

STATE OF MINNESOTA
COUNTY OF RAMSEY

TAX COURT
REGULAR DIVISION

Amy M. Barrett,
Appellant,

vs.

Commissioner of Revenue,
Appellee.

**ORDER GRANTING SUMMARY
JUDGMENT**

Docket No.: 9628-R

This matter came before the Honorable Beverly J. Luther Quast, Judge of the Minnesota Tax Court, on the Commissioner of Revenue's motion for summary judgment.

Eric Johnson, Johnson Tax Law, P.C., represents Appellant Amy M. Barrett.

Morgan Alexander and Jennifer A. Kitchak, Assistant Minnesota Attorneys General, represent Appellee Commissioner of Revenue.

Appellant challenges an October 23, 2023 Notice of Change to Your Individual Income Tax ("Order"), reporting an expired refund. The Commissioner brings this motion for summary judgment on the ground that there are no material facts in dispute and, as a matter of law, the Commissioner's Order should be affirmed. The court, having considered all the files, records, arguments, and proceedings herein, now makes the following:

ORDER

The Appellee's motion for summary judgment is granted.

IT IS SO ORDERED. THIS IS A FINAL ORDER. LET JUDGMENT BE ENTERED ACCORDINGLY.



BY THE COURT:

Beverly J. Luther Quast, Judge
MINNESOTA TAX COURT

Dated: September 12, 2025

MEMORANDUM

I. FACTS AND PROCEDURAL HISTORY

Appellant Amy M. Barrett (“Appellant”)¹ was a Minnesota resident during calendar year 2016.² Ms. Barrett did not file a 2016 federal income tax return, nor did she file a 2016 Minnesota state income tax return by the statutory deadline for tax year 2016.³

On October 28, 2019, the Internal Revenue Service (“IRS”) prepared a substitute income tax return⁴ (the “substitute for return” or “SFR”) for Ms. Barrett for the tax year 2016.⁵ On December 31, 2019, the Minnesota Commissioner of Revenue (the “Commissioner”) prepared a

¹ Ms. Barrett was previously known as Amy M. Williams. *See* Return 1 n.1 (filed Jan. 29, 2024).

² Appellant’s Mem. Opp’n Summ. J. (filed June 3, 2025).

³ Appeal at 2 (filed Dec. 15, 2023); *see* Minn. Stat. §§ 289A.08, 289A.18 (2024) (requiring the filing of a Minnesota return by April 15 of the subsequent calendar year for each federal return required to be filed under section 6012 of the Internal Revenue Code).

⁴ *See* I.R.C. § 6020(b) (2025) (authorizing the Secretary of Treasury to execute a return if a person fails to make any required return).

⁵ Declaration of John Hennessy (signed May 13, 2025) (“Hennessy Decl.”), Ex. F at 1.

return on Ms. Barrett’s behalf and issued a Notice of Commissioner Filed Return (“CFR”) pursuant for tax year 2016.⁶ The CFR indicated Ms. Barrett owed \$10,050.00 in tax, \$1,407.00 in penalties, and \$1,286.93 in interest, for a total of \$12,743.93.⁷ At some point prior to March 17, 2023, Ms. Barrett paid the outstanding balance.⁸

On March 17, 2023, Ms. Barrett filed her federal income tax return for tax year 2016 with the IRS, replacing the SFR and reporting less tax than the IRS had assessed pursuant to the SFR.⁹ The IRS issued a CP21A Notice on July 3, 2023, acknowledging acceptance of Ms. Barrett’s replacement return, and reducing the federal assessment to the amount reported by Ms. Barrett.¹⁰ On July 13, 2023, Ms. Barrett filed a replacement Minnesota income tax return via a Form M1, for tax year 2016 with the Minnesota Department of Revenue (“DOR”).¹¹ Correspondence attached to the Minnesota return asserted “the filing of this 2016 Minnesota return follows a ‘federal change’ for Ms. Barrett for tax year 2016, and thus the statute of limitations for the 2016 Minnesota refund is open under Minn. Stat. § 289A.38, subd. 9.”¹² Ms. Barrett requested she be paid “any resulting refund.”¹³ Ms. Barrett’s Form M1 did not include a refund amount under line 28 but listed \$5,108 in tax owed.¹⁴

⁶ Hennessy Decl., Ex. A. *See* Minn. Stat. § 270C.33, subd. 3 (2024) (“If a taxpayer fails to file a return, the commissioner … may make and file a return for the taxpayer....”).

⁷ Hennessy Decl., Ex. A at 2.

⁸ Appellant’s Mem. Opp’n Summ. J.

⁹ Hennessy Decl., Ex. F at 3; Declaration of Eric Johnson (signed June 3, 2025), Ex. C.

¹⁰ Hennessy Decl. ¶ 5, Ex. D.

¹¹ Hennessy Decl. ¶ 3, Ex. E.

¹² Hennessy Decl. ¶ 3, Ex. B.

¹³ Hennessy Decl. ¶ 3, Ex. B.

¹⁴ Hennessy Decl., Ex. E.

On October 24, 2023, the Commissioner issued a Notice of Change to Your Individual Income Tax (“Order”), detailing adjustments to Ms. Barrett’s 2016 Minnesota income tax return and reporting an expired refund in the amount of \$6,351.98.¹⁵ The Order explained that the IRS’s acceptance of Ms. Barrett’s replacement 2016 federal tax return did not constitute a federal change or correction under Minnesota law and therefore denied her claim for refund as time-barred under Minnesota Statutes section 289A.40, subdivision 1.¹⁶

On December 15, 2023, Ms. Barrett timely filed a Notice of Appeal with this court, alleging that “[t]he statute of limitations is open” and that the Commissioner erred in denying her claim for refund.¹⁷ The Commissioner subsequently filed this motion for summary judgment, arguing there are no material facts in dispute, and that Ms. Barrett’s refund claim was untimely.¹⁸ Ms. Barrett opposes the motion, claiming her replacement federal tax return constituted a “federal change” which authorizes the Commissioner to recompute and reassess the tax due, and to issue a refund.¹⁹ Because we agree with the Commissioner, we grant his motion for summary judgment.

II. LEGAL STANDARD

A. Summary Judgment Overview

Summary judgment is to be granted “if the movant shows that there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law.” Minn. R. Civ. P. 56.01 (2025); *Henson v. Uptown Drink, LLC*, 922 N.W.2d 185, 189-90 (Minn. 2019); *see* Minn.

¹⁵ Hennessy Decl., Ex. G.

¹⁶ Hennessy Decl., Ex. G.

¹⁷ Appeal ¶¶ 7-8.

¹⁸ Comm’r’s Notice Mot. & Mot. Summ. J. (filed May 15, 2025); Comm’r’s Mem. Supp. Summ. J. 4 (filed May 15, 2025).

¹⁹ Appellant’s Mem. Opp’n Summ. J.

Stat. § 271.06, subd. 7 (2024) (“[T]he Rules of Evidence and Civil Procedure … shall govern the procedures in Tax Court, where practicable.”). On summary judgment, the inquiry before this court is whether “there is a need for a trial—whether, in other words, there are any genuine factual issues that properly can be resolved only by a finder of fact because they may reasonably be resolved in favor of either party.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250 (1986); *see also DLH, Inc. v. Russ*, 566 N.W. 2d 60, 69 (Minn. 1997) (noting that the 1986 United States Supreme Court “trilogy” of summary judgment opinions, including *Anderson*, are instructive as to “what constitutes a genuine issue of material fact”). “A genuine issue of material fact arises when there is sufficient evidence regarding ‘an essential element … to permit reasonable persons to draw different conclusions.’” *Kelly for Washburn v. Kraemer Constr., Inc.*, 896 N.W.2d 504, 508 (Minn. 2017) (quoting *Russ*, 566 N.W.2d at 71). On summary judgment, the court views evidence “in the light most favorable to the nonmoving party.” *Osborne v. Twin Town Bowl, Inc.*, 749 N.W.2d 367, 371 (Minn. 2008) (citing *Anderson v. State, Dep’t of Natural Res.*, 693 N.W.2d 181, 186 (Minn. 2005)).

B. Tax Return Filing Requirement

A Minnesota resident taxpayer is required to file “a return for each taxable year the taxpayer is required to file a return under section 6012 of the Internal Revenue Code,” unless an exception applies. Minn. Stat. § 289A.08, subd. 1 (2024). Tax returns based on a calendar year must be filed on April 15 following the close of the fiscal year. Minn. Stat. § 289A.18, subd. 1(1). For calendar year 2016, the Minnesota individual income tax return was due on April 15, 2017. *Id.*

C. Claim For Refund

Minnesota Statutes section 289A.50 provides in part that a taxpayer “who has paid a tax in excess of the taxes lawfully due and who files a written claim for refund will be refunded or

credited the overpayment of the tax determined by the commissioner to be erroneously paid.” Minn. Stat. § 289A.50, subd. 1 (2024). This right to refund is time limited by section 289A.40, subdivision 1, which provides that, “[u]nless otherwise provided in [Minnesota Statutes Chapter 289A], a claim for a refund of an overpayment of state tax must be filed within 3-½ years from the date prescribed for filing the return . . . or one year from the date of a return made by the commissioner.” Minn. Stat. § 289A.40, subd. 1 (2024); *Faust v. Comm’r of Revenue*, No. 7630-R, 2004 WL 1714087, at *2 (Minn. T.C. Aug. 2, 2004) (denying claim for refund as untimely).

One exception to the time limit for a refund claim arises where there is a “federal tax change” (hereafter “federal change”) under Minnesota Statutes section 289A.38, subdivisions 7-9 (2024). Minnesota Statutes section 289A.38, subdivision 7 (“Subdivision 7”) provides in relevant part:

If the amount of income, items of tax preference, deductions, or credits for any year of a taxpayer . . . *as reported to the Internal Revenue Service* is changed or corrected by the commissioner of Internal Revenue . . . , the taxpayer shall report the federal adjustments in writing to the commissioner. The federal adjustments report must be submitted within 180 days after the final determination date and must be in the form of either an amended Minnesota . . . income tax return conceding the accuracy of the federal adjustment or a letter detailing how the federal adjustment is incorrect or does not change the Minnesota tax.

Minn. Stat. § 289A.38, subd. 7(a) (emphasis added). Minnesota Statutes section 289A.38, subdivision 9 (“Subdivision 9”) further provides that “[i]f a taxpayer is required to make a federal adjustments report under subdivision 7” of this section, the Commissioner “may recompute and reassess the tax due, including a refund . . . within one year after the federal adjustments report or amended return is filed with the commissioner.” *Id.*, subd. 9. Ms. Barrett opposes the Commissioner’s motion, arguing her claim for refund is timely under these provisions.

III. ANALYSIS

The parties agree there are no material facts in dispute, but disagree as to correct application of law. The Commissioner argues that his Tax Order should be affirmed. Ms. Barrett opposes the Commissioner's motion, arguing that her refund claim was both timely and authorized under Minnesota Statutes section 289A.38, subdivisions 7-9.

We conclude that Ms. Barrett has not timely filed a valid refund claim under Minnesota Statutes section 289A.40, subdivision 1, or Minnesota Statutes section 289A.38, subdivisions 7-9, and that the Commissioner is entitled to judgment as a matter of law. Accordingly, the Commissioner's motion for summary judgment is granted.

A. Appellant's Claim for Refund was Untimely Under Minnesota Statutes Section 289A.40, Subdivision 1.

To receive a refund under Minnesota Statutes section 289A.40, subdivision 1, Ms. Barrett was required to file her 2016 return by December 31, 2020, one year from the notice date of the Commissioner's CFR, which was the later of the two statutory deadlines in section 289A.40, subdivision 1.²⁰ Ms. Barrett's return was filed nearly two and a half years late, on March 17, 2023. Unless otherwise provided in chapter 289A, she is not entitled to a refund. Minn. Stat. § 289A.40, subd. 1.

B. Appellant's Claim for Refund was Untimely Under Minnesota Statutes Section 289A.38.

1. A Taxpayer-Filed Federal Return Replacing an SFR Cannot Generate A Federal Change Within The Meaning Of Subdivision 7.

²⁰ Ms. Barrett's claim for refund was required to be filed by the later of two dates: October 15, 2020 (3 ½ years from the date prescribed for filing the 2016 return) or December 31, 2020 (one year from the notice date of the CFR). Minn. Stat. § 289A.40, subd. 1.

The Commissioner argues that when the IRS issues an SFR, then accepts the taxpayer's subsequently filed replacement return, but makes no changes or corrections to that return, the IRS acceptance does not constitute a federal change from what was reported under Minnesota Statutes section 289A.38, subdivisions 7-9.²¹ In contrast, Ms. Barrett asserts (1) that the IRS's acceptance and (2) its subsequent adjustment of her federal income tax liability from the assessment specified in the SFR constitutes a federal change from the income "as reported" under Subdivision 7.²² Effectively, Ms. Barrett contends that *any* change to a federal tax liability, including an IRS-acceptance of a taxpayer-filed return replacing an SFR, constitutes a federal change under the statute.²³ We agree that the plain meaning of Minnesota Statutes section 289A.38, subdivisions 7-9 support the Commissioner's position.

The goal of statutory construction is to ascertain and effectuate the intent of the Legislature. *Brayton v. Pawlenty*, 781 N.W.2d 357, 363 (Minn. 2010); *see also* Minn. Stat. § 645.16 (2024). To determine whether a phrase is ambiguous, courts consider whether it can be "subject to more than one reasonable interpretation." *Christianson v. Henke*, 831 N.W.2d 532, 537 (Minn. 2013). In doing so, courts read the statute with each section interpreted "in light of the surrounding sections to avoid conflicting interpretations." *Am. Fam. Ins. Grp. v. Schroedl*, 616 N.W.2d 273, 277 (Minn. 2000).

IRS acceptance of a taxpayer's replacement return can surely produce a change, albeit not the type of federal change described in Subdivision 7. By its plain meaning, the statute concerns scenarios where the IRS alters items of income or expense that the taxpayer previously reported *to*

²¹ Hennessy Decl., Ex. G.

²² Hennessy Decl., Ex. B; Notice Appeal at ¶ 8.

²³ Appellant's Mem. Opp'n Summ. J. 5.

the IRS. *See* Minn. Stat. § 289A.38, subd. 7 (“If the amount of income … as reported *to* the [IRS] is changed or corrected by the commissioner of the [IRS]”) (emphasis added). Here, the IRS did not change the income Ms. Barrett had previously reported *to* the agency. Owing to her failure to file a 2016 federal tax return, Ms. Barrett had not reported any income to the IRS for 2016.²⁴ The IRS subsequently accepted Ms. Barrett’s *replacement* return and issued a notice acknowledging its acceptance.²⁵

Ms. Barrett argues the phrase “as reported” is “not unambiguous,”²⁶ and the resulting change in the federal tax assessed by the IRS, due to the acceptance of her 2016 return, was a federal change from the liability computed in the SFR. In other words, she argues the SFR “prepared by” the IRS constitutes her income “as reported” to the IRS, and the CP21A Notice served as a federal change.

An SFR that the IRS prepares for a taxpayer plainly does not “report” income to the IRS, nor does a substitute return relieve a taxpayer of the obligation to file a tax return or pay tax. Rev. Rul. 2007-20, 2007-14 I.R.B. 863. The requirement to file a federal income tax return is explicitly stated in the Internal Revenue Code. *See, e.g.*, IRC §§ 6011(a), and 6012(a). An SFR “merely provides the [IRS] with a mechanism for determining the tax liability of a taxpayer who has not filed a return.” *Id.* An SFR prepared by the IRS may be received as the return of a taxpayer only if it signed by the taxpayer. IRC § 6020(a). Ms. Barrett did not sign or acknowledge the SFR as correct, therefore she did not previously report her income.

²⁴ Appeal 1.

²⁵ Hennessy Decl., Ex. D at 1.

²⁶ Appellant’s Mem. Opp’n Summ. J. 5.

Ms. Barrett's interpretation of the phrase "as reported" ignores the whole phrase "as reported *to* the [IRS]." Minn. Stat. § 289A.38, subd. 7 (emphasis added). The statute does not add "as reported to *or by* the [IRS]," thus her interpretation fails to give effect to each word and phrase in the statute. *Shire v. Rosemount, Inc.*, 875 N.W.2d 289, 292 (Minn. 2016) (internal citations omitted) (courts "interpret statutes so as to give effect to each word and phrase.").

When read as a whole, the first sentence of Subdivision 7 provides a clear directive. *Am. Fam. Ins. Grp.*, 616 N.W.2d at 277. If taxpayer financial information ("the amount of income, items of tax preference, deductions, or credits for any year of a taxpayer") previously reported to the IRS by a taxpayer ("as reported to the Internal Revenue Service") is changed or corrected by the IRS ("is changed or corrected by the commissioner of Internal Revenue"), then the taxpayer must report the change ("the taxpayer shall report the federal adjustments in writing to the commissioner."). Minn. Stat. § 289A.38, subd. 7.

As Ms. Barrett made no initial report of her income to the IRS that was later changed by the IRS, we conclude that Ms. Barrett did not meet the requirements for the Commissioner to recompute and reassess her state tax due, including a refund, per Subdivision 9. Minn. Stat. § 289A.38, subd. 9. As a result, we agree that the Commissioner correctly denied Ms. Barrett's claim for refund as untimely.

2. A Federal Adjustment Report Must be Made in the Form of an Amended Return under Subdivision 7.

Subdivision 7 requires a federal adjustments report to be in the form of either an amended income tax return—Form M1X—or a letter "detailing how the federal adjustment is incorrect or does not change Minnesota tax." Minn. Stat. § 289A.38, subd. 7. The statute provides a closed list of options for filing a federal adjustments report. *See Maytag Co. v. Comm'r of Tax'n*, 17 N.W.2d

37, 40 (Minn. 1944) (holding that when a statute “enumerates the persons or things to be affected by its provisions, there is an implied exclusion of others.”).

Here, Ms. Barrett did not file an amended Minnesota income tax return to replace the Commissioner’s previously filed CFR.²⁷ Her replacement income tax return—Form M1— included information reported to and accepted by the IRS without agency change or correction.²⁸ The closed list of options provided in the statute was not available to Ms. Barrett because the statute only applies to individuals who filed Minnesota tax returns that were changed or could have been changed by an amended return as a result of a federal tax adjustment. Minn. Stat. § 289A.38, subd. 7. Ms. Barrett would have had to file her claim for refund with a replacement income tax return filed before December 31, 2020, one year from the notice date of the Commissioner’s CFR. Minn. Stat. § 289A.40, subd. 1.

As no federal adjustments report was filed, we find the taxpayer did not meet the requirements for the Commissioner to recompute and reassess the tax due, including a refund, per Subdivision 9. Minn. Stat. § 289A.38, subd. 9. As a result, we agree that the Commissioner correctly denied Ms. Barrett’s claim for refund as untimely.

B.J.L.Q.

²⁷ Hennessy Decl., Ex. E.

²⁸ Hennessy Decl., Ex. B.