

Minn

LEGISLATIVE REFERENCE LIBRARY

HJ4655.M62 M52 1990

- Minnesota taxpayer rights : your g

910247

Depa



3 0307 00055 0049

of Revenue

MINNESOTA

TAXPAYER

RIGHTS

Your Guide to

Minnesota

Taxpayer

HJ  
4655  
M62  
M52  
1990

LEGISLATIVE REFERENCE LIBRARY

650 University Avenue  
Saint Paul, Minnesota 55106

# Your Guide to Minnesota Taxpayer Rights

<b>Rights and responsibilities</b>	<b>1</b>
Your responsibility to file and pay taxes	1
Our responsibility to you	1
Your right to confidentiality	2
<b>If we audit your tax return</b>	<b>3-7</b>
Our time limits for an audit	3
Your right to complete information	4
If we notify you by mail	4
If we need to talk to you	5
When we meet	5
When we begin an audit	6
Our findings after an audit	7
<b>If you appeal our audit</b>	<b>8-14</b>
If you appeal to the department	8
The appeal process	10-13
If you appeal to the tax court	14
If you are charged a penalty	14
<b>During the collection process</b>	<b>15-21</b>
No revenue "quotas"	15
Our statute of limitations	15
If you owe past due tax	15
If we file a lien	16
To set up a payment plan	17
If we file a levy	17
If we file a wage levy	18
To help us collect past due tax	18
Your business and professional licenses	19
Your personal liability for business taxes	19
When we revoke sales tax permits	20
When we post liquor licenses	21
<b>Our assistance and support</b>	<b>22</b>
Call or write us	22
Your taxpayer rights advocate	22

## Rights and responsibilities

As a Minnesota taxpayer, you have the right to clearly understand your rights and responsibilities under the law and we, in the Department of Revenue, are responsible for helping you to do so.

### Your responsibility to file and pay taxes

You are required to provide complete and accurate information when you file your tax returns and to pay your taxes when they are due.

### Our responsibility to you

Minnesota Taxpayer Rights, signed into law in 1990, formalizes existing department procedures, develops new appeals processes, creates the position of taxpayer rights advocate, adds responsibility to department employees working with audits and collection proceedings, and gives the taxpayer the right to sue the department under certain circumstances.

In keeping with this law, we are responsible for providing you with clear forms, instructions and explanations to help you comply with the tax laws. We must send you tax notices and bills that explain the amount of tax you owe and the reason it is owed, along with a detailed explanation of the amount of tax, penalty and interest you owe. Also, we must give you prompt, courteous and correct answers to all of your questions.

---

*You have the right to clearly understand your rights and responsibilities under the law.*

**We will keep  
the personal  
and financial  
information  
you give us  
confidential.**

### **Your right to confidentiality**

We will keep the personal and financial information you give us confidential.

You have the right to know:

- why we are asking you for information,
- how we will use the information, and
- what will happen if you don't provide us with the information.

Under the law and following strict legal guidelines, we may share your tax information with other states, some state agencies and the Internal Revenue Service (IRS). These agencies are bound by the same rules of confidentiality.

### **If we audit your tax return**

After you file your return, we process it, review it briefly and make any necessary corrections. However, after we process your return, we may audit it at a later date. The Minnesota Department of Revenue audits tax returns to ensure accuracy. We review your tax return to determine that either we owe you a refund or you owe the Department of Revenue additional tax.

**The  
Minnesota  
Department  
of Revenue  
audits tax  
returns  
to ensure  
accuracy.**

### **Our time limits for an audit**

We usually have 3½ years after your return is due or filed to audit your return and send you a formal notice of any change in the amount of tax, penalty and interest you owe or of a refund we owe you.

The time limit to adjust your return may be extended if:

- you amended or the IRS adjusted your Federal return,
- you and an IRS representative signed an agreement to extend the time period to adjust your Federal return,
- you and a Department of Revenue representative signed an agreement to extend the time period to adjust your Minnesota return,
- you failed to report 25 percent or more of your gross income on your Federal or Minnesota return, or
- you omitted more than 25 percent of the taxes reported on a Minnesota sales tax or withholding tax return.

These are the most common circumstances in which we extend our time limits, but other situations may dictate an extension. Note, however, we have no time limits if you did not file your tax return, or if you filed a false or fraudulent return.

## Your right to complete information

When we notify you of a change in your tax, we must explain the reason for either our assessment of additional tax or our denial of your claim for a refund. When we schedule an audit, we must also give you clear and concise information about your rights and responsibilities regarding the audit process and the process for filing an appeal if you choose to challenge the audit decision. We must also give you verbal and written statements that tell you how to avoid additional penalties or collection activities, and explain the consequences of failing to comply.

If we must subpoena records from a third party, such as an employer or financial institution, we will notify you within three days of doing so.

## If we notify you by mail

We may issue a *Notice of Change in Your Tax* (your audit notice) without meeting or talking with you because we already have sufficient information to make corrections to the amount of your refund or the amount of tax you owe. The information may come from department records, the IRS or other state agencies. If you receive a notice from us with no prior contact, you are still entitled to your appeal rights as explained in this guide.

When we first contact you by letter, we will usually request information from you. Be prepared to furnish us with copies of documents to support a credit or deduction you claimed on your state tax return, to verify a particular income item, or to explain the difference between the amounts you reported for Federal and state purposes.

## If we need to talk to you

We may conduct an entire audit by mail. However, if we need to talk to you, we will start the audit process by:

- making an appointment to meet with you at your business or home,
- asking you to bring the necessary books and records to a meeting at one of our offices for review, or
- requesting that you send the necessary books and records to us.

## When we meet

When a department representative meets with you, you have the right to have an attorney, accountant or other representative of your choice present. If another person will appear in your place at the meeting, you must submit an *Authorization of Power of Attorney* form to us in advance of the meeting. To obtain a power of attorney form, REV-184, write to:

**Minnesota Tax Forms  
Mail Station 7131  
St. Paul, MN 55146-7131**

or call:

**(612) 296-3781 in the Twin Cities metro area  
or toll-free 1-800-652-9094 elsewhere in Minnesota.**

Before we begin an audit interview, we must explain the audit process and these rights to you:

- If at any time during the meeting you would like to consult with an attorney, accountant or other representative who is not present, you have the right to request that we stop the meeting, but not the audit process. We will give you sufficient time (up to 30 days) to contact your representative, and we will reschedule the meeting, if necessary, at a mutually agreed-upon time. If a waiver to extend the time period to assess tax is necessary, both you and a department representative must sign it.

---

**We may conduct an entire audit by mail.**

---

**You have the right to audio tape-record an in-person interview with a department employee, if you notify us in advance.**

- You have the right to audio tape-record an in-person interview with a department employee, if you notify us in advance. Likewise, we may record an in-person interview, if we notify you in advance. If we record the interview, you are entitled to purchase a transcript or a copy of the tape.

(Please note that these interview process rights do not apply during a criminal investigation.)

#### **When we begin an audit**

Based on our review of your return, we may audit:

- for businesses — your sales, income, deductions, purchases, credits and other information if necessary, or
- for individuals — your income, deductions, credits and other information if necessary.

To help us determine the correct amount of tax you owe for the return we are auditing, we will need to examine any books, papers or records which may include:

- for businesses — receipts, ledgers, contracts, cancelled checks, purchase orders, purchase invoices, sales invoices, 1099 forms, meeting minutes, corporate annual reports and any other information we deem necessary, or
- for individuals — receipts, cancelled checks, 1099 forms and any other information we deem necessary.

Remember, we will keep all your information confidential. However, within legal guidelines, we may share it with the IRS or other state agencies if necessary. These agencies are bound by the same rules of confidentiality. If you would like your materials returned, please request them from us.

If we need to review numerous records of yours, we may use a document sampling method to determine the amount of tax due. We will explain our sampling technique to you. If you choose to do so, you have the right to have another person, such as a CPA or statistician, review our sampling method.

#### **Our findings after an audit**

Following our review of your records, we will notify you of any change in your tax. We will provide you with a clear and concise explanation of any adjustments. If you believe that we have made a mistake during an audit, or if you think we did not take all the necessary information into consideration, please contact us at the telephone number on your audit notice. For more information, see the section, "If you appeal our audit," on page 8 of this guide. For general information, call us at the numbers listed on the back cover of this guide.

*If you agree with the audit, you must pay the full amount of tax, penalty and interest due within 60 days of the date we notify you. If you do not make your payment within 60 days, you will also owe a late payment penalty and additional interest.*

*If you are entitled to a refund, we will notify you and issue you a check. However, we are required to reduce your refund by:*

- any other Minnesota tax you owe,
- any debts you owe another state or county agency,
- any felony criminal fines you owe, or
- any delinquent child support payments you owe.

*If you disagree with the audit, you have 60 days from the date we notify you to appeal to the Department of Revenue or to the Minnesota Tax Court.*

---

**If you disagree with the audit, you have 60 days from the date we notify you to appeal to the Department of Revenue or to the Minnesota Tax Court.**

## If you appeal our audit

Along with your audit notice, we will provide you with information about your rights and responsibilities regarding these appeal procedures. If you decide to appeal to the department but you need more time to prepare your appeal, you may request a 30-day extension by writing to us at the address listed on your notice. Please take into consideration, however, that during the time of your appeal, interest will accumulate on any unpaid tax determined to be due.

Refer to pages 10-13 for an outline of the appeal and denial of a claim for a refund processes.

### If you appeal to the department

If you decide to make an administrative appeal to the Department of Revenue, you may use the form on your notice. If no form is provided, you may prepare an appeal letter and send it along with a copy of your audit notice. The form or letter should include:

- your name, address and Social Security number (or Minnesota tax identification number);
- your state of incorporation if you are a corporation;
- the type of tax, tax years or periods, and the amount in question for each period;
- the items on the notice that you disagree with;
- a summary of the facts or law you're basing your appeal on;
- the date of your appeal; and
- your signature or the signature of the person who prepared your appeal.

Also, include any other information or documentation to support your appeal, and mail it to the office and address listed on your notice.

If your appeal is prepared by another person who is acting on your behalf, you must also submit an

*Authorization of Power of Attorney* form to the Department of Revenue. To obtain a power of attorney form, REV-184, write to:

#### Minnesota Tax Forms

Mail Station 7131  
St. Paul, MN 55146-7131

or call our 24-hour helplines:

(612) 296-3781 in the Twin Cities metro area  
or toll-free 1-800-652-9094 elsewhere in Minnesota.

The person preparing your appeal must sign the appeal and state that the facts contained in the appeal are true and correct to the best of his or her knowledge.

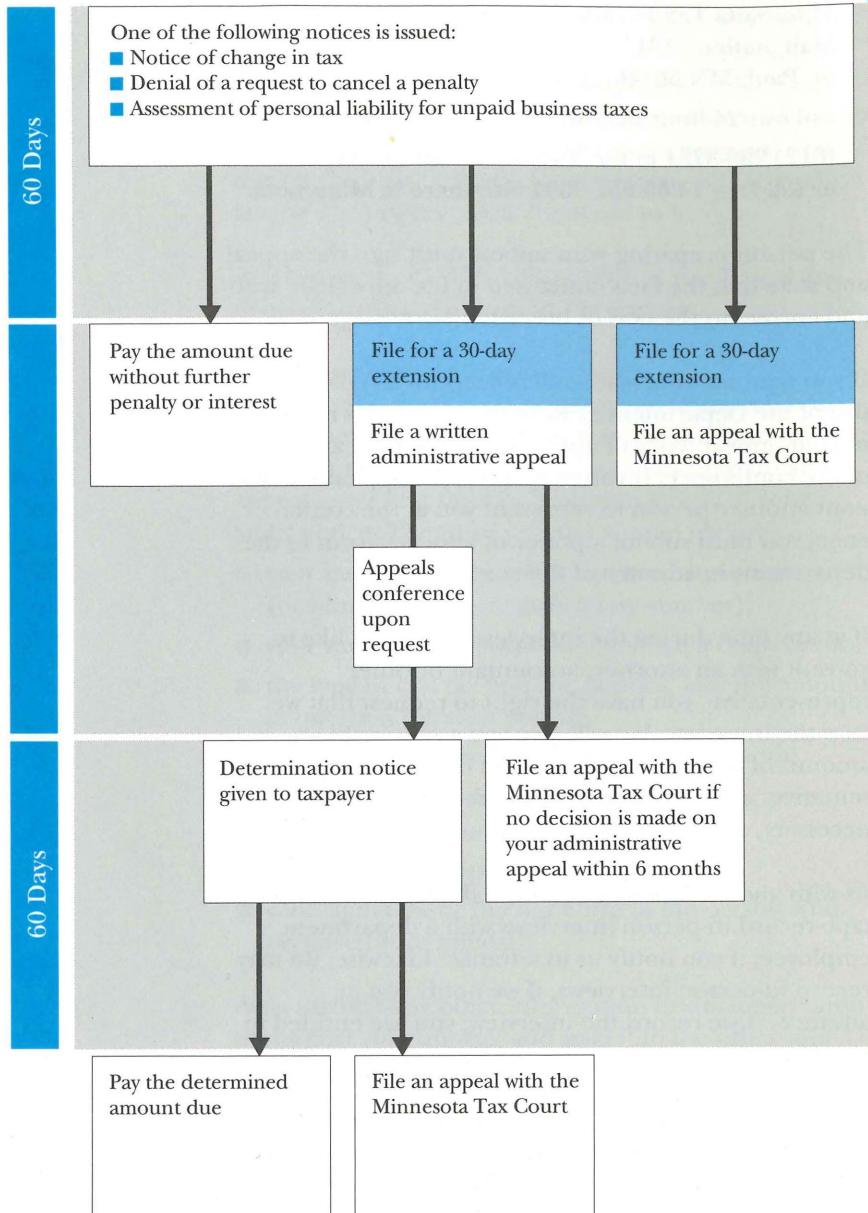
If you want an informal conference with a representative of the Department of Revenue, make this request in your appeal. We will notify you of the time and place of the conference. If you prepared your appeal, but you want another person to represent you at the conference, you must submit a power of attorney form to the department in advance of the conference.

If at any time during the interview you would like to consult with an attorney, accountant or other representative, you have the right to request that we stop the interview. We will give you a reasonable amount of time (up to 30 days) to contact your representative, and we will reschedule the interview, if necessary, at a mutually agreed-upon time.

As with audit interviews, you have the right to audio tape-record in-person interviews with a department employee, if you notify us in advance. Likewise, we may record in-person interviews, if we notify you in advance. If we record the interview, you are entitled to purchase a copy of the transcript or the tape.

If you appeal to the department and your appeal is denied in whole or in part, you will have an additional 60 days to appeal that denial to the Minnesota Tax Court.

## The appeal process



At any stage you may:

- agree and arrange to pay the amount due.
- pay the tax and file a claim for a refund.

Within 60 days of the date of the notice, you may:

- pay the amount due without further penalty or interest.
- file a written administrative appeal with the Department of Revenue. (If your appeal is subsequently denied in whole or in part, you may appeal that denial to the Minnesota Tax Court.)

Payment is not required if you appeal to the department or Minnesota Tax Court. However, interest will continue to accumulate from the date of the notice on the unpaid balance determined to be due. You may make a partial payment of any agreed-upon amounts.

*At 6 months from filing an administrative appeal, the taxpayer may elect to file with the Minnesota Tax Court if the Department of Revenue has not made a determination.*

60 days after the notice date, your time has expired for:

- an administrative review (appeal) unless you requested a 30-day extension in writing within the 60-day appeal time.
- a tax court appeal unless you appealed to the department or the court granted you a 30-day extension.
- payment without further penalty or interest if there was no timely appeal.

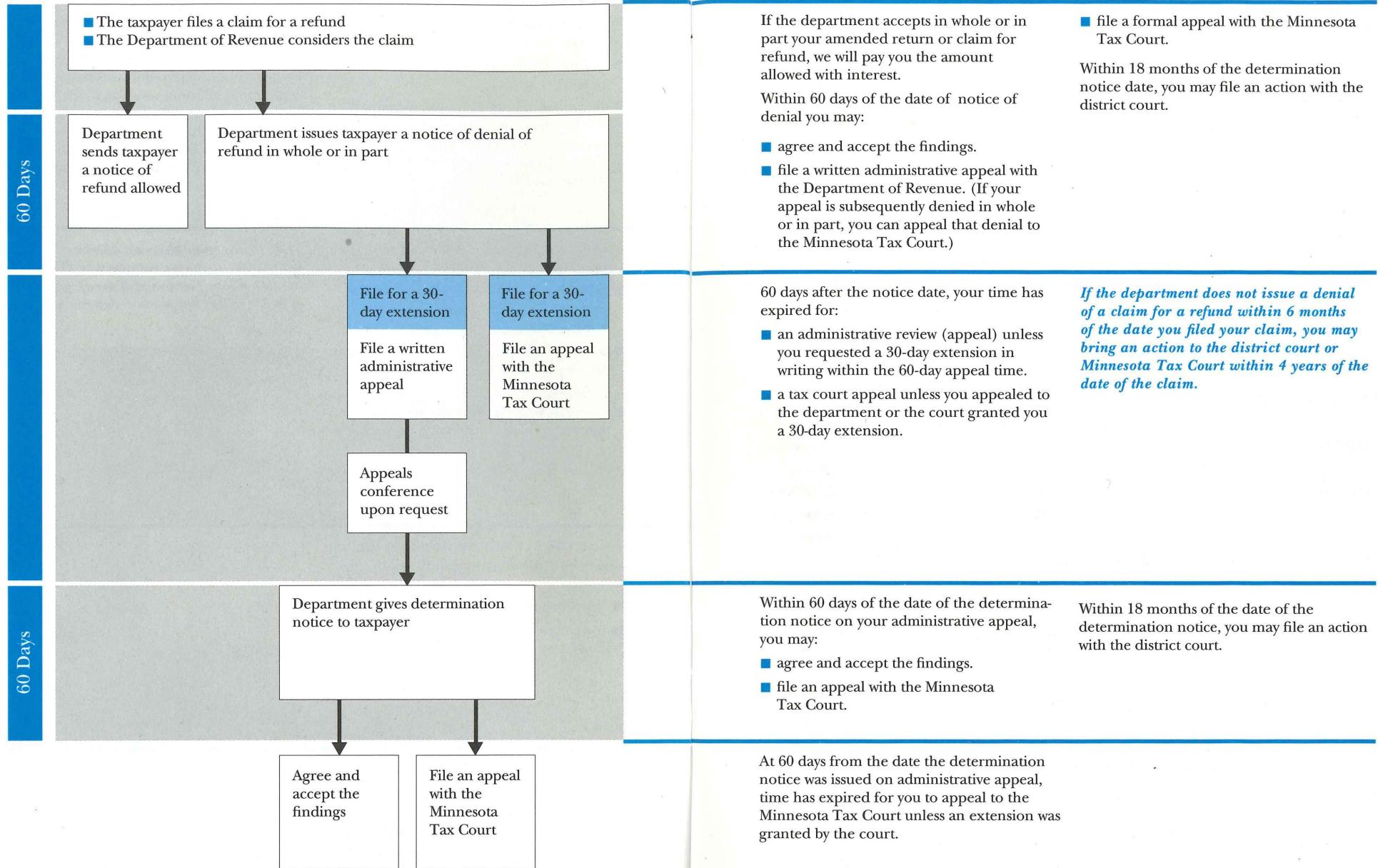
Within 60 days of the date of the determination notice on your administrative appeal, you may:

- pay the determined amount due.
- file an appeal with the Minnesota Tax Court.

At 60 days from the date the determination notice was issued at the administrative appeal, time has expired for:

- payment without further penalty/interest.
- the Minnesota Tax Court appeal period unless an extension is granted by the court.

## The appeal process if we deny your claim for a refund



**You may choose to have your case heard in the Regular Division or the less formal Small Claims Division.**

### **If you appeal to the tax court**

If you decide to appeal to the tax court, you may choose to have your case heard in the Regular Division; or, if the total tax, penalty and interest in dispute does not exceed \$5,000, for a small filing fee, you may choose to appeal to the less formal Small Claims Division. All decisions in the Small Claims Division are final; neither you nor the department may appeal the decision. Forms for filing your appeal are available from the Minnesota Tax Court, second floor, 520 Lafayette Rd., St. Paul, MN 55155, or at the office of the Clerk of District Court in your county. You will need to submit a copy of your audit notice when filing your appeal with the tax court.

### **If you are charged a penalty**

If you are charged a penalty but believe you have reasonable cause for failing to comply with the tax laws, you may be eligible for a penalty cancellation. You will need to provide us with a detailed explanation of why you believe reasonable cause existed.

Also, if you received incorrect written advice from a Revenue employee, and your penalty is a direct result of that advice, we must automatically cancel your penalty. However, cancelling a penalty does not reduce the amount of tax and interest on the tax that you owe. If we deny your request to cancel your penalty, you have 60 days to appeal the denial.

**Remember, you have 60 days from your notice date to:**

- **pay the amount due without further penalty or interest,**
- **request an extension to file an appeal with the Department of Revenue,**
- **file an appeal with the Department of Revenue, or**
- **file an appeal with the Minnesota Tax Court.**

**You may be eligible for a penalty cancellation.**

### **During the collection process**

The first bill we send you must contain a detailed breakdown of the tax, penalty and interest you owe, an explanation of why you owe this amount, and an explanation of your rights and obligations during the collection process. If you do not understand them, please contact us for an explanation. If you believe we've made an error on your bill, call us at the telephone number on your bill.

### **No revenue "quotas"**

By law, we cannot impose revenue "quotas" on department auditors or collection officers. Because our auditors and collection officers are guided by high ethical standards, you can be assured that we will attempt to collect only the amount of tax that you owe.

**We cannot impose revenue "quotas."**

### **Our statute of limitations**

We have five years from the date the return is filed to enforce collection action. However, we can extend the time period under certain circumstances; for instance, if we file a lien on your property. Also, we can assess additional tax up to 3½ years from the date your return (on all tax types) was filed. For sales and withholding taxes, we can assess the officers or those responsible for filing tax returns and making payments up to 3½ years from the date of filing the return. However, we can extend this time period under certain circumstances.

### **If you owe past due tax**

If you owe past due tax, we will charge you penalty and interest, and bill you for the total. Your first bill will contain a detailed breakdown of your tax, penalty and interest, and an explanation of why you owe the tax. If you do not pay the full amount due after you have been billed, we will send you a final notice and demand for payment.

We must notify you in writing — in the form of a lien, a final bill or a notice and demand for payment — of the amount you owe, and demand payment at least 30 days before we take collection action. We will send the notice to your last known address along with an explanation of your appeal rights and the choices available to you to prevent collection action. However, we are not required to give you any further notice before beginning collection action.

If we have notified you of past due tax that you have not paid, the department is authorized by law to attempt to collect the debt from you. If necessary, we may place a lien on your property, levy against your property (by garnishing wages or seizing personal property such as an automobile or bank account) or use other collection methods.

If we need to subpoena records from a third party such as an employer or financial institution, we will notify you within three days of doing so.

Filing liens, levying against property, hiring collection agencies, and stopping the issuance or renewal of business licenses are the most common collection actions we take. If an employee of the department recklessly or intentionally disregards a state tax law or rule while collecting delinquent taxes, you may sue us for damages. However, the court may fine you if you file the suit for frivolous reasons or primarily for delay.

#### **If we file a lien**

If we file a lien on your real estate or personal property, in most cases, you cannot sell your property until you pay your past due amount. If you believe a lien has been filed against your property in error, we must give you an administrative review at your request. If you are correct, we must release the lien within 14 days after the decision. You may sue us for actual damages if we fail to release an erroneous lien within 14 days. During and after the billing process, we may file a tax

lien against your real estate and personal property, preventing you from transferring your property in most cases. We may file a lien at any time, or take other action to collect this debt 30 days after we send a final notice to you.

After you have paid your tax in full, the department will release the lien on your property and stop all collection activity. (You will be responsible for paying the county a fee to record the release. In addition, we will charge you \$25 for each duplicate lien release that you request.) If we knowingly or negligently fail to release a lien within 30 days after you notify us in writing that you've paid your tax, you may sue us for any actual economic damages caused by this situation.

#### **To set up a payment plan**

If you do not have sufficient cash or assets to pay your taxes in full, you should attempt to borrow the money. If you are unable to secure a loan, you may request to enter into a payment plan with the department to pay your tax debt. However, we may require security, a financial statement, and loan denials before we agree to a payment plan with you.

#### **If we file a levy**

We have the authority to levy against, or seize, your real estate and personal property (such as automobiles and bank accounts) in order to collect past due tax, penalty and interest. However, we will notify you of the amount you owe at least 30 days before we seize your property. We cannot levy against your property if the estimated costs of the levy and sale of your property will exceed the fair market value of the property at the time of the levy. Also, we cannot levy against personal property on the same day you are subpoenaed to appear before the department.

You may request that we put your seized property up for sale within 60 days of your request (for instance, to avoid losing value on your property). If we decide that

---

***After you have paid your tax in full, the department will release the lien on your property and stop all collection activity.***

---

***You may request to enter into a payment plan with the department to pay your tax debt.***

---

**We will release a levy on your property as soon as you have paid your tax liability.**

it is not in the state's best interest to sell the property within this time period, you may appeal that decision to the tax court.

When we send a levy notice to a financial institution, a representative from the financial institution must complete a disclosure statement about your account and return it to us immediately. However, the financial institution has up to 10 days to send the department funds from your account.

We will release a levy on your property as soon as you have paid your tax liability. We will also release it if:

- the release will help us collect the tax you owe,
- we have agreed with you to set up a payment plan,
- the value of your property is greater than the liability (debt) and the release will not interfere with our ability to collect the amount you owe.

**If we file a wage levy**

The department may levy against your wages, requiring your employer to deduct up to 25 percent of your wages to pay your past due tax. We will notify you at least 30 days before we send a wage levy to your employer. A wage levy is effective for six months from the date we notify you and may be renewed until your tax liability is paid in full.

We will send your employer a *Notice of Additional Withholding*, which outlines his or her responsibility to submit funds from your paycheck to the department within 10 days from the end of the pay period in which the money was withheld. Your employer must continue to withhold the additional amount until we release the levy.

**To help us collect past due tax**

At times, we may hire collection agencies to help us collect the amount you owe.

**Your business and professional licenses**

If you owe the department past due tax, we will notify you and the appropriate licensing authority, and stop the issuance or renewal of your business or professional license. At that time, you may request a hearing before an administrative law judge. (We will explain the hearing procedures when we notify you that your license cannot be issued or renewed.) As soon as we have received full payment, or have agreed to a payment plan, and determined you do not owe any uncontested delinquent tax, penalty or interest, we will issue a tax clearance certificate to the licensing authority so that your license can be issued or renewed.

**Your personal liability for business taxes**

We have the authority to assess the tax, penalty and interest owed by a business against its partners, officers or others responsible for filing and paying sales, withholding and petroleum tax, as well as those who have legal control over the wage payments. If you are found personally liable, you have 60 days from the notice date to appeal the tax, penalty and interest assessment. (Again, we will send you information with your notice of assessment on your appeal rights.) You may appeal to us or to the Minnesota Tax Court. If we deny your appeal to the department, you have an additional 60 days to appeal to the Minnesota Tax Court.

Please note:

- When a business files for bankruptcy, its sales and withholding taxes are not always discharged — meaning you are not relieved of your obligation to pay these taxes. We will collect the past due tax directly from the bankrupt corporation or personally from its officers.
- We may require a business to establish a separate bank account for depositing money withheld from employees' paychecks.

---

**If you are found personally liable, you have 60 days from the notice date to appeal the tax, penalty and interest assessment.**

---

**You must have a valid sales tax permit.**

**When we revoke sales tax permits**

If your business collects sales tax and makes sales tax payments to the state, you must have a valid sales tax permit. If you owe the state of Minnesota past due sales tax, or if you have failed to file your sales tax returns, the department may request a hearing to revoke your sales tax permit.

We will notify you that a revocation hearing will be held in front of an administrative law judge and that you may be present to explain your side of the situation. If the judge recommends to the commissioner of revenue that your permit should be revoked, once the order is issued, you must stop making taxable sales in the state of Minnesota until we re-issue you a valid permit.

If you make retail sales in Minnesota after we revoke your permit, and you have not been issued a new permit, you are guilty of a felony. We will not re-issue a sales tax permit until:

- you pay in full all sales tax liabilities,
- you file all unfiled sales tax returns,
- you make a security deposit equal to three times the average monthly liability, and
- you agree to stay current on sales tax returns and payments, and waive the right to an administrative hearing if you default on this agreement in the future.

**When we post liquor licenses**

The department will notify liquor retailers who are 30 days or more past due in filing or paying their state sales, city sales or withholding tax. If these retailers do not pay the amount due within 10 days of the department's notification, we will "post" the retailer's name and submit it to the Liquor Control office of the Department of Public Safety.

Wholesalers, manufacturers or brewers may not sell or deliver any product to any "posted" liquor retailers.

Once the retailer has paid the past due tax, the department will have the retailer's name removed from the "posted" list within two business days.

---

*Once the retailer has paid the past due tax, the department will have the retailer's name removed from the "posted" list within two business days.*

---

*We work hard to be prompt and courteous while giving you concise, understandable and accurate information.*

## **O**ur assistance and support

Every employee in the Department of Revenue shares responsibility for upholding your rights. Further, we work hard to be prompt and courteous while giving you concise, understandable and accurate information.

With this in mind, we will furnish you with understandable written documents, tax forms and instructions, and we will help you with tax concerns through our taxpayer information and assistance programs.

### **Call or write us**

You can receive general information and answers to many of your questions by calling our telephone taxpayer assistance lines:

- Individual income tax and ordering forms  
(612) 296-3781  
(800) 652-9094
- Business tax  
(612) 296-6181  
(800) 657-3777

To contact us by mail, send your letters to the address listed on your audit notice or bill.

---

*The taxpayer rights advocate will take an active interest in resolving your tax problem.*

### **Your taxpayer rights advocate**

Despite our efforts, problems occasionally arise. Nevertheless, you have the right to have your tax difficulty resolved. Thus, if you have a tax problem that we have not addressed in this guide and you've exhausted all other routine channels in the department, you may contact the department's taxpayer rights advocate (TRA), who will take an active and immediate interest in resolving your tax problem. On your behalf, the TRA may issue a Taxpayer Assistance Order to stop the department from taking any further action against you if he or she decides you have been treated unjustly and inequitably. Only the commissioner of revenue can override this decision.

---

**Individual income tax  
and ordering forms**

(612) 296-3781  
(800) 652-9094

---

**Business tax**

(612) 296-6181  
(800) 657-3777

*To reach the TRA office, or to obtain additional copies of this guide or any of our other four Minnesota Taxpayer Rights brochures, call the numbers above, or contact us at 10 River Park Plaza, St. Paul, MN 55107.*