2) the tax due from an infant or other incompetent person must be paid by the person's guardian or other person authorized or permitted by law to act for the person;

(3) the tax due from the estate of a decedent must be paid by the estate's personal representative;

(4) the tax due from a trust, including those within the definition of a corporation, as defined in section 290.01, subdivision 4, must be paid by a trustee; and

(5) the tax due from a taxpayer whose business or property is in charge of a receiver, trustee in bankruptcy, assignee, or other conservator, must be paid by the person in charge of the business or property so far as the tax is due to the income from the business or property.

(b) Entertainment taxes are the joint and several liability of the entertainer and the entertainment entity. The payor is liable to the state for the payment of the tax required to be deducted and withheld under section 290.9201, subdivision 7, and is not liable to the entertainer for the amount of the payment.

(c) The taxes imposed under sections 289A.35, paragraph (b), 289A.383, subdivision 3, and 290.0922 on partnerships are the joint and several liability of the partnership and the general partners.

12.1 **EFFECTIVE DATE.** This section is effective for tax years beginning after December  
12.2 31, 2017, except that for partnerships that make an election under Code of Federal  
12.3 Regulations, title 26, section 301.9100-22T, this section is effective retroactively and applies  
12.4 to the same tax periods to which the election relates.

12.5 Sec. 3. Minnesota Statutes 2017 Supplement, section 289A.37, subdivision 2, is amended  
12.6 to read:

12.7 Subd. 2. **Erroneous refunds.** (a) Except as provided in paragraph (b), an erroneous  
12.8 refund occurs when the commissioner issues a payment to a person that exceeds the amount  
12.9 the person is entitled to receive under law. An erroneous refund is considered an  
12.10 underpayment of tax on the date issued.

12.11 (b) To the extent that the amount paid does not exceed the amount claimed by the  
12.12 taxpayer, an erroneous refund does not include the following:

12.13 (1) any amount of a refund or credit paid pursuant to a claim for refund filed by a  
12.14 taxpayer, including but not limited to refunds of claims made under section 290.06,  
12.15 subdivision 23; 290.067; 290.0671; 290.0672; 290.0674; 290.0675; 290.0677; 290.068;  
12.16 290.0681; or 290.0692; or chapter 290A; or

12.17 (2) any amount paid pursuant to a claim for refund of an overpayment of tax filed by a  
12.18 taxpayer.

12.19 (c) The commissioner may make an assessment to recover an erroneous refund at any  
12.20 time within two years from the issuance of the erroneous refund. If all or part of the erroneous  
12.21 refund was induced by fraud or misrepresentation of a material fact, the assessment may  
12.22 be made at any time.

12.23 (d) Assessments of amounts that are not erroneous refunds under paragraph (b) must be  
12.24 conducted under ~~section~~ sections 289A.38 to 289A.384.

12.25 **EFFECTIVE DATE.** This section is effective for tax years beginning after December  
12.26 31, 2017, except that for partnerships that make an election under Code of Federal  
12.27 Regulations, title 26, section 301.9100-22T, this section is effective retroactively and applies  
12.28 to the same tax periods to which the election relates.

12.29 Sec. 4. Minnesota Statutes 2016, section 289A.38, subdivision 10, is amended to read:

12.30 Subd. 10. **Incorrect determination of federal adjusted gross income.** Notwithstanding  
12.31 any other provision of this chapter, if a taxpayer whose net income is determined under  
12.32 section 290.01, subdivision 19, omits from income an amount that will under the Internal

Revenue Code extend the statute of limitations for the assessment of federal income taxes, or otherwise incorrectly determines the taxpayer's federal adjusted gross income resulting in adjustments by the Internal Revenue Service, then the period of assessment and determination of tax will be that under the Internal Revenue Code. When a change is made to federal income during the extended time provided under this subdivision, the provisions under ~~subdivisions 7 to 9~~ sections 289A.381 to 289A.384 regarding additional extensions apply.

**EFFECTIVE DATE.** This section is effective for tax years beginning after December 31, 2017, except that for partnerships that make an election under Code of Federal Regulations, title 26, section 301.9100-22T, this section is effective retroactively and applies to the same tax periods to which the election relates.

Sec. 5. **[289A.381] DEFINITIONS; PARTNERSHIPS; FEDERAL ADJUSTMENTS.**

**Subdivision 1. Definitions relating to federal adjustments.** Unless otherwise specified, the definitions in this section apply for the purposes of sections 289A.381 to 289A.385.

**Subd. 2. Administrative adjustment request.** "Administrative adjustment request" means an administrative adjustment request filed by a partnership under section 6227 of the Internal Revenue Code.

**Subd. 3. Audited partnership.** "Audited partnership" means a partnership subject to a federal adjustment resulting from a partnership-level audit.

**Subd. 4. Corporate partner.** "Corporate partner" means a partner that is subject to tax under section 290.02.

**Subd. 5. Direct partner.** "Direct partner" means a partner that holds an immediate legal ownership interest in a partnership or pass-through entity.

**Subd. 6. Exempt partner.** "Exempt partner" means a partner that is exempt from taxes on its net income under section 290.05, subdivision 1.

**Subd. 7. Federal adjustment.** "Federal adjustment" means any change in an amount calculated under the Internal Revenue Code, whether to income, gross estate, a credit, an item of preference, or any other item that is used by a taxpayer to compute a tax administered under this chapter for the reviewed year whether that change results from action by the Internal Revenue Service or other competent authority, including a partnership-level audit, or the filing of an amended federal return, federal refund claim, or an administrative adjustment request by the taxpayer.

14.1 Subd. 8. **Federal adjustments report.** "Federal adjustments report" includes a method  
14.2 or form prescribed by the commissioner for use by a taxpayer to report federal adjustments,  
14.3 including an amended Minnesota tax return or a uniform multistate report.

14.4 Subd. 9. **Federal partnership representative.** "Federal partnership representative"  
14.5 means the person the partnership designates for the taxable year as the partnership's  
14.6 representative, or the person the Internal Revenue Service has appointed to act as the  
14.7 partnership representative, pursuant to section 6223(a) of the Internal Revenue Code.

14.8 Subd. 10. **Final determination date.** (a) "Final determination date" means:

14.9 (1) for a federal adjustment arising from an audit by the Internal Revenue Service or  
14.10 other competent authority, the first day on which no federal adjustment arising from that  
14.11 audit remains to be finally determined, whether by agreement, or, if appealed or contested,  
14.12 by a final decision with respect to which all rights of appeal have been waived or exhausted;

14.13 (2) for a federal adjustment arising from the filing of an amended federal return, a federal  
14.14 refund claim, or the filing by a partnership of an administrative adjustment request, the day  
14.15 which the amended return, refund claim, or administrative adjustment request was filed; or

14.16 (3) for agreements required to be signed by the Internal Revenue Service and the taxpayer,  
14.17 the date on which the last party signed the agreement.

14.18 Subd. 11. **Final federal adjustment.** "Final federal adjustment" means a federal  
14.19 adjustment for which the final determination date for that federal adjustment has passed.

14.20 Subd. 12. **Indirect partner.** "Indirect partner" means either:

14.21 (1) a partner in a partnership or pass-through entity that itself holds an immediate legal  
14.22 ownership interest in another partnership or pass-through entity; or

14.23 (2) a partner in a partnership or pass-through entity that holds an indirect interest in  
14.24 another partnership or pass-through entity through another indirect partner.

14.25 Subd. 13. **Partner.** "Partner" means a person that holds an interest directly or indirectly  
14.26 in a partnership or other pass-through entity.

14.27 Subd. 14. **Partnership.** The term "partnership" has the meaning provided under section  
14.28 7701(a)(2) of the Internal Revenue Code.

14.29 Subd. 15. **Partnership-level audit.** "Partnership-level audit" means an examination by  
14.30 the Internal Revenue Service at the partnership level pursuant to subtitle F, chapter 63,  
14.31 subchapter C, of the Internal Revenue Code, which results in federal adjustments including  
14.32 reallocation adjustments and adjustments to partnership-related items.

15.1 Subd. 16. **Pass-through entity.** "Pass-through entity" means an entity, other than a  
15.2 partnership, that is not subject to the tax imposed under section 290.02. The term pass-through  
15.3 entity includes but is not limited to S corporations, estates, and trusts other than grantor  
15.4 trusts.

15.5 Subd. 17. **Reallocation adjustment.** "Reallocation adjustment" means a federal  
15.6 adjustment, or final federal adjustment, that changes the shares of items of partnership  
15.7 income, gain, loss, expense, or credit allocated to partners. The term positive reallocation  
15.8 adjustment means reallocation adjustments that would increase state taxable income for  
15.9 partners, and the term negative reallocation adjustment means reallocation adjustments that  
15.10 would decrease state taxable income for partners.

15.11 Subd. 18. **Resident partner.** "Resident partner" means an individual partner or individual  
15.12 indirect partner who is a resident of Minnesota under section 290.01, subdivision 7.

15.13 Subd. 19. **Reviewed year.** "Reviewed year" means the taxable year of a partnership that  
15.14 is subject to a partnership-level audit from which federal adjustments arise.

15.15 Subd. 20. **Tiered partner.** "Tiered partner" means any partner that is a partnership or  
15.16 pass-through entity.

15.17 Subd. 21. **Unrelated business taxable income.** "Unrelated business taxable income"  
15.18 has the same meaning as defined in section 512 of the Internal Revenue Code.

15.19 **EFFECTIVE DATE.** This section is effective for tax years beginning after December  
15.20 31, 2017, except that for partnerships that make an election under Code of Federal  
15.21 Regulations, title 26, section 301.9100-22T, this section is effective retroactively and applies  
15.22 to the same tax periods to which the election relates.

15.23 Sec. 6. **[289A.382] REPORTING FEDERAL ADJUSTMENTS; GENERAL RULE.**

15.24 (a) Within 180 days of a final determination date, a taxpayer must file a federal adjustment  
15.25 report with the commissioner reporting all final federal adjustments by the Internal Revenue  
15.26 Service or other competent authority.

15.27 (b) Within 180 days of a final determination date, a taxpayer must file a federal adjustment  
15.28 report with the commissioner reporting any federal adjustments reported by the taxpayer  
15.29 to the Internal Revenue Service, including but not limited to:

15.30 (1) federal refund claims;

15.31 (2) a change reported on a timely filed amended federal income tax return; and

16.1 (3) a change reported on an amended return filed pursuant to section 6225 of the Internal  
16.2 Revenue Code.

16.3 (c) In the case of a final federal adjustment arising from a partnership-level audit or an  
16.4 administrative adjustment request filed by a partnership under section 6227 of the Internal  
16.5 Revenue Code, a taxpayer must report adjustments as provided for under section 289A.383,  
16.6 and not this section.

16.7 **EFFECTIVE DATE.** This section is effective for tax years beginning after December  
16.8 31, 2017, except that for partnerships that make an election under Code of Federal  
16.9 Regulations, title 26, section 301.9100-22T, this section is effective retroactively and applies  
16.10 to the same tax periods to which the election relates.

16.11 Sec. 7. **[289A.383] REPORTING AND PAYMENT REQUIREMENTS.**

16.12 Subdivision 1. **State partnership representative.** (a) With respect to an action required  
16.13 or permitted to be taken by a partnership under this section, or in a proceeding under section  
16.14 270C.35 or 271.06, the state partnership representative for the reviewed year shall have the  
16.15 sole authority to act on behalf of the partnership, and its partners and indirect partners shall  
16.16 be bound by those actions.

16.17 (b) The state partnership representative for the reviewed year is the partnership's federal  
16.18 partnership representative unless the partnership, in a form and manner prescribed by the  
16.19 commissioner, designates another person as its state partnership representative.

16.20 Subd. 2. **Reporting and payment requirements for partnerships and tiered partners.**

16.21 (a) Unless an audited partnership makes the election in subdivision 3, then, for all final  
16.22 federal adjustments the audited partnership must comply with paragraph (b) and each direct  
16.23 partner of the audited partnership, other than a tiered partner, must comply with paragraph  
16.24 (c).

16.25 (b) No later than 90 days after the final determination date, the audited partnership must:

16.26 (1) file a completed federal adjustment report, including all partner-level information  
16.27 required under section 289A.12, subdivision 3, with the commissioner;

16.28 (2) notify each of its direct partners of their distributive share of the adjustments;

16.29 (3) file an amended composite report for all direct partners who were included in a  
16.30 composite return under section 289A.08, subdivision 7, in the reviewed year, and pay the  
16.31 additional amount that would have been due had the federal adjustments been reported  
16.32 properly as required; and



(4) file amended withholding reports for all direct partners who were or should have been subject to nonresident withholding under section 290.92, subdivision 4b, in the reviewed year, and pay the additional amount that would have been due had the federal adjustments been reported properly as required.

(c) No later than 180 days after the final determination date, each direct partner, other than a tiered partner, that is subject to a tax administered under this chapter, other than the sales tax, must:

(1) file a federal adjustment report reporting their distributive share of the adjustments reported to them under paragraph (b), clause (2); and

(2) pay any additional amount of tax due as if the final federal adjustment had been properly reported, plus any penalty and interest due under this chapter, and less any credit for related amounts paid or withheld and remitted on behalf of the direct partner under paragraph (b), clauses (3) and (4).

**Subd. 3. Election; partnership or tiered partners pay; commissioner's powers. (a)**  
An audited partnership may make an election under this subdivision to pay its assessment at the entity level. If an audited partnership makes an election to pay its assessment at the entity level it must:

(1) no later than 90 days after the final determination date, file a completed federal adjustment report, including the residency information for all individual partners, both direct and indirect, and information pertaining to all other partners as prescribed by the commissioner, and notify the commissioner that it is making the election under this subdivision; and

(2) no later than 180 days after the final determination date, pay an amount, determined as follows, in lieu of taxes on partners:

(i) exclude from final federal adjustments and any positive reallocation adjustments the distributive share of these adjustments made to an exempt partner that is not unrelated business taxable income;

(ii) exclude from final federal adjustments and any positive reallocation adjustments the distributive share of these adjustments made to a partner that has filed a federal adjustment report and paid the applicable tax, as required under subdivision 2, for the distributive share of adjustments reported on a federal return under section 6225 of the Internal Revenue Code;

18.1 (iii) allocate at the partner level using section 290.17, subdivision 1, all final federal  
18.2 adjustments and positive reallocation adjustments attributable to resident partners, both  
18.3 direct and indirect, for the reviewed year;

18.4 (iv) allocate and apportion at the partnership level using sections 290.17 to 290.20 all  
18.5 remaining final federal adjustments and positive reallocation adjustments for the reviewed  
18.6 year;

18.7 (v) determine the total distributive share of the allocated and apportioned final federal  
18.8 adjustments and positive reallocation adjustments determined in items (iii) and (iv) that are  
18.9 attributable to:

18.10 (A) resident partners;

18.11 (B) corporate partners and exempt partners; and

18.12 (C) the total distributive share amount allocated to all other partners;

18.13 (vi) for the total distributive share of net final federal adjustments plus positive  
18.14 reallocation adjustments attributed to corporate partners and exempt partners under item  
18.15 (v), subitem (B), multiply the total by the highest tax rate in section 290.06, subdivision 1,  
18.16 for the reviewed year, and calculate interest and penalties as applicable under this chapter;

18.17 (vii) for the total distributive share of net final federal adjustments plus positive  
18.18 reallocation adjustments attributable to resident partners, and all other partners under item  
18.19 (v), subitems (A) and (C), multiply the total by the highest tax rate in section 290.06,  
18.20 subdivision 2c, for the reviewed year, and calculate interest and penalties as applicable  
18.21 under this chapter; and

18.22 (viii) add the amount determined in item (vi) to the amount determined in item (vii),  
18.23 and pay all applicable taxes, penalties, and interest to the commissioner.

18.24 (b) Unless the commissioner determines otherwise, the election under this subdivision  
18.25 is not available for reporting an adjustment made pursuant to an administrative adjustment  
18.26 request.

18.27 Subd. 4. **Tiered partners and indirect partners.** (a) Each tiered partner and each  
18.28 indirect partner of an audited partnership that reported final federal adjustments pursuant  
18.29 to subdivision 2, paragraph (b), clause (1), or this subdivision, must:

18.30 (1) within 90 days of the report comply with the filing, reporting, and payment  
18.31 requirements of subdivision 2, paragraph (b); or

18.32 (2) make the election under subdivision 3 as though it were the audited partnership.

(b) Each direct partner in a partnership making a report under paragraph (a) must, within 180 days of the report, comply with the filing, reporting, and payment requirements of subdivision 2, paragraph (c).

(c) Notwithstanding the interim time requirements in this subdivision and subdivisions 2 and 3, all reports and payments required to be made by the tiered and indirect partners under this section are required to be made within 90 days after the time for the filing and furnishing of statements to tiered partners and their partners as established by the Internal Revenue Service under section 6226 of the Internal Revenue Code.

**Subd. 5. Effects of election by partnership or tiered partner and payment of amount due.** (a) Unless the commissioner determines otherwise, the election under subdivision 3 is irrevocable.

(b) If an audited partnership or tiered partner properly reports and pays an amount determined in subdivision 3, the amount will be treated as paid in lieu of taxes owed by the partnership's direct partners on the same final federal adjustments. The direct partners and indirect partners of the partnership who are not resident partners may not take any deduction or credit for this amount or claim a refund of the amount in this state.

(c) Nothing in this subdivision precludes resident partners from claiming a credit against taxes paid under section 290.06, on any amounts paid by the audited partnership or tiered partners on the resident partner's behalf to another state or local tax jurisdiction.

**Subd. 6. Failure of partnership or tiered partner to report or pay.** Nothing in this section prevents the commissioner from assessing partners or indirect partners for taxes they owe in the event that, for any reason, a partnership or tiered partner fails to timely make any report or payment required by this section.

**EFFECTIVE DATE.** This section is effective for tax years beginning after December 31, 2017, except that for partnerships that make an election under Code of Federal Regulations, title 26, section 301.9100-22T, this section is effective retroactively and applies to the same tax periods to which the election relates.

**Sec. 8. [289A.384] ASSESSMENT OF TAX, INTEREST, PENALTIES, AND ADDITIONAL AMOUNTS.**

**Subdivision 1. Assessment of additional tax, interest, and penalties.** The commissioner may assess additional tax, interest, and penalties following a final federal adjustment:

(1) arising from an audit by the Internal Revenue Service, including a partnership-level audit;

20.1 (2) reported by the taxpayer on an amended federal tax return; or

20.2 (3) as part of an administrative adjustment request on or before the dates provided in  
20.3 this section.

20.4 Subd. 2. **Timely and untimely reported federal adjustments.** If a taxpayer files a  
20.5 federal adjustment report, within or after the periods prescribed in section 289A.382 or  
20.6 289A.383, the commissioner may assess any additional Minnesota amounts including  
20.7 in-lieu-of amounts, taxes, interest, and penalties at the later of:

20.8 (1) the expiration of the period of limitations in section 289A.38; or

20.9 (2) the expiration of the one-year period following the date of the filing with the  
20.10 commissioner of the federal adjustments report.

20.11 Subd. 3. **Unreported reported federal adjustments.** If the taxpayer fails to file a federal  
20.12 adjustments report, the commissioner may assess additional amounts including in-lieu-of  
20.13 amounts, taxes, penalties, and interest, at the later of:

20.14 (1) the expiration of the period of limitations in section 289A.38; or

20.15 (2) the expiration of the six-year period following the final determination date.

20.16 **EFFECTIVE DATE.** This section is effective for tax years beginning after December  
20.17 31, 2017, except that for partnerships that make an election under Code of Federal  
20.18 Regulations, title 26, section 301.9100-22T, this section is effective retroactively and applies  
20.19 to the same tax periods to which the election relates.

20.20 Sec. 9. **[289A.385] CLAIMS FOR REFUND OR CREDITS OF STATE TAX**  
20.21 **ARISING FROM FINAL FEDERAL ADJUSTMENTS MADE BY THE INTERNAL**  
20.22 **REVENUE SERVICE.**

20.23 Notwithstanding the general period of limitations on claims for refund in section 289A.40,  
20.24 taxpayers subject to the reporting requirements of sections 289A.382 and 289A.383 may  
20.25 file claims for refund related to federal adjustments made by the Internal Revenue Service  
20.26 on or before the last day for the assessment of tax under section 289A.384.

20.27 **EFFECTIVE DATE.** This section is effective for tax years beginning after December  
20.28 31, 2017, except that for partnerships that make an election under Code of Federal  
20.29 Regulations, title 26, section 301.9100-22T, this section is effective retroactively and applies  
20.30 to the same tax periods to which the election relates.

21.1 Sec. 10. Minnesota Statutes 2016, section 289A.42, is amended to read:

21.2 **289A.42 CONSENT TO EXTEND STATUTE.**

21.3 Subdivision 1. **Extension agreement.** If before the expiration of time prescribed in  
 21.4 sections 289A.38 to 289A.384 and 289A.40 for the assessment of tax or the filing of a claim  
 21.5 for refund, both the commissioner and the taxpayer have consented in writing to the  
 21.6 assessment or filing of a claim for refund after that time, the tax may be assessed or the  
 21.7 claim for refund filed at any time before the expiration of the agreed-upon period. The  
 21.8 period may be extended by later agreements in writing before the expiration of the period  
 21.9 previously agreed upon. The taxpayer and the commissioner may also agree to extend the  
 21.10 period for collection of the tax.

21.11 Subd. 2. **Federal extensions.** When a taxpayer consents to an extension of time for the  
 21.12 assessment of federal withholding or income taxes, the period in which the commissioner  
 21.13 may recompute the tax is also extended, notwithstanding any period of limitations to the  
 21.14 contrary, as follows:

21.15 (1) for the periods provided in section ~~289A.38, subdivisions 8 and 9~~ 289A.384,  
 21.16 subdivisions 2 and 3;

21.17 (2) for six months following the expiration of the extended federal period of limitations  
 21.18 when no change is made by the federal authority. ~~If no change is made by the federal~~  
 21.19 ~~authority, and, but for this subdivision, the commissioner's time period to adjust the tax has~~  
 21.20 ~~expired, and if the commissioner has completed a field audit of the taxpayer, no additional~~  
 21.21 ~~changes resulting in additional tax due or a refund may be made. For purposes of this~~  
 21.22 ~~subdivision, "field audit" has the meaning given it in section 289A.38, subdivision 9.~~

21.23 **EFFECTIVE DATE.** This section is effective for tax years beginning after December  
 21.24 31, 2017, except that for partnerships that make an election under Code of Federal  
 21.25 Regulations, title 26, section 301.9100-22T, this section is effective retroactively and applies  
 21.26 to the same tax periods to which the election relates.

21.27 Sec. 11. Minnesota Statutes 2016, section 289A.60, subdivision 24, is amended to read:

21.28 Subd. 24. **Penalty for failure to notify of federal change.** If a person fails to report to  
 21.29 the commissioner a change or correction of the person's federal return in the manner and  
 21.30 time prescribed in ~~section 289A.38, subdivision 7~~ sections 289A.382 and 289A.383, there  
 21.31 must be added to the tax an amount equal to ten percent of the amount of any underpayment  
 21.32 of Minnesota tax attributable to the federal change.

22.1 **EFFECTIVE DATE.** This section is effective for tax years beginning after December  
22.2 31, 2017, except that for partnerships that make an election under Code of Federal  
22.3 Regulations, title 26, section 301.9100-22T, this section is effective retroactively and applies  
22.4 to the same tax periods to which the election relates.

22.5 Sec. 12. Minnesota Statutes 2017 Supplement, section 290.31, subdivision 1, is amended  
22.6 to read:

22.7 Subdivision 1. **Partners, not partnership, subject to tax.** Except as provided under  
22.8 ~~section~~ sections 289A.35, paragraph (b), and 289A.383, subdivision 3, a partnership as such  
22.9 shall not be subject to the income tax imposed by this chapter, but is subject to the tax  
22.10 imposed under section 290.0922. Persons carrying on business as partners shall be liable  
22.11 for income tax only in their separate or individual capacities.

22.12 **EFFECTIVE DATE.** This section is effective for tax years beginning after December  
22.13 31, 2017, except that for partnerships that make an election under Code of Federal  
22.14 Regulations, title 26, section 301.9100-22T, this section is effective retroactively and applies  
22.15 to the same tax periods to which the election relates.

22.16 Sec. 13. Minnesota Statutes 2016, section 297F.17, subdivision 6, is amended to read:

22.17 Subd. 6. **Time limit for bad debt refund.** Claims for refund must be filed with the  
22.18 commissioner during the one-year period beginning with the timely filing of the taxpayer's  
22.19 federal income tax return containing the bad debt deduction that is being claimed. Claimants  
22.20 under this subdivision are subject to the notice requirements of ~~section 289A.38, subdivision~~  
22.21 7 sections 289A.382 and 289A.383.

22.22 **EFFECTIVE DATE.** This section is effective for tax years beginning after December  
22.23 31, 2017, except that for partnerships that make an election under Code of Federal  
22.24 Regulations, title 26, section 301.9100-22T, this section is effective retroactively and applies  
22.25 to the same tax periods to which the election relates.

22.26 Sec. 14. Minnesota Statutes 2016, section 297G.16, subdivision 7, is amended to read:

22.27 Subd. 7. **Time limit for a bad debt deduction.** Claims for refund must be filed with  
22.28 the commissioner within one year of the filing of the taxpayer's income tax return containing  
22.29 the bad debt deduction that is being claimed. Claimants under this subdivision are subject  
22.30 to the notice requirements of ~~section 289A.38, subdivision 7~~ sections 289A.38 to 289A.384.

22.31 **EFFECTIVE DATE.** This section is effective for tax years beginning after December  
22.32 31, 2017, except that for partnerships that make an election under Code of Federal

23.1 Regulations, title 26, section 301.9100-22T, this section is effective retroactively and applies  
23.2 to the same tax periods to which the election relates.

23.3 Sec. 15. Minnesota Statutes 2016, section 469.319, subdivision 4, is amended to read:

23.4 Subd. 4. **Repayment procedures.** (a) For the repayment of taxes imposed under chapter  
23.5 290 or 297A or local taxes collected pursuant to section 297A.99, a business must file an  
23.6 amended return with the commissioner of revenue and pay any taxes required to be repaid  
23.7 within 30 days after becoming subject to repayment under this section. The amount required  
23.8 to be repaid is determined by calculating the tax for the period or periods for which repayment  
23.9 is required without regard to the exemptions and credits allowed under section 469.315.

23.10 (b) For the repayment of taxes imposed under chapter 297B, a business must pay any  
23.11 taxes required to be repaid to the motor vehicle registrar, as agent for the commissioner of  
23.12 revenue, within 30 days after becoming subject to repayment under this section.

23.13 (c) For the repayment of property taxes, the county auditor shall prepare a tax statement  
23.14 for the business, applying the applicable tax extension rates for each payable year and  
23.15 provide a copy to the business and to the taxpayer of record. The business must pay the  
23.16 taxes to the county treasurer within 30 days after receipt of the tax statement. The business  
23.17 or the taxpayer of record may appeal the valuation and determination of the property tax to  
23.18 the Tax Court within 30 days after receipt of the tax statement.

23.19 (d) The provisions of chapters 270C and 289A relating to the commissioner's authority  
23.20 to audit, assess, and collect the tax and to hear appeals are applicable to the repayment  
23.21 required under paragraphs (a) and (b). The commissioner may impose civil penalties as  
23.22 provided in chapter 289A, and the additional tax and penalties are subject to interest at the  
23.23 rate provided in section 270C.40. The additional tax shall bear interest from 30 days after  
23.24 becoming subject to repayment under this section until the date the tax is paid. Any penalty  
23.25 imposed pursuant to this section shall bear interest from the date provided in section 270C.40,  
23.26 subdivision 3, to the date of payment of the penalty.

23.27 (e) If a property tax is not repaid under paragraph (c), the county treasurer shall add the  
23.28 amount required to be repaid to the property taxes assessed against the property for payment  
23.29 in the year following the year in which the auditor provided the statement under paragraph  
23.30 (c).

23.31 (f) For determining the tax required to be repaid, a reduction of a state or local sales or  
23.32 use tax is deemed to have been received on the date that the good or service was purchased  
23.33 or first put to a taxable use. In the case of an income tax or franchise tax, including the credit

payable under section 469.318, a reduction of tax is deemed to have been received for the two most recent tax years that have ended prior to the date that the business became subject to repayment under this section. In the case of a property tax, a reduction of tax is deemed to have been received for the taxes payable in the year that the business became subject to repayment under this section and for the taxes payable in the prior year.

(g) The commissioner may assess the repayment of taxes under paragraph (d) any time within two years after the business becomes subject to repayment under subdivision 1, or within any period of limitations for the assessment of tax under ~~section 289A.38~~ sections 289A.38 to 289A.384, whichever period is later. The county auditor may send the statement under paragraph (c) any time within three years after the business becomes subject to repayment under subdivision 1.

(h) A business is not entitled to any income tax or franchise tax benefits, including refundable credits, for any part of the year in which the business becomes subject to repayment under this section nor for any year thereafter. Property is not exempt from tax under section 272.02, subdivision 64, for any taxes payable in the year following the year in which the property became subject to repayment under this section nor for any year thereafter. A business is not eligible for any sales tax benefits beginning with goods or services purchased or first put to a taxable use on the day that the business becomes subject to repayment under this section.

**EFFECTIVE DATE.** This section is effective for tax years beginning after December 31, 2017, except that for partnerships that make an election under Code of Federal Regulations, title 26, section 301.9100-22T, this section is effective retroactively and applies to the same tax periods to which the election relates.

Sec. 16. **REPEALER.**

Minnesota Statutes 2016, section 289A.38, subdivisions 7, 8, and 9, are repealed.

**EFFECTIVE DATE.** This section is effective for tax years beginning after December 31, 2017, except that for partnerships that make an election under Code of Federal Regulations, title 26, section 301.9100-22T, this section is effective retroactively and applies to the same tax periods to which the election relates.



APPENDIX  
Article locations in SF3712-0

ARTICLE 1 PROPERTY TAX..... Page.Ln 1.13

ARTICLE 2 MISCELLANEOUS..... Page.Ln 5.15

ARTICLE 3 PARTNERSHIP TAX..... Page.Ln 8.14

**289A.38 LIMITATIONS ON TIME FOR ASSESSMENT OF TAX.**

Subd. 7. **Federal tax changes.** If the amount of income, items of tax preference, deductions, or credits for any year of a taxpayer, or the wages paid by a taxpayer for any period, as reported to the Internal Revenue Service is changed or corrected by the commissioner of Internal Revenue or other officer of the United States or other competent authority, or where a renegotiation of a contract or subcontract with the United States results in a change in income, items of tax preference, deductions, credits, or withholding tax, or, in the case of estate tax, where there are adjustments to the taxable estate, the taxpayer shall report the change or correction or renegotiation results in writing to the commissioner. The report must be submitted within 180 days after the final determination and must be in the form of either an amended Minnesota estate, withholding tax, corporate franchise tax, or income tax return conceding the accuracy of the federal determination or a letter detailing how the federal determination is incorrect or does not change the Minnesota tax. An amended Minnesota income tax return must be accompanied by an amended property tax refund return, if necessary. A taxpayer filing an amended federal tax return must also file a copy of the amended return with the commissioner of revenue within 180 days after filing the amended return.

Subd. 8. **Failure to report change or correction of federal return.** If a taxpayer fails to make a report as required by subdivision 7, the commissioner may recompute the tax, including a refund, based on information available to the commissioner. The tax may be recomputed within six years after the report should have been filed, notwithstanding any period of limitations to the contrary.

Subd. 9. **Report made of change or correction of federal return.** If a taxpayer is required to make a report under subdivision 7, and does report the change or files a copy of the amended return, the commissioner may recompute and reassess the tax due, including a refund (1) within one year after the report or amended return is filed with the commissioner, notwithstanding any period of limitations to the contrary, or (2) within any other applicable period stated in this section, whichever period is longer. The period provided for the carryback of any amount of loss or credit is also extended as provided in this subdivision, notwithstanding any law to the contrary. If the commissioner has completed a field audit of the taxpayer, and, but for this subdivision, the commissioner's time period to adjust the tax has expired, the additional tax due or refund is limited to only those changes that are required to be made to the return which relate to the changes made on the federal return. This subdivision does not apply to sales and use tax.

For purposes of this subdivision and section 289A.42, subdivision 2, a "field audit" is the physical presence of examiners in the taxpayer's or taxpayer's representative's office conducting an examination of the taxpayer with the intention of issuing an assessment or notice of change in tax or which results in the issuing of an assessment or notice of change in tax. The examination may include inspecting a taxpayer's place of business, tangible personal property, equipment, computer systems and facilities, pertinent books, records, papers, vouchers, computer printouts, accounts, and documents.