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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1030

02/18/2015 Authored by Anderson, M., and Drazkowski
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; abolishing withholding taxes on wages; providing for
1.3 payment of estimated taxes on wages; amending Minnesota Statutes 2014,
1.4 sections 289A.09, subdivisions 1, 2; 289A.20, subdivision 2; 289A.31,
1.5 subdivision 5; 289A.38, subdivision 14; 289A.50, subdivision 3; 289A.60,
1.6 subdivision 11; 290.92, subdivisions 1, 2a, 4a, 9, 12, 24, 25, 26, 27, 28, 29;
1.7 290.9201, subdivision 7; proposing coding for new law in Minnesota Statutes,
1.8 chapter 289A; repealing Minnesota Statutes 2014, sections 270B.06, subdivision
1.9 3; 289A.63, subdivision 5; 290.92, subdivisions 3, 5, 5a, 10, 16, 19, 30.

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

1.11 Section 1. Minnesota Statutes 2014, section 289A.09, subdivision 1, is amended to read:

1.12 Subdivision 1. **Returns.** (a) ~~An employer who is required to deduct and withhold tax~~
1.13 ~~under section 290.92, subdivision 2a or 3, and~~ A person required to deduct and withhold
1.14 tax under section 290.923, subdivision 2, must file a return with the commissioner for each
1.15 quarterly period unless otherwise prescribed by the commissioner.

1.16 (b) A person or corporation required to make deposits under section 290.9201,
1.17 subdivision 8, must file an entertainer withholding tax return with the commissioner.

1.18 (c) A person required to withhold an amount under section 290.9705, subdivision 1,
1.19 must file a return.

1.20 (d) A partnership required to deduct and withhold tax under section 290.92,
1.21 subdivision 4b, must file a return.

1.22 (e) An S corporation required to deduct and withhold tax under section 290.92,
1.23 subdivision 4c, must also file a return.

1.24 (f) Returns must be filed in the form and manner, and contain the information
1.25 prescribed by the commissioner. Every return for taxes withheld must be signed by the
1.26 employer, entertainment entity, contract payor, partnership, or S corporation, or a designee.

2.1 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
2.2 December 31, 2015.

2.3 Sec. 2. Minnesota Statutes 2014, section 289A.09, subdivision 2, is amended to read:

2.4 Subd. 2. **Withholding statement.** (a) A person required to deduct and withhold
2.5 ~~from an employee a tax under section 290.92, subdivision 2a or 3, or 290.923, subdivision~~
2.6 ~~2, or who would have been required to deduct and withhold a tax under section 290.92,~~
2.7 ~~subdivision 2a or 3, or persons required to withhold tax under section 290.923, subdivision~~
2.8 ~~2, determined without regard to section 290.92, subdivision 19, if the employee or payee~~
2.9 ~~had claimed no more than one withholding exemption, or who paid wages or made~~
2.10 ~~payments not subject to withholding under section 290.92, subdivision 2a or 3, or 290.923,~~
2.11 ~~subdivision 2, to an employee or a person receiving royalty payments in excess of \$600,~~
2.12 ~~or who has entered into a voluntary withholding agreement with a payee under section~~
2.13 ~~290.92, subdivision 20, must give every employee or person receiving royalty payments in~~
2.14 ~~respect to the remuneration paid by the person to the employee or person receiving royalty~~
2.15 ~~payments during the calendar year, on or before January 31 of the succeeding year, or, if~~
2.16 ~~employment is terminated before the close of the calendar year, within 30 days after the~~
2.17 ~~date of receipt of a written request from the employee if the 30-day period ends before~~
2.18 ~~January 31, a written statement showing the following:~~

2.19 (1) name of the person;

2.20 (2) the name of the ~~employee or payee~~ and the ~~employee's or payee's~~ Social Security
2.21 ~~account~~ number;

2.22 (3) ~~the total amount of wages as that term is defined in section 290.92, subdivision~~
2.23 ~~1, paragraph (1); the total amount of remuneration subject to withholding under section~~
2.24 ~~290.92, subdivision 20; the amount of sick pay as required under section 6051(f) of the~~
2.25 ~~Internal Revenue Code; and the amount of royalties subject to withholding under section~~
2.26 ~~290.923, subdivision 2; and~~

2.27 (4) the total amount deducted and withheld as tax under section ~~290.92, subdivision~~
2.28 ~~2a or 3, or 290.923, subdivision 2.~~

2.29 (b) The statement required to be furnished by paragraph (a) with respect to any
2.30 remuneration must be furnished at those times, must contain the information required, and
2.31 must be in the form the commissioner prescribes.

2.32 (c) The commissioner may prescribe rules providing for reasonable extensions of
2.33 time, not in excess of 30 days, to employers or payers required to give the statements to
2.34 their employees or payees under this subdivision.

3.1 (d) A duplicate of any statement made under this subdivision and in accordance
 3.2 with rules prescribed by the commissioner, along with a reconciliation in the form the
 3.3 commissioner prescribes of the statements for the calendar year, including a reconciliation
 3.4 of the quarterly returns required to be filed under subdivision 1, must be filed with the
 3.5 commissioner on or before February 28 of the year after the payments were made.

3.6 ~~(e) If an employer cancels the employer's Minnesota withholding account number
 3.7 required by section 290.92, subdivision 24, the information required by paragraph (d),
 3.8 must be filed with the commissioner within 30 days of the end of the quarter in which
 3.9 the employer cancels its account number.~~

3.10 ~~(f) The employer must submit the statements required to be sent to the commissioner
 3.11 in the same manner required to satisfy the federal reporting requirements of section
 3.12 6011(e) of the Internal Revenue Code and the regulations issued under it. An employer
 3.13 must submit statements to the commissioner required by this section by electronic means
 3.14 if the employer is required to send more than 25 statements to the commissioner, even
 3.15 though the employer is not required to submit the returns federally by electronic means.
 3.16 For statements issued for wages paid in 2011 and after, the threshold is ten. All statements
 3.17 issued for withholding required under section 290.92 are aggregated for purposes of
 3.18 determining whether the electronic submission threshold is met.~~

3.19 ~~(g) A "third-party bulk filer" as defined in section 290.92, subdivision 30, paragraph
 3.20 (a), clause (2), must submit the returns required by this subdivision and subdivision 1,
 3.21 paragraph (a), with the commissioner by electronic means.~~

3.22 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 3.23 December 31, 2015.

3.24 Sec. 3. Minnesota Statutes 2014, section 289A.20, subdivision 2, is amended to read:

3.25 Subd. 2. **~~Withholding from wages, Entertainer withholding, withholding~~**
 3.26 **from payments to out-of-state contractors, and withholding by partnerships, small**
 3.27 **business corporations, trusts.** (a) A tax required to be deducted and withheld during the
 3.28 quarterly period must be paid on or before the last day of the month following the close of
 3.29 the quarterly period, unless an earlier time for payment is provided. A tax required to be
 3.30 deducted and withheld from compensation of an entertainer and from a payment to an
 3.31 out-of-state contractor must be paid on or before the date the return for such tax must be
 3.32 filed under section 289A.18, subdivision 2. Taxes required to be deducted and withheld
 3.33 by partnerships, S corporations, and trusts must be paid on a quarterly basis as estimated
 3.34 taxes under section 289A.25 for partnerships and trusts and under section 289A.26 for S
 3.35 corporations.

4.1 (b) ~~An employer~~ A person who, during the previous quarter, withheld more than
 4.2 \$1,500 of tax under section 290.92, ~~subdivision 2a or 3, or~~ 290.923, subdivision 2,
 4.3 must deposit tax withheld under those sections with the commissioner within the time
 4.4 allowed to deposit the employer's federal withheld employment taxes under Code of
 4.5 Federal Regulations, title 26, section 31.6302-1, as amended through December 31, 2001,
 4.6 without regard to the safe harbor or de minimis rules in paragraph (f) or the one-day rule
 4.7 in paragraph (c)(3). Taxpayers must submit a copy of their federal notice of deposit status
 4.8 to the commissioner upon request by the commissioner.

4.9 (c) The commissioner may prescribe by rule other return periods or deposit
 4.10 requirements. In prescribing the reporting period, the commissioner may classify payors
 4.11 according to the amount of their tax liability and may adopt an appropriate reporting
 4.12 period for the class that the commissioner judges to be consistent with efficient tax
 4.13 collection. In no event will the duration of the reporting period be more than one year.

4.14 (d) If less than the correct amount of tax is paid to the commissioner, proper
 4.15 adjustments with respect to both the tax and the amount to be deducted must be made,
 4.16 without interest, in the manner and at the times the commissioner prescribes. If the
 4.17 underpayment cannot be adjusted, the amount of the underpayment will be assessed and
 4.18 collected in the manner and at the times the commissioner prescribes.

4.19 (e) ~~If the aggregate amount of the tax withheld is \$10,000 or more in a fiscal year~~
 4.20 ~~ending June 30, the employer must remit each required deposit for wages paid in all~~
 4.21 ~~subsequent calendar years by electronic means.~~

4.22 (f) ~~A third-party bulk filer as defined in section 290.92, subdivision 30, paragraph~~
 4.23 ~~(a), clause (2), who remits withholding deposits must remit all deposits by electronic~~
 4.24 ~~means as provided in paragraph (e), regardless of the aggregate amount of tax withheld~~
 4.25 ~~during a fiscal year for all of the employers.~~

4.26 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 4.27 December 31, 2015.

4.28 Sec. 4. **[289A.251] ESTIMATED TAX ON WAGES.**

4.29 Subdivision 1. **Estimated tax.** An employee receiving wages, as those terms are
 4.30 defined in section 290.92, shall make payments of estimated tax. The term "estimated
 4.31 tax" means the amount the employee estimates is the sum of the taxes imposed by chapter
 4.32 290 for the taxable year.

4.33 Subd. 2. **Required installments.** There are 12 monthly required installments for a
 4.34 taxable year. Each installment is due on the 15th day of the month following the end of the
 4.35 month for which the installment is required.

5.1 Subd. 3. **Amount of installment.** (a) The amount of the installment required to be
 5.2 paid shall be determined by estimated tax tables prescribed by the commissioner under
 5.3 section 290.92, subdivision 2a.

5.4 (b) Notwithstanding paragraph (a), no payments of estimated tax are required if the
 5.5 estimated tax, as defined in this section, less the credits allowed against the tax, is less
 5.6 than

5.7 Subd. 4. **Addition to tax for underpayment.** In the case of any underpayment of
 5.8 estimated tax by an employee, except as provided in subdivision 5, there is added to and
 5.9 becomes part of the taxes imposed by chapter 290 for the taxable year for the period of
 5.10 the underpayment, an amount determined under section 270C.40 on the amount of the
 5.11 underpayment.

5.12 Subd. 5. **Period of underpayment.** (a) The period of the underpayment runs from
 5.13 the date the installment was required to be paid to the earlier of the following dates:

5.14 (1) the 15th day of the fourth month following the close of the taxable year; or

5.15 (2) with respect to any part of the underpayment, the date on which that part is
 5.16 paid. For purposes of this clause, a payment of estimated tax on an installment date is
 5.17 considered a payment of any unpaid required installments in the order in which the
 5.18 installments are required to be paid.

5.19 (b) If, on or before January 31 of the following taxable year, the taxpayer files a
 5.20 return for the taxable year and pays in full the amount computed on the return as payable,
 5.21 then no addition to tax is imposed under subdivision 4 with respect to any underpayment
 5.22 of the last required installment for the taxable year.

5.23 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 5.24 December 31, 2015.

5.25 Sec. 5. Minnesota Statutes 2014, section 289A.31, subdivision 5, is amended to read:

5.26 Subd. 5. ~~Withholding tax,~~ **Withholding from payments to out-of-state**
 5.27 **contractors, and withholding by partnerships and small business corporations.**

5.28 (a) Except as provided in paragraph (b), ~~an employer or~~ a person withholding tax
 5.29 under section 290.92 or 290.923, subdivision 2, who fails to pay to or deposit with the
 5.30 commissioner a sum or sums required by those sections to be deducted, withheld, and
 5.31 paid, is personally and individually liable to the state for the sum or sums, and added
 5.32 penalties and interest, and is not liable to another person for that payment or payments.
 5.33 The sum or sums deducted and withheld under section 290.92, ~~subdivision 2a or 3,~~ or
 5.34 290.923, subdivision 2, must be held as a special fund in trust for the state of Minnesota.

6.1 (b) If the employer or person withholding tax under section 290.92 or 290.923,
 6.2 subdivision 2, fails to deduct and withhold the tax in violation of those sections, and
 6.3 later the taxes against which the tax may be credited are paid, the tax required to be
 6.4 deducted and withheld will not be collected from the employer. This does not, however,
 6.5 relieve the employer from liability for any penalties and interest otherwise applicable for
 6.6 failure to deduct and withhold. ~~This paragraph does not apply to an employer subject to~~
 6.7 ~~paragraph (g).~~

6.8 (c) Liability for payment of withholding taxes includes a responsible person or entity
 6.9 described in the personal liability provisions of section 270C.56.

6.10 (d) ~~Liability for payment of withholding taxes includes a third-party lender or surety~~
 6.11 ~~described in section 270C.59.~~

6.12 (e) A partnership or S corporation required to withhold and remit tax under section
 6.13 290.92, subdivisions 4b and 4c, is liable for payment of the tax to the commissioner, and a
 6.14 person having control of or responsibility for the withholding of the tax or the filing of
 6.15 returns due in connection with the tax is personally liable for the tax due.

6.16 ~~(f)~~ (e) A payor of sums required to be withheld under section 290.9705, subdivision
 6.17 1, is liable to the state for the amount required to be deducted, and is not liable to an
 6.18 out-of-state contractor for the amount of the payment.

6.19 ~~(g) If an employer fails to withhold tax from the wages of an employee when~~
 6.20 ~~required to do so under section 290.92, subdivision 2a, by reason of treating such~~
 6.21 ~~employee as not being an employee, then the liability for tax is equal to three percent of~~
 6.22 ~~the wages paid to the employee. The liability for tax of an employee is not affected by~~
 6.23 ~~the assessment or collection of tax under this paragraph. The employer is not entitled to~~
 6.24 ~~recover from the employee any tax determined under this paragraph.~~

6.25 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 6.26 December 31, 2015.

6.27 Sec. 6. Minnesota Statutes 2014, section 289A.38, subdivision 14, is amended to read:

6.28 Subd. 14. **Failure to timely file withholding reconciliation.** If an employer a
 6.29 person fails to timely file the reconciliation required by section 289A.09, subdivision
 6.30 2, paragraph (d), withholding taxes may be assessed within the period prescribed in
 6.31 subdivision 1, or within one year from the date the reconciliation is filed with the
 6.32 commissioner, whichever is later.

6.33 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 6.34 December 31, 2015.

7.1 Sec. 7. Minnesota Statutes 2014, section 289A.50, subdivision 3, is amended to read:

7.2 Subd. 3. **Withholding tax and entertainer withholding tax refunds.** When
7.3 there is an overpayment of withholding tax by ~~an employer or~~ a person making royalty
7.4 payments, or an overpayment of entertainer withholding tax by the payor, a refund
7.5 allowable under this section is limited to the amount of the overpayment that was not
7.6 deducted and withheld ~~from employee wages or~~ from the royalty payments, or from the
7.7 compensation of an entertainer.

7.8 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
7.9 December 31, 2015.

7.10 Sec. 8. Minnesota Statutes 2014, section 289A.60, subdivision 11, is amended to read:

7.11 Subd. 11. **Penalties relating to information reports, withholding.** (a) When a
7.12 person required under section 289A.09, subdivision 2, to give a statement to ~~an employee~~
7.13 ~~or a~~ payee and a duplicate statement to the commissioner, or to give a reconciliation of the
7.14 statements and quarterly returns to the commissioner, gives a false or fraudulent statement
7.15 to ~~an employee or a~~ payee or a false or fraudulent duplicate statement or reconciliation of
7.16 statements and quarterly returns to the commissioner, or fails to give a statement or the
7.17 reconciliation in the manner, when due, and showing the information required by section
7.18 289A.09, subdivision 2, or rules prescribed by the commissioner under that section, that
7.19 person is liable for a penalty of \$50 for an act or failure to act. The total amount imposed
7.20 on the delinquent person for failures during a calendar year must not exceed \$25,000.

7.21 (b) ~~In addition to any other penalty provided by law, an employee who gives a~~
7.22 ~~withholding exemption certificate or a residency affidavit to an employer that decreases~~
7.23 ~~the amount withheld under section 290.92 and as of the time the certificate or affidavit was~~
7.24 ~~given to the employer there was no reasonable basis for the statements in the certificate or~~
7.25 ~~affidavit is liable to the commissioner of revenue for a penalty of \$500 for each instance.~~

7.26 (c) ~~In addition to any other penalty provided by law, an employer who fails to submit~~
7.27 ~~a copy of a withholding exemption certificate or a residency affidavit required by section~~
7.28 ~~290.92, subdivision 5a, paragraph (a), clause (1) or (2), or (b) is liable to the commissioner~~
7.29 ~~of revenue for a penalty of \$50 for each instance.~~

7.30 (d) ~~An employer or payor who fails to file an application for a withholding account~~
7.31 ~~number, as required by section 290.92, subdivision 24, is liable to the commissioner for~~
7.32 ~~a penalty of \$100.~~

7.33 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
7.34 December 31, 2015.

8.1 Sec. 9. Minnesota Statutes 2014, section 290.92, subdivision 1, is amended to read:

8.2 Subdivision 1. **Definitions.** (1) **Wages.** For purposes of this section, the term
8.3 "wages" means the same as that term is defined in section 3401(a) and (f) of the Internal
8.4 Revenue Code.

8.5 (2) **Payroll period.** For purposes of this section the term "payroll period" means a
8.6 period for which a payment of wages is ordinarily made to the employee by the employee's
8.7 employer, and the term "miscellaneous payroll period" means a payroll period other
8.8 than a daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannual, or annual
8.9 payroll period.

8.10 (3) **Employee.** For purposes of this section the term "employee" means any resident
8.11 individual performing services for an employer, either within or without, or both within
8.12 and without the state of Minnesota, and every nonresident individual performing services
8.13 within the state of Minnesota, the performance of which services constitute, establish, and
8.14 determine the relationship between the parties as that of employer and employee. As
8.15 used in the preceding sentence, the term "employee" includes an officer of a corporation,
8.16 and an officer, employee, or elected official of the United States, a state, or any political
8.17 subdivision thereof, or the District of Columbia, or any agency or instrumentality of
8.18 any one or more of the foregoing.

8.19 (4) **Employer.** For purposes of this section the term "employer" means any person,
8.20 including individuals, fiduciaries, estates, trusts, partnerships, limited liability companies,
8.21 and corporations transacting business in or deriving any income from sources within
8.22 the state of Minnesota for whom an individual performs or performed any service, of
8.23 whatever nature, as the employee of such person, except that if the person for whom the
8.24 individual performs or performed the services does not have control of the payment of
8.25 the wages for such services, the term "employer," except for purposes of paragraph (1),
8.26 means the person having control of the payment of such wages. As used in the preceding
8.27 sentence, the term "employer" includes any corporation, individual, estate, trust, or
8.28 organization which is exempt from taxation under section 290.05 and further includes, but
8.29 is not limited to, officers of corporations who have control, either individually or jointly
8.30 with another or others, of the payment of the wages.

8.31 (5) **Number of withholding estimated tax exemptions claimed.** For purposes of
8.32 this section, the term "number of withholding estimated tax exemptions claimed" means
8.33 the number of withholding estimated tax exemptions claimed ~~in a withholding exemption~~
8.34 ~~certificate in effect under subdivision 5, except that if no such certificate is in effect, the~~
8.35 ~~number of withholding exemptions claimed shall be considered to be zero.~~ for purposes
8.36 of filing estimated taxes on wages under section 289A.251. The employee may claim a

9.1 number of estimated tax exemptions not to exceed the number of withholding exemptions
 9.2 that the employee claims and that are allowable pursuant to section 3402(f)(1), (m), and
 9.3 (n) of the Internal Revenue Code for federal withholding purposes.

9.4 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 9.5 December 31, 2015.

9.6 Sec. 10. Minnesota Statutes 2014, section 290.92, subdivision 2a, is amended to read:

9.7 Subd. 2a. ~~Collection at source~~ Estimated tax tables. ~~(1) Deductions.~~ Every
 9.8 employer making payment of wages shall deduct and withhold upon such wages a tax as
 9.9 provided in this section.

9.10 ~~(2) Withholding on payroll period.~~ The employer shall withhold the tax on the
 9.11 basis of each payroll period or as otherwise provided in this section.

9.12 ~~(3) Withholding tables.~~ Unless the amount of tax to be withheld is determined as
 9.13 provided in subdivision 3, The amount of tax to be withheld for each individual estimated
 9.14 taxes on wages payable under section 289A.251 shall be based upon estimated tax tables
 9.15 to be prepared and distributed by the commissioner. The tables shall be computed for the
 9.16 several permissible withholding periods and shall take account of exemptions allowed
 9.17 under this section; and the amounts computed for withholding shall be such that the
 9.18 amount withheld for any individual during the individual's taxable year shall approximate
 9.19 in the aggregate as closely as possible the tax which is levied and imposed under this
 9.20 chapter for that taxable year, upon the individual's salary, wages, or compensation for
 9.21 personal services of any kind for the employer.

9.22 ~~(4) Miscellaneous payroll period.~~ If wages are paid with respect to a period which
 9.23 is not a payroll period, the amount to be deducted and withheld shall be that applicable
 9.24 in the case of a miscellaneous payroll period containing a number of days, including
 9.25 Sundays and holidays, equal to the number of days in the period with respect to which
 9.26 such wages are paid.

9.27 ~~(5) Miscellaneous payroll period.~~ (a) In any case in which wages are paid by
 9.28 an employer without regard to any payroll period or other period, the amount to be
 9.29 deducted and withheld shall be that applicable in the case of a miscellaneous payroll
 9.30 period containing a number of days equal to the number of days, including Sundays and
 9.31 holidays, which have elapsed since the date of the last payment of such wages by such
 9.32 employer during the calendar year, or the date of commencement of employment with
 9.33 such employer during such year, or January 1 of such year, whichever is the later.

9.34 (b) In any case in which the period, or the time described in clause (a), in respect
 9.35 of any wages is less than one week, the commissioner, under rules prescribed by the

10.1 commissioner, may authorize an employer to determine the amount to be deducted and
10.2 withheld under the tables applicable in the case of a weekly payroll period, in which
10.3 case the aggregate of the wages paid to the employee during the calendar week shall
10.4 be considered the weekly wages.

10.5 ~~(6) **Wages computed to nearest dollar.** If the wages exceed the highest bracket, in~~
10.6 ~~determining the amount to be deducted and withheld under this subdivision, the wages~~
10.7 ~~may, at the election of the employer, be computed to the nearest dollar.~~

10.8 ~~(7) **Rules on withholding.** The commissioner may, by rule, authorize employers:~~

10.9 ~~(a) to estimate the wages which will be paid to any employee in any quarter of~~
10.10 ~~the calendar year;~~

10.11 ~~(b) to determine the amount to be deducted and withheld upon each payment of~~
10.12 ~~wages to such employee during such quarter as if the appropriate average of the wages so~~
10.13 ~~estimated constituted the actual wages paid; and~~

10.14 ~~(c) to deduct and withhold upon any payment of wages to such employee during~~
10.15 ~~such quarter such amount as may be necessary to adjust the amount actually deducted and~~
10.16 ~~withheld upon wages of such employee during such quarter to the amount required to be~~
10.17 ~~deducted and withheld during such quarter without regard to this paragraph (7).~~

10.18 ~~(8) **Additional withholding.** The commissioner is authorized to provide by rule for~~
10.19 ~~increases or decreases in the amount of withholding otherwise required under this section~~
10.20 ~~in cases where the employee requests the changes. Such additional withholding shall for~~
10.21 ~~all purposes be considered tax required to be deducted and withheld under this section.~~

10.22 ~~(9) **Tips.** In the case of tips which constitute wages, this subdivision shall be~~
10.23 ~~applicable only to such tips as are included in a written statement furnished to the~~
10.24 ~~employer pursuant to section 6053 of the Internal Revenue Code and only to the extent~~
10.25 ~~that the tax can be deducted and withheld by the employer, at or after the time such~~
10.26 ~~statement is so furnished and before the close of the calendar year in which such statement~~
10.27 ~~is furnished, from such wages of the employee (excluding tips, but including funds turned~~
10.28 ~~over by the employee to the employer for the purpose of such deduction and withholding)~~
10.29 ~~as are under the control of the employer; and an employer who is furnished by an~~
10.30 ~~employee a written statement of tips (received in a calendar month) pursuant to section~~
10.31 ~~6053 of the Internal Revenue Code to which subdivision 1 is applicable may deduct and~~
10.32 ~~withhold the tax with respect to such tips from any wages of the employee (excluding tips)~~
10.33 ~~under the employer's control, even though at the time such statement is furnished the~~
10.34 ~~total amount of the tips included in statements furnished to the employer as having been~~
10.35 ~~received by the employee in such calendar month in the course of employment by such~~
10.36 ~~employer is less than \$20. Such tax shall not at any time be deducted and withheld in an~~

11.1 ~~amount which exceeds the aggregate of such wages and funds as are under the control~~
 11.2 ~~of the employer minus any tax required by other provisions of state or federal law to~~
 11.3 ~~be collected from such wages and funds.~~

11.4 ~~(10) **Vehicle fringe benefits.** An employer shall not deduct and withhold any tax~~
 11.5 ~~under this section with respect to any vehicle fringe benefit provided to an employee if the~~
 11.6 ~~employer has so elected for federal purposes and the requirement of and the definition~~
 11.7 ~~contained in section 3402(s) of the Internal Revenue Code are complied with.~~

11.8 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 11.9 December 31, 2015.

11.10 Sec. 11. Minnesota Statutes 2014, section 290.92, subdivision 4a, is amended to read:

11.11 Subd. 4a. ~~**Tax withheld from nonresidents**~~ **Wages paid to nonresident**
 11.12 **employees.** ~~(1) **"Wages" paid to nonresident employees.**~~ For the purposes of this
 11.13 section, the term "wages" means all remuneration taxable under this chapter including all
 11.14 remuneration paid to a nonresident employee for services performed in this state.

11.15 ~~(2) **"Employer," "wages" and "employee" concerning nonresidents.**~~
 11.16 Notwithstanding any other provision of this section, under rules to be prescribed by the
 11.17 commissioner of revenue, for purposes of this section ~~any person having control, receipt,~~
 11.18 ~~e custody, disposal or payment of compensation taxable under this chapter and earned by a~~
 11.19 ~~nonresident for personal services, shall be deemed an employer, any compensation taxable~~
 11.20 ~~under this chapter and earned by a nonresident for personal services shall be deemed~~
 11.21 ~~wages, and a nonresident entitled to compensation taxable under this chapter and earned~~
 11.22 ~~by the nonresident for personal services shall be deemed an employee.~~

11.23 When compensation for personal services is paid to a corporation in which all or
 11.24 substantially all of the shareholders are individual entertainers, performers or athletes who
 11.25 gave an entertainment or athletic performance in this state for which the compensation was
 11.26 paid, the compensation shall be deemed wages of the individual entertainers, performers
 11.27 or athletes and shall be subject to the provisions of this section. Advance payments of
 11.28 compensation for personal services to be performed in Minnesota shall be deemed wages
 11.29 and subject to the provisions of this section.

11.30 ~~(3) **Nonresidents, employer's duty.** The employer of any employee domiciled~~
 11.31 ~~in a state with which Minnesota has reciprocity under section 290.081 is not required~~
 11.32 ~~to withhold under this chapter from the wages earned by such employee in this state if~~
 11.33 ~~the employee annually submits to the employer an affidavit of residency in the form~~
 11.34 ~~prescribed by the commissioner. The affidavit must be submitted by the later of~~

11.35 ~~(i) 30 days after the employment date or~~

12.1 ~~(ii) August 31 for calendar year 1987 and February 28 for subsequent calendar years.~~

12.2 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 12.3 December 31, 2015.

12.4 Sec. 12. Minnesota Statutes 2014, section 290.92, subdivision 9, is amended to read:

12.5 Subd. 9. **Determination of tax due.** The commissioner may grant permission to
 12.6 ~~employers, or~~ persons withholding tax under section 290.923, subdivision 2, who do not
 12.7 desire to use the withholding tax tables provided in accordance with ~~paragraph (3) of~~
 12.8 ~~subdivision 2a, or~~ section 290.923, subdivision 2, to determine the amount of tax to be
 12.9 withheld by use of a method of withholding other than withholding tax tables, provided
 12.10 such method will withhold from each ~~employee or~~ person receiving royalty payments
 12.11 substantially the same amount of tax as would be withheld by use of the withholding tax
 12.12 tables. ~~Employers, or~~ Persons withholding tax under section 290.923, subdivision 2,
 12.13 who desire to determine the amount of tax to be withheld by a method other than by
 12.14 use of the withholding tax tables shall obtain permission from the commissioner before
 12.15 the beginning of a ~~payroll~~ period for which the ~~employer, or~~ person withholding tax
 12.16 under section 290.923, subdivision 2, desires to withhold the tax by such other method.
 12.17 Applications to use such other method must be accompanied by evidence establishing the
 12.18 need for the use of such method.

12.19 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 12.20 December 31, 2015.

12.21 Sec. 13. Minnesota Statutes 2014, section 290.92, subdivision 12, is amended to read:

12.22 Subd. 12. **Withheld amount, credit against tax.** ~~(a) The amount deducted and~~
 12.23 ~~withheld as tax under subdivision 2a or 3 during a calendar year upon wages shall be~~
 12.24 ~~allowed as a credit to the recipient of the income against the taxes imposed by this chapter,~~
 12.25 ~~for a taxable year beginning in such calendar year. If more than one taxable year begins in~~
 12.26 ~~such calendar year, such amount shall be allowed as a credit against the taxes for the last~~
 12.27 ~~taxable year so beginning.~~

12.28 ~~(b)~~ The amount deducted and withheld under subdivisions 4b and 4c and under
 12.29 section 290.923, subdivision 2, for partnership, S corporation, or royalty income must be
 12.30 allowed as a credit to the recipient of the income against the taxes imposed by this chapter
 12.31 for the tax year the income is subject to tax under this chapter.

12.32 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 12.33 December 31, 2015.

13.1 Sec. 14. Minnesota Statutes 2014, section 290.92, subdivision 24, is amended to read:

13.2 Subd. 24. **Application for account number.** ~~An employer, or~~ A person withholding
13.3 tax under section 290.923, desiring to engage in business in Minnesota shall file with the
13.4 commissioner an application for a withholding account number on or before the date the
13.5 ~~employer~~ person is required to withhold Minnesota taxes under ~~this section~~ 290.923.

13.6 An application for an account number must be made upon a form prescribed by the
13.7 commissioner. It must give the name of the employer or payor, the location of the place or
13.8 places of business, the names, addresses and Social Security numbers of the owners or
13.9 partners, or if the employer or payor is a corporation of the officers, or if the employer or
13.10 payor is a trust of the trustees, and other information the commissioner may require. The
13.11 application must be filed by the owner if the employer or payor is a natural person; by a
13.12 member or partner if the employer or payor is an association or partnership; by a trustee
13.13 if the employer or payor be a trust, or by a person authorized to sign the application
13.14 if the employer or payor is a corporation.

13.15 No fee shall be charged for the application.

13.16 The account number is not assignable.

13.17 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
13.18 December 31, 2015.

13.19 Sec. 15. Minnesota Statutes 2014, section 290.92, subdivision 25, is amended to read:

13.20 Subd. 25. **Delegation of duty of ~~employer or payor~~.** The delegation to an agent,
13.21 fiduciary, or employee of ~~an employer, or~~ a person withholding tax under section 290.923,
13.22 of any duty prescribed for the ~~employer or payor~~ by this section shall not relieve the
13.23 ~~employer or payor~~ of full compliance with such duty.

13.24 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
13.25 December 31, 2015.

13.26 Sec. 16. Minnesota Statutes 2014, section 290.92, subdivision 26, is amended to read:

13.27 Subd. 26. **Extension of withholding to certain payments where identifying**
13.28 **number not furnished or inaccurate.** (a) If, in the case of any reportable payment,
13.29 (1) the payee fails to furnish the payee's Social Security account number to the payor,
13.30 (2) the payee is subject to federal backup withholding on the reportable payment under
13.31 section 3406 of the Internal Revenue Code, or (3) the commissioner notifies the payor that
13.32 the Social Security account number furnished by the payee is incorrect, then the payor
13.33 shall deduct and withhold from the payment a tax equal to the amount of the payment

14.1 multiplied by the highest rate used in determining the income tax liability of an individual
14.2 under section 290.06, subdivision 2c.

14.3 (b)(1) In the case of any failure described in paragraph (a), clause (1), paragraph (a)
14.4 shall apply to any reportable payment made by the payor during the period during which
14.5 the Social Security account number has not been furnished.

14.6 (2) In any case where there is a notification described in paragraph (a), clause (3),
14.7 paragraph (a) shall apply to any reportable payment made by the payor (i) after the close
14.8 of the 30th day after the day on which the payor received the notification, and (ii) before
14.9 the payee furnishes another Social Security account number.

14.10 (3)(i) Unless the payor elects not to have this clause apply with respect to the payee,
14.11 paragraph (a), clause (1), shall also apply to any reportable payment made after the close
14.12 of the period described in clause (1) or (2), as the case may be, and before the 30th day
14.13 after the close of the period.

14.14 (ii) If the payor elects the application of this clause with respect to the payee,
14.15 paragraph (a) shall also apply to any reportable payment made during the 30-day period
14.16 described in clause (2).

14.17 (iii) The payor may elect a period shorter than the grace period set forth in item (i) or
14.18 (ii), as the case may be.

14.19 (c) The provisions of section 3406 of the Internal Revenue Code shall apply and
14.20 shall govern when withholding shall be required and the definition of terms. The term
14.21 "reportable payment" shall include only those payments for personal services. ~~No tax~~
14.22 ~~shall be deducted or withheld under this subdivision with respect to any amount for~~
14.23 ~~which withholding is otherwise required under this section. For purposes of this section,~~
14.24 ~~payments which are subject to withholding under this subdivision shall be treated as if~~
14.25 ~~they were wages paid by an employer to an employee and amounts deducted and withheld~~
14.26 ~~under this subdivision shall be treated as if deducted and withheld under subdivision 2a.~~

14.27 (d) Whenever the commissioner notifies a payor under this subdivision that the
14.28 Social Security account number furnished by any payee is incorrect, the commissioner
14.29 shall at the same time furnish a copy of the notice to the payor, and the payor shall promptly
14.30 furnish the copy to the payee. If the commissioner notifies a payor under this subdivision
14.31 that the Social Security account number furnished by any payee is incorrect and the payee
14.32 subsequently furnishes another Social Security account number to the payor, the payor shall
14.33 promptly notify the commissioner of the other Social Security account number furnished.

14.34 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
14.35 December 31, 2015.

15.1 Sec. 17. Minnesota Statutes 2014, section 290.92, subdivision 27, is amended to read:

15.2 Subd. 27. **Pari-mutuel winnings.** Any holder of a class A, B, or D license issued
15.3 by the Minnesota Racing Commission shall deduct and withhold an amount equal to the
15.4 winnings multiplied by the highest rate used in determining the income tax liability of
15.5 an individual under section 290.06, subdivision 2c, as Minnesota withholding tax. For
15.6 purposes of this subdivision, the term "winnings which are subject to withholding" has
15.7 the meaning given in section 3402(q)(3) of the Internal Revenue Code. ~~For purposes of~~
15.8 ~~the provisions of this section, a payment to any person of winnings which are subject to~~
15.9 ~~withholding must be treated as if the payment was a wage paid by an employer to an~~
15.10 ~~employee.~~ Every individual who is to receive a payment of winnings which are subject to
15.11 withholding shall furnish the license holder with a statement, made under the penalties
15.12 of perjury, containing the name, address, and Social Security account number of the
15.13 person receiving the payment and of each person entitled to any portion of such payment.
15.14 The license holder is liable for the payment of the tax required to be withheld under this
15.15 subdivision and subdivision 28 but is not liable to any person for the amount of the payment.

15.16 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
15.17 December 31, 2015.

15.18 Sec. 18. Minnesota Statutes 2014, section 290.92, subdivision 28, is amended to read:

15.19 Subd. 28. **Payments to horse racing license holders.** Effective with payments
15.20 made after April 1, 1988, any holder of a license issued by the Minnesota Racing
15.21 Commission who makes a payment for personal or professional services to a holder of a
15.22 class C license issued by the commission, except an amount paid as a purse, shall deduct
15.23 from the payment and withhold 6.25 percent of the amount as Minnesota withholding tax
15.24 when the amount paid to that individual by the same person during the calendar year
15.25 exceeds \$600. ~~For purposes of the provisions of this section, a payment to any person~~
15.26 ~~which is subject to withholding under this subdivision must be treated as if the payment~~
15.27 ~~was a wage paid by an employer to an employee.~~ Every individual who is to receive a
15.28 payment which is subject to withholding under this subdivision shall furnish the license
15.29 holder with a statement, made under the penalties of perjury, containing the name, address,
15.30 and Social Security account number of the person receiving the payment. No withholding
15.31 is required if the individual presents a signed certificate from the individual's employer
15.32 which states that the individual is an employee of that employer. A nonresident individual
15.33 who holds a class C license must be treated as an athlete for purposes of applying the
15.34 provisions of subdivision 4a and section 290.17, subdivision 2(1)(b)(ii).

16.1 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
16.2 December 31, 2015.

16.3 Sec. 19. Minnesota Statutes 2014, section 290.92, subdivision 29, is amended to read:

16.4 Subd. 29. **Lottery prizes.** 7.25 percent of the payment of Minnesota state lottery
16.5 winnings which are subject to withholding must be withheld as Minnesota withholding tax.
16.6 For purposes of this subdivision, the term "winnings which are subject to withholding"
16.7 has the meaning given in section 3402(q)(3) of the Internal Revenue Code. ~~For purposes~~
16.8 ~~of the provisions of this section, a payment to any person of winnings which are subject~~
16.9 ~~to withholding must be treated as if the payment was a wage paid by an employer to an~~
16.10 ~~employee.~~ Every individual who is to receive a payment of winnings which are subject
16.11 to withholding shall furnish the State Lottery with a statement, made under the penalties
16.12 of perjury, containing the name, address, and Social Security account number of the
16.13 person receiving the payment. The Minnesota State Lottery is liable for the payment
16.14 of the tax required to be withheld under this subdivision but is not liable to any person
16.15 for the amount of the payment.

16.16 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
16.17 December 31, 2015.

16.18 Sec. 20. Minnesota Statutes 2014, section 290.9201, subdivision 7, is amended to read:

16.19 Subd. 7. **Withholding on compensation of entertainers.** The tax on compensation
16.20 of an entertainer must be withheld at a rate of two percent of all compensation paid to
16.21 the entertainment entity by the person or corporation having legal control of the payment
16.22 of the compensation. The compensation subject to withholding under this section is not
16.23 subject to the withholding provisions of section 290.92, subdivision ~~2a, 3, or~~ 28, except
16.24 the provisions of sections 270C.02, subdivision 2, paragraph (b), 270C.60, 289A.09,
16.25 subdivisions 1, paragraph (f), and 2, 289A.60, and 289A.63 shall apply to withholding
16.26 under this section ~~as if the withholding were upon wages.~~

16.27 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
16.28 December 31, 2015.

16.29 Sec. 21. **COMMISSIONER OF REVENUE; POWERS AND DUTIES.**

16.30 (a) The commissioner of revenue shall prepare a bill for introduction during the
16.31 2016 legislative session making technical and conforming amendments to Minnesota
16.32 Statutes as required by this act.

17.1 (b) The commissioner of revenue may adopt rules and prescribe forms and tables to
17.2 implement the provisions of this act. The rules may be adopted under Minnesota Statutes,
17.3 section 14.386, except that paragraph (b) does not apply, or 14.389, as determined by
17.4 the commissioner.

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

17.6 Sec. 22. **REPEALER.**

17.7 Minnesota Statutes 2014, sections 270B.06, subdivision 3; 289A.63, subdivision 5;
17.8 and 290.92, subdivisions 3, 5, 5a, 10, 16, 19, and 30, are repealed.

17.9 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
17.10 December 31, 2015.

270B.06 DISCLOSURE IN INVESTIGATION.

Subd. 3. **Disclosure to employer.** The commissioner may disclose returns and return information of an employee to an employer for the purpose of and to the extent necessary to administer section 290.92, subdivision 5a.

289A.63 CRIMINAL PENALTIES.

Subd. 5. **Employee giving employer false information.** An employee required to supply information to an employer under section 290.92, subdivisions 4a and 5, who knowingly fails to supply information or who knowingly supplies false or fraudulent information to an employer, is guilty of a gross misdemeanor.

290.92 TAX WITHHELD AT SOURCE UPON WAGES; OTHER PAYMENTS.

Subd. 3. **Withholding, irregular period.** If payment of wages is made to an employee by an employer

(a) With respect to a payroll period or other period, any part of which is included in a payroll period or other period with respect to which wages are also paid to such employees by such employer, or

(b) Without regard to any payroll period or other period, but on or prior to the expiration of a payroll period or other period with respect to which wages are also paid to such employee by such employer, or

(c) With respect to a period beginning in one and ending in another calendar year, or

(d) Through an agent, fiduciary, or other person who also has the control, receipt, custody, or disposal of or pays, the wages payable by another employer to such employee.

The manner of withholding and the amount to be deducted and withheld under subdivision 2a shall be determined in accordance with rules prescribed by the commissioner under which the withholding exemption allowed to the employee in any calendar year shall approximate the withholding exemption allowable with respect to an annual payroll period, except that if supplemental wages are not paid concurrent with a payroll period the employer shall withhold tax on the supplemental payment at the rate of 6.25 percent as if no exemption had been claimed.

Subd. 5. **Exemptions.** (1) Entitlement. An employee receiving wages shall on any day be entitled to claim withholding exemptions in a number not to exceed the number of withholding exemptions that the employee claims and that are allowable pursuant to section 3402(f)(1), (m), and (n) of the Internal Revenue Code for federal withholding purposes.

(2) Withholding exemption certificate. The provisions concerning exemption certificates contained in section 3402(f)(2) and (3) of the Internal Revenue Code shall apply.

(3) Form of certificate. Withholding exemption certificates shall be in such form and contain such information as the commissioner may by rule prescribe.

Subd. 5a. **Verification of withholding exemptions; appeal.** (a) An employer shall submit to the commissioner a copy of any withholding exemption certificate or any affidavit of residency received from an employee on which the employee claims any of the following:

(1) a total number of withholding exemptions in excess of ten or a number prescribed by the commissioner, or

(2) a status that would exempt the employee from Minnesota withholding, including where the employee is a nonresident exempt from withholding under subdivision 4a, clause (3), except where the employer reasonably expects, at the time that the certificate is received, that the employee's wages under subdivision 1 from the employer will not then usually exceed \$200 per week, or

(3) any number of withholding exemptions which the employer has reason to believe is in excess of the number to which the employee is entitled.

(b) Copies of exemption certificates and affidavits of residency required to be submitted by paragraph (a) shall be submitted to the commissioner within 30 days after receipt by the employer unless the employer is also required by federal law to submit copies to the Internal Revenue Service, in which case the employer may elect to submit the copies to the commissioner at the same time that the employer is required to submit them to the Internal Revenue Service.

(c) An employer who submits a copy of a withholding exemption certificate in accordance with paragraph (a) shall honor the certificate until notified by the commissioner that the certificate is invalid. The commissioner shall mail a copy of any such notice to the employee. Upon notification that a particular certificate is invalid, the employer shall not honor that certificate or any subsequent certificate unless instructed to do so by the commissioner. The employer shall

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allow the employee the number of exemptions and compute the withholding tax as instructed by the commissioner in accordance with paragraph (d).

(d) The commissioner may require an employee to verify entitlement to the number of exemptions or to the exempt status claimed on the withholding exemption certificate or, to verify nonresidency. The employee shall be allowed at least 30 days to submit the verification, after which time the commissioner shall, on the basis of the best information available to the commissioner, determine the employee's status and allow the employee the maximum number of withholding exemptions allowable under this chapter. The commissioner shall mail a notice of this determination to the employee at the address listed on the exemption certificate in question or to the last known address of the employee. Pursuant to section 270B.06, the commissioner may notify the employer of this determination and instruct the employer to withhold tax in accordance with the determination.

However, where the commissioner has reasonable grounds for believing that the employee is about to leave the state or that the collection of any tax due under this chapter will be jeopardized by delay, the commissioner may immediately notify the employee and the employer, pursuant to section 270B.06, that the certificate is invalid, and the employer must not honor that certificate or any subsequent certificate unless instructed to do so by the commissioner. The employer shall allow the employee the number of exemptions and compute the withholding tax as instructed by the commissioner.

(e) The commissioner's determination under paragraph (d) shall be appealable to Tax Court in accordance with section 271.06, and shall remain in effect for withholding tax purposes pending disposition of any appeal.

Subd. 10. **Remuneration, not in cash.** In the case of remuneration paid in any medium other than cash for services performed by an individual as a retail salesperson for a person, where the service performed by such individual for such person is ordinarily performed for remuneration solely by way of cash commission an employer shall not be required to deduct or withhold any tax under this section with respect to such remuneration, provided that such employer files with the commissioner such information with respect to such remuneration as the commissioner may by rule prescribe.

Subd. 16. **Agreement with secretary of treasury.** The commissioner is authorized to enter into an agreement with the secretary of treasury of the United States pursuant to the provisions of United States Code, title 5, section 5517.

Subd. 19. **Employees incurring no income tax liability.** (a) Notwithstanding any other provision of this section, except the provisions of subdivision 5a, an employer is not required to deduct and withhold any tax under this chapter from wages paid to an employee if:

- (1) the employee furnished the employer with a withholding exemption certificate that:
 - (i) certifies the employee incurred no liability for income tax imposed under this chapter for the employee's preceding taxable year;
 - (ii) certifies the employee anticipates incurring no liability for income tax imposed under this chapter for the current taxable year; and
 - (iii) is in a form and contains any other information prescribed by the commissioner; or
- (2)(i) the employee is not a resident of Minnesota when the wages were paid; and
- (ii) the employer reasonably expects that the employer will not pay the employee enough wages assignable to Minnesota under section 290.17, subdivision 2, paragraph (a)(1), to meet the nonresident requirement to file a Minnesota individual income tax return for the taxable year under section 289A.08, subdivision 1, paragraph (a).

(b) The commissioner shall by rule provide for the coordination of the provisions of this subdivision with the provisions of subdivision 7.

Subd. 30. **Registration; third-party bulk filer.** (a) For purposes of this subdivision, the following terms have the meanings given:

(1) Notwithstanding section 290.01, "person" means an individual, fiduciary, partnership, corporation, limited liability company, association, or other entity organized under the laws of this state or any other jurisdiction.

(2) "Third-party bulk filer" means a person who has custody or control over another employer's funds for the purpose of filing returns and depositing the withheld taxes of the other employer with the commissioner.

(b) A person shall not act as a third-party bulk filer unless the person is registered with the commissioner under this subdivision.

(c) A person may apply to the commissioner, on a form prescribed by the commissioner, for registration as a third-party bulk filer under this subdivision, and the commissioner shall grant the application if the application indicates that the person will comply with this subdivision.

(d) A third-party bulk filer must:

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- (1) keep client funds held for payment of federal or state withholding taxes or other client obligations in an account separate from the third-party bulk filer's own funds;
 - (2) permit the commissioner to conduct scheduled or unscheduled audits of the third-party bulk filer's books and records relating to compliance with this subdivision and fully cooperate with the audits or, at the discretion of the commissioner, submit an audit conducted by a certified public accountant;
 - (3) file returns electronically and make deposits electronically with the commissioner in compliance with the commissioner's requirements for electronic filing and depositing;
 - (4) provide to the commissioner at least monthly, in the form requested by the commissioner, an updated client list that includes at least the name, address, tax identification number, and federal deposit frequency of each client. The address listed for the client must be the client's actual street or post office box address and not the third-party bulk filer's address;
 - (5) disclose in writing to prospective clients that:
 - (i) the third-party bulk filer may invest client funds prior to depositing them with the commissioner and with the Internal Revenue Service and that earnings from those investments will be the property of the third-party bulk filer;
 - (ii) if the third-party bulk filer incurs losses on those investments or uses the client's funds for other purposes, the third-party bulk filer will still be liable to the client for the amounts withheld but will be able to make required tax deposits on behalf of the client only by using the third-party bulk filer's own funds or other assets to replace the funds lost through the investments or used for other purposes; and
 - (iii) no state or federal agency monitors or assumes any responsibility for the financial solvency of third-party bulk filers;
 - (6) timely file all returns and timely make all tax deposits required under its contracts with its clients;
 - (7) upon request, provide to the commissioner, within the time specified in the request, a copy of any contract with a client; and
 - (8) comply with all other requirements of this section or of rules adopted under this section.
- (e) When the commissioner sends an order of assessment issued under section 270C.33, in either paper or electronic form, to a third-party bulk filer regarding a client, the commissioner shall also send a paper copy of the order of assessment to the client.
- (f) If the commissioner determines that a required deposit appears not to have been made, the commissioner shall send a written notice of the delinquency, in electronic or paper form, to the third-party bulk filer, and a copy to the client as required under paragraph (e).
- (g) If the commissioner determines that a required deposit has not been made, and that continued operation of the third-party bulk filer would present a risk of loss to its clients, the commissioner may, upon ten business days' written notice by certified mail to the third-party bulk filer, suspend the registration of the third-party bulk filer for an indefinite period, and notify the third-party bulk filer's clients that the registration has been suspended. A registration may not be suspended if the failure to make a deposit was caused by the client's failure to deposit funds or provide the information necessary to calculate appropriate tax withholding payments. The commissioner shall, upon request, provide the third-party bulk filer with the opportunity for an administrative appeal under section 270C.35, subdivisions 1, 4, and 10, prior to suspension; the hearing, if any, on the administrative appeal must occur within the ten-day period unless the commissioner, in the commissioner's sole discretion, agrees to delay the suspension to permit a later hearing. The 60-day period specified in section 270C.35, subdivision 4, does not apply to a proceeding under this paragraph. Within 30 days after the beginning of a suspension under this paragraph, the commissioner may commence a proceeding to suspend or revoke under paragraph (h); if the commissioner fails to do so, the suspension under this paragraph terminates.
- (h) If the commissioner determines, in compliance with paragraph (i), that a third-party bulk filer has violated this section without reasonable cause or is no longer eligible for registration under this subdivision, the commissioner may suspend or revoke the third-party bulk filer's registration or may assess a civil penalty upon the third-party bulk filer, not to exceed \$5,000 per violation. A suspension of registration may be for any period of less than six months and may include conditions for reinstatement. If the commissioner revokes the registration, the third-party bulk filer may not apply for reregistration for six months after the revocation. If the commissioner suspends or revokes a registration, the commissioner shall notify the former registrant's clients that the registration has been suspended or revoked. If the commissioner assesses a civil penalty, the commissioner shall not notify the third-party bulk filer's clients of the assessment.
- (i) Prior to a suspension, revocation, or assessment of a civil penalty under paragraph (h), the commissioner shall first provide 30 days' written notice to the third-party bulk filer, specifying the violations and informing the third-party bulk filer that the commissioner intends,

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based upon those violations, to take action against the third-party bulk filer as permitted under this paragraph and paragraph (h). The notice shall advise the third-party bulk filer of the right to contest the suspension, revocation, or assessment of a civil penalty and of the general procedures for a contested case hearing under chapter 14. The notice may be served personally or by mail in the manner prescribed for service of an order of assessment issued under section 270C.33. A suspension or revocation of registration under this paragraph is effective when the commissioner serves a notice of suspension or revocation upon the third-party bulk filer after 30 days have passed following the date of the notice of intent to suspend or revoke without the third-party bulk filer requesting a hearing. If a hearing is timely requested and held, the suspension or revocation is effective upon service by the commissioner of an order of suspension or revocation under section 14.62, subdivision 1.

(j) A third-party bulk filer may terminate its registration by written notice to the commissioner, but the termination does not affect the commissioner's authority to begin or continue a proceeding to take action permitted under paragraph (h). The commissioner shall notify the third-party bulk filer's clients of a termination of registration under this paragraph.

(k) The commissioner shall remind employers at least annually, through the department's regular informational publications that it sends to employers, that employers may telephone the department to determine whether a required filing or deposit has been made by a third-party bulk filer.