

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1018

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 4-5-84
DATE FOR REVIEW 4-13-84
DATE DUE 4-19-84

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved 4-17-84 MJC Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 4-17-84 Revisor approved 4/5/84 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 4.3.84 Date

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavits of Mailing Notice or rulemaking
2.24.84 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
2.27.84 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

Agency's Findings of Fact

LCRAR Report or agency Affidavit

Certificate of Board's Resolution Adopting Rules

✓ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

STATE OF MINNESOTA
DEPARTMENT OF REVENUE
CENTENNIAL OFFICE BUILDING
SAINT PAUL, MINNESOTA 55145
PHONE: (612) 296-3439

April 4, 1984

Office of Attorney General
4th Floor, State Office Building
St. Paul, Minnesota 55155

Re: Amendment of an Income Tax Rule of the Department of Revenue
Relating to Minnesota Gross Income for Individuals
Who Are Part-Year Residents or Nonresidents of Minnesota
(Federal Adjusted Gross Income) (13 MCAR Section 1.6004)

Dear Sir or Madam:

In accordance with Minnesota Statutes, Section 14.26 and 1 MCAR Section 1.203, the following documents are enclosed for your review:

1. Amended Rule as Adopted (original and three copies). There were no changes in the rule as originally published.

2. Order Adopting (two copies).

3. Order for Notice of Intent to Amend an Income Tax Rule of the Department Without Public Hearing.

4. Notice of Intent to Amend an Income Tax Rule Without a Public Hearing.

5. Affidavits of Mailing (Notice of Intent to Amend a Rule Without a Public Hearing).

6. Certificate of Completeness and Accuracy (Mailing List Certificate).

7. Copy of the February 27, 1984 State Register in which the rule was published

8. Statement of Need and Reasonableness.

9. Written comments on the rule or requests for public hearing received by the agency.

10. Certificate of Compliance With Rulemaking Procedure.

The Department received one written comment regarding the amending of this rule. Please contact the undersigned if there are any questions.

Very truly yours,

John P. Malach, Jr., Attorney
Income Tax Division

JPM/ml

Enclosure

AN EQUAL OPPORTUNITY EMPLOYER

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: ARTHUR C. ROEMER
Commissioner of Revenue

DATE: 4/17/84

Attn: JOHN P. MALACH, Jr.

FROM: MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: Adopted Rules Relating to Income Tax; Reciprocity with Michigan

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

MJC:sa

AG copy

Department of Revenue

Income Tax Division

Adopted Rules Relating to Income Tax; Reciprocity with Michigan

Rules as Adopted

13 MCAR S 1.6004 Minnesota gross income for individuals who are part-year residents or nonresidents of Minnesota (Federal Adjusted Gross Income).

A.-E. [Unchanged.]

F. Minnesota gross income does not include personal or professional service income earned in Minnesota by a resident of Wisconsin, North Dakota, or Michigan. A resident of North Dakota or Michigan can use this provision only if the resident customarily returns at least once a month to their residence in that state. Wisconsin, North Dakota, and Michigan are the only three states that have reciprocity exclusion agreements with the State of Minnesota. The income subject to reciprocity exclusion is compensation for the performance of personal or professional services which the taxpayer personally renders. It is not enough to employ others to render these services.

1.-3. [Unchanged.]

G.-H. [Unchanged.]

Effective date. This rule is effective for taxable years beginning after December 31, 1983.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR 17 1984
Joan Anderson Growe
Secretary of State
1:30 PM

APPROVED AS TO FORM AND LEGALITY
April 17 1984
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Martha J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

Rules as Proposed

13 MCAR S 1.6004 Minnesota gross income for individuals who are part-year residents or nonresidents of Minnesota (Federal Adjusted Gross Income).

A.-E. [Unchanged.]

F. Minnesota gross income does not include personal or professional service income earned in Minnesota by a resident of Wisconsin ~~or~~, North Dakota ~~who~~, or Michigan. A resident of North Dakota or Michigan can use this provision only if the resident customarily returns at least once a month to their residence in that state. Wisconsin ~~and~~, North Dakota, and Michigan are the only ~~two~~ three states that have reciprocity exclusion agreements with the State of Minnesota. The income subject to reciprocity exclusion is compensation for the performance of personal or professional services which the taxpayer personally renders. It is not enough to employ others to render these services.

1.-3. [Unchanged.]

G.-H. [Unchanged.]

Effective date. This rule is effective for taxable years beginning after December 31, 1983.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD478

Agency: Department of Revenue

Division:

Agency Contact: Dale Busacker

Rule Numbers: 13 MCAR S 1.6004

Title: Proposed Rules Relating to Income Tax; Reciprocity With Michigan

Type of Rules: Permanent

Incorporations by Reference: None

Duplication of Statutory Language: None

The attached rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Janet C. Rahm
Assistant Revisor
Phone: 296-0952
Date: January 31, 1984

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

IN THE MATTER of the Proposed Amendment of an Income Tax Rule of the Department of Revenue Relating to Minnesota Gross Income for Individuals Who Are Part-Year Residents or Nonresidents of Minnesota (Federal Adjusted Gross Income) (13 MCAR Section 1.6004)

ORDER ADOPTING RULE

Notice of the Commissioner's intent to amend an income tax rule of the Department of Revenue relating to Minnesota gross income for individuals who are part-year residents or nonresidents of Minnesota (federal adjusted gross income) (13 MCAR Section 1.6004) was published in the State Register on February 27, 1984 and was sent by the United States mail or interoffice mail where appropriate to all persons on the list maintained by the agency pursuant to Minnesota Statutes, Section 14.14, subdivision 1 and on a supplemental list on February 24, 1984. After affording interested and affected persons an opportunity to submit comments for 30 days after notice, and receiving only one written request for a public hearing within the 30-day comment period, I have determined the need for and reasonableness of the above-captioned amended rule. No additional amendments are proposed to the amended rule as it was printed in the State Register.

Now, Therefore, It Is Ordered that the proposed amendment of the income tax rule of the Department of Revenue relating to Minnesota gross income for individuals who are part-year residents or nonresidents of Minnesota (federal adjusted gross income) (13 MCAR Section 1.6004) is adopted this 3rd day of April, 1984 pursuant to the authority vested in me by Minnesota Statutes, Section 290.52.

State of Minnesota

Arthur C. Roemer

ARTHUR C. ROEMER
Commissioner of Revenue

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

IN THE MATTER of the Proposed Amendment of an Income Tax Rule of the Department of Revenue Relating to Minnesota Gross Income for Individuals Who Are Part-Year Residents or Nonresidents of Minnesota (Federal Adjusted Gross Income) (13 MCAR Section 1.6004)

Order for Notice of Intent to Amend Rules Without Public Hearing

It is ordered this 13th day of February, 1984 that Notice of Intent to Amend a Rule Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Department of Revenue for that purpose and be published in the State Register.

State of Minnesota

Arthur C. Roemer

Arthur C. Roemer
Commissioner of Revenue

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

IN THE MATTER of the Proposed Amendment of an Income Tax Rule of the Department of Revenue Relating to Minnesota Gross Income for Individuals Who Are Part-Year Residents or Nonresidents of Minnesota (Federal Adjusted Gross Income) (13 MCAR Section 1.6004)

Notice of Intent to Amend a Rule Without a Public Hearing

Notice is hereby given that the Department of Revenue proposes to amend 13 MCAR Section 1.6004, Minnesota Gross Income for Individuals Who Are Part-Year Residents or Nonresidents of Minnesota (Federal Adjusted Gross Income), without a public hearing. The commissioner of revenue has determined that the proposed amendment of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Sections 14.21 to 14.28.

13 MCAR Section 1.6004 deals with Minnesota gross income for individuals who are part-year residents or nonresidents of Minnesota. Minnesota Statutes, Section 290.081(a) excludes from gross income the compensation received for the performance of personal or professional services within this state by an individual who resides and has his place of abode and place to which he customarily returns at least once a month in another state to the extent such compensation is subject to an income tax imposed by the state of his residence; provided that such state allows a similar exclusion of compensation received by residents of Minnesota for services performed in that other state. Under Minnesota Statutes, Section 290.081(c) the commissioner of revenue of the State of Minnesota has entered into a reciprocal tax agreement with the commissioner of revenue of the State of Michigan. This agreement was made applicable with respect to the taxation of net income for taxable years beginning on or after January 1, 1984 and with respect to withholding tax, effective January 1, 1984. Pursuant to the agreement, Michigan will forego taxation of compensation from personal services performed in Michigan, by natural persons domiciled in Minnesota who customarily return to their place of abode in Minnesota at least once a month and Minnesota will forego taxation of compensation from personal services performed in Minnesota, by natural persons domiciled in Michigan who customarily return to their place of abode in Michigan at least once a month. The commissioner is therefore proposing an amendment to 13 MCAR Section 1.6004 F. to include the State of Michigan.

Persons interested in this amended rule shall have 30 days to submit comments on the proposed amended rule. The proposed amended rule may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed amended rule.

Unless seven or more persons submit written requests for a public hearing on the proposed amended rule within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, Sections 14.13 to 14.20.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests to:

Mr. John P. Malach, Jr.
Attorney, Income Tax Administration
Minnesota Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145
(612) 296-3439

Authority for the amending of this rule is contained in Minnesota Statutes, Sections 290.52 and 290.081(c). Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of the amended rule and identifies the data and information relied upon, to support the proposed amended rule, has been prepared and is available from Mr. Malach upon request.

Upon adoption of the final rule without public hearing, the proposed amended rule, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final amended Rule as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the final amended rule, as proposed for adoption, should submit a written statement of such request to Mr. Malach.

The entire text of the proposed amended rule is attached to this Notice.

February 13, 1984

State of Minnesota

Arthur C. Roemer

Arthur C. Roemer
Commissioner of Revenue

Rules as Proposed

13 MCAR S 1.6004 Minnesota gross income for individuals who are part-year residents or nonresidents of Minnesota (Federal Adjusted Gross Income).

A.-E. [Unchanged.]

F. Minnesota gross income does not include personal or professional service income earned in Minnesota by a resident of Wisconsin ~~or~~, North Dakota ~~who~~, or Michigan. A resident of North Dakota or Michigan can use this provision only if the resident customarily returns at least once a month to their residence in that state. Wisconsin ~~and~~, North Dakota, and Michigan are the only ~~two~~ three states that have reciprocity exclusion agreements with the State of Minnesota. The income subject to reciprocity exclusion is compensation for the performance of personal or professional services which the taxpayer personally renders. It is not enough to employ others to render these services.

1.-3. [Unchanged.]

G.-H. [Unchanged.]

Effective date. This rule is effective for taxable years beginning after December 31, 1983.

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

IN THE MATTER of the Proposed Amendment of an Income Tax Rule of the Department of Revenue Relating to Minnesota Gross Income for Individuals Who Are Part-Year Residents or Nonresidents of Minnesota (Federal Adjusted Gross Income) (13 MCAR Section 1.6004)

AFFIDAVIT

Mary Lacho, being first duly sworn, deposes and says:

That on the 24th day of February, 1984, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the Notice of Hearing in the matter of the proposed amendment of an income tax rule of the Department of Revenue by depositing in the United States mail, or in the State of Minnesota interoffice mail service where appropriate, at the City of St. Paul, a true and correct copy of the Notice, properly enveloped, with postage prepaid, to all persons and associations at the address listed on the attached list.

Mary Lacho

Mary Lacho

Subscribed and sworn to before me this

24th day of February, 1984.

James H. Marrinan, Jr.

James H. Marrinan, Jr.
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My commission expires Apr. 24, 1986

Advocate for the Blind
1821 University Avenue, Rm. 389S
St. Paul, MN 55104

Mr. Bruce Akerman
1300 N.W. Bank Building
Minneapolis, MN 55402

Mr. Allard, C.P.A.
201 West Burnsville Parkway
Suite 130M
Burnsville, MN 55337

American Legion Club
Box 183
Hill City, MN 55748

Anderson & Peterson, LPAs
Dodge Professional Building
Moose Lake, MN 55767

David J. Anderson
Certified Public Accountant
2415 Annapolis Lane, Suite 110
Minneapolis, MN 55441

Dwight C. Anderson, C.P.A.
Box 2924
Fargo, ND 58108

Anderson, Johnson & Co., Ltd.
Certified Public Accountants
1068 South Lake St.
Forest Lake, MN 55025

Anderson, Keszler & Associates
Accountants and Auditors
1202 23rd Street So., Box 2924
Fargo, ND 58108

Arrowhead Accounting Service
Box 240
Coleraine, MN 55722

Arsenal Sand & Gravel Co., Inc.
P. O. Box 12707
New Brighton, MN 55112

Arthur Treacher's Fish & Chips, Inc.
5501 Tabor Road
Philadelphia, PA 19120
Attn: J. A. Altomare

Association of MN Counties
2305 Ford Parkway
St. Paul, MN 55116
Attn: James C. Shipman
Executive Director

Ausmus Furniture & Carpet
Hinckley,
MN 55037

Auto-Soler Co.
5101 Fulton Industrial Blvd. SW
Atlanta, GA 30336
Attn: H. Ensign, General Accountant

Wesley L. Bahl
P. O. Box 822
Faribault, MN 55021

Donald V. Bailey
Attorney at Law
306 Minnesota Federal Bldg.
607 Marquette Avenue
Minneapolis, MN 55402

Bankers Service Company
1918 W. County Rd. C.
Roseville, MN 55113
Attn: Glenn Thomasen

Bauer Built, Inc.
P. O. Box 248
Durand, WI 54736
Attn: Calvin Jacks, Jr.
Operations Manager

Bemidji Area Chamber of Commerce
P. O. Box 806
Bemidji, MN 56601
Attn: Bookkeeper

T. A. Bengtson
Rural Route 2, Box 90
Waterville, MN 56096

L. T. Bensen & Associates
5315 France Avenue North
Minneapolis, MN 55429

Benson Tax Service
3109 Bloomington Ave. S.
Minneapolis, MN 55407
Attn: Peter J. Benson

Benusa T.V. & Appliance, Inc.
109 7th Avenue South
St. Cloud, MN 56301

Best & Flanagan
4040 IDS Center
Minneapolis, MN 55402
Attn: James C. Diracles

Gary D. Blackford, Esq.
Popham, Haik, et al
4355 IDS Center
Minneapolis, MN 55402

Lyle L. Boehlke
Boehlke & Son, Inc.
Box 86
Buffalo Lake, MN 55314

Oscar J. Boldt Construction Co.
P. O. Box 419
Appleton, WI 54912
Attn: Kathy L. Baumann

Bondhus Corporation
Lois M. Payne
Box 667
Monticello, MN 55362

Borowicz, Holmgren, Loberg & Co.
Certified Public Accountants
151 West 126th Street
Burnsville, MN 55337

Boulay, Heutmaker, Zibell & Co.
6800 France Avenue South
Minneapolis, MN 55435

Briggs & Morgan, P.A.
W-2200 First National Bank Building
St. Paul, MN 55101
Attn: Jerome A. Geis, Esq.

Broeker, Hartfeldt, Hedges & Grant
Attorneys at Law
2850 Metro Drive-Suite 800
Minneapolis, MN 55420
Attn: John M. Broeker

Broeker, Hartfeldt, Hedges & Grant
Attorneys at Law
2850 Metro Drive, Suite 800
Minneapolis, MN 55420
Attn: Angus M. Vaughan
Legal Assistant

Business and Financial Services
P. O. Box 365
Cannon Falls, MN 55009

Butler Manufacturing Company
BMA Tower, Penn Valley Park
Kansas City, MO 64141

Byerly's
7171 France Avenue So.
Edina, MN 55435
Attn: Don Hoekstra, Accts. Mgr.

C.A.P. Cooperative Oil Ass'n.
P. O. Box 38
Kettle River, MN 55757

Caldwell, Taylor & Brown, Ltd.
540 Shelard Plaza North
300 South County Road 18
Minneapolis, MN 55426

Carlisle Accounting Service
14645 Cameo Avenue
Rosemount, MN 55068

Daniel R. Cartier
Post Office Box 41245
10601 Olson Memorial Highway
Plymouth, MN 55441

Casey & Casey
Certified Public Accountants
7400 Metro Boulevard
Edina, MN 55435

CCH Computax Inc.
P. O. Box 92938
Worldway Postal Center
Los Angeles, CA 90009
Attn: John Koffroth, Tax Specialist

Chicago, Milwaukee, St. Paul
and Pacific Railroad Comapny
516 W. Jackson Blvd.
Chicago, IL 60608
Attn: Manager-Tax Accounting

Mrs. Laudine Christ
Rural Route #1, Box 90
Wells, MN 56097

City of Apple Valley
George E. Ballenger, Finance Dir.
14200 Cedar Avenue South
Apple Valley, MN 55124

Commercial Tally, Inc.
E K Williams & Co.
WestGate Mall
St. Cloud, MN 56301

Computer Techniques Inc.
7801 East Bush Lake Road
Minneapolis, MN 55435
Attn: Office Manager

Concrete Sectional Culvert Company
P. O. Box 1429
Fargo, ND 58102

County Flower Shop
Audrey Van Klompenburg
Route 3, Box 218
Montevideo, MN 56265

Country Furniture
D. J. Meyer Inc.
Lake Park, MN 56554

Crest Electronics
Simon at Third
Dassel, MN 55325
Attn: Carol A. Chap, Office Manager

Custom Printing, Inc.
P. O. Box 1010
1913 2nd Street S.W.
Rochester, MN 55901

Dacotah Paper Co.
1401 - 5th Avenue North
P. O. Box 2727
Fargo, ND 58108

Dan Blank Accounting
213 N. 1st Street
P. O. Box 530
Montevideo, MN 56265

Dayton's
700 on the Mall
Minneapolis, MN 55402
Attn: J.E. Wahl, Property Accounting

Dayton's - Advertising
700 Nicollet Mall
Minneapolis, MN 55402
Attn: Mr. Edward Hannasch

DDD Motel Corporation
111 Range Street
North Mankato, MN 56001
Attn: Shirley Miller, Bookkeeper

Dean's Towing & Auto Parks
P. O. Box 157
Brainerd, MN 56401

H. LeRoy DeBoom
3945 Zarthan Avenue
St. Louis Park, MN 55416

Jim DeChaine
2419 Tunlaw Road N.W.
Washington, D.C. 20007

Lorraine DeMill
1414 13th Avenue E.
Hibbing, MN 55746

The Denesen Company, Inc.
2836 Colfax Avenue South
Minneapolis, MN 55408
Attn: R. L. Earlywine

Denny's North Star
Box 35
Hill City, MN 55748

Bob Dietrick, Treasurer
City of Excelsior
339 Third Street
Excelsior, MN 55331

Department of Economic Assistance
Client Resources Unit
A-1200 Government Center
Minneapolis, MN 55487
Attn: Ed Fashingbauer

Mr. Dennis J. Dietzler
Attorney at Law
7426 Nicollet Avenue So.
Richfield, MN 55423

Director Staff Services
2215 W. Old Shakopee Road
Bloomington, MN 55431
Attn: Lyle R. Olson

Distributors Novelty House, Inc.
119 North 4th Street
Minneapolis, MN 55401
Attn: Lois Mann, Bookkeeper

Dome Pipeline Corporation
P. O. Box 2608, Station M
Calgary, Canada T2P 2M7
Attn: K. D. Olstad

Dome Pipeline Corporation
P. O. Box 200
Calgary, Alberta
Canada T2P 2H8

Dorsey, Windhorst, Hannaford, Whitney
& Halladay
2300 First National Bank Building
Minneapolis, MN 55402
Attn: Philip M. Chen

Drug Fair, Inc.-Star Drug-Witte Drug
Industrial Park Road
Iowa City, IA 52240

E.A.T. Inc.
K-Bob Cafe & Riverside Deli
109 South 5th Avenue
Princeton, MN 55371

E. I. du Pont de Nemours & Co.
State, Excise & Employment Taxes Sec.
Room 1346 Farmers Bank Bldg.
1007 Market Street
Wilmington, DE 19898

Mary Lou Eltgroth
306 E. 4th Street
Morris, MN 56267

The Estenson Company
101 East Main
Luverne, MN 56156

Ernst & Whinney
1400 Pillsbury Center
Minneapolis, MN 55402

Ernst & Whinney
1400 Pillsbury Center
Minneapolis, MN 55402
Attn: Anthony M. Schelonka

Esterbrooks, Lomen, Scott & Signorelli, Ltd.
307 Lonsdale Building
Duluth, MN 55802

FAB Pipe, Inc.
701 County Road 83
Shakopee, MN 55379

Fabri-Centers of America, Inc.
23550 Commerce Park Road
Beachwood, OH 44122
Attn: David Essi, Jr.
Tax Department

Donald M. Fahrenkamp
P. O. Box 305
4769 Dakota Street
Prior Lake, MN 55372

Farmers Exchange Cooperative
Lake Park
IA 51347

First Northwestern Bank
110 E. 3rd Street
Box 579
Thief River Falls, MN 56701

Firstbank Financial Corporation
100 Federal Street
Boston, MA 02110
Attn: Renato R. Te, Accounting Officer

Firstmiss Inc.
P. O. Box 328
Ft. Madison, IA 52627
Attn. Financial/Tax Accountant

Stephen H. Fischer
Certified Public Accountant
Suite 357
10901 Red Circle Drive
Minnetonka, MN 55343

Flight Transportation Corporation
9960 Flying Cloud Drive
Minneapolis, MN 55344
Attn: Glen Grambart, Asst. Controller

The Flintkote Company
P. O. Box 800
Dallas, TX 75221
Attn: Tax Department
Account No. 8665376

John Henry Foster Co., Inc.
3748 Minnehaha Ave.
Minneapolis, MN 55406
Attn: Edward H. Mayhew

John Henry Foster Co., Inc.
10740 Midwest Industrial Blvd.
St. Louis, MO 63132
Attn: Fred R. Nolkemper

Fox & Company
1800 Northwestern Financial Center
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Minneapolis, MN 55431

Conrad M. Fredin
Attorney at Law
811 1st National Bank Bldg.
Duluth, MN 55802

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P. O. Box 712
Milwaukee, WI 53201
Attn: A. De Bauche

Froedtert Malt Corp.
P. O. Box 712
Milwaukee, WI 53201
Attn: R. Strauss

Frundt, Frundt & Johnson
Attorneys at Law
117 West 5th Street
Blue Earth, MN 56013

Furniture et cetera, Inc.
311 South Main
Hector, MN 55342

Gavin, Olson & Conkel, Ltd.
Gavin Law Building
Glencoe, MN 55336

General Business Services
P. O. Box 365
Cannon Falls, MN 55009

General Business Service
1827 No. St. Paul Road
Maplewood, MN 55109

General Mills, Inc.
c/o R. D. Mueller, Tax Manager
P. O. Box 1113
Minneapolis, MN 55440

Gildner Stores, Inc.
15½ N. Federal
Mason City, IA 50401

Susan Giren
15731 Cicerone Path
Rosemount, MN 55068

Goering Fire Suppression, Inc.
9803 Logan Avenue South
Bloomington, MN 55431

Goodall Rubber Company
P. O. Box 8237
Trenton, NJ 08650
Attn: G. E. Hamilton, Tax Manager

Elmer A. Goodman
Route 2, Box 276
Rockford, MN 55373

Grace Home, Inc.
Graceville, MN 56240

Grain Terminal Association
Tax & Patron Equities Department
P. O. Box 43594
St. Paul, MN 55164

Richard J. Graf
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Minneapolis, MN 55438

Graves, McKen[redacted] Lundeen & Almquist
6800 France Avenue South
Minneapolis, MN 55435
Attn: Mary Olmscheid

H & R Block, Inc.
Regional Office
3990 Central Avenue N.E.
Minneapolis, MN 55421
Attn: Richard Fretland

Haack Tax Service
1506 3rd Avenue N.W.
Rochester, MN 55901

Habert Accounting
2127 West Superior St.
Duluth, MN 55806
Attn: Karen Habert

Hackbarth Auto & Tractor Supply, Inc.
Howard Lake, MN 55349
Attn: Betty Jane Hackbarth

Mathew Hall Lumber Co.
127 6th Avenue North
St. Cloud, MN 56301

Philip M. Hanft
Attorney at Law
1200 Alworth Building
Duluth, MN 55802

Reid J. Hansen
Dakota Central Offices
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E. Hara
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Golden Valley, MN 55422

Melvin R. Harris
Suite 915 Park Place
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St. Louis Park, MN 55416

The Hart Press, Inc.
333 Central Avenue
Long Prairie, MN 56347
Attn: John L. Larson, Accountant

Alfred L. Haugud
Box 49
Fairmont, MN 56031

Havemeier's Accounting
P. O. Box 367
Hutchinson, MN 55350
Attn: Jim Drahos

Hayssen Manufacturing Company
P. O. Box 571
Sheboygan, WI 53081
Attn: L. H. Volz

HBE Leasing Corporation
717 Office Parkway
P. O. Box 27340
St. Louis MO 63141

Heart of America
1853 Zanzibar Lane
Minneapolis, MN 55447
Attn: Ms. Sonya H. Stenulson

Perry and Jane Hendricks
Route 1
Millville, MN 55957

Wallace F. Hilke, C.P.A.
33 E. Wentworth Avenue
West St. Paul, MN 55118

Erwin Hill, CPA
P. O. Box B
Austin, MN 55912

Brad Hoffman
City of Brooklyn Center
6301 Shingle Creek Parkway
Brooklyn Center, MN 55430

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STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

IN THE MATTER of the Proposed Amendment of an Income Tax Rule of the Department of Revenue Relating to Minnesota Gross Income for Individuals Who Are Part-Year Residents or Nonresidents of Minnesota (Federal Adjusted Gross Income) (13 MCAR Section 1.6004)

AFFIDAVIT

Mary Lacho, being first duly sworn, deposes and says:

That on the 24th day of February, 1984, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the Notice of Hearing in the matter of the proposed amendment of an income tax rule of the Department of Revenue by depositing in the United States mail, or in the State of Minnesota interoffice mail service where appropriate, at the City of St. Paul, a true and correct copy of the Notice, properly enveloped, with postage prepaid, to all persons and associations at the address listed on the attached supplemental list.

Mary Lacho

Mary Lacho

Subscribed and sworn to before me this 24th day of February, 1984.

James H. Marrinan, Jr.

James H. Marrinan, Jr.
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My commission expires Apr. 24, 1985

Copy of the Notice of [redacted]ent to Amend a Rule Without a [redacted]lic Hearing on an income tax rule relating to Minnesota Gross Income for Individuals Who Are Part Year Residents or Nonresidents of Minnesota went to the following on February 24, 1984:

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STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

IN THE MATTER of the Proposed Amendment of an Income Tax Rule of the Department of Revenue Relating to Minnesota Gross Income for Individuals Who Are Part-Year Residents or Nonresidents of Minnesota (Federal Adjusted Gross Income) (13 MCAR Section 1.6004)

AFFIDAVIT

John P. Malach, Jr., being first duly sworn, deposes and says:

That on the 17th day of February, 1984 at the City of St. Paul, County of Ramsey, State of Minnesota, he personally received the list of persons, associations and other interested groups who had registered with the Department of Revenue for the purpose of receiving notice of public hearing on proposed rules. A copy of this list is attached.

John P. Malach, Jr.

Subscribed and sworn to before me

this 24th day of February, 1984.

James H. Marrinan, Jr.

James H. Marrinan, Jr.
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My commission expires Apr. 24, 1985

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STATE OF MINNESOTA

DEPARTMENT OF REVENUE

IN THE MATTER of the Proposed Amendment of an Income Tax Rule of the Department of Revenue Relating to Minnesota Gross Income for Individuals Who Are Part-Year Residents or Nonresidents of Minnesota (Federal Adjusted Gross Income) (13 MCAR Section 1.6004)

CERTIFICATE OF COMPLETENESS AND ACCURACY

I hereby certify that the attached 29 sheets constitute the complete list of persons, associations and other interested groups who, as of 8:00 o'clock A.M., this 17th day of February, 1984, have requested, pursuant to Minn. Stat. Section 14.14, subd. 1, that their names be placed on file with the Department of Revenue for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

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COMMISSIONER OF REVENUE

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Donna L. Walbridge
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STATE REGISTER

STATE OF MINNESOTA



VOLUME 8, NUMBER 35

February 27, 1984

Pages 1913-1940

STATE REGISTER

Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
	SCHEDULE FOR VOLUME 8		
36	Friday Feb 17	Monday Feb 27	Monday Mar 5
37	Monday Feb 27	Monday Mar 5	Monday Mar 12
38	Monday Mar 5	Monday Mar 12	Monday Mar 19
39	Monday Mar 12	Monday Mar 19	Monday Mar 26

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

The *State Register* is published by the State of Minnesota, State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to Minn. Stat. § 14.46. Publication is weekly, on Mondays, with an index issue in September. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at $130.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota. Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at $3.25 per copy.

Subscribers who do not receive a copy of an issue should notify the *State Register* Circulation Manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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Cover graphic: *Minnesota State Capitol*, ink drawing by Ric James.

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NOTICE

How to Follow State Agency Rulemaking Action in the *State Register*

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION.** Such notices are published in the **OFFICIAL NOTICES** section. Proposed rules and adopted rules are published in separate sections of the magazine.

The PROPOSED RULES section contains:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* and filed with the Secretary of State before September 15, 1982, are published in the *Minnesota Code of Agency Rules 1982 Reprint*. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after September 15, 1982, will be included in a new publication, *Minnesota Rules*, scheduled for publication in spring of 1984. In the MCAR AMENDMENT AND ADDITIONS listing below, the rules published in the *MCAR 1982 Reprint* are identified with an asterisk. Proposed and adopted TEMPORARY RULES appear in the *State Register* but are not published in the *1982 Reprint* due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative listings of rule action in the MCAR AMENDMENTS AND ADDITIONS list on the following schedule:

Issues 1-13, inclusive
Issues 14-25, inclusive
Issue 26, cumulative for 1-26
Issue 27-38, inclusive
Issue 39, cumulative for 1-39
Issues 40-51, inclusive
Issue 52, cumulative for 1-52

The listings are arranged in the same order as the table of contents of the *MCAR 1982 Reprint*.

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3 MCAR §§ 1.0389, 1.0400 [Amend] (proposed) 1561
3 MCAR §§ 1.1340-1.1348 [Temp] (adopted) 1776
3 MCAR §§ 1.4060-1.4070 [Temp] (adopted) 1857
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EXECUTIVE ORDERS

Executive Order No. 84-2

Providing for the Establishment of a Governor's Council on Environmental Resources Development; Amending Executive Order No. 83-38

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, Minnesotans take pride in their state and have an active concern for maintaining and improving its ecological and economic environment; and

WHEREAS, it is recognized that quality environment and a genuine commitment to sound resource utilization will provide a more favorable climate for business enterprise in the state; and

WHEREAS, there is an increasing awareness on the part of individuals and organizations of the need to take greater responsibility for their environment; and

WHEREAS, an organized program of resource recycling and community revitalization would greatly enhance efforts already underway that emphasize our quality of life; and

WHEREAS, efforts to facilitate and encourage public and private initiatives in these areas are both promising and beneficial; and

WHEREAS, many of the activities dealing with the environment by the Governor's Quality Environment Program are directly or indirectly related with the goals of the Department of Energy and Economic Development;

NOW, THEREFORE, I order:

1. The transfer of the personnel and activities of the Governor's Quality Environment Program to the Department of Energy and Economic Development, pursuant to Minnesota Statutes 15.0593 and other applicable statutes.

2. The establishment of the Governor's Council on Environmental Resources Development, pursuant to Minnesota Statutes 15.0593 and other applicable statutes.

a. The Council shall be composed of fifteen (15) members appointed by the Governor who shall be experienced or interested in resource recycling, community revitalization, or any other activities compatible with the aims of this Executive Order.

b. The chairperson of the Council shall be appointed by the Governor from among the members.

c. The Commissioners of Agriculture, Education, Natural Resources, Transportation, Energy and Economic Development, and State Planning, and the Executive Director of the Pollution Control Agency, or their designees, are hereby instructed to work with the Council to accomplish its aims set forth below.

d. Members of the Council shall not receive per diem, but may be reimbursed for travel and other ordinary and necessary expenses.

2. The appointment of an Executive Director, to serve at the pleasure of the Governor, to coordinate the activities of this Council.

3. The Executive Director, with the Council as advisors, is charged as follows:

a. To identify and find ways to coordinate and make more effective existing and proposed programs for recycling.

b. To identify and find ways to coordinate and make more effective existing and proposed programs for community revitalization.

c. To identify and find ways to coordinate and make more effective existing and proposed programs of public information and awareness in these areas.

d. Where necessary to meet identified needs in these areas, to recommend additional programs to augment those already existing or proposed.

e. To coordinate and encourage efforts in both the public and private sector to plant trees, for aesthetic enjoyment and for economic benefit, by maintaining and increasing the urban forest.

f. To plan, organize, coordinate, and direct a Keep Minnesota Beautiful Program, and to recommend steps to make this program a continuing effort.

g. To implement the recommendations in the Report to the Governor and Legislature issued February 1, 1984.

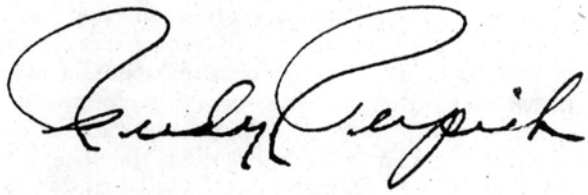
4. The Executive Director, with the Council as advisors, is authorized to solicit, receive, and disburse, on behalf of the state, funds to further the purposes for which it is established. These funds shall be transferred to the State Department of Energy and Economic Development's Gift Fund Account and/or Seminar Account.

5. The Executive Director and/or chairperson, may appoint advisory committees composed of individuals who have interest or expertise to assist in its work. Such appointees shall receive no reimbursement.

6. The Executive Director may, subject to the availability of funds, contract with such individuals and organizations as may be able to assist in carrying out the duties of the Council.

Pursuant to Minnesota Statutes 1982, Section 4.035, this Order shall be effective 15 days after publication in the *State Register* and filing with the Secretary of State and shall remain in effect until rescinded by proper authority or it expires in accordance with Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF I have set my hand this 3rd day of February, 1984.



PROPOSED RULES

Pursuant to Minn. Stat. of 1980, §§ 14.21, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.13-14.20 which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 14.29, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Revenue
Income Tax Division

Proposed Rules Relating to Income Tax; Reciprocity with Michigan

Notice of Intent to Amend a Rule without a Public Hearing

Notice is hereby given that the Department of Revenue proposes to amend 13 MCAR Section 1.6004, Minnesota Gross Income for Individuals Who Are Part-Year Residents or Nonresidents of Minnesota (Federal Adjusted Gross Income), without

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

a public hearing. The commissioner of revenue has determined that the proposed amendment of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Sections 14.21 to 14.28.

13 MCAR Section 1.6004 deals with Minnesota gross income for individuals who are part-year residents or nonresidents of Minnesota. Minnesota Statutes, Section 290.081(a) excludes from gross income the compensation received for the performance of personal or professional services within this state by an individual who resides and has his place of abode and place to which he customarily returns at least once a month in another state to the extent such compensation is subject to an income tax imposed by the state of his residence; provided that such state allows a similar exclusion of compensation received by residents of Minnesota for services performed in that other state. Under Minnesota Statutes, Section 290.081(c) the commissioner of revenue of the State of Minnesota has entered into a reciprocal tax agreement with the commissioner of revenue of the State of Michigan. This agreement was made applicable with respect to the taxation of net income for taxable years beginning on or after January 1, 1984 and with respect to withholding tax, effective January 1, 1984. Pursuant to the agreement, Michigan will forego taxation of compensation from personal services performed in Michigan, by natural persons domiciled in Minnesota who customarily return to their place of abode in Minnesota at least once a month and Minnesota will forego taxation of compensation from personal services performed in Minnesota, by natural persons domiciled in Michigan who customarily return to their place of abode in Michigan at least once a month. The commissioner is therefore proposing an amendment to 13 MCAR Section 1.6004 F. to include the State of Michigan.

Persons interested in this amended rule shall have 30 days to submit comments on the proposed amended rule. The proposed amended rule may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed amended rule.

Unless seven or more persons submit written requests for a public hearing on the proposed amended rule within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, Sections 14.13 to 14.20.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests to:

Mr. John P. Malach, Jr.
Attorney, Income Tax Administration
Minnesota Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145
(612) 296-3439

Authority for the amending of this rule is contained in Minnesota Statutes, Sections 290.52 and 290.081(c). Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of the amended rule and identifies the data and information relied upon, to support the proposed amended rule, has been prepared and is available from Mr. Malach upon request.

Upon adoption of the final rule without public hearing, the proposed amended rule, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final amended Rule as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the final amended rule, as proposed for adoption, should submit a written statement of such request to Mr. Malach.

The entire text of the proposed amended rule is attached to this Notice.

February 13, 1984

Arthur C. Roemer
Commissioner of Revenue

Rules as Proposed

13 MCAR § 1.6004 Minnesota gross income for individuals who are part-year residents or nonresidents of Minnesota (Federal Adjusted Gross Income).

A.-E. [Unchanged.]

F. Minnesota gross income does not include personal or professional service income earned in Minnesota by a resident of Wisconsin ~~or~~, North Dakota ~~who~~, or Michigan. A resident of North Dakota or Michigan can use this provision only if the resident customarily returns at least once a month to their residence in that state. Wisconsin ~~and~~, North Dakota, and Michigan are the only ~~two~~ three states that have reciprocity exclusion agreements with the State of Minnesota. The income subject to

reciprocity exclusion is compensation for the performance of personal or professional services which the taxpayer personally renders. It is not enough to employ others to render these services.

1.-e. [Unchanged.]

G.-H. [Unchanged.]

Effective date. This rule is effective for taxable years beginning after December 31, 1983.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.13-14.28 have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under § 14.18.

Department of Natural Resources Fish and Wildlife Division

Adopted Rules Designating Species of Wild Animals and Plants as Endangered, Threatened or of Special Concern

The rules proposed and published at *State Register*, Volume 8, Number 18, pages 995-1004, October 31, 1983 (8 S.R. 995) are adopted as proposed.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Commerce
Board of Architecture, Engineering, Land Surveying and Landscape Architecture

Notice of Special Meeting of Board

The Board of Architecture, Engineering, Land Surveying and Landscape Architecture will meet Friday, March 2, 1984 at 9:30 A.M. in Hearing Room A, Department of Commerce, Fifth Floor, Metro Square, St. Paul.

State Board of Investment
Investment Advisory Council

Notice of Regular Meeting

The State Board of Investment will meet on Wednesday, March 7, 1984 at 9:00 A.M. in Room 118, State Capitol.

The Investment Advisory Council will meet at 7:30 A.M. on Tuesday, March 6, 1984 in the MEA Building Conference Room, 41 Sherburne, Saint Paul.

County Law Libraries

Joint Notice of Filing Fees

Pursuant to Minn. Stat. 140.422 (140.421 for Hennepin and Ramsey Counties) the following County Law Libraries announce the Law Library fees to be collected in the district, county, municipal, probate and conciliation courts of their respective counties.

Pursuant to Minn. Stat. 140.422 subd. 4, for counties other than Hennepin and Ramsey, fees shall be in effect until July 1, 1985.

	Civil Suits		Probate	Conciliation		Criminal	Misd./Traffic
COUNTY	Pl.	Def.	Petitioner	Pet.	Resp.	Conviction	Conviction
Aitkin	$ 5	$ 5	$ 5	$ 5	$ 5	$—	$—
Beltrami	5	5	5[1]	5	5	3	3
Big Stone	5	5	—	—	—	5	5
Brown	5	5	5	5	5	—	—
Cass	5	5	5	5	5	—	—
Clay	10	10	10	5	5	10	5
Clearwater	5	5	5	1	1	3	3
Cook	5	5	5	5	5	2	2
Cottonwood	5	5	5	5	5	—	—
Crow Wing	5	5	5	5	5	—	—
Dakota	5	5	5	—	—	—	—
Fillmore	5	5	5	5	5	—	—
Freeborn	10	10	10	5	5	10	10
Goodhue	5	5	5	5	5	—	—
Grant	5	5	5	5	5	5	5

COUNTY	Civil Suits Pl.	Civil Suits Def.	Probate Petitioner	Conciliation Pet.	Conciliation Resp.	Criminal Conviction	Misd./Traffic Conviction
Hubbard	$ 5	$ 5	$ 5	$ 5	$ 5	$ 5	$ 5
Isanti	5	5	5	3	3	—	—
Jackson	5	5	5	5	5	—	—
Kittson	5	5	5	5	5	5	5
Koochiching	5	5	5	5	5	5	5
Lake of the Woods	5	5	5	5	5	—	—
Lyon	5	5	5	5	5	—	—
Mahnomen	5	5	5	1	1	—	—
Martin	5	5	5	5	5	—	—
Mille Lacs	7	7	7	2	2	2	2
Mower	5	5	5	5	5	—	—
Nicollet	5	5	5	5	5	1	1
Nobles	5	5	5	1	1	1	1
Norman	5	5	5	—	—	—	—
Otter Tail	5	5	5	—	—	—	—
Pennington	5	5	5	5	5	5	5
Pipestone	5	5	5	1	1	—	—
Ramsey[2]	7	7	7[3]	—	—	—	—
Red Lake	5	5	5	5	5	5[4]	5[4]
Scott	5	5	5	—	—	—	—
Sherburne	5	5	5	3	3	—	—
Sibley	7	7	7	7	7	—	—
Swift	7	7	7	7	7	2	2
Todd	10	10	10	5	5	10[5] 5[6]	3[7]
Traverse	5	5	—	—	—	5	5
Washington	5	5	5	—	—	—	—
Watonwan	5	5	5	—	—	—	—
Wilkin	5	5	5	1	1	5	5
Wright	5	5	5	3	3	—	—

NOTES: [1] Beltrami County Law Library probate fees are charged only on formal proceedings and determination of descent.
[2] Ramsey County Law Library fees were increased effective January 1, 1984.
[3] No Ramsey County Law Library fee on guardianship or conservatorship petitions.
[4] Red Lake County Law Library fees do not apply to petty misdemeanors.
[5] Todd County Law Library fee for gross misdemeanors and felonies.
[6] Todd County Law Library fee for misdemeanors.
[7] Todd County Law Library fee for petty misdemeanors.

Department of Education
Division of Instruction

Availability of Federal Funds for Adult Education

The Minnesota Department of Education announces the availability of funds to conduct Adult Education under Public Law 91-230, as amended.

The purpose of Public Law 91-230 is to expand educational opportunities for adults and to encourage the establishment of programs of adult education that will:

"(1) enable all adults to acquire basic skills necessary to function in society,

(2) enable adults who so desire to continue their education to at least the level of completion of secondary school, and

(3) to make available to adults the means to secure training that will enable them to become more employable, productive, and responsible citizens."

Applications for grants to carry out the purposes of this Act may be submitted by local educational agencies and by public or private non-profit agencies, organizations and institutions.

Application procedures and forms may be obtained after March 1, 1984 by writing to: Community and Adult Education Section, State of Minnesota, 639 Capitol Square Building, St. Paul, MN 55101.

All applications must be delivered to the Department of Education, Community Education Section, or be postmarked, on or before June 1, 1984.

Department of Education
Division of Instruction

Availability of Federal Funds for Adult Education Special Experimental Demonstration Projects and Teacher Training

The Minnesota Department of Education announces the availability of funds to conduct Special Experimental Demonstration Projects and Teacher Training under Section 310 of Public Law 91-230, whose purpose is to provide funds for:

"(1) Special projects which will be carried out in furtherance of the title and which:

(A) Involve the use of innovative methods, including methods of teaching persons of limited English speaking ability, systems, materials, or programs which may have national significance or be of special value in promoting effective programs under this title; or,

(B) Involve programs of adult education, including education of persons of limited English speaking ability, which are part of community school programs, carried out in cooperation with other federal, federally assisted, state, or local programs which have unusual promise in promoting a comprehensive or coordinated approach to the problems or people with educational deficiencies; and

(2) Training persons engaged, or preparing to engage, as personnel in program designed to carry out the purpose of this title."

Applications for grants to carry out the purposes of this Act may be submitted by local education agencies and by public or private non-profit agencies, organizations and institutions.

Application procedures and forms may be obtained after March 1, 1984 by writing to: Community and Adult Education Section, State of Minnesota, 639 Capitol Square Building, St. Paul, MN 55101.

All applications must be delivered to the Department of Education, Community Education Section, or be postmarked, on or before June 1, 1984.

Department of Labor and Industry
Workers' Compensation Division

Outside Opinion Sought on New Rules Governing Independent Contractor Status Criteria

Notice is hereby given that the Minnesota Department of Labor and Industry, Workers' Compensation Division, is seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing the criteria to be used by the division in the determination of independent contractor status. The promulgation of these rules is authorized by Minn. Stat. §§ 176.012 (e), 176.041, subd. 1, and 176.83 (j) (Supp. 1983) which permit the agency to adopt rules defining independent contractors.

The Minnesota Department of Labor and Industry, Workers' Compensation Division, requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit written or oral information. Written statements should be addressed to:

Steve Keefe, Commissioner
Department of Labor and Industry
444 Lafayette Road
St. Paul, Minnesota 55101

Any written material received by the Minnesota Department of Labor and Industry, Workers' Compensation Division, shall become part of the record in the event that the rules are promulgated.

Oral statements will be received during regular business hours over the telephone at (612) 296-2342 and in person at the above address.

Information will be accepted until April 15, 1984.

Steve Keefe
Commissioner of Labor and Industry

Department of Public Welfare
Income Maintenance Bureau

Notice of Hospital Cost Index

Pursuant to 12 MCAR § 2.05401, D. 1. (Temporary) hospitals participating in the Medical Assistance and General Assistance Medical Care programs are subject to a Health Cost Index (HCI) that is to be used in the calculation of prospective inpatient hospital rates. Each hospital whose fiscal year starts during a given calendar quarter shall be notified of the HCI to be used 30 days prior to the start of that quarter. It has been determined that the HCI is 7.1% according to an independent source, Data Resources, Inc. for Health Care Costs. However, pursuant to Senate File 1234, Article 5, Section 9 (1983), the HCI is subjected to the legislatively imposed limit of 5%. Consequently the HCI is 5% for hospitals whose fiscal years begin during the calendar quarter beginning April 1, 1984.

Department of Public Welfare
Division of Services for the Blind

Outside Opinion Sought Concerning the Provision of Rehabilitation Services to Blind Persons

Notice is hereby given that the Minnesota Department of Public Welfare is considering a draft rule governing the provision of rehabilitation services to blind persons, 12 MCAR § 2.176. Authority for this rule is contained in Minnesota Statute 248.07.

The rule will govern the provision of direct rehabilitative services to blind and visually handicapped persons, including program eligibility requirements, services provided, financial eligibility participation, the provision of Communication Center services, minimum standards for the completion of services, and hearings. The Business Enterprise Program is governed by rule 12 MCAR § 2.079 and is not covered by this action.

The purpose of this notice is to provide the opportunity for input from all organizations and individuals regarding this proposed draft of 12 MCAR § 2.176. Statements of information, suggestions or comments may be made orally or in writing.

Copies of the draft of the proposed rule may be obtained from and written statements of information and comment may be addressed to:

Karl W. Nitardy
Services for the Blind
1745 University Ave.
St. Paul, MN 55104

Oral statements of information and comment will be received over the telephone at (612) 296-6086 between 9:00 a.m. and 4:00 p.m. Monday through Fridays.

Statements of information and comment will be accepted until May 15, 1984. Any written material received by the Department shall become part of the hearing record. Oral statements will be considered but will not become part of the hearing record.

Department of Revenue
Property Equalization Division

Outside Opinion Sought Regarding Proposed Rules Governing Valuation and Assessment of Electric, Gas Distribution, and Pipeline Companies (Utility Companies)

Notice is hereby given that the State Department of Revenue is seeking information or opinions from sources outside the agency in preparing to promulgate revised rules governing the valuation and assessment of utility companies. The promulgation of these rules is authorized by Minnesota Statutes section 270.06 (14), which permits the agency to make rules and regulations for the administration and enforcement of the property tax law.

The State Department of Revenue requests information and comments concerning the subject matter of these revised rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Ronald Cook
Property Equalization Division
Minnesota Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145

Oral statements will be received during regular business hours over the telephone at 612-296-5137 and in person at the above address.

All statements of information and comment shall be accepted until March 15, 1984. Any written material received by the State Department of Revenue shall become part of the record in the event that the rules are promulgated.

February 15, 1984

Lyle H. Ask, Director
Property Equalization Division

Department of Transportation

Petition of Cottonwood County for a Variance from State Aid Standards for Street Width

Notice is hereby given that the County Board of Cottonwood County has made a written request to the Commissioner of Transportation for a variance from minimum design standards for street width for a reconstruction project on CSAH 13 (13th Street) from River Road to Fourth Avenue in Windom.

The request is for a variance from 14 MCAR § 1.5032, H., 1., c., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit a minimum street width of 36 feet with parking on one side instead of 46 feet with parking on two sides.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

February 17, 1984

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Petition of the County of Clay for a Variance from State Aid Standards for Bridge Width

Notice is hereby given that the County Board of Clay County has made a written request to the Commissioner of Transportation for a variance from minimum design standards for bridge width on CSAH 22 over the Red River of the North approximately 4.0 miles north of Moorhead.

The request is for a variance from 14 MCAR § 1.5032. H., 1., a., Rules for State Aid Operations under Minnesota Statutes, Chapters 161 and 162 (1978) as amended, so as to permit a minimum bridge width of 28 feet instead of a bridge width of 30 feet.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

February 17, 1984

Richard P. Braun
Commissioner of Transportation

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over $2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over $10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

Commodities contracts with an estimated value of $5,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers at the indicated phone numbers as soon as possible. If the specific buyer is not available, contact Barbara Jolly or Harvey Leach at 296-3779.

Department of Administration

Request for Proposals for Rental of Office Space

The Department of Administration desires proposals for the rental of approximately 8,200 usable square feet of space comprising 2,000 square feet of office space, 3,400 square feet of lab space, 2,800 square feet of shipping, receiving, garage and storage space for the Department of Public Service; Weights and Measures Division, to be located within a designated part of the Metro area.

Contact:

Department of Administration
Real Estate Management Division
50 Sherburne Avenue, Room G-22
St. Paul, Minnesota 55155
Telephone: (612) 296-6674

Proposals must be submitted by 4:30 p.m. (CST) on Thursday, March 22, 1984.

Department of Administration Procurement Division

Commodities Contracts and Requisitions Currently Open for Bidding

Contract #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount	Contact Person
26-071-13730	Power Amplifier	Mankato Univ.	Mankato MN	Contact buyer	Don 296-3777
07-200-29166	Dosimeters	Public Safety	St. Paul MN	Contact buyer	Don 296-3777
79-600-B	Hot Plant Bituminous—Rochester	Transportation	Rochester	Contact buyer	Jim Kinzie 296-3778

Contract #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount	Contact Person
79-800-B	Hot Plant Bituminous—Willmar	Transportation	Willmar	Contact buyer	Jim Kinzie 296-3778
	Nursery Stock	Various	DOT	Contact buyer	Cy 296-2621
Contract	Wheel Bolts	MCF	Stillwater MN	15,000-20,000	Maurie 296-3772
SCH.95	Bituminous Road Materials	Dept. of Transportation	Various	Contact buyer	Jim Kinzie 296-3778
Contract					
02-307-43346	Air Compressor	Admin-Plant Mgmt	St. Paul MN	Contact buyer	Dale 296-3773
79-000-41020-41013	Landscape Rakes & Disks	Transportation	Various	Contact buyer	Dale 296-3773
27-143-39712	Purchase of Word Processing System	Hibbing CC	Hibbing MN	Contact buyer	Bernadette 296-2546
Contract	Air Conditioners, Window Mounted	Various	Various	40,000-45,000	Maurie 296-3772
79-000-41307	Traffic Signal Pedestal Bases	Transportation	St. Paul MN	Contact buyer	Jim Kinzie 296-3778
79-100-B	Plant Mix Bituminous	Transportation	Duluth	Contact buyer	Jim Kinzie 296-3778
29-003-07044	Seeds	Natural Res.	Akeley MN 56433	Contact buyer	Cy 296-2621
Price Contract	Film Transparencies	Various	Various	49,000-50,000	Bernadette 296-2546
78-550-04360 #775269	Bldg Materials	MCF	Lino Lakes MN	Contact buyer	Jim Kinzie 296-3778
07-700-29152 775417	Title App.	Public Safety	St. Paul MN	Contact buyer	Art 296-3742
29-000-35431 775418	1984 Summer State Park Maps	Natural Resources	St. Paul MN	Contact buyer	Art 296-3742
29-000-35430	Law Enforcement Manual	Natural Resources	St. Paul MN	Contact buyer	Art 296-3742
79-000-39751	Addendum #1 Soil Drilling Machine	Dept. of Transportation	St. Paul MN	Contact buyer	Dale 296-3773
79-000-41306	Fiberoptic Traffic Sign	Dept. of Transportation	St. Paul MN	Contact buyer	Jim Kinzie 296-3778
55-000-87321-11-23	Snack Shop showcase, can pop vender, Bill changer	Dept. of Public Welfare–Services for the Blind	St. Cloud MN	Contact buyer	Cy 296-3778
Contract	Cont. Data Processing Forms	Various	Various	830,000-850,000	Bernadette 296-2546
Contract	Brake Shoes, Drums & other Supplies	Prison & Transportation Dept.	Various	20,000-25,000	Dale 296-3773
79-650-B	Plant Mix Bituminous	Transportation Dept.	Owatonna	Contact buyer	Jim Kinzie 296-3778
79-250-B	Hot Mix Bituminous	Transportation Dept. Mn DOT	Crookston	Contact buyer	Jim Kinzie 296-3778
Contract	TOLUOL	Transportation	Various	23,000-25,000	Harvey 296-3779
79-200-B	Hot Mix Bituminous	Transportation	Bemidji	Contact buyer	Jim Kinzie 296-3778
79-400-B	Plant Mix Bituminous	Transportation	Detroit Lakes	Contact buyer	Jim Kinzie 296-3778
79-150-B	Plant Mix Bituminous	Transportation	Virginia	Contact buyer	Jim Kinzie 296-3778
79-450-B	Plant Mix Bituminous	Transportation	Morris	Contact buyer	Jim Kinzie 297-3778
79-300-B	Plant Mix Bituminous	Transportation	Brainerd	Contact buyer	Jim Kinzie 296-3778
Contract	Joint Sealer	Transportation	Various	15,000-20,000	Jim Kinzie 296-3778
SCH.-95A	Crackfiller	Transportation	Various	Contact buyer	Jim Kinzie 296-3778
79-750-B	Plant Mix Bituminous	Transportation	Windom	Contact buyer	Jim Kinzie 297-3778

Hennepin County

Request for Proposals for Comprehensive Recycling Study

Hennepin County requests qualifications and proposals from source-separation consultants to conduct a comprehensive recycling study. Statements of qualifications and proposals are due on March 16, 1984. The RFQ/RFP is available from: David G. Winter, Senior Planner, Dept. of Environment and Energy, 320 Washington Avenue South, Hopkins MN 55343 (612) 935-3381.

Department of Public Welfare
Chemical Dependency Program Division

Request for Proposals for Chemical Abuse and Dependency Services in Jails

The Chemical Dependency Program Division (CDPD) of the Department of Public Welfare is soliciting proposals for the provision of demonstration programs in jails approved to hold prisoners up to one year that will offer chemical abuse and dependency services to incarcerated individuals. A total of $45,000 is available for three (3) or more grantees; no more than $20,000 will be granted to any one individual or county. There will be no continuation or second year funding. The funded programs will begin on or about July 1, 1984 and continue for a maximum of 18 months.

All requests for further information or copies of the complete RFP form can be obtained by contacting Dorrie Hennagir at 612/296-4617.

Proposals in response to this RFP must be submitted on the CDPD grant application form. A copy of the application form can be obtained by contacting Dorrie Hennagir at the above phone number. Six copies of the proposal must be in the CDPD office, 4th Floor, Centennial Office Building, 658 Cedar, St. Paul, MN 55155, no later than 4:20PM on March 26, 1984.

Department of Transportation
Aeronautics Division
Enforcement, Inspection, Safety—Weather Observation Program

Request for Proposals for Weather Observation Training

This is a contract whereby the selected vendor provides aviation weather observer training to 30-35 individuals to prepare them to pass the National Weather Service exam and to make aviation weather observations at Minnesota airports. Training class dates will be at the direction of the department. A maximum of three classes will be held. Vendors must be experienced and certified aviation weather observers or meteorologists and be familiar with all aspects of the operation of Supplementary Aviation Weather Reporting Stations.

The estimated contract value is $4,500.00.

The contact person is Roman Buettner. The telephone number is 612-296-8057.

The response deadline is March 9, 1984.

February 17, 1984

Richard B. Keinz
Assistant Commissioner
Minnesota Dept. of Transportation
Aeronautics Division

SUPREME COURT

Decisions of the Court of Appeals Filed Wednesday, February 15, 1984

Compiled by Wayne O. Tschimperle, Clerk

C9-83-1386 Gordon Petrick, Respondent, v. Transport Insurance Company, Appellant. District Court, Hennepin County.

An injury sustained by a truck driver when he slipped on oil on the trailer floor while entering the trailer to unload it resulted from the use of the truck as a motor vehicle within the meaning of Minn. Stat. § 65B.43, subd. 3 (1982), and is therefore compensable within the no-fault statute.

Affirmed. Lansing, J.

C1-83-1169 Bruce Wohlfeil and Gail Wohlfeil, Plaintiffs-Appellants, v. Murray Machinery, Inc., Defendant, Third-Party Plaintiff-Respondent. District Court, Hennepin County.

1. Viewing the evidence in the light most favorable to plaintiff, the trial court erred in directing a verdict and dismissing the action at the end of plaintiff's case since there was sufficient evidence to create a jury question on the cause of his injuries.

2. Given the broad discretion afforded trial courts on questions of expert testimony, the opinion of plaintiff's expert could be excluded for lack of foundation but not because it addressed the ultimate issue.

Reversed and remanded for a new trial on all issues.

Popovich, C.J.

C3-83-1612 Irene Fillmore and Richard Fillmore; City of St. Paul, a municipal corporation; Joan C. O'Brien, Special Representative of the Estate of John J. O'Brien, deceased; and Shelly Ann Woller, Appellants, v. Iowa National Mutual Ins. Co., Respondent. District Court, Ramsey County.

There is no duty under a homeowner's policy to defend or indemnify victims of an automobile accident, based upon negligent entrustment, supervision, or control of the driver, a minor son of the insureds.

Claims of negligent supervision and negligent entrustment are all within the ambit of the language "arising out of the use" of a motor vehicle and therefore fall within the exclusionary language of the policy.

Negligent entrustment is part of the tort of negligent use and operation of the entrusted automobile, and in this case there is no independent act that was not auto-related.

Affirmed. Wozniak, J.

C5-83-1367 Verdell Gulbranson, Respondent, v. Keith Gulbranson, Appellant. District Court, Hubbard County.

The trial court's division of the marital property was not an abuse of discretion. The record fully supported the property valuation of the trial court and its transfer of stock in a closely held corporation to the wife.

Affirmed. Lansing, J.

C5-83-1479 Frederick Marvin Hanson, petitioner, Appellant, v. State of Minnesota, Respondent. District Court, Becker County.

1. The affidavit supporting the search warrant enabled the reviewing judge to make the practical, common sense decision that there was a fair probability that the articles sought would be found in defendant's house and car.

2. Circumstantial evidence was sufficient to corroborate accomplice's testimony.

3. Where defense counsel initiates questioning concerning a prior trial of defendant, he is barred from asserting prejudice from state's questions about the trial.

Affirmed. Sedgwick, J.

Decisions of the Supreme Court Filed Friday, February 17, 1984

Compiled by Wayne O. Tschimperle, Clerk

C9-82-1507 State of Minnesota, Respondent, v. Richard Dean Wiplinger, Appellant. District Court, Crow Wing County.

Unauthorized implied admission of defendant's guilt by his trial counsel, which defendant objected to at trial, requires granting defendant a new trial.

Reversed and remanded for new trial. Amdahl, C.J.

Dissenting: Kelley, J., Peterson, J., Yetka, J., Wahl, J.

C0-83-207 County of Hennepin, Respondent, v. Leonard Levine, etc., Petitioner, and Cora Sheppo, et al., Respondents. District Court, Hennepin County.

Department of Public Welfare pass program for patients committed as mentally ill and dangerous to the public is a method of treatment rather than a type of commitment status.

Reversed. Amdahl, C.J.

C1-83-975 Mark Kayo Bixby, petitioner, Appellant, v. State of Minnesota, Respondent. District Court, Nobles County.

1. Court sentencing petitioner in 1982 for offense of receiving stolen property erred in refusing to decide whether two 1977 convictions for criminal sexual conduct in the third degree, for which petitioner was given two criminal history points, were based on a single behavioral incident; post-conviction court also erred in refusing to decide the issue.

2. Petitioner's two 1977 convictions were based on a single behavioral incident, and therefore sentencing court erred in computing petitioner's criminal history score and post-conviction court erred in refusing to correct the error.

Reversed. Amdahl, C.J.

C0-83-384 State of Minnesota, Respondent, v. David Zane Dietz, Appellant. District Court, Cottonwood County.

Trial court properly decided that aggravating circumstances were present justifying a departure as to consecutive service.

Affirmed. Amdahl, C.J.

C9-83-853 State of Minnesota, Respondent, v. Jay Wentz, Appellant. District Court, Brown County.

Trial court, in sentencing defendant for theft, had to choose between imprisoning defendant and placing him on probation; since the court chose to imprison defendant, court could not order restitution, absent an agreement by defendant to make restitution, but court could impose a fine.

Affirmed as modified. Amdahl, C.J.

C1-82-478 State of Minnesota, Respondent, v. John Cermak, Appellant. District Court, Olmsted County.

Trial court did not err in departing durationally in sentencing defendant to a total of 480 months or 40 years in prison for six convictions of criminal sexual conduct in the first degree committed on six different children.

Affirmed. Amdahl, C.J.

C2-82-361, C0-83-112 Terry Joseph Kilcoyne, petitioner, Appellant, v. State of Minnesota, Respondent. District Court, Dakota County.

Sentencing court did not err in departing durationally from the presumptive sentence.

Affirmed. Amdahl, C.J.

C4-83-646 Robin Kay Updegraff, petitioner, Respondent, v. Commissioner of Public Safety, Appellant. District Court, Hennepin County.

At hearing on petition seeking rescission of order revoking driver's license for violating Implied Consent Law, municipal court did not err in concluding that state met its burden of establishing that arrest was lawful.

Reversed and remanded. Todd, J.

C5-82-1648 James S. Krause and Stuart Krause, Respondents, v. James A. Merickel, Respondent, Clarence R. Paulson, Respondent, Otto Leader and James Davis, Respondents, James E. Ahlfs, Respondent, Mildren R. Thompson, et al., Defendants, Arthur E. Noot, Commissioner of Public Welfare, intervenor, Appellant. District Court, Otter Tail County.

1. A medical assistance lien filed by a county welfare department pursuant to Minn. Stat. § 393.10 (1982) was validly executed and filed.

2. Medical assistance payments made prior to August 1, 1975, the effective date of Act of June 2, 1975, ch. 247, § 5, 1975 Minn. Laws 699, 700, were not recoverable by the county under a lien filed in 1977.

3. In allocating the proceeds of the settlement of a tort case between joint plaintiffs, when one plaintiff's recovery is subject to a medical assistance lien, the court is required to examine the proposed allocation on an ad hoc basis and consider all of the facts and circumstances existing to determine whether the proposed allocation is unreasonable or patently arbitrary, or whether it is designed to defeat a lien for medical assistance, or whether under all of the circumstances it is reasonable and fair to all parties.

Affirmed. Kelley, J.

SUPREME COURT

C9-82-1488 State of Minnesota, Respondent, v. Ben Gissendanner, Appellant. District Court, Ramsey County.

1. Trial court did not err in refusing to let defendant represent himself, in denying motion to bar use of defendant's prior conviction to impeach him if he testified, or in refusing to submit the lesser included offense of criminal sexual conduct in the third degree.

2. Trial court was justified in departing from presumptive sentence but scope of departure was excessive.

Affirmed as modified. Scott, J.

C9-83-125 Norman Perl, Richard Hunegs, and DeParcq, Anderson, Perl, Hunegs & Rudquist, P.A., Respondents, v. St. Paul Fire and Marine Insurance Company, Appellant, and Cecelia E. Rice and Margaret R. Dunlevy, Defendants. District Court, Hennepin County.

1. Forfeiture of attorney fees to a client is an award of "money damages" against the attorney within the meaning of the attorney's liability policy.

2. A coverage exclusion in an attorney's liability policy for a "fraudulent" act or omission of the attorney does not apply to constructive fraud for breach of a fiduciary duty.

3. A coverage exclusion in an attorney's liability policy for "exemplary or punitive damages" does not apply to forfeiture of attorney fees for breach of a fiduciary duty.

4. Provisions of an attorney's liability policy, to the extent they purport to insure an attorney for forfeiture of his or her attorney fees for breach of a fiduciary duty, are contrary to public policy and of no validity; however, insofar as they afford coverage to the offending attorney's employer or partnership for vicarious liability, such provisions are not contrary to public policy and do afford valid coverage for the vicarious liability.

Affirmed in part and reversed in part. Simonett, J.

Took no part, Kelley, J., and Coyne, J.

C6-82-315 In the Matter of the Petition for Disciplinary Action against Duane Franke, a Minnesota Lawyer. Supreme Court.

Disbarred. Per Curiam.

Took no part, Coyne, J.

C2-75-46057 In the Matter of the Application of Carl Sigurd Swanson for Reinstatement as a Member of the Bar of the State of Minnesota. Supreme Court.

Petition denied. Per Curiam.

TAX COURT

Pursuant to Minn. Stat. § 271.06, subd. 1, an appeal to the tax court may be taken from any official order of the Commissioner of Revenue regarding any tax, fee or assessment, or any matter concerning the tax laws listed in § 271.01, subd. 5, by an interested or affected person, by any political subdivision of the state, by the Attorney General in behalf of the state, or by any resident taxpayer of the state in behalf of the state in case the Attorney General, upon request, shall refuse to appeal. Decisions of the tax court are printed in the *State Register*, except in the case of appeals dealing with property valuation, assessment, or taxation for property tax purposes.

State of Minnesota, Tax Court

Howard & Patricia Saaski, Appellants, v. the Commissioner of Revenue, Appellee, Docket No. 3896

Findings of Fact, Conclusions of Law, and Order

The above entitled matter was submitted to the Honorable Carl Jensen, Judge of the Minnesota Tax Court, on a Stipulation of Facts filed on November 10, 1983. The issue in this case is whether the Appellants were entitled to claim Anselm Saaski as their

dependent and to deduct their payments of Anselm Saaski's nursing home and medical expenses on their Minnesota income tax returns for the tax years 1978, 1979, 1980 and 1981.

Donna M. Gustafson, attorney at law, appeared for Appellants.

Michele M. Mielke, Special Assistant Attorney General, appeared for Appellee.

SYLLABUS

A taxpayer cannot claim a parent as a dependent when the parent has income and assets sufficient to support himself.

FINDINGS OF FACT

1. The Appellants, Howard and Patricia Saaski, were cash-basis, calendar year taxpayers and residents of Minnesota for the 1978, 1979, 1980 and 1981 tax years.

2. On their 1978, 1979, 1980 and 1981 Minnesota income tax returns, the Appellants, Howard and Patricia Saaski, claimed dependent status and deducted medical expenses for Appellant Howard Saaski's aged father, Anselm J. Saaski. True and correct copies of Appellants' 1978, 1979, 1980 and 1981 Minnesota income tax returns are contained in the Commissioner of Revenue's return and answer on file with the Court in this case.

3. Anselm Saaski was born on April 23, 1906. He died on April 21, 1982, in Duluth, Minnesota.

4. Anselm Saaski suffered a stroke and heart attack in August, 1977. For the period from August, 1977 through April, 1982, Anselm Saaski resided at the Surf and Sands Nursing Home in Duluth, Minnesota.

5. During the year 1978 Anselm Saaski incurred nursing home and medical expenses of $13,517.73.

6. During the year 1979 Anselm Saaski incurred nursing home and medical expenses of $16,030.99.

7. During the year 1980 Anselm Saaski incurred nursing home and medical expenses of $15,689.56.

8. During the year 1981 Anselm Saaski incurred nursing home and medical expenses of $20,436.98.

9. During the years 1978 through 1981 the above nursing home and medical expenses incurred by Anselm Saaski were paid by the Appellants Howard and Patricia Saaski.

10. Anselm Saaski incurred some personal living expenses for items such as clothing or haircuts during the years 1978 through 1981 which amounted to no more than $1,000.00 a year. These expenses were paid by Anselm Saaski.

11. Anselm Saaski's 1978 Minnesota gross income as reported on line 1 of his Minnesota income tax return was $10,388.96.

12. Anselm Saaski's 1979 Minnesota gross income as reported on line 1 of his Minnesota income tax return was $11,276.85.

13. Anselm Saaski's 1980 Minnesota gross income as reported on line 1 of his Minnesota income tax return was $11,204.04.

14. Anselm Saaski's 1981 Minnesota gross income as reported on line 1 of his Minnesota income tax return was $11,337.21.

15. During the years 1978, 1979, 1980 and 1981, Anselm Saaski made several cash loans to Appellant Howard Saaski on the following dates and in the following amounts:

Date	Amount Loaned	Interest Rate
April 1, 1978	$14,100.00	8%
April 1, 1978	18,000.00	8%
April 1, 1978	20,000.00	8%
August 1, 1978	10,000.00	8%
January 1, 1979	5,000.00	8%
February 15, 1979	10,000.00	8%
March 1, 1979	1,500.00	8%
December 1, 1979	4,000.00	8%
March 1, 1980	4,000.00	8%

16. The above loans (listed in paragraph 15) from Anselm Saaski to Appellant Howard Saaski were evidenced by demand notes. Interest payments on all the notes were made at least on a yearly basis. The income listed on Anselm Saaski's 1978, 1979, 1980 and 1981 Minnesota income tax returns includes the interest payments received by him from Appellant Howard Saaski. All of these loans were made to help Appellants Howard and Patricia Saaski build a new home.

17. During the years from 1978 through 1981, Anselm Saaski made the following cash gifts to the following persons:

Amount of Gift	Recipient	Year Gift Given	Relationship of Recipient to Anselm Saaski
$3,000.00	Bruce Saaski	1978	grandson
$3,000.00	Lynn Saaski	1978	granddaughter
$3,000.00	Judy Saaski	1978	granddaughter
$3,000.00	Bruce Saaski	1979	grandson
$3,000.00	Lynn Saaski	1979	granddaughter
$3,000.00	Judy Saaski	1979	granddaughter
$3,000.00	Bruce Saaski	1980	grandson
$2,000.00	Lynn Saaski	1980	granddaughter
$3,000.00	Judy Saaski	1980	granddaughter
$3,000.00	Bruce Saaski	1981	grandson
$2,000.00	Lynn Saaski	1981	granddaughter
$3,000.00	Judy Saaski	1981	granddaughter

18. Bruce Saaski, Appellants Howard and Patricia Saaski's son, lived rent-free in a house jointly owned by Anselm Saaski and Appellant Howard Saaski located at 913 East Sixth Street, Duluth, Minnesota, during 1978 through 1981 with Anselm Saaski's knowledge and consent.

19. Edwin and Esther Dahlberg, Appellant Patricia Saaski's parents, lived rent-free in a house jointly owned by Anselm Saaski and Appellant Howard Saaski located at 913 East Sixth Street, Duluth, Minnesota, during 1978 through 1981 with Anselm Saaski's knowledge and consent.

20. By orders dated April 15, 1983, the Minnesota Commissioner of Revenue disallowed the dependent status for Anselm Saaski claimed by Appellants Howard and Patricia Saaski on their 1978 through 1981 Minnesota income tax returns. By the same orders, the Commissioner of Revenue also disallowed the medical expense deductions taken by Appellants Howard and Patricia Saaski on their 1978 through 1981 Minnesota income tax returns based on their payment of Anselm Saaski's nursing home and medical expenses for those years. True and correct copies of these orders are contained in the Commissioner of Revenue's return and answer on file with the Court in this case.

21. Anselm J. Saaski was not dependent upon Appellants for the taxable years in question.

CONCLUSIONS OF LAW

1. Appellants are not entitled to claim dependent status for Anselm J. Saaski for taxable years 1978 through 1981.

2. Appellants are not entitled to a medical expense deduction for the nursing home and medical expenses of Anselm J. Saaski for the taxable years 1978 through 1981.

3. The Commissioner of Revenue's Order dated April 15, 1983, relating to taxable years 1978, 1979, 1980 and 1981 is affirmed in all respects.

IT IS SO ORDERED. A STAY OF 15 DAYS IS HEREBY ORDERED.

February 14, 1984

By the Court,

Carl A. Jensen, Judge
Minnesota Tax Court

State of Minnesota, Tax Court
County of Stearns, Regular Division

Gary Messer, Appellant, v. Commissioner of Revenue, Appellee, Docket Nos. 3887, 3921

Findings of Fact, Conclusions of Law, and Order

Appeal in docket number 3887 is an appeal from the order of the Commissioner dated March 28, 1983 assessing income tax against the appellant for the years 1979 and 1981. Appeal in docket number 3921 is an appeal of the order of the Commissioner dated June 7, 1983 assessing additional income tax for 1980. The appeals in docket numbers 3887 and 3921 were consolidated for

hearing and held before the Honorable John Knapp, Chief Judge of Minnesota Tax Court on October 31, 1983 at the Stearns County Courthouse in St. Cloud, Minnesota.

Gary Messer, appeared pro se.

Neil F. Scott, Special Assistant Attorney General, appeared for the appellee.

SYLLABUS

The issue is whether payments received by the appellant in exchange for his labor or personal services is includable in Minnesota gross income under Minn. Stat. 290.01 subd. 20 and subject to Minnesota income tax.

FINDINGS OF FACT

1. The appellant is a cash basis calendar year taxpayer who resided in Minnesota during 1979 through 1981, the years in question.

2. During the years 1979 through 1981 the appellant was paid for performing personal services for Modern Farm Equipment, Inc. as follows:

1979	$11,500
1980	$13,021
1981	$11,568

3. Modern Farm Equipment supplied form 1099 "non-employee compensation" to the appellant and the Commissioner of Revenue verifying the income recited in paragraph 2 above.

4. Modern Farm Equipment, Inc. withheld $36.64 state income tax for the appellant in 1979. No state income tax was withheld in 1980 or 1981.

5. The appellant failed to file state income tax returns for 1979 through 1981.

6. On February 3, 1983 the Department of Revenue demanded the appellant file 1979 and 1981 income tax returns within 30 days. On March 28, 1983 the Department of Revenue demanded the appellant file a 1980 income tax return within 30 days.

7. The appellant failed to file his returns and on March 28, 1983 an assessment of income taxes was made for 1979 and 1981 and a return filed on his behalf under Minn. Stat. 290.47. On June 7, 1983 an assessment was made for 1980 and a return filed on behalf of the appellant under Minn. Stat. 290.47.

8. The tax assessed by the Commissioner of Revenue was as follows:

	TAX	PENALTY	INTEREST	TOTAL
1979	752.00	188.00	360.18	1300.18
1980	908.00	227.00	375.26	1510.26
1981	709.00	177.25	176.71	1062.96

9. At the hearing the appellant presented no evidence to dispute the assessment and presented no evidence of allowable deductions.

CONCLUSIONS OF LAW

1. The compensation earned by the appellant in exchange for his personal services or labor performed from Modern Farm Equipment Inc. during the years 1979 through 1981 is Minnesota gross income under Minn. Stat. 290.01 subd. 20 and subject to Minnesota income tax.

2. The Commissioner's order dated June 7, 1983 assessing income tax, penalty and interest for 1980 is hereby affirmed in all respects.

3. The Commissioner's order dated March 28, 1983 assessing income tax, penalty and interest for 1979 and 1981 is hereby affirmed in all respects except that the appellant shall be allowed a credit against tax for the $36.64 withheld by his employer in 1979.

4. Judgment shall be entered by the Clerk of District Court based upon the Order of the court together with an affidavit of the Commissioner reciting the correct tax, penalty and statutory interest computed through the date of the entry of judgment.

LET JUDGMENT BE ENTERED ACCORDINGLY.

By the Court,

February 13, 1984

John Knapp, Chief Judge
Minnesota Tax Court

State of Minnesota, Tax Court
County of Hennepin, Regular Division

James A. McGinley, Appellant, v. Commissioner of Revenue, Appellee, Docket No. 3882

Findings of Fact, Conclusions of Law, and Order

This is an appeal from an Order of the Commissioner dated March 21, 1983 assessing income tax for 1981. The hearing was held November 2, 1983 before the Honorable John Knapp, Chief Judge of the Minnesota Tax Court at the Space Center in St. Paul.

James A. McGinley appeared pro se.

Neil F. Scott, Special Assistant Attorney General appeared for the appellee.

SYLLABUS

The issue in this case is whether payments received by the appellant in exchange for his labor or personal services is includable in Minnesota gross income under Minn. Stat. 290.01 subd. 20 and subject to Minnesota income tax.

FINDINGS OF FACT

1. Appellant is a cash basis calendar year taxpayer who resided in Minnesota during 1981.

2. During the year 1981 appellant was an employee of CPT Corporation. By reason of his employment appellant was paid $26,205.00 in compensation for the taxable year 1981.

3. The appellant did not timely file a state income tax return for 1981 or apply for an extension.

4. The Department of Revenue conducted a program called "fair share" to determine the names of individuals with Minnesota addresses who had filed federal returns, but not state returns. The appellant's name appeared on the list and he was contacted in writing on February 11, 1983.

5. On March 11, 1983 appellant then filed an unsigned tax return form showing zero tax due. He also attached a letter stating that he did not believe he was subject to tax.

6. On March 21, 1983 the Department of Revenue filed a 1981 individual income tax return on behalf of the appellant showing $1802.00 tax, $450.50 penalty and $441.86 interest through March 21, 1983.

7. The tax assessed by the Commissioner was based on information from the federal government and has since been verified by reviewing the W-2 statement from the appellant's employer.

8. Appellant's W-2 statement also indicates that $1511.31 was withheld from the appellant's wages in 1981 for state income tax.

9. At the hearing the appellant did not present any evidence of itemized deductions or other changes to the assessment.

CONCLUSIONS OF LAW

1. The compensation earned by the appellant in exchange for his personal services or labor performed for CPT Corporation during 1981 is includable gross income in Minnesota under Minn. Stat. 290.01, subd. 20 and subject to Minnesota income tax law.

2. The Commissioner's order is validly computed in light of both the evidence presented at trial and the failure of appellant to introduce any proof that the assessment was incorrect.

3. The Commissioner's order herein dated March 21, 1983 is correct and proper and is affirmed in all respects, except that appellant is entitled to credit for the $1511.31 state income tax withheld by his employer in 1981.

4. Judgment shall be entered against the appellant on the basis of this Order together with an affidavit of the Commissioner of the correct tax, penalty and interest due after allowing credit for the $1511.31 state income tax withheld by the appellant's employer in 1981.

LET JUDGMENT BE ENTERED ACCORDINGLY.

February 13, 1984

By the Court,

John Knapp, Chief Judge
Minnesota Tax Court

STATE OF MINNESOTA

State Register and Public Documents Division
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STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

IN THE MATTER of the Proposed Amendment of an Income Tax Rule of the Department of Revenue Relating to Minnesota Gross Income for Individuals Who Are Part-Year Residents or Nonresidents of Minnesota (Federal Adjusted Gross Income) (13 MCAR Section 1.6004)

STATEMENT OF NEED AND REASONABLENESS

This document has been prepared as a verbatim affirmative presentation of the facts necessary to establish the statutory authority, need for and reasonableness of the proposed amendment of 13 MCAR Section 1.6004, Minnesota Gross Income for Individuals Who Are Part-Year Residents or Nonresidents of Minnesota (Federal Adjusted Gross Income). It is submitted pursuant to Minnesota Statutes, Section 14.23, which requires that the agency prepare a Statement of Need and Reasonableness which shall be available to the public.

Authority to Amend the Rule

Minnesota Statutes, Section 290.52 gives the Commissioner authority to establish rules for the income tax law. Implicit in the authority to establish rules is the ability to amend rules. Minnesota Statutes, Section 290.081(c) allows the Commissioner to decide with which states reciprocity will be allowed.

Statement of Need and Reasonableness

13 MCAR Section 1.6004 deals with Minnesota Gross Income for Individuals Who are Part-Year Residents or Nonresidents of Minnesota (Federal Adjusted Gross Income) including income tax reciprocal agreements between Minnesota and certain other states. The Commissioner of Revenue has the authority under Minnesota Statutes, Section 290.081 to enter into reciprocal tax agreements with other states. The authority for withholding tax reciprocity agreements is contained

2. Misc. te

in Minnesota Statutes, Section 290.93, subd. 4a(3). The Commissioner of Revenue, State of Minnesota, has entered into an income tax and withholding tax reciprocal agreement with the Commissioner of Revenue, State of Michigan, applicable with respect to the taxation of net income for taxable years beginning on or after January 1, 1984 and with respect to withholding tax, effective January 1, 1984 (see attachment). Wisconsin, North Dakota and Michigan are now the only states that have reciprocity exclusion agreements with the State of Minnesota. 13 MCAR Section 1.6004 F. should therefore be amended to include the State of Michigan.

Income Tax and Withholding Tax Reciprocal Agreement
Between Michigan and Minnesota

1. This agreement shall be applicable with respect to the taxation of net income for taxable years beginning on or after January 1, 1984 and with respect to withholding tax, effective January 1, 1984.

2. For purposes of this agreement, income from "personal services" shall be deemed to include income from "professions" and "compensation" shall be deemed to include fees of independent professional persons not engaged in business, i.e., doctors, attorneys, accountants, engineers.

3. This agreement relates only to net income taxation of natural persons and the terms "natural persons" and "individuals" are to be deemed synonymous.

4. This agreement does not relate to any tax levied on each individual by either state for the privilege of doing business in such state.

5. This agreement shall not be interpreted as preventing the taxing authorities of either state from requiring any individual to file such returns as are required by the law of the state even though some or all of the income reported in such returns is not subject to income tax by the state because of the reciprocity provisions of its income tax law.

6. Pursuant to this agreement, Michigan will forego taxation of compensation, from personal services performed in Michigan, by natural persons domiciled in Minnesota who customarily return to their place of abode in Minnesota at least once a month; and Minnesota will forego taxation of compensation, from personal services performed in Minnesota, by natural persons domiciled in Michigan who customarily return to their place of abode in Michigan at least once a month.

7. The employer of any employee domiciled in Minnesota and qualifying under Paragraph 6., which employee performs personal services in Michigan, need not withhold for Michigan income tax purposes for wages paid to such employee after January 1, 1984 for personal services performed in Michigan. The employer of any employee domiciled in Michigan and qualifying under Paragraph 6., which employee performs personal services in Minnesota, need not withhold for Minnesota income tax purposes for wages paid to such employee after January 1, 1984, for personal services performed in Minnesota.

8. Additions and changes, including definitions, in the provisions of this agreement may be made by mutual consent of the Commissioners of Michigan and Minnesota shall become an attachment to this agreement.

Dated this 14 day of December 1983

Arthur C. Roemer
Commissioner of Revenue
State of Minnesota

Dated this 14th day of Sept, 1983

Sydney Goodman
Commissioner of Revenue
State of Michigan

REVENUE
MAILROOM
MAR 8 1984

March 6, 1984

Dear Sir

Regarding extent to amend the rule to exclude income from tax in Minn. from workers in Mich.

I think there should be a public hearing. For one reason that there appears to be Mich Ford workers coming to Minn to replace Minn workers and they would not be paying Minn Tax. What possible Minn workers would be earning money in Mich !!!

Sincerely

Mrs Roy Wilson
8205 Upton Ave So
Bloomington, Minn
55431

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

IN THE MATTER of the Proposed Amendment of an Income Tax Rule of the Department of Revenue Relating to Minnesota Gross Income for Individuals Who Are Part-Year Residents or Nonresidents of Minnesota (Federal Adjusted Gross Income) (13 MCAR Section 1.6004)

Statement Compliance With Rulemaking Procedures

I, John P. Malach, Jr., Income Tax Attorney, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. There are no exceptions.

John P. Malach, Jr.

Dated: 4-4-84