

Minnesota Attorney General: Administrative Rules Proceedings

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August 20, 2018

DEPARTMENT: Office of the Attorney General

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: August 23, 1990

TO: JOHN P. JAMES
Commissioner of Revenue
ATTENTION: Terese Koenig Smith

FROM: CHRISTIE ELLER
Assistant Attorney General

PHONE: 296-9421

SUBJECT: In the Matter of the Adopted Rule Relating to Sales Tax Administration

The above-referenced rule has been approved as to its legality by the Attorney General on August 22, 1990.

Enclosed is your copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

CBE:sc

Enclosures

cc: Barry Greller
William Brown, Chief Judge
MaryAnn Hruby

STATE OF MINNESOTA

August 10, 1990 DEPARTMENT OF REVENUE

Christie Eller
Assistant Attorney General
Capitol Office Building
525 Park Street
St. Paul, Minnesota 55103

In re: PROPOSED PERMANENT RULES RELATING TO SALES AND USE TAX ADMINISTRATION

Dear Ms. Eller:

Enclosed please find the following documents in the matter of the proposed rules of the Department of Revenue amending provisions relating to administration of the sales and use tax:

1. a photocopy of the notice of solicitation of outside opinion as published in the State Register;

2. a copy of the proposed rules with certificate of approval as to form by the revisor of statutes;

3. the notice of intent to adopt a rule without a public hearing as mailed;

4. the statement of need and reasonableness;

5. the affidavit of mailing the notice of intent;

6. a photocopy of the notice of intent as published in the State Register;

7. four copies of the rules as adopted, reflecting all modifications and approved as to form by the revisor of statutes;

8. the Findings of Fact, Conclusions, and Order adopting rule;

9. the written submissions and comments on the rules received by the Department of Revenue; and

10. the Declaration of Counsel.

The above-listed documents are submitted for your review and approval pursuant to Minnesota Statutes chapter 14.

Sincerely,

Terese Koenig Smith

Terese Koenig Smith, Attorney
Business Tax Unit
Appeals and Legal Services Division
10 River Park Plaza
Mail Station 2220
St. Paul, MN 55146-2220
(612) 296-3438

TKS:cak:gc:agdocume

Enclosures

Department of Revenue

Adopted Permanent Rules Relating to Sales Tax Administration

Rules as Adopted

8130.2350 COMPUTATION OF SALES TAX.

Compute the tax on the sales price to the nearest full cent. For sales under $1, use the guidelines in items A to C.

A. In computing the tax to be collected on any transaction subject to a four percent rate, amounts of less than one-half cent may be disregarded and the amounts of one-half cent or more are considered as an additional cent. Thus, on a sale of 12 cents or less, the purchaser pays no tax; on a sale ~~between~~ from and including 13 cents to and including 37 cents, the purchaser is required to pay one cent tax; on a sale ~~between~~ from and including 38 cents to and including 62 cents, the purchaser is required to pay two cents tax; on a sale ~~between~~ from and including 63 cents to and including 87 cents, the purchaser is required to pay three cents tax; on a sale ~~of~~ from and including 88 cents to and including $1.12, the purchaser is required to pay four cents tax; on a sale in excess of $1, the purchaser is required to pay four percent on each full dollar plus the appropriate amount from the brackets above.

B. In computing the tax to be collected on any transaction subject to a five percent rate, amounts of less than one-half cent may be disregarded and the amounts of one-half cent or more are considered as an additional cent. Thus, on a sale of nine cents or less, the purchaser pays no tax; on a sale ~~between~~ from and including ten cents to and including 29 cents, the purchaser is required to pay one cent tax; on a sale ~~between~~ from and including 30 cents to and including 49 cents, the purchaser is required to pay two cents tax; on a sale ~~between~~ from and including 50 cents to and including 69 cents, the purchaser is required to pay three cents tax; on a sale ~~between~~ from and including 70 cents to and including 89 cents, the

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purchaser is required to pay four cents tax; on a sale ~~between~~ from and including 90 cents to and including $1.09, the purchaser is required to pay five cents tax; and on a sale in excess of $1, the purchaser is required to pay five percent on each full dollar plus the appropriate amount from the brackets above.

C. In computing the tax to be collected on any transaction subject to a six percent rate, amounts of less than one-half cent may be disregarded and the amounts of one-half cent or more are considered as an additional cent. Thus, on a sale of eight cents or less, the purchaser pays no tax; on a sale ~~between~~ from and including nine cents to and including 24 cents, the purchaser is required to pay one cent tax; on a sale ~~between~~ from and including 25 cents to and including 41 cents, the purchaser is required to pay two cents tax; on a sale ~~between~~ from and including 42 cents to and including 58 cents, the purchaser is required to pay three cents tax; on a sale ~~between~~ from and including 59 cents to and including 74 cents, the purchaser is required to pay four cents tax; on a sale ~~between~~ from and including 75 cents to and including 91 cents, the purchaser is required to pay five cents tax; on a sale ~~between~~ from and including 92 cents to and including $1.08, the purchaser is required to pay six cents tax; and on a sale in excess of $1, the purchaser is required to pay six percent on each full dollar plus the appropriate amount from the brackets above.

8130.2500 APPLICATION FOR PERMIT TO MAKE RETAIL SALES.

Subpart 1. **Duty to obtain a permit.** The following persons making taxable sales within Minnesota, or sales outside the state for use, storage, or consumption in Minnesota must obtain a sales tax permit and collect the sales or use tax from the purchaser at the time of sale:

A. a retailer located in Minnesota;

B. a retailer maintaining a place of business in Minnesota;

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C. a retailer making retail sales from outside this state to a destination within this state if the retailer engages in the regular or systematic soliciting of sales from potential customers in this state.

Subp. 2. **Nontaxable retail activities.** Where a person engages in retail activities which are exclusively nontaxable, it is not necessary to apply for or secure a permit.

If a charitable, religious, or educational organization makes or plans to make fundraising sales which are not exclusively nontaxable under Minnesota Statutes, section 297A.256, or any other part of Minnesota Statutes, chapter 297A, that organization must obtain a sales tax permit and collect the sales tax.

Subp. 3. **Multiple locations.** Where a person who is required to secure a permit has more than one place of business and the activities conducted at each place are subject to tax under the Sales and Use Tax Law, and the person elects to file a separate return for each place of business, a separate application must be filed for each business location. A permit will be issued which may be used only at the address indicated on the permit. A separate permit will be assigned to each place of business. Members of a group of corporations related by stock ownership, where the members are engaged in making sales at retail, must make individual applications.

Subp. 4. **Consolidated return.** If a person elects to file a consolidated return, a list containing the business name and address of each separate place of business must be submitted to the commissioner when applying for a permit. An application containing such a list constitutes an application for each listed business name and address. A permit will be issued for each listed location. Each permit so issued will bear the same sales and use tax account number. If, thereafter, the person elects to file a separate return for any of the listed places of business, a new account number must be secured for the business location for which the separate return is filed. See part 8130.2600.

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Subp. 5. **Vending machines.** Where the person required to secure a sales and use tax permit operates vending machines in more than one location, the person will not be required to secure a separate permit for each location. Vending machines include, but are not limited to, coin-operated or bill-operated machines that dispense food, candy, drinks, items of tangible personal property, or provide amusement and diversion.

Vending machines do not include the coin-operated services described in Minnesota Statutes, section 297A.01, subdivision 3, paragraphs (i) and (j).

Subp. 6. **Information required.** Application for a permit must contain the following information:

A. the legal form and name of organization; for example, individual, partnership, Minnesota corporation, foreign corporation, or association, and if a corporation, the state and date of incorporation;

[For text of item B, see M.R.]

C. name and mailing address to which sales tax forms are to be sent;

D. Minnesota Department of Revenue identification number, unless no such number was previously assigned, and the federal identification number, unless none has been assigned;

[For text of items E to H, see M.R.]

I. type of business; for example, retail trade, wholesale trade, manufacturing, motion picture theater, hotel, or bowling alley; and

J. whether business is operated seasonally and, if so, usual opening and closing dates.

Applications must be signed by the owner, if a natural person, by a partner if the applicant is a partnership, or by an owner, partner, or officer if the applicant is a corporation or an association.

Subp. 7. **Change in ownership or name.** Where there is a change in ownership or name, the following rules are applicable:

A. Sale of a business enterprise operated as a sole proprietorship requires a new application, although the business

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may be continued under the same name.

B. Admission of a new partner to a partnership requires a new application, even if the business is continued under the same name. Resignation, expulsion, or death of a partner requires a new application if the partnership is required to obtain a new federal identification number because of the resignation, expulsion, or death.

[For text of item C, see M.R.]

D. A change in name of a business enterprise or a change in location, where there has been no change in ownership, means the permit holder must request a corrected permit from the department which reflects the changed name or address. The corrected permit will be issued upon request.

[For text of item E, see M.R.]

8130.2600 PERMIT WHEN VALID AND HOW DISPLAYED.

Subpart 1. **Permit issued by commissioner.** Generally, after the applicant has complied with the provisions of Minnesota Statutes, section 297A.04, the commissioner will issue a separate permit for each place of business for which application was made unless the commissioner, in order to assure compliance with the Sales and Use Tax Law, finds it necessary for the applicant to deposit security. In that event, the commissioner will issue the permits requested at the time the applicant has complied with the additional provisions regarding the security requested.

Subp. 2. **When permit is valid.** The permit issued is valid until revoked or canceled according to Minnesota Statutes, section 297A.065 or 297A.07, and is not assignable. The permit is valid only for use by the person in whose name it is issued and for the transaction of business at the place designated therein. Thus, where there has been a change of ownership, so that the liability for payment of the sales and use tax is shifted either wholly or in part, or where there has been a change in name or in location of the business enterprise, the permit is no longer valid. If there has been a change of

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ownership, the permit holder must apply for a new permit.

Subp. 3. **Shifting or temporary locations.** Where a permit holder is primarily engaged in taxable activities which require a change of location from place to place, the change in location will not be considered a change of address and the permit holder must display the permit at each temporary location when making taxable sales at that location. In the event the permit holder engages in taxable activities at two or more shifting or temporary locations within the same general area at the same time, the permit holder may display the original permit at one location and photocopies of the original permit at the other locations.

Subp. 4. **Display of permits.** A permit issued by the commissioner must at all times be conspicuously displayed. See subpart 3 for display of permits at shifting or temporary locations.

8130.2700 REVOCATION OF PERMITS.

Subpart 1. **In general.** The permit or permits issued to any person, hereinafter referred to as the permit holder, may be revoked or suspended by the commissioner if the permit holder fails to comply with any provisions of Minnesota Statutes, chapter 297A, or any rules adopted under that chapter. See Minnesota Statutes, section 297A.07.

Subp. 2. **Hearing requirement.** The commissioner cannot revoke the permit holder's permit or permits before granting a hearing. The hearing cannot be held unless the commissioner has served notice in writing at least 30 days before the date for the hearing. The commissioner may serve personal notice upon the permit holder or may make such service by regular mail. If service is made by mail, the notice provisions of Minnesota Statutes, section 289A.37, subdivision 5, will apply. The hearing and any post-hearing administrative procedures related to the hearing, will be conducted by the State of Minnesota Office of Administrative Hearings pursuant to the Administrative Procedure Act, Minnesota Statutes, chapter 14. The hearing will

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be held at the time and place specified in the notice of hearing.

Subp. 3. **Surrender of permit.** A permit revoked by the commissioner must be surrendered to the commissioner immediately upon notice of revocation.

Subp. 4. [See Repealer.]

Subp. 5. **New application, or application for reinstatement of revoked permit.** The commissioner may reinstate a revoked sales and use tax permit, or issue a new permit to a taxpayer whose permit had been revoked if the taxpayer:

A. files all unfiled sales and use tax returns;

B. pays with a certified check, cashier's check, or money order the entire balance of tax, penalty, and interest due;

C. deposits with the commissioner, security or a surety bond in an amount equal to three times the average monthly liability; and

D. signs an agreement to file timely returns and remit tax when due in the future to a named individual within the department. The agreement will specify the individual to whom the returns and payments must be sent. All payments must be made by certified check, cashier's check, or money order.

The commissioner will hold the security deposit described in item C for two years.

The commissioner will pay interest on any money deposited as security. The interest will be calculated from the date of deposit to the date of refund, or date of application to any outstanding tax liability, at a rate specified in Minnesota Statutes, section 270.76. The security deposit will be refunded to the taxpayer at the end of the two-year period unless the taxpayer has any unpaid tax liabilities. The commissioner may apply the security deposit to any unpaid tax liabilities.

Subp. 6. **Appeal.** An alternative procedure is available to the permit holder. The permit holder may appeal the commissioner's order revoking the permit or permits to the Minnesota Tax Court in accordance with Minnesota Statutes, chapter 271.

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Subp. 7. **Disclosure.** The commissioner may identify the holder of a revoked sales tax permit and disclose information regarding the reasons for revocation. See Minnesota Statutes, section 270B.08.

8130.2900 PRESUMPTION THAT TAX MUST BE PAID.

Subpart 1. **General rule.** Minnesota Statutes, section 297A.09, provides that all gross receipts are presumed to be subject to tax unless the contrary is established. The burden of proving that a sale was not a sale at retail is upon the seller.

Subp. 2. **Overcoming the presumption.** For overcoming the presumption of subpart 1:

A. The presumption that a sale is a sale at retail may be overcome if the seller accepts and retains for the records an exemption certificate given by the purchaser, stating that the property purchased is for resale.

B. Under Minnesota Statutes, section 297A.10, if the seller accepts from the purchaser an exemption certificate to the effect that the property purchased is exempt under Minnesota Statutes, chapter 297A, the exemption certificate will relieve the retailer from the presumption that all gross receipts are subject to tax and from collecting and remitting the tax, if taken in good faith from the purchaser.

C. The presumption that all gross receipts are subject to tax may be overcome if the seller accepts from the purchaser an exemption certificate to the effect that the purchaser is exempt from paying the tax under the Sales and Use Tax Law.

D. The presumption that all gross receipts are subject to tax may be overcome if the seller accepts from the purchaser a copy of the direct pay permit issued to the purchaser, or a statement as provided in part 8130.3400, subpart 5.

8130.3000 GOOD FAITH ACCEPTANCE OF EXEMPTION CERTIFICATES.

[For text of subpart 1, see M.R.]

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Subp. 2. **Reasonable care.** Where a sale is made to a person claiming to purchase the property for resale, the presumption that the sale is subject to tax, will be conclusively overcome only if the retailer accepts a resale exemption certificate in good faith from the purchaser. See Minnesota Statutes, section 297A.10. Although the seller is under no duty to ascertain beyond all reasonable doubt that the purchaser is acquiring the property for resale, the provision that the seller act in good faith requires the seller to exercise reasonable care and judgment before accepting the resale exemption certificate. The good faith provision requires that the seller accept only certificates meeting the requirements of Minnesota Statutes, section 297A.11.

Subp. 3. **Awareness of business activity and specific nonexempt property.** Where a sale is made to a person claiming that the property purchased is exempt under Minnesota Statutes, section 297A.25, the presumption that the sale is subject to tax will be conclusively overcome where the retailer takes a certificate of exemption in good faith from the purchaser. The seller will be considered to have exercised good faith provided the seller is aware of the type of business activity conducted by the purchaser, and provided the property claimed to be exempt is of a character normally used by the purchaser for an exempt purpose. The seller is under no duty to ascertain whether the property so purchased is, in fact, actually used for the exempt purpose.

Subp. 4. **Acceptable exemption certificates.** Vendors may accept the following in good faith:

A. certificates of exemption claiming exemption on purchases of airflight equipment, and flight simulators and parts necessary for the repair and maintenance of such equipment, where the certificates are taken from persons who state thereon that they are taxed under the provisions of Minnesota Statutes, sections 270.071 to 270.079, inclusive;

B. certificates of exemption claiming exemption on purchases of mill liners, grinding rods, and grinding balls

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where the certificates are taken from persons who state thereon that they are taxed under the in lieu provisions of Minnesota Statutes, chapter 298, and where the certificates state that the property will be substantially consumed in the production of taconite, while becoming a part of the material produced;

C. certificates of exemption claiming exemption on purchases of property which will be shipped or transported outside Minnesota by the purchaser without any intermediate use, which will be used in a trade or business outside Minnesota, and which state thereon that the property will not be returned to Minnesota except in the course of interstate commerce, if the property is not taxable in the state of destination and no exemption certificate is necessary in that state, or the property is not taxable in the state of destination if an exemption certificate is given to the vendor in that state and a copy of the destination state's exemption certificate is attached to the Minnesota certificate, or the property is to be used in the other state or country as part of a maintenance contract;

D. certificates of exemption claiming exemption on purchases of packing materials used to pack and ship household goods to destinations outside Minnesota and which will not be returned to Minnesota except in the course of interstate commerce;

E. certificates of exemption which state that the materials purchased are designed to advertise and promote the sale of merchandise or services, when the material is purchased and stored for the purpose of subsequently shipping or otherwise transferring outside the state by the purchaser for use thereafter solely outside of Minnesota;

F. certificates of exemption for equipment used for processing solid or hazardous waste at a resource recovery facility as defined in Minnesota Statutes, section 115A.03, subdivision 28. The purchaser must apply to the commissioner for the exemption certificate and supply sufficient documentation to support the application;

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G. certificates of exemption covering certain purchases by veteran's organizations and their auxiliaries. The purchases must be for charitable, civic, educational, or nonprofit uses;

H. certificates of exemption for materials and supplies used or consumed in agricultural or industrial production of tangible personal property to be sold ultimately at retail. See Minnesota Statutes, section 297A.25, subdivision 9;

I. certificates of exemption for tangible personal property which will be resold;

J. certificates of exemption for repair or replacement parts used for the maintenance or repair of qualified farm machinery or logging equipment pursuant to Minnesota Statutes, section 297A.01, subdivision 15;

K. certificates of exemption for materials and supplies used or consumed in the production of newspapers and publications issued at average intervals of three months or less, pursuant to Minnesota Statutes, section 297A.25, subdivision 10;

L. certificates of exemption for commercial haulers of waste collection and disposal services; ~~and~~

M. certificates of exemption for property purchased for business use outside city limits, for use when a local tax is applicable~~.~~;

N. certificates of exemption for repair, replacement, and rebuilding parts and materials for ships or vessels used or to be used principally in interstate or foreign commerce; and

O. certificates of exemption for lease of a motor vehicle for use as an ambulance by an ambulance service licensed under Minnesota Statutes, section 144.802.

Subp. 5. **Religious and educational organizations.** Where a sale of tangible personal property is made to an organization that is organized and operated exclusively for religious or educational purposes, the seller will be relieved from the duty of collecting and remitting the tax otherwise due on the sale if

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the seller receives a certificate of exemption from the organization stating to that effect, and provided that the seller is reasonably certain that the purchaser is a religious or educational organization entitled to the exemption. Thus, although the seller is not obligated to investigate to determine whether the purchaser is entitled to the exemption, the seller, either from past experience or from the seller's own general personal knowledge of the community and its affairs, should, in most cases, be able to determine whether the purchaser is the type of organization it claims to be and whether the purchase is to be used for religious or educational purposes. For example, the various schools and churches in any community are well known and, consequently, a seller would be reasonably certain that such a school or church making purchases of tangible personal property is entitled to exemption.

Subp. 6. **Charitable organizations.** Organizations claiming exemption as charitable organizations must establish their right to the exemption by making application to the commissioner for a certificate of exempt status. An application may also be made by religious and educational organizations wishing to obtain a certificate of exempt status as a convenience to themselves and their suppliers. A certificate of exempt status will be issued after the application and supporting documents are examined and approved. The certificate of exempt status will bear an exempt status number and the signature of an authorized official of the Department of Revenue. An organization holding a certificate of exempt status may reproduce the certificate as necessary to be furnished to its suppliers. A vendor may accept a copy of a certificate of exempt status in good faith from the organization to which it was issued.

Subp. 7. **References and limitations.**

A. See part 8130.6200 regarding criteria for determining whether or not organizations qualify for exemption as charitable, religious, or educational.

B. As described above, the certificate of exemption or certificate of exempt status is valid for purchases made on

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behalf of the exempt organization, but not for purchases made for the personal use of persons affiliated with or employed by the exempt organization. The seller may be reasonably certain that a sale is made to the exempt organization if the seller either bills the organization for the sales price, delivers the property to the location of the organization, or accepts payment by means of a check drawn by the organization.

C. Although the furnishing of meals or lodging is defined as a taxable sale by Minnesota Statutes, section 297A.01, subdivision 3, paragraphs (c) and (e), it is not a sale of tangible personal property and, thus, is not within the exemptions described in subparts 5 to 8 for sales of tangible personal property to governmental, charitable, religious, and educational organizations in Minnesota Statutes, section 297A.25, subdivisions 11 and 16. Accordingly, a certificate of exemption, certificate of exempt status, or governmental purchase order may not be accepted in good faith for such a sale, except in the case of sales directly to the United States government. See part 8130.5700. Meals furnished, prepared, or served at public and private schools, universities, or colleges, are governed under part 8130.0800.

D. Although the furnishing of admissions is defined as a taxable sale by Minnesota Statutes, section 297A.01, subdivision 3, paragraph (d), it is not a sale of tangible personal property and, thus, is not within the exemptions described in subparts 5 to 8 for sales of tangible personal property to governmental entities in Minnesota Statutes, section 297A.25, subdivision 11. Accordingly, a certificate of exemption, certificate of exempt status, or governmental purchase order may not be accepted in good faith for such a sale.

The sale of admissions under Minnesota Statutes, section 297A.01, subdivision 3, paragraph (d), to charitable, religious, or educational organizations in Minnesota Statutes, section 297A.25, subdivision 16, may be purchased exempt pursuant to subparts 5 and 6.

E. Both government entities, except for the United

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States government, and charitable, religious, or educational organizations, must pay sales tax on leases of motor vehicles pursuant to Minnesota Statutes, section 297A.25, subdivisions 11 and 16.

F. Both government entities, except for the United States government, and charitable, religious, or educational organizations must pay sales tax on solid waste collection and disposal services imposed pursuant to Minnesota Statutes, section 297A.01, subdivision 3, paragraph (j), item (vii).

G. A seller is not required to collect and remit the tax on sales of tangible personal property which the seller delivers to a common carrier for delivery to an outstate destination, or places the property in the United States mail or parcel post directed to a purchaser outstate, or delivers the property to a purchaser outstate by means of the seller's own delivery vehicles. No exemption certificate is required under these circumstances. However, adequate evidence of shipment or delivery to the out-of-state destination must be maintained by the seller.

Subp. 8. **Sales to governmental entities.** Where a sale of tangible personal property or sales governed by Minnesota Statutes, section 297A.01, subdivision 3, paragraph (f), is made to a governmental entity listed in Minnesota Statutes, section 297A.25, subdivision 11, the sale is exempt. The seller will be relieved of the duty of collecting and remitting the tax otherwise due on such property by accepting an authorized purchase order, payment voucher, or other document clearly showing that the purchaser is a governmental entity.

Subp. 9. and 10. [See Repealer.]

8130.3100 CONTENT AND FORM OF EXEMPTION CERTIFICATE.

Subpart 1. **In general.** Minnesota Statutes, section 297A.09, provides that a person who makes a sale may take from a purchaser an exemption certificate for exempt sales. If the certificate does not include the following five elements, the certificate will not be considered to have been accepted by the

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seller in good faith as required by Minnesota Statutes, section 297A.10. An exemption certificate must contain the following information:

A. name and address of the purchaser;

B. the account number of the permit issued to the purchaser, or, if no number, state reason;

C. the general character of the property sold by the purchaser in the regular course of business;

D. description of the property purchased; and

E. signature of the purchaser.

See Minnesota Statutes, section 297A.11.

Subp. 2. **Application to use exemption certificates.**

A. A taxpayer must submit an application to the commissioner in order to obtain an exemption certificate to be used for the following exemptions or situations:

(1) waste processing equipment used at a resource recovery facility;

(2) direct payment of sales or use tax;

(3) direct payment of tax by common carriers; and

(4) purchases of tangible personal property or services by a charitable organization.

B. A taxpayer does not need to submit an application to the commissioner in order to obtain an exemption certificate to be used for the following exemptions:

(1) agricultural or industrial production;

(2) educational or religious organizations;

(3) advertising material pursuant to Minnesota Statutes, section 297A.25, subdivision 22;

(4) farm machinery repair or replacement parts, pursuant to Minnesota Statutes, section 297A.25, subdivision 29;

(5) materials used in publications pursuant to Minnesota Statutes, section 297A.25, subdivision 10;

(6) taconite production materials pursuant to Minnesota Statutes, section 297A.25, subdivision 15;

(7) airflight equipment pursuant to Minnesota Statutes, section 297A.25, subdivision 14;

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(8) outstate transport or delivery pursuant to Minnesota Statutes, section 297A.25, subdivision 5;

(9) business use outside a city limit - local taxes;

(10) tangible personal property or services purchased for resale;

(11) veterans' groups pursuant to Minnesota Statutes, section 297A.25, subdivision 25;

(12) tipping fee sales tax exemption for commercial haulers of public and private mixed municipal solid waste; ~~and~~

(13) fuels and energy used in agricultural or industrial production pursuant to Minnesota Statutes, section 297A.25, subdivision 9~~.~~;

(14) repair, replacement, and rebuilding parts and materials for ships or vessels used or to be used principally in interstate or foreign commerce; and

(15) lease of a motor vehicle for use as an ambulance by an ambulance service licensed under Minnesota Statutes, section 144.802.

These certificates may be used for single purchases or for continuing future purchases. When used in this latter manner, the certificate is referred to as a blanket exemption certificate. Whether a certificate is a single purchase or blanket certificate is determined by marking the appropriate blank provided on the form.

Subp. 3. and 4. [See Repealer.]

8130.3200 NONEXEMPT USE OF PURCHASE OBTAINED WITH EXEMPTION CERTIFICATE.

Subpart 1. **Nonexempt use, use tax imposed.** Under Minnesota Statutes, sections 297A.09 and 297A.10, the seller may accept an exemption certificate from the purchaser on items otherwise taxable under the Sales and Use Tax Law. Under Minnesota Statutes, section 297A.12, if the purchaser makes a nonexempt use of the property for which the purchaser had given

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an exemption certificate that use is considered a retail sale by the purchaser when the item is first used by the purchaser. The sales price (see Minnesota Statutes, section 297A.01, subdivision 8 regarding the calculation of sales price) must be reported as a purchase subject to use tax on the sales and use tax return.

If the purchaser does not have a sales tax permit and is not required to file a sales and use tax return, the purchaser must file a consumer's use tax return.

Use of the property for demonstration or display while holding it for sale or lease in the regular course of business is not a taxable use by the purchaser.

Subp. 2. **Temporary use.** If the purchaser temporarily uses the property other than for demonstration or display, while holding it for sale or lease, the use tax is calculated on the reasonable rental value of the property.

8130.3300 FUNGIBLE GOODS FOR WHICH EXEMPTION CERTIFICATE GIVEN.

Subpart 1. **Defined.** Fungible goods are movable goods which may be estimated and replaced according to weight, measure, and number. Such goods comprise those belonging to the same class that do not have to be dealt with in specie (retaining existence as a distinct individual of a particular class). Common examples of fungible goods are grain in silos or elevators, oil in tanks, coal in hoppers, and lumber in piles. See Minnesota Statutes, section 297A.13.

Subp. 2. [See Repealer.]

8130.3400 DIRECT PAY PERMIT PROCEDURE.

[For text of subpart 1, see M.R.]

Subp. 2. **Payment.** The holder of a direct pay permit must report and pay the applicable use tax directly to the commissioner instead of paying the sales tax to its vendors with respect to all materials purchased pursuant to a direct pay permit.

[For text of subp 3, see M.R.]

Subp. 4. **Qualification requirements.** To qualify for a

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direct pay permit, a business must demonstrate to the satisfaction of the commissioner that:

A. the nature of the business is such that the direct pay method will materially reduce the administrative work of collecting the tax;

B. the firm's accounting system will clearly reflect the proper amount of tax due;

C. the firm makes taxable purchases in sufficient volume to justify the expense of regular audits by the Department of Revenue; and

D. it is in the best interests of the state to issue the permit.

Each person whose application is approved will receive a direct pay permit which will be numbered, dated, and signed by the commissioner or the commissioner's delegated representative.

Subp. 5. **Holder's duties to vendors.** The holder of a direct pay permit must furnish a copy of the direct pay permit or a statement that the holder holds a direct pay permit, the number of the permit and the date issued, to each vendor from whom the holder purchases tangible personal property on which an exemption is claimed. The use of the permit will relieve the vendor from the responsibility of collecting the sales tax on sales made to a direct pay permit holder. Each person issued a direct pay permit must keep a current list of all vendors from whom purchases are made under the direct pay method, and, upon request by the commissioner, must submit such list for examination.

The holder of a direct pay permit must either issue the permit to all vendors required to collect Minnesota sales and use taxes (except those excluded in subpart 6), and accrue all liability as a use tax, or maintain accounting records in sufficient detail to show in summary, and in respect to each transaction, the amount of sales taxes paid to vendors in each reporting period.

If the holder of the permit chooses the latter alternative, then all purchases from any one supplier must be made either

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exempt or taxable. It is not permissible to request the vendor to assess the sales tax on only selected transactions.

Subp. 6. **Certain transactions not permitted.** A holder of a direct pay permit may never use it in connection with the following transactions:

[For text of items A and B, see M.R.]

C. purchases of admissions to places of amusement or athletic events, or the privilege of use of amusement devices;

D. purchases of motor vehicles taxed under Minnesota Statutes, chapter 297B; and

E. purchases of any of the taxable services listed in Minnesota Statutes, section 297A.01, subdivision 3, paragraphs (g) to (l).

Subp. 7. **Permit revocable and not transferable or assignable.** A direct pay permit is not transferable nor may the use of a direct pay permit be assigned to a third party. The commissioner may revoke a direct pay permit at any time the permit holder fails to comply with the conditions under which the permit was granted or for any other reason constituting misuse of the permit. The direct pay permit may also be revoked where the commissioner determines that its continued use is contrary to the best interests of the state of Minnesota.

8130.3600 FLEA MARKET OPERATORS.

Subpart 1. **In general.** The operator of a flea market, craft show, antique show, coin show, stamp show, comic book show, convention exhibit area, or similar event must obtain evidence that any person desiring to engage or conduct business on the premises owned or controlled by the operator holds a valid seller's sales tax permit or obtain a written statement from the seller that items offered for sale are not subject to sales tax. See Minnesota Statutes, section 297A.041.

Even if the operator of one of these events fails to obtain the required evidence, a seller making taxable sales at those events must still obtain a permit and collect the tax unless there is an applicable exemption in Minnesota Statutes, chapter

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297A.

Subp. 2. **Form to use.** The commissioner has prepared a form, Flea Market Operators Certificate of Compliance, for use by operators for complying with this law. Show event operators are required to keep completed certificates as part of their business records.

8130.3800 IMPOSITION OF USE TAX.

The "use tax" is a compensating or complementary tax, reaching the use, storage, or consumption of certain items purchased for use in Minnesota.

The use tax shall be imposed in accordance with the applicable provisions of the Sales and Use Tax Law that are controlling with respect to the imposition of the sales tax.

8130.3850 COMPUTATION OF USE TAX.

Compute the tax on the sales price to the nearest full cent. For sales under $1, use the following guidelines:

A. In the computation of the amount of use tax to be collected on any transaction subject to a four percent rate, amounts of less than one-half cent may be disregarded and the amounts of one-half cent or more are considered as an additional cent. Thus, on a sale of 12 cents or less, the purchaser pays no tax; on a sale ~~between~~ from and including 13 cents to and including 37 cents, the purchaser is required to pay one cent tax; on a sale ~~between~~ from and including 38 cents to and including 62 cents, the purchaser is required to pay two cents tax; on a sale ~~between~~ from and including 63 cents to and including 87 cents, the purchaser is required to pay three cents tax; on a sale ~~of~~ from and including 88 cents to and including $1.12, the purchaser is required to pay four cents tax; on a sale in excess of $1, the purchaser is required to pay four percent on each full dollar plus the appropriate amount from the brackets above.

B. In the computation of the amount of tax to be collected on any transaction subject to a five percent rate, amounts of less than one-half cent may be disregarded and the

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amounts of one-half cent or more are considered as an additional cent. Thus, on a sale of nine cents or less, the purchaser pays no tax; on a sale ~~between~~ from and including ten cents to and including 29 cents, the purchaser is required to pay one cent tax; on a sale ~~between~~ from and including 30 cents to and including 49 cents, the purchaser is required to pay two cents tax; on a sale ~~between~~ from and including 50 cents to and including 69 cents, the purchaser is required to pay three cents tax; on a sale ~~between~~ from and including 70 cents to and including 89 cents, the purchaser is required to pay four cents tax; on a sale ~~between~~ from and including 90 cents to and including $1.09, the purchaser is required to pay five cents tax; and on a sale in excess of $1, the purchaser is required to pay five percent on each full dollar plus the appropriate amount from the brackets above.

C. In the computation of the amount of tax to be collected on any transaction subject to a six percent rate, amounts of less than one-half cent may be disregarded and the amounts of one-half cent or more are considered as an additional cent. Thus, on a sale of eight cents or less, the purchaser pays no tax; on a sale ~~between~~ from and including nine cents to and including 24 cents, the purchaser is required to pay one cent tax; on a sale ~~between~~ from and including 25 cents to and including 41 cents, the purchaser is required to pay two cents tax; on a sale ~~between~~ from and including 42 cents to and including 58 cents, the purchaser is required to pay three cents tax; on a sale ~~between~~ from and including 59 cents to and including 74 cents, the purchaser is required to pay four cents tax; on a sale ~~between~~ from and including 75 cents to and including 91 cents, the purchaser is required to pay five cents tax; on a sale ~~between~~ from and including 92 cents to and including $1.08, the purchaser is required to pay six cents tax; and on a sale in excess of $1, the purchaser is required to pay six percent on each full dollar plus the appropriate amount from the brackets above.

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8130.3900 LIABILITY FOR PAYMENT OF USE TAX.

Subpart 1. **General rule.** Minnesota Statutes, section 297A.15, imposes upon the purchaser of tangible personal property used, stored, or consumed in Minnesota, liability for the use tax until the tax has been paid to Minnesota. However, where the purchaser can satisfy the commissioner that the tax has been collected from the purchaser by a retailer who is required under Minnesota Statutes, chapter 297A, to collect sales or use tax for Minnesota, or by a retailer authorized by the commissioner to collect the tax, the purchaser's liability for payment of the tax due is extinguished.

Subp. 2. **Collection authorization.** Where a seller who is not required to collect Minnesota sales or use tax indicates a willingness to collect a use tax on tangible personal property sold to persons located in Minnesota, authorization to do so may be granted to the seller provided the seller agrees:

A. to collect the use tax due from customers on storage, use, or consumption in Minnesota of taxable personal property in accordance with Minnesota Statutes, section 297A.16;

B. to file a Minnesota sales and use tax return for each month on or before the 20th day of the succeeding month (see Minnesota Statutes, section 289A.18), and to remit the use tax collected to Minnesota. (See Minnesota Statutes, section 289A.31); and

[For text of item C, see M.R.]

8130.4000 COLLECTION OF TAX AT TIME OF SALE.

Subpart 1. **Duty to collect tax.** The following persons making taxable sales for use, storage, or consumption in Minnesota are required to collect the use tax from the purchaser at the time of sale, and give to the purchaser a receipt or other written or printed memorandum evidencing payment of the tax:

A. an out-of-state retailer maintaining a place of business in Minnesota;

B. a retailer who has voluntarily filed an

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application for a permit and has been granted one under Minnesota Statutes, section 297A.21, subdivision 5; or

C. a retailer making retail sales from outside this state to a destination within this state if the retailer engages in the regular or systematic soliciting of sales from potential customers in this state.

If the tax is not imposed under Minnesota Statutes, chapter 297A, because of exemptions enumerated therein, the retailer is not required to collect the tax.

Subp. 2. **Retailer maintaining a place of business in Minnesota.** "Retailer maintaining a place of business in Minnesota" is defined for purposes of this part as any retailer having or maintaining within Minnesota an office, distribution house, sales house, warehouse, a manufacturer's representative, salesperson, or any agent operating within this state under the authority of the retailer, whether the place of business or agent is located in Minnesota permanently or temporarily. Thus when a manufacturer's representative, salesperson, or agent is operating within Minnesota on behalf of the out-of-state retailer, the out-of-state retailer is required to have a permit, collect the Minnesota use tax from the customer, and remit the tax to the state of Minnesota. See Minnesota Statutes, section 297A.21, subdivision 1.

[For text of subp 3, see M.R.]

Subp. 4. **Manufacturer's representative.** When a manufacturer's representative takes the order and bills the purchaser and collects for the merchandise, the representative is then considered a vendor for purposes of administering the Minnesota Sales and Use Tax Law, and is required to have a permit and collect the sales tax from the customer.

Subp. 5. **Penalty.** Where an out-of-state vendor does not have a Minnesota sales and use tax permit, any manufacturer's representative, salesman, agent, or employee of the vendor, who sells, solicits orders for, or delivers tangible personal property in this state for such vendors, is guilty of a misdemeanor. See Minnesota Statutes, section 289A.63,

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subdivision 6.

8130.4200 REGISTRATION.

Subpart 1. **Duty to obtain a permit.** The following persons making sales of items subject to the imposition of the use tax under Minnesota Statutes, section 297A.14, are required to obtain a sales and use tax permit from the commissioner:

A. any retailer maintaining a place of business in Minnesota; or

B. any retailer making retail sales from outside this state to a destination within this state if the retailer engages in the regular or systematic soliciting of sales from potential customers in this state.

Subp. 2. [See Repealer.]

Subp. 3. **Required information.** Each applicant must furnish the commissioner with the names and addresses of all the applicant's agents operating in Minnesota and the location of each of the applicant's distribution and sales houses or offices or other places of business within this state.

8130.4300 PROPERTY BROUGHT INTO MINNESOTA.

Subpart 1. **General rule.** Except as provided in Minnesota Statutes, section 297A.25, subdivision 32 (which exempts personal property from the tax where brought in by a nonresident just prior to becoming a resident), Minnesota Statutes, section 297A.23, places the burden of proof on the purchaser of tangible personal property to prove that the items which were shipped or brought into Minnesota by such purchaser were not purchased from a retailer for storage, use, or consumption in Minnesota, and thus are not subject to Minnesota sales or use tax. Whether the property has been purchased for use in Minnesota usually will be determinable at or near the time of its purchase. Thus, a nonresident purchaser who can show that property had been purchased and previously used in another state for a reasonable period of time before being brought into Minnesota for use therein, usually will be deemed to have satisfied the requirements of Minnesota Statutes, section 297A.23.

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Subp. 2. **Credit for tax paid to other state.** Whether a use tax is due and payable to Minnesota depends upon whether a tax is legally imposed by some other state. The credit is limited to sales or use tax legally owed to another state of the United States. This credit is not allowed for taxes paid to governmental subdivisions or foreign countries. See Minnesota Statutes, section 297A.24.

8130.4400 CREDIT AGAINST USE TAX.

Subpart 1. **General rule.** Under Minnesota Statutes, section 297A.24, a credit is allowed against the use tax due under Minnesota Statutes, section 297A.14, from any person on any item purchased by the person where the item has previously been subjected to a sales or use tax in another state. The credit is allowed to the extent of the rate legally imposed on the item in the other state. If the tax paid in the other state is subject to refund by the other state, it is not legally imposed for purposes of this credit. If the rate imposed by the other state is equal to or higher than the rate imposed under Minnesota Statutes, section 297A.14, then no tax is due.

Calculation of use tax due is governed by Minnesota Statutes, section 297A.24. That section states that use tax provisions apply only at the rate measured by the difference between the rate fixed by Minnesota Statutes, section 297A.14, and the rate by which the previous tax was calculated in the other state. The maximum amount of tax which will be assessed by Minnesota according to Minnesota Statutes, section 297A.24, is the amount of tax calculated from the Minnesota rate. Use tax due to Minnesota is the tax prescribed by the rate in Minnesota Statutes, section 297A.14, less the rate paid in the state of purchase. If the sales tax imposed in the state of purchase is equal to or greater than the amount of Minnesota use tax, no Minnesota use tax is due.

Subp. 2. **Erroneous tax payment.** A Minnesota taxpayer who erroneously pays a sales tax to another state may not take a credit against the tax due Minnesota on the Minnesota return.

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Credit is allowed against the tax due Minnesota if the Minnesota taxpayer has legally paid a sales tax to another state and may only be taken by the person who paid the tax to the other state.

[For text of subp 3, see M.R.]

8130.7300 WHEN TAX IS DUE.

Subpart 1. **General rule.** Generally, except for the accelerated payment of the June liability, sales and use taxes imposed under law are due and payable at the office of the commissioner monthly on or before the 20th day of the month immediately following the month in which the taxable event or events occurred. See Minnesota Statutes, section 289A.20, subdivision 4.

Subp. 2. **Other reporting periods.** In addition, under authorization granted to the commissioner by law (see Minnesota Statutes, section 289A.20, subdivision 4), the commissioner may authorize other reporting periods.

A. The authorizations may be granted provided:

(1) the person desiring to file on other than a monthly basis must apply to file quarterly or annual Minnesota sales and use tax returns, with the Taxpayer Information Division.

(2) The person applying for authorization to file on a quarterly basis must have had average sales and use tax liability of less than $250 per month for the six-month period preceding the period for which the change in filing is requested as adjusted under item B. The person applying for authorization to file an annual return must have had an average sales and use tax liability of less than $25 per month for the preceding one-year period as adjusted under item B.

B. The commissioner will annually recalculate the maximum liability amounts for quarterly or annual filing, using the percentage calculated pursuant to Minnesota Statutes, section 290.06, subdivision 2d, paragraph (b). If the maximum liability amount so calculated is more than $50 above the maximum liability amount for quarterly filing then in effect,

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the maximum liability amount for quarterly filing will be increased $50. The maximum liability amount for annual filing will be increased by $5 each time the quarterly maximum liability amount is increased.

C. If authorization to file on other than a monthly basis has been granted by the commissioner, the tax due thereunder must be paid at the office of the commissioner on or before the 20th day of the month immediately following the close of the authorized period.

D. If the person is applying for a new sales tax permit and has no history of tax liability, application for authorization may be made on the permit application. The person must estimate whether the expected liability will average less than $250 per month, for quarterly filing, as adjusted under item B, or less than $25 per month, for annual filing, as adjusted under item B.

Subp. 3. **Revocation of filing period.** Authorizations granted by the commissioner to file sales and use tax returns, either on a quarterly or annual basis, may be revoked if:

A. the person granted the authorization is either delinquent in filing the return or in paying the tax due;

B. the person's tax liability exceeds $750 for any subsequent quarter where the filing of quarterly returns has been authorized, or where the person's tax liability exceeds $300 for any subsequent calendar year where an annual return has been authorized; or

C. the commissioner determines that the procedures authorized under this part unduly jeopardize the orderly and efficient administration of the Sales and Use Tax Law.

In the event that authorization to file returns and pay the tax due thereon, either on a quarterly or annual basis, is revoked by the commissioner, the person whose authorization has been revoked shall thereafter file the return and pay the tax due thereon on a monthly basis in accordance with this part.

When the filing amounts in subpart 2, item A, are adjusted by the commissioner under subpart 2, item B, the amounts in this

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subpart must be adjusted proportionately by the commissioner.

In the event that a person authorized to file on a quarterly or annual basis ceases to engage in a kind of business which requires that a return be filed under the Sales and Use Tax Law, the person must file a final return by the 20th day of the month following the discontinuance of such business.

Subp. 4. **Accelerated payment of June liability.** Some persons are required to file an estimated June sales tax return early using an estimated June sales and use tax return. A person whose May sales tax liability is $1,500 or more must file an estimated June tax return. The law requires these persons to pay one-half of the estimated June tax by June 20 each year, when the May return is filed.

A person required to make the estimated June tax payment must file the regular June return and pay the balance of the June payment by August 20, which is also the due date of the July return. This payment may be paid at any time before the due date. The taxpayer must file separate returns for the months of June and July. No estimated June tax payment is required if the May tax liability is less than $1,500.

Taxpayers who are not required to make the estimated June tax payment must file the June return by July 20.

Subp. 5. **Local sales and use tax procedure.** Retailers located outside of cities that impose local sales and use taxes are not required to remit the local use taxes until the amount of local use tax collected is $10 or more. See Minnesota Statutes, section ~~289.20~~ 289A.20, subdivision 4.

When the amount of local use tax collected is $10 or more, the total amount of local use tax must be remitted to the commissioner with a local sales and use tax return at the time of the retailer's next regular periodic payment.

8130.7400 UNCOLLECTIBLE DEBT DEDUCTION.

Subpart 1. **General rule.** Ordinarily, a deduction for uncollectible debts is allowed only for a person who is reporting on the accrual method of accounting for sales and use

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tax purposes. However, if a cash basis taxpayer accepts an unsecured check in payment for a sale, reports the sale, and subsequently determines that the check is uncollectible, the taxpayer is entitled to an uncollectible debt deduction. Uncollectible debts (commonly referred to as bad debts) will be recognized as a deduction for sales tax purposes only when given recognition by a direct charge-off for federal income tax purposes or, if the retailer is not required to file income tax returns, charged off in accordance with generally accepted accounting principles. Consequently, no anticipatory or statistical method of estimating future uncollectible debts will be allowed by the commissioner. See Minnesota Statutes, section 297A.26, subdivision 2.

Subp. 2. **Deduction determination.** If a debt becomes uncollectible, either in whole or in part, in a reporting period subsequent to the period in which the transaction that gave rise to the uncollectible debt occurred, the retailer may deduct the uncollectible debt from the gross receipts for the reporting period in which the uncollectible debt is determined to be uncollectible in accordance with the following rules.

A. If the uncollectible debt arose in respect of a sale required to be included in gross receipts, subject to a tax imposed under the Sales and Use Tax Law, the entire amount of the debt remaining uncollected is allowed as a deduction.

B. If the uncollectible debt arose in respect of a sale partly subject to the tax imposed under the Sales and Use Tax Law and partly exempt thereunder, the amount of the uncollectible debt allowed as a deduction is the amount derived by multiplying the uncollectible debt by the percentage that the taxable sale bears to the total sales.

C. If the uncollectible debt arose in respect of two or more sales made at successive intervals, payments made before the date the debt became uncollectible must be applied, first to the earliest sale upon which there is an unpaid balance, and to following sales in successive order.

Subp. 3. **Excess carryover.** In the event that the seller

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is entitled to an uncollectible debt deduction in excess of the amount the seller is required to report for the month in which the debt is determined to be uncollectible, the balance of the deduction may be used in a subsequent month.

Subp. 4. **Repossessions.** In the case of repossessions, an uncollectible debt deduction is allowable only to the extent that the pro rata portion of all payments and credits, attributable to the cash sales price of the merchandise is less than the net contract balance (after excluding unearned insurance and finance charges) at the date of repossession.

Subp. 5. **Recovery of uncollectible debts previously deducted.** If an uncollectible debt deduction is taken and the taxpayer subsequently collects the debt in whole or in part, the amount collected must be included in the first return filed after collection, and the amount of tax thereon must be paid with the return.

8130.7500 RETURNS AND RECORDS.

Subpart 1. **Sales and use tax return.** Any person to whom the commissioner has issued a permit under Minnesota Statutes, sections 297A.04 and 297A.06, must file a sales and use tax return, prescribed by the commissioner. The sales and use tax return and instructions issued as a guide thereto are available from the commissioner. The return must be signed either by the permit holder or by a person having the control, supervision, or responsibility of filing returns and making payment of the sales and use tax.

Subp. 2. **Consumer's use tax return.** Any person required to file a use tax return under Minnesota Statutes, section 289A.11, subdivision 3, and who has not been issued a sales and use tax permit, must file a consumer's use tax return, on or before the 20th day of the month immediately following the month in which the property subject to use tax was first brought into Minnesota.

Subp. 3. **Consolidated returns permitted.** Under Minnesota Statutes, section 289A.11, subdivision 1, if the person required

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to file a return has two or more places of business at which the person engages in transactions subject to tax, the person may elect to file a consolidated sales and use tax return, for all such places of business under the following conditions:

A. the taxpayer has been granted a sales and use tax account number by the commissioner;

B. the taxpayer furnishes to the commissioner a list containing the business name and address and reporting information specified in subpart 5 for each separate place of business; and

C. the taxpayer makes available at the address used by the taxpayer on the consolidated return the information pertinent to each separate place of business in order that the commissioner may be able to perform a proper audit with respect to the return so filed.

Subp. 4. **Time and place of filing.** Under Minnesota Statutes, section 289A.18, subdivision 4, all tax returns must be filed at the office of the commissioner on or before the 20th day of the month immediately following the month for which the taxes are due, unless authorization has been granted to the person required to file either on a quarterly or annual basis. Where a quarterly or annual filing is authorized, the return is required to be filed at the office of the commissioner on or before the 20th day of the month immediately following the close of the period authorized. If any return required under the provisions of the Sales and Use Tax Law becomes due upon a Saturday, Sunday, or legal holiday, the return will be considered timely filed if it is filed or received upon the next succeeding regular business day.

Subp. 5. **Reporting requirements.** Reporting requirements are:

A. All sales and use tax returns filed shall show total gross sales in any manner related to Minnesota business (not including the sales tax collected) on line one of the return without any exclusions except for the following:

(1) charges for personal services rendered;

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(2) labor or service charges for installing or applying goods sold if separately stated;

(3) charges for interest, financing, and transportation incurred after the sale if separately stated;

(4) trade-in allowances;

(5) cash discounts and cash or credit refunds on taxable property returned by customers;

(6) installment payments on conditional or credit sales previously reported;

(7) labor used in repairing, which does not include altering, modifying, or assembling tangible personal property if separately stated;

(8) isolated or occasional sales of tangible personal property; and

(9) leases of real property, if the lease is not for lodging or similar use for a period of less than 30 days, subject to part 8130.1000 and leases of manufactured homes used for residential purposes for a continuous period of 30 days or more.

All exclusions from line one must be supported by the taxpayer's accounting records.

B. All gross sales included in line one of the return but not subject to tax under the provisions of the Sales and Use Tax Law must be itemized on the reverse side of the return. The total of itemized deductions must be shown on line two of the return. The itemized deductions must be supported by the taxpayer's accounting records and cannot be computed by subtracting line three from line one of the return.

C. All sales revenues taxable under the provisions of the Sales and Use Tax Law must be shown on line three of the return, and the amount must be computed by subtracting line two (deductions) from line one (gross sales).

D. All purchases not previously taxed by the vendor, and subject to the tax under the provisions of the Sales and Use Tax Law must be shown on line four of the return without regard to the location of the vendor.

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E. The sum of net sales from line three plus taxable purchases from line four must be shown on line five of the return.

F. The amount on line five of the return multiplied by the current tax rate computes the amount of tax due that must be shown on line six of the return.

G. All liquor sales that are subject to a tax rate greater than the general sales tax rate must be shown on line seven of the return. The amount on line seven must also be included in gross sales on line one.

H. The amount of additional tax due on liquor sales must be shown on line eight of the return. The tax is computed by multiplying the amount on line seven by the tax rate on line eight of the return.

I. The sum of sales and use tax due from line six plus the additional liquor tax due from line eight must be shown on line nine of the return.

J. If an incorrect amount of tax was reported in a previous period, an adjustment may be entered on line 11. A detailed explanation of the adjustment must be submitted with the return. The explanation must include the following:

(1) name;

(2) sales and use tax account number;

(3) the period(s) in which the incorrect amount of tax was reported;

(4) computation to arrive at amount of adjustment; and

(5) the reason(s) for the adjustment (attach pertinent supporting documents).

The amount of the overpayment being taken as an adjustment on line 11 must not exceed the amount of tax due on line 9. The amount of the adjustment which exceeds the tax due on line 9 must be taken as line 11 adjustment on a subsequent return.

Overpayments in excess of $1,000 must not be entered on line 11. Refunds of overpayments must be requested by filing a claim for refund.

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Subp. 6. **Records; general.** Every seller, retailer, and person storing, using, or otherwise consuming in this state tangible personal property or taxable services as defined in Minnesota Statutes, section 297A.01, subdivision 3, purchased from a retailer, and every lessor and lessee of tangible personal property for use in this state must keep adequate and complete records showing:

A. gross receipts from sales or lease payments from leases of tangible personal property (including any services that are a part of the sale or lease) made within Minnesota irrespective of whether the seller or lessor regards the receipts as taxable or nontaxable;

B. all deductions allowed by law and claimed in filing returns; and

C. total purchase price of all sales or purchases as defined in Minnesota Statutes, section 297A.01, subdivision 3, purchased for sale or consumption or lease in Minnesota.

These records must include the normal books of account ordinarily maintained by the average prudent businessperson engaged in the activity in question, together with all bills, receipts, invoices, cash register tapes, or other documents of original entry supporting the entries in the books of account as well as all schedules or working papers used in connection with the preparation of tax returns.

[For text of subp 7, see M.R.]

Subp. 8. **Electronic data processing records.** "Electronic data processing records" include punched cards, magnetic tapes, magnetic disk packs, computer disks, and other machine-sensible data media used for recording, consolidating, and summarizing accounting transactions and records within a taxpayer's electronic data processing system. These records are required to be retained so long as their contents may be material in the administration of any provision of the Sales and Use Tax Law. The commissioner shall decide the materiality of any such records, and if the materiality of any record is questionable, then the record must be retained. It is not required that

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taxpayers retain the same data on two or more machine-sensible media. If there is a duplication of data between two or more electronic data processing media, the taxpayer must maintain a complete set of all the records on at least one of the media.

These requirements apply to any taxpayer who maintains any records on an electronic data processing media. The records to be maintained are as follows.

A. A general ledger, with source references, to coincide with financial reports for sales tax reporting periods. In cases where subsidiary ledgers are used to support the general ledger accounts, the subsidiary ledgers must be maintained.

B. Invoices, vouchers, and other records which support the summary accounting data. There records must be identified and made available to the department upon request.

C. The records which provide the opportunity to trace any transaction back to the original source or forward to a final total. If printouts are not made at the time of processing, then the system must have the ability to reconstruct these transactions.

D. A general description or documentation of the electronic data processing portion of the accounting system. This includes but is not limited to:

[For text of subitems (1) and (2), see M.R.]

(3) standard operating procedures and control procedures, including the reconciliation of electronic data processing controls to nonelectronic data processing controls, error listings and error logs, and any other controls, either electronic data processing or manual, used to ensure accurate and reliable processing.

Any taxpayer retaining disbursement or revenue records on electronic data processing records for any individual original transactions, or any summary of the transactions subject to the tax under the provisions of the Sales and Use Tax Law must separately show the amount of sales tax paid or the amount of sales tax collected. It is permissible, however, to group all

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taxable sales or all taxable purchases into various accounts, all of which are taxable, providing that if a nontaxable transaction is combined with a taxable transaction in the same account, then, with respect to each individual transaction, the tax is separately shown in the electronic data processing record.

An electronic data processing system must include a method of producing visible and legible paper records from the electronic data processing records which will provide the necessary information for verification of the taxpayer's tax liability.

Production of these paper records does not eliminate the necessity of maintaining the corresponding electronic data processing records as required by the first paragraph of this subpart.

8130.7600 SECURITY: NOTICE FROM COMMISSIONER.

Subpart 1. **In general.** In order to assure payment of the tax due, the commissioner may require that sufficient security be deposited with the commissioner by a retailer required to remit payment of the tax under the Sales and Use Tax Law.

Subp. 2. to 4. [See Repealer.]

Subp. 5. **Notice of sale.** Notice of sale of such security must be served either personally upon the person who deposited the security or by mail in the same manner as used with respect to service of notice in Minnesota Statutes, section 289A.37, subdivision 5.

Subp. 6. **Notice of requirement.** Whenever the commissioner requires a security deposit under Minnesota Statutes, section 297A.07 and 297A.28, the commissioner must so notify, in writing, the person from whom the deposit is required. The written notification must be signed either by the commissioner or an authorized representative. The notice must set forth the amount of security and the basis upon which the required amount was computed.

8130.7700 EXTENSION OF TIME TO FILE RETURN.

Subpart 1. **General rule.** Whenever the commissioner

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believes good cause exists, the commissioner may, upon application, extend the time for filing a return. The extension only applies to filing of the return, not payment of the tax. The tax must still be paid on the original due date. The extension shall not exceed 60 days from the date on which the return is due. (See Minnesota Statutes, sections 289A.18, subdivision 4, and 289A.19, subdivision 5, regarding due dates for filing returns.)

Subp. 2. [See Repealer.]

Subp. 3. **Conditions.** Extension may be granted subject to the following conditions:

A. the extension request must be filed on or before the due date for filing the return, must be in writing, and contain the taxpayer's name, account number, and reason for request;

[For text of item B, see M.R.]

C. the extension request must be signed by the applicant or the applicant's duly authorized agent; and

D. the extension request must be forwarded to the Minnesota Department of Revenue, Taxpayer Information Division, Mail Station 4453, Saint Paul, Minnesota 55146-4453, and submitted in an envelope marked "Extension Request."

~~If~~ When the extension request is approved or denied, the ~~original copy, marked "Approved," will be returned to the~~ applicant will be informed of the determination in writing. ~~The extension request, as approved, should be attached to the completed return when filed.~~

8130.7900 RETURN FILING; FAILURE TO FILE.

Subpart 1. **Duty to file returns.** The following persons making taxable sales or taxable use of tangible personal property in Minnesota, or holding a sales and use tax permit, must file returns pursuant to Minnesota Statutes, chapter 289A:

A. any retailer located in Minnesota;

B. any retailer maintaining a place of business in Minnesota;

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C. any retailer who has voluntarily filed an application for a permit and has been granted one under Minnesota Statutes, section 297A.21, subdivision 5;

D. any retailer making retail sales from outside this state to a destination within this state if the retailer engages in the regular or systematic soliciting of sales from potential customers in this state;

E. a purchaser making use of items obtained with an exemption certificate for other than the exempt purpose (see Minnesota Statutes, section 297A.12);

F. a person upon whom liability for use tax is imposed by Minnesota Statutes, section 297A.14; and

G. any person holding a direct pay permit.

Subp. 2. **Failure to file.** Any person described in subpart 1 who is required to file a return and fails to do so within the time prescribed by law or by rule, or who files an incorrect, false, or fraudulent return, must, upon the written demand of the commissioner, file the return required or the corrected return, as the case may be, within 30 days after the written demand for the return has been mailed to the person, and at the same time pay any tax due on the basis of the return.

Subp. 3. **Failure to comply with demand.** If the person upon whom the written demand has been made fails to comply with the demand, the commissioner, through knowledge and information that is obtained through testimony or by any other means available to the commissioner, will prepare a return or corrected return and assess a tax on the basis of that return. The tax assessed must be paid within ten days after the commissioner has mailed to the person a written notice of the amount assessed and a demand for its payment.

8130.8000 TIME LIMITATION ON ASSESSMENT AND COLLECTION.

Subpart 1. **In general.** Except as otherwise provided in the Sales and Use Tax Law and except for circumstances referred to in other rules pertinent to Minnesota Statutes, section 289A.38, the assessment of tax for any period for which a tax is

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due must be made within three and one-half years from the date the return was filed. A return filed before the last day prescribed by law for filing thereof will be considered as filed on the last day.

Subp. 2. and 3. [See Repealer.]

Subp. 4. **Omission of 25 percent.** In the case of omission from the return of a dollar amount properly includible therein which is in excess of 25 percent of the ~~dollar-amount~~ tax reported in the return the tax may be assessed or a proceeding in court for the collection of the tax may be begun at any time within six and one-half years after the return was filed. See Minnesota Statutes, section 289A.38, subdivision 6.

A. The dollar amount reported in the return shall mean the total ~~taxable~~ amount of tax as shown on the return ~~which-includes-both-taxable-sales-and-purchases-subject-to-the use-tax~~.

B. For purposes of computing the dollar amount of the omission there cannot be included amounts disallowed as deductions or unreported retail sales which would constitute allowable deductions in determining net taxable sales. The computation of the percentage of omission is the percentage derived by dividing the dollar amount of ~~taxable-sales-and-use~~ tax not reported on the return by the dollar amount of ~~taxable sales-and-use~~ tax that ~~were~~ was reported on the return.

Subp. 5. [See Repealer.]

Subp. 6. **Waivers.** The commissioner and the taxpayer may consent to an extension of the period in which the tax may be assessed, by a written waiver executed by both parties either within three and one-half years after the return was filed or, in the case of an omission of an amount as specified in subpart 4, within six and one-half years after the return was filed. The period agreed upon may be extended by subsequent waivers in writing made before the expiration of the period previously agreed upon. See Minnesota Statutes, section 289A.42, subdivision 1.

Subp. 7. **Collection of tax by court action.** When the

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assessment of tax is made within the period of limitation as prescribed in subparts 1, 4, and 6, the tax due and owing may be collected by a proceeding in court, provided that the action is instituted within five years after the assessment of the tax. See Minnesota Statutes, section 270.68, subdivision 1.

The period of time for collection proceedings is subject to suspension. See Minnesota Statutes, section 289A.41.

8130.8100 CLAIM FOR REFUND.

Subpart 1. **In general.** A person, as defined in Minnesota Statutes, section 297A.01, subdivision 2, who has overpaid sales or use tax for any period, may file a claim for refund with the commissioner for the amount of the overpayment. The claim for refund must be submitted on a department form as prescribed by the commissioner and be completed in the manner prescribed therein. The claim must set forth in detail the grounds for each adjustment and the facts supporting those grounds.

Subp. 2. **Requirements for refund claim.** Conditions to be met before the commissioner will entertain a claim for refund:

A. The person filing a claim for refund must have paid the tax and filed the sales and use tax return upon which the claim is based directly to the commissioner (or the tax was collected from such person other than by means of court action in district court, either at law or in equity by the commissioner), except the following:

(1) A person who has paid tax on electricity used in agricultural production that is exempt from taxation under Minnesota Statutes, section 297A.25, subdivision 9, may file a claim for refund with the commissioner if the tax was paid to the retail rural electric cooperative association based in Aitkin county. See Laws of Minnesota 1986, chapter 399, article 1, section 5.

(2) A disabled veteran who purchases building materials or on whose behalf a contractor, subcontractor, or builder purchases building materials for use in the construction or remodeling of the veteran's residence, when the construction

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or remodeling is financed in whole or in part by the United States in accordance with United States Code, title 38, sections 801 to 805, as amended, may claim a refund directly from the commissioner. A veterans's claim for refund form is available upon request from the Department of Revenue for use by disabled veterans in making claims. See part 8130.6400, and Minnesota Statutes, section 297A.25, subdivision 20.

(3) Since July 1, 1984, the sales and use tax on capital equipment is initially paid at the six percent rate. In order to obtain the refund of sales and use tax paid on the purchases of qualifying capital equipment, the purchaser must file a claim for refund form with the commissioner. The claim is filed with the Business Trust Tax Unit, Department of Revenue. No adjustment for the tax paid on capital equipment will be allowed as credit against tax due on current sales and use tax returns being filed by a Minnesota sales and use tax permit holder.

Refund claims may include more than one purchase of machinery or equipment. However, no more than two claims will be accepted from a purchaser in a calendar year. See Minnesota Statutes, section 297A.15, subdivision 5.

Interest on capital equipment refunds or credits begins to accrue on the date the claim is filed. See Minnesota Statutes, section 289A.56, subdivision 4. For purposes of calculating the interest due, a claim is not considered filed until sufficient documentation to process the claim is submitted to the commissioner.

When filing a claim for refund for purchases of qualifying capital equipment, the purchaser must provide sufficient documentation to substantiate the allowance of the requested refund. The following information must be submitted with the completed claim for refund form:

(a) a Minnesota tax identification number or, if none, the purchaser's social security number;

(b) a description of the business activity including an explanation of the circumstances (for example,

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opening a new production facility, expansion of an existing facility, or whether or not the equipment purchased replaces existing equipment) under which the claim is filed;

(c) a description of the property purchased and how it will be used in the production process;

(d) a copy of the purchase invoice for each equipment purchase and written evidence of payment of the six percent tax or such other evidence as the commissioner deems necessary;

(e) for leased equipment, a copy of the invoice showing sales tax paid on the lease payments and a copy of the lease agreement; and

(f) if a use tax was accrued and reported for the equipment purchase, verification that the use tax was reported to the state of Minnesota, including evidence of payment of the six percent tax.

(4) The owner of homestead property may file a refund claim directly with the commissioner if a chair lift, ramp, or elevator was installed or constructed on the owner's homestead pursuant to Minnesota Statutes, section 297A.25, subdivision 43.

(5) A common carrier that has applied for a direct pay certificate under the provisions of Minnesota Statutes, section 297A.211, may file a claim for refund of tax previously paid to a seller. This refund will be calculated according to the provisions of Minnesota Statutes, section 297A.211, subdivision 3, and interest will be calculated according to the provisions of Minnesota Statutes, section 289A.56, subdivision 5.

B. A claim for refund must be filed within two years after the tax was paid in full, or within three and one-half years from the date prescribed for filing the return, whichever period expires later. See Minnesota Statutes, section 289A.40, subdivision 1. If the commissioner and the claimant have consented to extend the time for assessment of tax under Minnesota Statutes, section 289A.42, subdivision 1, the claim

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may be filed within the extended period. For purposes of ascertaining whether a claim for refund is timely filed with the commissioner, a return filed before the date on which the return was due will be determined to have been filed on the date when due. A return postmarked on the date due will be determined to have been filed as of that date.

C. A claim filed by a corporation must bear the signatures and titles of the officers having the authority to sign for the corporation.

Whenever it is necessary to have the claim executed by an attorney or agent on behalf of the claimant, an original, executed power of attorney specifically authorizing the agent or attorney to sign the claim on behalf of the claimant must accompany the claim.

If a return is filed by a person who dies after filing a return, and a refund claim is filed by a legal representative of the decedent, certified copies of the letters testamentary, letters of administration, or other similar evidence must be filed with the claim to show the authority of the executor, administrator, or other fiduciary by whom the claim is filed. If an executor, administrator, or other fiduciary files a return and thereafter a refund claim is filed by the same fiduciary, documentary evidence to establish the legal authority of the fiduciary need not accompany the claim, provided a statement is made on the claim showing the return was filed by the fiduciary and that the latter is still acting in such capacity.

If a vendor has collected from a purchaser and remitted to the state a tax on a transaction that is not subject to tax under Minnesota Statutes, chapter 297A, the tax, and any interest earned on the tax, is refundable to the vendor only if and to the extent that the vendor submits written evidence that the tax and interest will be returned by the vendor to the purchaser or credited to amounts due to the vendor by the purchaser.

Subp. 3. **Commissioner action.** Action taken by the commissioner after a claim for refund is filed:

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A. Upon receipt of a claim for refund, the commissioner will examine the return and make any investigation or examination of any of the accounts and records pertaining to the claim that the commissioner considers necessary. The commissioner will then prepare written findings, either denying or allowing the claim, in whole or in part, and will mail a notice to the person filing the claim at the address stated on the return or to any other address furnished by the claimant in writing.

B. The amount allowed by the commissioner as a refund is first applied against any sales or use tax owed to the commissioner by the claimant, and any remaining balance due the claimant may be applied against any other delinquent tax liability owed by the claimant. Interest will be computed on the amounts refunded or credited from the date of overpayment to the date when the refund or credit is authorized by the commissioner, except for capital equipment claims and claims pursuant to Minnesota Statutes, section 297A.25, subdivision 43. See Minnesota Statutes, sections 289A.56, subdivision 4, and 297A.15, subdivisions 5 and 6.

The interest rate on overpayments will be the interest rate that the commissioner establishes under Minnesota Statutes, section 270.75, subdivision 5, to be charged on unpaid taxes. The interest rate will be adjusted annually and will become effective annually when the interest rate on unpaid taxes changes. See Minnesota Statutes, sections 270.76 and 289A.56, subdivision 1.

C. If a claim for refund made by a vendor is based upon overpayment of sales tax by a purchaser to the vendor, the commissioner, for purposes of ascertaining the validity of the claim, may request substantiation of the overpayment by the purchaser, or examine the purchaser's records. If the commissioner is unable to establish the validity of the overpayment after conducting an examination of the purchaser's records, the commissioner will deny the claim.

Subp. 4. [See Repealer.]

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Subp. 5. **One dollar limitation.** No refund will be made where the amount is $1 or less.

8130.8300 ABATEMENT AND INTEREST ON UNPAID LIABILITIES.

Subpart 1. **Interest.** Interest on unpaid liabilities will accrue at the rate as periodically adjusted by the commissioner pursuant to Minnesota Statutes, section 270.75, subdivision 5.

Subp. 2. **Late payment.** The amount of tax not timely paid together with the penalty imposed thereon will bear the applicable rate of interest from the time the tax should have been paid until paid. "Timely paid" means paid on or before the due date as provided by law. See Minnesota Statutes, section 289A.55.

Subp. 3. to 5. [See Repealer.]

Subp. 6. **Abatement of penalties and interest.** Under Minnesota Statutes, section 270.07, subdivision 1, the commissioner has the power to abate penalties and interest when, in the commissioner's opinion, the failure to timely pay the tax or timely file the return is due to reasonable cause. The exercise of this power is subject to the approval of the attorney general if the abatement exceeds the amount specified in Minnesota Statutes, section 270.07, subdivision 1. All requests for abatement of penalties and/or interest must be in writing and must set forth the reasons for the failure to file the return and pay the tax timely.

8130.8400 LIMITATIONS ON DISCLOSURE OF SALES AND USE TAX INFORMATION.

Subpart 1. **General rule.** The particulars disclosed in any report or sales and use tax return as well as any information acquired from the records or from officers or employees concerning affairs of the person filing the return may not be divulged or made known other than to persons qualified or authorized under the Sales and Use Tax Law. Any person violating Minnesota Statutes, chapter 270B, is guilty of a gross misdemeanor.

Subp. 2. **Statistics.** The secrecy provision of Minnesota

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Statutes, chapter 270B, does not prohibit the commissioner from publishing statistics regarding sales and use tax returns in cases where the statistics do not identify in any manner the persons who filed the returns.

Subp. 3. **Inquiry as to a named retailer.** The secrecy provisions will not be violated where the commissioner or one of the commissioner's employees, with respect to any inquiry regarding the issuance of a permit to a named retailer, advises the person making the inquiry whether or not a permit has been issued to the named retailer. The commissioner or commissioner's employee may also furnish the sales and use tax account number, date of issuance of the permit, whether the permit has been canceled or revoked, name and address of the permit holder, and the business name and location. See Minnesota Statutes, section 270B.08.

Subp. 4. **Information for Multistate Tax Commission audits.** The commissioner is authorized on a reciprocal basis to exchange information with the taxing officials of another state or with the taxing officials of any municipality of this state which has a local sales or use tax. The commissioner is also authorized to exchange information with the Multistate Tax Commission for the Multistate Tax Commission to audit corporate sales and use tax returns. See Minnesota Statutes, section 270B.12.

Subp. 5. **Relation to other tax laws.** To ensure consistent application and enforcement of all tax laws administered by the commissioner, the commissioner is also authorized by Minnesota Statutes, section 270.065, to use information on sales and use tax returns to administer laws relating to other taxes under the commissioner's jurisdiction. The commissioner may also use any information in the commissioner's possession relating to other taxes to administer the Sales and Use Tax Law.

Subp. 5a. **Contracts with private vendors.** The commissioner is authorized to contract with outside vendors for the processing of sales and use tax returns and the payment of sales and use taxes. Any private and nonpublic data disclosed

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to a vendor will be administered by the vendor consistent with the secrecy provisions of Minnesota Statutes, chapter 270B. See Minnesota Statutes, section 270B.13.

Subp. 5b. **License clearance.** The commissioner is authorized to notify a licensing authority of the state or a political subdivision that issues, transfers, or renews a license for the conduct of a profession, occupation, trade, or business, that an applicant owes the state taxes, if the applicant taxpayer owes $500 or more in delinquent taxes, penalties, or interest. See Minnesota Statutes, section 270B.07.

Subp. 5c. **Revocation of permits.** The commissioner is authorized to disclose information identifying the holder of a revoked permit and the basis for the revocation. See Minnesota Statutes, section 270B.08.

Subp. 5d. **Liquor posting.** The commissioner must submit to the commissioner of public safety, by the 15th of each month, a list of all liquor retailers who are required to withhold or collect tax imposed by Minnesota Statutes, section 290.92 or 297A.02, and who are 30 days or more delinquent in either filing a tax return or paying the tax. See Minnesota Statutes, sections 270.73 and 270B.12, subdivision 4.

Subp. 5e. **Liquor license applications.** Any county or municipality may request the commissioner to certify whether an applicant for a license to be issued under Minnesota Statutes, section 340A.403 or sections 340A.404 to 340A.406, is liable for any state or local taxes or assessments that were not paid when they became due. See Minnesota Statutes, section 297A.431.

Subp. 6. **Motor vehicle excise tax.** The commissioner may furnish the Motor Vehicle Division, Department of Public Safety, all information necessary to administer the motor vehicle excise tax, Minnesota Statutes, chapter 297B.

REPEALER. Minnesota Rules, parts 8130.2400; 8130.2700, subpart 4; 8130.2800; 8130.3000, subparts 9 and 10; 8130.3100, subparts 3 and 4; 8130.3300, subpart 2; 8130.4100; 8130.4200, subpart 2; 8130.7600, subparts 2, 3, and 4; 8130.7700, subpart

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2; 8130.8000, subparts 2, 3, and 5; 8130.8100, subpart 4; 8130.8200; and 8130.8300, subparts 3, 4, and 5, are repealed.

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APPROVED AS TO FORM AND LEGALITY

August 22 19 90

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Christie B Eller
ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

AUG 22 1990 3:55 P.M.

Joan Anderson Growe
Secretary of State

CBE

RULE REVIEW CHECKLIST

File No. 1724
DATE RECEIVED 8-10-90
REVIEW DATE 8-20-90
DUE DATE 8-24-90
(~~DIS~~)APPROVED 8-22-90
WITHDRAWN _____

Docket No. 05.0809.0735
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 8/14/90
REVISOR (DIS)APPROVED _____
FILED W/SEC. OF STATE 8/22/90
RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

June 19, 1989 Notice to Solicit Outside Information/Opinion (if applicable)

_____ Date published in State Register

_____ Comments

_____ Board's Authorizing ~~Resolution~~

_____ ~~Date adopted~~

✓ Proposed Rule

✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule

297A.25 sub 20 Statutory Authority 297A.27 297A.29

_____ ~~Small Business Statement~~

_____ ~~Expenditure~~ of public money statement

5-17-90 Signature

✓ Statement of Need and Reasonableness (if applicable)

N/A Small Business Statement

_____ ~~Fees - § 16A.128~~

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

~~May 23, 1990~~ Dated (30)/25 days before adoption

✓ Notice attached indicates it is attached

_____ Copy of rule or summary attached

✓ Publication in State Register

May 29, 1990 Date (30)/25 days before adoption (Page 2762)

_____ 180-day deadline from:

N/A Effective date of law requiring rule

✓ (14.12) (both rules) ~~RAR~~ Amendments doesn't apply end of comment period (§ 14.26) (rules without hearing)

_____ effective date of statutory authority (§ 14.29) (emergency rules)

_____ ~~Resolution~~ Adopting

_____ ~~Date adopted~~

✓ Findings of Fact, Conclusions & Order Adopting

August 9, 1990 Date

✓ Declaration of Attorney

Barry Heller Name of SAAG representing agency

_____ ~~Notice of Submission to Attorney~~ General (if applicable)

_____ ~~Affidavit of Mailing Notice to Attorney General (if applicable)~~

Department of Revenue

Proposed Permanent Rules Relating to Sales Tax Administration

Rules as Proposed

8130.2350 COMPUTATION OF SALES TAX.

Compute the tax on the sales price to the nearest full cent. For sales under $1, use the guidelines in items A to C.

A. In computing the tax to be collected on any transaction subject to a four percent rate, amounts of less than one-half cent may be disregarded and the amounts of one-half cent or more are considered as an additional cent. Thus, on a sale of 12 cents or less, the purchaser pays no tax; on a sale between 13 cents to and including 37 cents, the purchaser is required to pay one cent tax; on a sale between 38 cents to and including 62 cents, the purchaser is required to pay two cents tax; on a sale between 63 cents to and including 87 cents, the purchaser is required to pay three cents tax; on a sale of 88 cents to and including $1.12, the purchaser is required to pay four cents tax; on a sale in excess of $1, the purchaser is required to pay four percent on each full dollar plus the appropriate amount from the brackets above.

B. In computing the tax to be collected on any transaction subject to a five percent rate, amounts of less than one-half cent may be disregarded and the amounts of one-half cent or more are considered as an additional cent. Thus, on a sale of nine cents or less, the purchaser pays no tax; on a sale between ten cents to and including 29 cents, the purchaser is required to pay one cent tax; on a sale between 30 cents to and including 49 cents, the purchaser is required to pay two cents tax; on a sale between 50 cents to and including 69 cents, the purchaser is required to pay three cents tax; on a sale between 70 cents to and including 89 cents, the purchaser is required to pay four cents tax; on a sale between 90 cents to and including $1.09, the purchaser is required to pay five cents tax; and on a

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sale in excess of $1, the purchaser is required to pay five percent on each full dollar plus the appropriate amount from the brackets above.

C. In computing the tax to be collected on any transaction subject to a six percent rate, amounts of less than one-half cent may be disregarded and the amounts of one-half cent or more are considered as an additional cent. Thus, on a sale of eight cents or less, the purchaser pays no tax; on a sale between nine cents to and including 24 cents, the purchaser is required to pay one cent tax; on a sale between 25 cents to and including 41 cents, the purchaser is required to pay two cents tax; on a sale between 42 cents to and including 58 cents, the purchaser is required to pay three cents tax; on a sale between 59 cents to and including 74 cents, the purchaser is required to pay four cents tax; on a sale between 75 cents to and including 91 cents, the purchaser is required to pay five cents tax; on a sale between 92 cents to and including $1.08, the purchaser is required to pay six cents tax; and on a sale in excess of $1, the purchaser is required to pay six percent on each full dollar plus the appropriate amount from the brackets above.

8130.2500 APPLICATION FOR PERMIT TO MAKE RETAIL SALES.

Subpart 1. ~~In general~~ Duty to obtain a permit. ~~Generally, the tax imposed by the Sales and Use Tax Law is required to be collected by the seller and subsequently remitted to the commissioner in accordance with the provisions of the Sales and Use Tax Law. Minnesota Statutes, section 297A.04, requires that any person, as defined in Minnesota Statutes, section 297A.01, subdivision 2, who is engaged in making retail sales or is engaged in other activities taxable under the Sales and Use Tax Law, shall obtain a sales and use tax permit from the commissioner. Such a person includes not only a seller located in Minnesota, but also a seller located outside Minnesota who is authorized to do business within Minnesota, or who is authorized under Minnesota Statutes, section 297A.15, to collect the tax~~

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~~upon-all-transactions-taxable-under-the-Sales-and-Use-Tax law.~~ The following persons making taxable sales within Minnesota, or sales outside the state for use, storage, or consumption in Minnesota must obtain a sales tax permit and collect the sales or use tax from the purchaser at the time of sale:

A. a retailer located in Minnesota;

B. a retailer maintaining a place of business in Minnesota;

C. a retailer making retail sales from outside this state to a destination within this state if the retailer engages in the regular or systematic soliciting of sales from potential customers in this state.

Subp. 2. **Nontaxable retail activities.** Where a person engages in retail activities which are exclusively nontaxable, ~~he is not required~~ it is not necessary to apply for or secure a permit.

~~Example 1.--F engages in the sale of poultry and eggs at his farmhouse.--He engages in no other retail activities.--As such food products are exempt under Minnesota Statutes, section 297A.25, subdivision 1, F is not required to secure a sales and use tax permit.~~

~~Example 2.--A bakery engages in the sale of bakery goods for consumption off its premises.--Since such food products are exempt, the bakery is not required to secure a sales and use tax permit.~~

If a charitable, religious, or educational organization makes or plans to make fundraising sales which are not exclusively nontaxable under Minnesota Statutes, section 297A.256, or any other part of Minnesota Statutes, chapter 297A, that organization must obtain a sales tax permit and collect the sales tax.

Subp. 3. **Multiple locations.** Where a person who is required to secure a permit has more than one place of business ~~wherein he engages in~~ and the activities conducted at each place are subject to tax under the Sales and Use Tax Law, and ~~he~~ the

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person elects to file a separate return for each place of business, ~~he is required to file~~ a separate application must be filed for each ~~such~~ business location. ~~He will thereafter receive~~ A permit will be issued which may be used only at the address indicated ~~therein~~ on the permit. A separate permit will be assigned to each ~~such~~ place of business. Members of a group of corporations related by stock ownership, where ~~such~~ the members are engaged in making sales at retail, ~~are required to~~ must make individual applications.

Subp. 4. **Consolidated return.** ~~In the event~~ If a person elects to file a consolidated return, ~~he is required to submit to the commissioner~~ a list containing the business name and address of each separate place of business must be submitted to the commissioner when applying for a permit. ~~In such event, the applicant need submit but one application to the commissioner. (However, see subpart 7 regarding the payment of permit fees where the election to file a consolidated return is made.) Thereafter, he will receive~~ An application containing such a list constitutes an application for each listed business name and address. A permit will be issued for each listed location ~~with the appropriate information contained therein~~. Each ~~of such permits~~ permit so issued will bear the same sales and use tax account number. If, thereafter, ~~he~~ the person elects to file a separate return for ~~one or more~~ any of ~~his~~ the listed places of business, a new account number ~~should~~ must be secured for the business location for which ~~such~~ the separate return is filed. See part 8130.2600 ~~regarding application for new permits~~.

Subp. 5. **Vending machines.** Where the person required to secure a sales and use tax permit operates vending machines in more than one location, ~~he shall~~ the person will not be required to secure a separate permit for each ~~such~~ location. Vending machines include, but are not limited to, coin-operated or bill-operated machines that dispense ~~soft drinks, coffee, tea, milk, candy bars, sandwiches, soups, and~~ food, candy, drinks, items of tangible personal property ~~such as combs, hair dressings, etc. Included in this definition are coin operated~~

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~~devices-providing~~, or provide amusement and diversion. ~~These devices-are-commonly-referred-to-as-juke-boxes,-pinball machines,-shuffleboards,-etc.~~

Vending machines do not include the coin-operated services described in Minnesota Statutes, section 297A.01, subdivision 3, paragraphs (i) and (j).

~~Example.--A-operates-50-coffee-and-soft-drink-vending machines-at-various-locations.--He-is-required-to-secure-only-a single-permit.~~

Subp. 6. **Information required.** Application for a permit ~~shall~~ must contain the following information:

A. the legal form and name of organization; ~~that-is~~ for example, individual, partnership, Minnesota corporation, foreign corporation, or association~~,-etc.~~, and if a corporation, the state and date of incorporation;

[For text of item B, see M.R.]

C. name and mailing address to which sales tax forms are to be sent;

D. Minnesota ~~tax~~ Department of Revenue identification number, unless no such number was previously assigned, and the federal identification number, unless none has been assigned;

[For text of items E to H, see M.R.]

I. type of business; ~~e.g.~~ for example, retail trade, wholesale trade, manufacturing, motion picture theater, hotel, or bowling alley~~,-dance-hall,-etc.~~; and

J. whether business is operated seasonally and, if so, usual opening and closing dates.

~~Such~~ Applications ~~shall~~ must be signed by the owner, if a natural person, by a partner if the applicant is a partnership, or by ~~a-person-authorized-to-sign~~ an owner, partner, or officer if the applicant is a corporation or an association.

Subp. 7. ~~Fee~~ Change in ownership or name. ~~At-the-time-of making-an-application,-the-applicant-shall-pay-the-commissioner a-fee-of-$1-for-each-permit-applied-for.--Where-the-applicant elects-to-file-a-consolidated-return-as-provided-in-subpart-4, he-is-required-to-pay-a-$1-permit-fee-for-each-location.~~ Where

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there is a change in ownership or name, the following rules are applicable:

A. Sale of a business enterprise operated as a sole proprietorship requires a new application ~~and payment of the $1 fee~~, although the business may be continued under the same name.

B. Admission of a new partner ~~or resignation, expulsion, or death of a partner requires a new application and payment of the $1 fee, although the business may be continued under the same name~~ to a partnership requires a new application, even if the business is continued under the same name. Resignation, expulsion, or death of a partner requires a new application if the partnership is required to obtain a new federal identification number because of the resignation, expulsion, or death.

[For text of item C, see M.R.]

D. A change in name of a business enterprise or a change in location, where there has been no change in ownership, ~~requires the issuance of~~ means the permit holder must request a corrected permit ~~reflecting~~ from the department which reflects the changed name or address. ~~As no application is required by law, the permit holder will be issued~~ The corrected permit will be issued upon request. ~~As a matter of policy, the old permit should accompany the request. Payment of the $1 fee is not required.~~

[For text of item E, see M.R.]

8130.2600 PERMIT WHEN VALID AND HOW DISPLAYED.

Subpart 1. **Permit issued by commissioner.** Generally, after the applicant has complied with the provisions of Minnesota Statutes, ~~sections~~ section 297A.04 ~~and 297A.05~~, the commissioner will issue a separate permit for each place of business for which application was made unless the commissioner, in order to assure compliance with the Sales and Use Tax Law, ~~deems~~ finds it necessary for the applicant to deposit security. ~~(See Minnesota Statutes, section 297A.28.)~~ In that event, the commissioner will issue the permits requested at the

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time the applicant has complied with the additional provisions regarding the security requested.

Subp. 2. **~~Permit revocation~~ When permit is valid.** The permit issued ~~shall be~~ is valid until revoked ~~in accordance with~~ or canceled according to Minnesota Statutes, section 297A.065 or 297A.07, and ~~shall~~ is not ~~be~~ assignable. ~~Such~~ The permit ~~shall be~~ is valid only for use by the person in whose name it is issued and for the transaction of business at the place designated therein. Thus, where there has been a change of ownership, so that the liability for payment of the sales and use tax is shifted either wholly or in part, or where there has been a change in name or in location of the business enterprise, the permit is no longer valid. ~~In such cases,~~ If there has been a change of ownership, the permit holder must apply for a new permit. ~~The procedures for securing a permit described in Minnesota Statutes, sections 297A.04, 297A.05, and 297A.06, are applicable where there has been a change in ownership. Where there has been a change in name or in the business location without a change in ownership, a new permit containing the changed name or address will be issued without charge upon return of the permit previously issued.~~

~~Example 1. P, a sole proprietor, applies for and is issued a permit under the business name of Modern Tobacco Shop. Subsequently, P sells the business to Q who continues the business activities under the same trade name. The permit previously issued to P is no longer valid as there has been a shift in the liability for payment of the sales and use tax from P to Q. An application for a new permit plus the $1 fee is required to be submitted.~~

~~Example 2. A and B, as partners, apply for and are issued a permit under the business name of Downtown Jewelry Store. Subsequently, C is admitted as a partner. The business name and the location remain the same. The permit previously issued to A and B, as partners, is no longer valid as the admission of C as a partner resulted in a shift of the liability for the sales and use tax. An application for a new permit, plus the $1 fee is~~

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~~required to be submitted.~~

~~Example 3.--X, Y, and Z, between themselves, own 100 percent of the stock of Building Materials, Inc.--A permit is applied for and issued in the corporate name.--Subsequently, X sells all of his stock to Z.--The permit holder, Building Materials, Inc., continues to transact business at the same location and under the same name.--The permit previously issued is still valid as the liability for payment of the sales and use tax, which was previously imposed upon the corporate entity at the time the permit was issued, remains.~~

~~Example 4.--A permit was applied for and issued in the name of General Trading Company, Inc.--Subsequently, the name is changed to General Discount Corporation.--The permit issued to the General Trading Company is no longer valid as a permit shall be valid only for the person in whose name it is issued.--A new permit will be issued without charge upon return of the permit issued to General Trading Company, Inc.~~

~~Example 5.--A permit was applied for and issued in the name of John Jones, 100 Main Street, Anytown, Minnesota. Subsequently, John Jones moves his quarters across the street to 115 Main Street.--As a permit shall be valid only for the transaction of business at the place designated therein, a new permit containing the new address will be issued without charge upon return of the old permit.~~

Subp. 3. **Shifting or temporary locations.** Where a permit holder is primarily engaged in taxable activities which require ~~him to shift his~~ a change of location from place to place, ~~such~~ the change in location ~~shall~~ will not be ~~deemed to be~~ considered a change of address and the permit holder must display the permit at each temporary location when making taxable sales at that location. ~~However, such permit holder, upon filing his sales and use tax return at the time required to do so under Minnesota Statutes, section 297A.27, shall include a list of the locations at which he transacted business during the period in question and the dates applicable to each such location.~~ In the event ~~such~~ the permit holder engages in

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taxable activities ~~in~~ at two or more ~~dispersed~~ shifting or temporary locations within the same general area at the same time, ~~he~~ the permit holder may display ~~his~~ the original permit at one location and photocopies of ~~such~~ the original permit at ~~his~~ the other locations.

~~Example 1.--A concessionaire at the state fair grounds during state fair week who operates several concessions may display his original permit at one location and photocopies thereof at his other locations.~~

~~Example 2.--A permit was applied for and issued to the Deluxe Carnival Company, whose permanent office is 250 Main Street, Anytown, Florida. The carnival moves from town to town in Minnesota and sets up its tents and equipment in lots temporarily rented. The permit granted to the Deluxe Carnival Company is valid, and must be displayed at each temporary location.~~

Subp. 4. **Display ~~and surrender~~ of permits.** A permit issued by the commissioner ~~shall~~ must at all times be conspicuously displayed. ~~A permit revoked by the commissioner shall be surrendered to the commissioner immediately upon notice of revocation. (See Minnesota Statutes, section 297A.08, regarding penalties for engaging in retail sales without the required permit or permits.)~~ See subpart 3 for display of permits at shifting or temporary locations.

8130.2700 REVOCATION OF PERMITS.

Subpart 1. **In general.** The permit or permits issued to any person, hereinafter referred to as the permit holder, ~~under Minnesota Statutes, sections 297A.04, 297A.05, and 297A.06,~~ may be revoked or suspended by the commissioner if the permit holder fails to comply with any ~~of the~~ provisions of ~~the Sales and Use Tax law~~ Minnesota Statutes, chapter 297A, or any rules adopted under that chapter. See Minnesota Statutes, section 297A.07.

Subp. 2. **Hearing requirement.** The commissioner ~~shall not~~ cannot revoke ~~or suspend~~ the permit holder's permit or permits ~~prior to~~ before granting ~~him~~ a hearing. ~~Such~~ The hearing

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~~shall not~~ cannot be held unless the commissioner has served notice in writing at least 30 days ~~prior to~~ before the date for ~~such~~ the hearing. The commissioner may serve personal notice upon the permit holder or ~~he~~ may make such service by regular mail. ~~(Special Session Laws 1967, chapter 48, section 96, permits the commissioner of revenue to serve notice by regular mail in all cases if he deems the use of regular mail advisable.)~~ ~~Such~~ If service is made by mail, the notice provisions of Minnesota Statutes, section 289A.37, subdivision 5, will apply. The hearing ~~shall~~ and any post-hearing administrative procedures related to the hearing, will be conducted by ~~an administrative law judge appointed by the chief administrative law judge~~ the State of Minnesota Office of Administrative Hearings pursuant to the Administrative Procedure Act, ~~Laws of Minnesota 1975, chapter 380~~ Minnesota Statutes, chapter 14. The hearing ~~shall~~ will be held at the time and place specified in the notice of hearing.

Subp. 3. ~~Transcript~~ Surrender of permit. ~~An official record of the testimony and exhibits presented at the hearing shall be prepared by the administrative law judge. If the permit holder wishes to secure a transcript of the procedures, such transcript will be available from the Office of Administrative Hearings upon payment of the fee prescribed by the administrative law judge.~~ A permit revoked by the commissioner must be surrendered to the commissioner immediately upon notice of revocation.

Subp. 4. [See Repealer.]

Subp. 5. New application, or application for reinstatement of revoked permit. ~~If the commissioner with reasonable cause after the hearing either revokes or suspends the permit or permits of the permit holder, the latter may submit a new application in accordance with Minnesota Statutes, sections 297A.04, 297A.05, and 297A.06. Such application shall be accompanied by reasonable evidence that the permit holder intends to comply with the provisions of the sections of the law or the regulations which he had previously violated. Under~~

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~~Minnesota-Statutes,-section-297A.07,-the-commissioner-may request-that-the-permit-holder-deposit-any-security-in-addition to-that-authorized-by-Minnesota-Statutes,-section-297A.28-that the-commissioner-deems-reasonably-necessary-in-order-to-insure compliance-by-the-permit-holder.~~ The commissioner may reinstate a revoked sales and use tax permit, or issue a new permit to a taxpayer whose permit had been revoked if the taxpayer:

A. files all unfiled sales and use tax returns;

B. pays with a certified check, cashier's check, or money order the entire balance of tax, penalty, and interest due;

C. deposits with the commissioner, security or a surety bond in an amount equal to three times the average monthly liability; and

D. signs an agreement to file timely returns and remit tax when due in the future to a named individual within the department. The agreement will specify the individual to whom the returns and payments must be sent. All payments must be made by certified check, cashier's check, or money order.

The commissioner will hold the security deposit described in item C for two years.

The commissioner will pay interest on any money deposited as security. The interest will be calculated from the date of deposit to the date of refund, or date of application to any outstanding tax liability, at a rate specified in Minnesota Statutes, section 270.76. The security deposit will be refunded to the taxpayer at the end of the two-year period unless the taxpayer has any unpaid tax liabilities. The commissioner may apply the security deposit to any unpaid tax liabilities.

Subp. 6. **Appeal.** An alternative procedure is available to the permit holder. ~~He~~ The permit holder may appeal the commissioner's order revoking ~~or-suspending-his~~ the permit or permits to the Minnesota Tax Court in accordance with Minnesota Statutes, chapter 271.

Subp. 7. **Disclosure.** The commissioner may identify the holder of a revoked sales tax permit and disclose information

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regarding the reasons for revocation. See Minnesota Statutes, section 270B.08.

8130.2900 PRESUMPTION THAT TAX MUST BE PAID.

Subpart 1. **General rule.** ~~Under-Minnesota-Statutes, section-297A.02, the-gross-receipts-of-a-retailer-are-subject-to the-sales-tax-of-four-percent.~~ Minnesota Statutes, section 297A.09, provides that all gross receipts are presumed to be subject to tax unless the contrary is established. ~~Under-this section,~~ The burden of proving that a sale was not a sale at retail is upon the seller.

Subp. 2. **Overcoming the presumption.** For overcoming the presumption of subpart 1:

A. The presumption that a sale is a sale at retail may be overcome if the seller accepts and retains for ~~his~~ the records an exemption certificate given ~~to-him,~~ by the purchaser, stating that the property ~~so~~ purchased is for resale.

B. ~~Under-Minnesota-Statutes, section-297A.10, the exemption-certificate-will-conclusively-relieve-the-retailer from-collecting-and-remitting-the-tax-only-if-taken-in-good faith-from-a-person-who-holds-a-permit.~~ Under Minnesota Statutes, section 297A.10, if the seller accepts from the purchaser an exemption certificate to the effect that the property purchased is exempt under Minnesota Statutes, chapter 297A, the exemption certificate will relieve the retailer from the presumption that all gross receipts are subject to tax and from collecting and remitting the tax, if taken in good faith from the purchaser.

C. ~~The-presumption-that-all-gross-receipts-are subject-to-tax-may-be-overcome-if-the-seller-accepts-from-the purchaser-an-exemption-certificate-to-the-effect-that-the property-purchased-is-exempt-under-Minnesota-Statutes, section 297A.25, subdivision-1, paragraph-(h)-or-(i), as-materials-used or-consumed-in-agricultural-or-industrial-production-of-personal property-intended-to-be-sold-ultimately-at-retail, or-as tangible-personal-property-used-or-consumed-in, or-which-becomes~~

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~~a-part-of,-any-publication-regularly-issued-at-intervals-not exceeding-three-months.--An-exemption-certificate-so-accepted will-relieve-the-retailer-from-collecting-and-remitting-the-tax only-if-taken-in-good-faith.~~

~~B.~~ The presumption that all gross receipts are subject to tax may be overcome if the seller accepts from the purchaser an exemption certificate to the effect that ~~such~~ the purchaser is exempt from paying the tax under the Sales and Use Tax Law.

~~E~~ D. The presumption that all gross receipts are subject to tax may be overcome if the seller accepts from the purchaser ~~an-exemption-certificate-stating-that-the-purchaser has-been-granted-a-direct-pay-permit~~ a copy of the direct pay permit issued to the purchaser, or a statement as provided in part 8130.3400, subpart 5.

8130.3000 GOOD FAITH ACCEPTANCE OF EXEMPTION CERTIFICATES.

[For text of subpart 1, see M.R.]

Subp. 2. **Reasonable care.** Where a sale is made to a person claiming to purchase the property for resale, the presumption that the sale is subject to tax, will be conclusively overcome only if the retailer accepts a resale exemption certificate in good faith from the purchaser. See Minnesota Statutes, section 297A.10. Although the seller is under no duty to ascertain beyond all reasonable doubt that the purchaser is acquiring the property for resale, the provision that ~~he~~ the seller act in good faith requires the seller to exercise reasonable care and judgment before accepting the resale exemption certificate. The good faith provision requires that the seller accept only certificates meeting the requirements of Minnesota Statutes, section 297A.11.

~~Example-1.--A-supplier-sells-to-retail-customers-at-list, and-to-automotive-repairmen-at-60-percent-of-list.--He-receives an-order-for-a-new-generator-from-an-automobile-garage-operator with-whom-he-has-had-no-prior-transactions.--The-generator, which-has-a-list-price-of-$25,-is-sold,-after-routine~~

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~~investigation,-to-the-automobile-garage-operator-for-$15-(60 percent-of-list).--The-sale-to-the-automobile-garage-operator-at the-discount-price-indicates-that-the-resale-exemption certificate-offered-by-the-purchaser-was-taken-in-good-faith. Consequently,-the-supplier-will-be-conclusively-relieved-of-the duties-of-collecting-and-remitting-the-tax-otherwise-due-on-the sale.--Had-the-supplier-sold-the-generator-at-the-list-price-of $25,-he-would-not-be-conclusively-relieved-of-the-duty-of collecting-and-remitting-the-tax-due-thereon-even-though-he-had accepted-a-resale-exemption-certificate.~~

~~Example-2.--A-jeweler-orders-a-living-room-set-from-a distributor-of-furniture-and-offers-a-resale-exemption certificate-which-states-that-the-jeweler-is-engaged-in-the business-of-selling-jewelry-at-retail.--Since-the-resale exemption-certificate-does-not-indicate-that-the-jeweler-is-in the-business-of-selling-furniture-at-retail,-the-distributor-is not-conclusively-relieved-of-the-duty-of-collecting-and remitting-the-tax-due-on-the-sale-of-such-living-room-furniture.~~

~~Example-3.--A-lumber-dealer-receives-an-order-for-a quantity-of-lumber-accompanied-by-a-resale-exemption-certificate. A-customer-specifies-delivery-to-a-construction-site.--Under such-circumstances,-the-lumber-dealer-could-not-properly-claim good-faith-acceptance-of-the-resale-exemption-certificate. Without-further-investigation-establishing-that-the-lumber-is intended-to-be-resold,-he-would-not-be-relieved-of-the-burden-of collecting-and-remitting-the-sales-tax.~~

Subp. 3. **Awareness of business activity and specific nonexempt property.** Where a sale is made to a person claiming that the property purchased ~~will-be-used-or-consumed-in agricultural-or-industrial-production,-or-used-or-consumed-in the-production-of-any-publication-regularly-issued-at-average intervals-not-exceeding-three-months~~ is exempt under Minnesota Statutes, section 297A.25, the presumption that the sale is subject to tax will be conclusively overcome where the retailer takes a certificate of exemption in good faith from the purchaser. The seller will be ~~deemed~~ considered to have

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exercised good faith provided ~~he~~ the seller is aware of the type of business activity conducted by the purchaser, and provided the property claimed to be exempt is of a character normally used ~~or-consumed-in-the-production-process-carried-on-by-the purchaser~~ by the purchaser for an exempt purpose. The seller is under no duty to ascertain whether the property so purchased is, in fact, actually used for the exempt purpose.

~~Minnesota-Statutes,-section-297A.25,-subdivision-1, paragraphs-(h)-and-(i),-specifically-state-that-machinery, equipment,-implements,-tools,-accessories,-appliances, contrivances,-and-furniture-and-fixtures-used-in-such-production or-publication,-and-fuel,-electricity,-gas,-or-steam-used-for space-heating-or-lighting-are-not-included-in-the-exemption. Consequently,-the-retailer-or-supplier-could-not,-in-good-faith, accept-a-certificate-of-exemption-for-sales-of-those-items-since they-are-subject-to-tax.~~

~~Example.--M,-manufacturer,-orders-ten-gross-of-screws-used in-producing-kitchen-cabinets-which-are-ultimately-to-be-sold-at retail.--In-addition,-he-orders-a-drill-press-from-the-same vendor.--M-had-previously-given-V,-vendor,-a-blanket-certificate of-exemption-relating-to-materials-used-or-consumed-in industrial-production.--The-blanket-exemption-certificate-will be-applicable-to-the-sale-of-screws.--As-machinery-and-equipment used-in-production-are-not-exempt,-V-is-required-to-collect-a sales-tax-on-the-drill-press.~~

Subp. 4. **Acceptable exemption certificates.** Vendors may accept the following in good faith:

~~A. certificates-of-exemption-claiming-exemption-of purchases-of-railroad-rolling-stock-and-parts-necessary-for-the maintenance-and-repair-of-such-rolling-stock,-where-such certificates-are-taken-from-railroad-companies,-freight-line companies,-sleeping-car-companies,-and-express-companies-which state-thereon-that-they-are-subject-to-tax-on-a-gross-earnings basis-in-lieu-of-ad-valorem-taxation;~~

~~B.~~ certificates of exemption claiming exemption on purchases of airflight equipment, and flight simulators and

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parts necessary for the repair and maintenance of such equipment, where ~~such~~ the certificates are taken from persons who state thereon that they are taxed under the provisions of Minnesota Statutes, sections 270.071 to 270.079, inclusive;

~~C.--certificates-of-exemption-claiming-exemption-on purchases-of-telephone-central-office-telephone-equipment-which state-thereon-that-such-property-will-be-used-in-furnishing intrastate-and-interstate-telephone-service-to-the-public;~~

~~D.~~ B. certificates of exemption claiming exemption on purchases of mill liners, grinding rods, and grinding balls where ~~such~~ the certificates are taken from persons who state thereon that they are taxed under the in lieu provisions of Minnesota Statutes, chapter 298, and where ~~such~~ the certificates state that ~~such~~ the property will be substantially consumed in the production of taconite, while becoming a part of the material produced;

~~E.~~ C. certificates of exemption claiming exemption on purchases of property which will be shipped or transported outside Minnesota by the purchaser without any intermediate use, which will be used in a trade or business outside Minnesota, and which state thereon that the property will not be returned to Minnesota except in the course of interstate commerce, if the property is not taxable in the state of destination and no exemption certificate is necessary in that state, or the property is not taxable in the state of destination if an exemption certificate is given to the vendor in that state and a copy of the destination state's exemption certificate is attached to the Minnesota certificate, or the property is to be used in the other state or country as part of a maintenance contract;

~~F.~~ D. certificates of exemption claiming exemption on purchases of packing materials used to pack and ship household goods to destinations outside Minnesota and which will not be returned to Minnesota except in the course of interstate commerce;

~~G.~~ E. certificates of exemption which state ~~thereon~~

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that the materials purchased are ~~on-purchases-of-materials~~ designed to advertise and promote the sale of merchandise or services, ~~which~~ when the material is purchased and stored for the purpose of subsequently shipping or otherwise transferring outside the state by the purchaser for use thereafter solely outside ~~the-state~~ of Minnesota~~.~~;

F. certificates of exemption for equipment used for processing solid or hazardous waste at a resource recovery facility as defined in Minnesota Statutes, section 115A.03, subdivision 28. The purchaser must apply to the commissioner for the exemption certificate and supply sufficient documentation to support the application;

G. certificates of exemption covering certain purchases by veteran's organizations and their auxiliaries. The purchases must be for charitable, civic, educational, or nonprofit uses;

H. certificates of exemption for materials and supplies used or consumed in agricultural or industrial production of tangible personal property to be sold ultimately at retail. See Minnesota Statutes, section 297A.25, subdivision 9;

I. certificates of exemption for tangible personal property which will be resold;

J. certificates of exemption for repair or replacement parts used for the maintenance or repair of qualified farm machinery or logging equipment pursuant to Minnesota Statutes, section 297A.01, subdivision 15;

K. certificates of exemption for materials and supplies used or consumed in the production of newspapers and publications issued at average intervals of three months or less, pursuant to Minnesota Statutes, section 297A.25, subdivision 10;

L. certificates of exemption for commercial haulers of waste collection and disposal services; and

M. certificates of exemption for property purchased for business use outside city limits, for use when a local tax

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is applicable.

Subp. 5. **Religious and educational organizations.** Where a sale of tangible personal property is made to an organization that is organized and operated exclusively for religious or educational purposes, the seller will be relieved from the duty of collecting and remitting the tax otherwise due on the sale if ~~he~~ the seller receives a certificate of exemption from the organization stating to that effect, and provided that ~~he~~ the seller is reasonably certain that the purchaser is a religious or educational organization entitled to the exemption. Thus, although the seller is not obligated to investigate to determine whether the purchaser is entitled to the exemption, the seller, either from past experience or from ~~his~~ the seller's own general personal knowledge of the community and its affairs, should, in most cases, be able to determine whether the purchaser is the type of organization it claims to be and whether the purchase is to be used for religious or educational purposes. For example, the various schools and churches in any community are well known and, consequently, a seller would be reasonably certain that such a school or church making purchases of tangible personal property is entitled to exemption.

Subp. 6. **Charitable organizations.** Organizations claiming exemption as charitable organizations must establish their right to ~~such~~ the exemption by making application to the commissioner ~~of-revenue~~ for a certificate of exempt status ~~on-form ST-16.~~ ~~Such~~ An application may also be made by religious and educational organizations wishing to obtain a certificate of exempt status as a convenience to themselves and their suppliers. A certificate of exempt status~~,-form-ST-17,~~ will be issued after the application and supporting documents are examined and approved. The certificate of exempt status will bear an ES exempt status number and the signature of an authorized official of the Department of Revenue. An organization holding a certificate of exempt status may reproduce the certificate as necessary to be furnished to its suppliers. A ~~seller-of-tangible-personal-property~~ vendor may

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accept a copy of a certificate of exempt status in good faith from the organization to which it was issued.

Subp. 7. **References and limitations.** ~~As to references and limitations:~~

A. ~~Refer to~~ See part 8130.6200 regarding criteria for determining whether or not organizations qualify for exemption as charitable, religious, or educational.

B. As described above, the certificate of exemption or certificate of exempt status is valid for purchases made on behalf of the exempt organization, but not for purchases made for the personal use of persons affiliated with or employed by the exempt organization. The seller may be reasonably certain that ~~such is the case~~ a sale is made to the exempt organization if ~~he~~ the seller either bills the organization for the sales price, delivers the property to the location of the organization, or accepts payment by means of a check drawn by the organization~~, either at the time of purchase or subsequently~~.

C. ~~Refer to subpart 9 regarding meals, admissions, and lodging.~~ Although the furnishing of meals or lodging is defined as a taxable sale by Minnesota Statutes, section 297A.01, subdivision 3, paragraphs (c) and (e), it is not a sale of tangible personal property and, thus, is not within the exemptions described in subparts 5 to 8 for sales of tangible personal property to governmental, charitable, religious, and educational organizations in Minnesota Statutes, section 297A.25, subdivisions 11 and 16. Accordingly, a certificate of exemption, certificate of exempt status, or governmental purchase order may not be accepted in good faith for such a sale, except in the case of sales directly to the United States government. See part 8130.5700. Meals furnished, prepared, or served at public and private schools, universities, or colleges, are governed under part 8130.0800.

D. Although the furnishing of admissions is defined as a taxable sale by Minnesota Statutes, section 297A.01, subdivision 3, paragraph (d), it is not a sale of tangible personal property and, thus, is not within the exemptions

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described in subparts 5 to 8 for sales of tangible personal property to governmental entities in Minnesota Statutes, section 297A.25, subdivision 11. Accordingly, a certificate of exemption, certificate of exempt status, or governmental purchase order may not be accepted in good faith for such a sale.

The sale of admissions under Minnesota Statutes, section 297A.01, subdivision 3, paragraph (d), to charitable, religious, or educational organizations in Minnesota Statutes, section 297A.25, subdivision 16, may be purchased exempt pursuant to subparts 5 and 6.

E. Both government entities, except for the United States government, and charitable, religious, or educational organizations, must pay sales tax on leases of motor vehicles pursuant to Minnesota Statutes, section 297A.25, subdivisions 11 and 16.

F. Both government entities, except for the United States government, and charitable, religious, or educational organizations must pay sales tax on solid waste collection and disposal services imposed pursuant to Minnesota Statutes, section 297A.01, subdivision 3, paragraph (j), item (vii).

G. A seller is not required to collect and remit the tax on sales of tangible personal property which the seller delivers to a common carrier for delivery to an outstate destination, or places the property in the United States mail or parcel post directed to a purchaser outstate, or delivers the property to a purchaser outstate by means of the seller's own delivery vehicles. No exemption certificate is required under these circumstances. However, adequate evidence of shipment or delivery to the out-of-state destination must be maintained by the seller.

Subp. 8. **Sales to ~~United States~~ governmental entities.** Where a sale of tangible personal property or sales governed by Minnesota Statutes, section 297A.01, subdivision 3, paragraph (f), is made to ~~the United States, its agencies, its instrumentalities, a state, its agencies, its instrumentalities, or its political subdivisions~~ a governmental entity listed in

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Minnesota Statutes, section 297A.25, subdivision 11, the sale is exempt. The seller will be relieved of the duty of collecting and remitting the tax otherwise due on such property by accepting an authorized purchase order, payment voucher, or other document clearly showing that the purchaser is a governmental ~~unit~~ entity.

~~Refer to subpart 9 regarding meals, admissions, and lodging.~~

Subp. 9. and 10. [See Repealer.]

8130.3100 CONTENT AND FORM OF EXEMPTION CERTIFICATE.

Subpart 1. **In general.** Minnesota Statutes, section 297A.09, provides ~~for the furnishing of~~ that a person who makes a sale may take from a purchaser an exemption ~~certificates with respect to exempt sales. Vendors accepting exemption certificates which do~~ certificate for exempt sales. If the certificate does not include the following five elements ~~of a valid~~, the certificate ~~shall~~ will not be ~~deemed~~ considered to have been accepted ~~an exemption certificate~~ by the seller in good faith as required by Minnesota Statutes, section 297A.10. An exemption ~~certificates~~ certificate must contain the following information:

A. name and address of the purchaser;

B. the account number of the permit issued to the purchaser, or, if no number, state reason;

C. the general character of the property sold by the purchaser in the regular course of business;

D. description of the property purchased; and

E. signature of the purchaser.

See Minnesota Statutes, section 297A.11.

Subp. 2. **Approved Application to use exemption certificates.** ~~The commissioner has approved use of the following certificates to assist purchasers in claiming exemption.~~

A. ~~ST 3 is to be used for claiming exemption for any of the reasons listed on the certificate. (See part 8130.9912.)~~ A taxpayer must submit an application to the commissioner in

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order to obtain an exemption certificate to be used for the following exemptions or situations:

(1) waste processing equipment used at a resource recovery facility;

(2) direct payment of sales or use tax;

(3) direct payment of tax by common carriers; and

(4) purchases of tangible personal property or services by a charitable organization.

B. ~~ST-4 is to be used for claiming a percentage exemption for fuels and energy utilized in industrial or agricultural production. (See part 8130.9916.)~~ A taxpayer does not need to submit an application to the commissioner in order to obtain an exemption certificate to be used for the following exemptions:

(1) agricultural or industrial production;

(2) educational or religious organizations;

(3) advertising material pursuant to Minnesota Statutes, section 297A.25, subdivision 22;

(4) farm machinery repair or replacement parts, pursuant to Minnesota Statutes, section 297A.25, subdivision 29;

(5) materials used in publications pursuant to Minnesota Statutes, section 297A.25, subdivision 10;

(6) taconite production materials pursuant to Minnesota Statutes, section 297A.25, subdivision 15;

(7) airflight equipment pursuant to Minnesota Statutes, section 297A.25, subdivision 14;

(8) outstate transport or delivery pursuant to Minnesota Statutes, section 297A.25, subdivision 5;

(9) business use outside a city limit - local taxes;

(10) tangible personal property or services purchased for resale;

(11) veterans' groups pursuant to Minnesota Statutes, section 297A.25, subdivision 25;

(12) tipping fee sales tax exemption for commercial haulers of public and private mixed municipal solid

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waste; and

(13) fuels and energy used in agricultural or industrial production pursuant to Minnesota Statutes, section 297A.25, subdivision 9.

~~C.--ST-5-is-to-be-used-for-claiming-exemption-on property-purchased-for-resale-in-substantially-unchanged-form-or acquired-for-leasing-or-subleasing.--(See-part-8130.9920.)~~

~~D.--ST-17-is-to-be-used-by-the-exempt-organization-to which-it-is-issued-for-claiming-exemption-on-purchases-of tangible-personal-property.--(See-part-8130.9968.)~~

~~E.--Uniform-sales-tax-exemption-certificate-designed by-the-Multistate-Tax-Commission.~~

These certificates may be used for single purchases or for continuing future purchases. When used in this latter manner, the certificate is referred to as a blanket exemption certificate. Whether a certificate is a single purchase or blanket certificate is determined by marking the appropriate blank provided ~~in~~ on the form ~~except-for-the-uniform-sales-tax exemption-certificate-which-does-not-contain-such-a-blank-but may-be-used-as-either-a-single-purchase-or-a-blanket-certificate.~~

~~The-commissioner-does-not-furnish-exemption-certificates-in bulk.--In-order-to-assist-purchasers-in-preparing-their-own copies,-the-forms-approved-by-the-commissioner-are-reproduced-at parts-8130.9912-to-8130.9996.~~

Subp. 3. and 4. [See Repealer.]

8130.3200 NONEXEMPT USE OF PURCHASE OBTAINED WITH EXEMPTION CERTIFICATE.

Subpart 1. **Nonexempt use, use tax imposed.** Under Minnesota Statutes, sections 297A.09 and 297A.10, the seller may accept an exemption certificate from the purchaser on items otherwise taxable under the Sales and Use Tax Law. Under Minnesota Statutes, section 297A.12, if ~~such~~ the purchaser ~~should-thereafter-make-any~~ makes a nonexempt use of the property for which ~~he~~ the purchaser had given an exemption certificate ~~other-than-for-a-purpose-exempt-under-the-Sales-and~~

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~~Use-Tax-Law-the~~ that use ~~thereof-shall-be-deemed~~ is considered a retail sale by the purchaser ~~as-of-the-time~~ when the item is first used by ~~him~~ the purchaser~~,-and~~. The sales price (see Minnesota Statutes, section 297A.01, subdivision 8 regarding the calculation of sales price) ~~shall~~ must be reported as ~~purchases~~ a purchase subject to use tax on the sales and use tax return.

~~Example-1.--A-retailer,-engaged-in-making-sales-of-TV-sets,-purchases-ten-TV-sets-at-$500-each-and-gives-a-resale-exemption-certificate-to-his-supplier.--Subsequently,-he-removes-one-TV-set-from-stock-for-personal-use-in-his-home.--This-constitutes-making-use-of-the-TV-set-for-a-purpose-other-than-resale-in-the-regular-course-of-the-retailer's-business.--Consequently,-the-retailer-is-required-to-include-$500-as-a-purchase-subject-to-use-tax.~~

~~Example-2.--A-manufacturer-of-office-equipment-gives-an-exemption-certificate-for-material-used-or-consumed-in-the-process-of-producing-such-equipment.--Thereafter-the-manufacturer-removes-20-desks-from-finished-goods-stock-for-use-in-his-own-offices.--His-accounting-records-disclose-that-the-total-cost-of-the-material-used-in-the-production-of-the-20-desks-was-$1,000.--As-the-manufacturer-made-use-of-the-material-other-than-for-a-purpose-exempt-under-Minnesota-Statutes,-section-297A.25,-subdivision-1,-paragraph-(h),-the-manufacturer-is-required-to-include-in-his-purchases-subject-to-use-tax-the-retail-price-of-the-material-used-or-consumed-in-manufacturing-the-desks,-that-is,-$1,000.--If-the-manufacturer-is-not-engaged-in-the-business-of-making-sales-at-retail-and-consequently,-has-not-made-application-for,-or-been-issued-a-permit-(see-Minnesota-Statutes,-sections-297A.04-to-297A.06),-he-should-report-the-purchases-subject-to-use-tax-by-filing-a-consumer's-use-tax-return,-form-UT-1,-in-such-cases.--These-returns-are-available-upon-request-to-the-Commissioner-of-Revenue,-Department-of-Revenue,-Centennial-Office-Building,-Saint-Paul,-Minnesota-55145.~~

If the purchaser does not have a sales tax permit and is not required to file a sales and use tax return, the purchaser must file a consumer's use tax return.

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Use of the property for demonstration or display while holding it for sale or lease in the regular course of business is not a taxable use by the purchaser.

Subp. 2. **Temporary use.** If the purchaser temporarily uses the property other than for demonstration or display, while holding it for sale or lease, the use tax is calculated on the reasonable rental value of the property.

8130.3300 FUNGIBLE GOODS FOR WHICH EXEMPTION CERTIFICATE GIVEN.

Subpart 1. **Defined.** Fungible goods are movable goods which may be estimated and replaced according to weight, measure, and number. Such goods comprise those belonging to the same class that do not have to be dealt with in specie (retaining existence as a distinct individual of a particular class). Common examples of fungible goods are grain in silos or elevators, oil in tanks, coal in hoppers, and lumber in piles. See Minnesota Statutes, section 297A.13.

Subp. 2. **Commingled goods.** If a purchaser gives an exemption certificate in respect of fungible goods as provided ~~for~~ by Minnesota Statutes, sections 297A.09 and 297A.10, and thereafter commingles these goods with other fungible goods not so purchased but of such similarity that the goods purchased under the exemption certificate cannot be distinguished from the other goods, sales from the mass of commingled goods ~~shall be deemed~~ is considered to be sales of the goods purchased under the exemption certificate until all the nontaxable purchases have been accounted for.

8130.3400 DIRECT PAY PERMIT PROCEDURE.

[For text of subpart 1, see M.R.]

Subp. 2. **Payment.** The holder of a direct pay permit ~~shall~~ must report and pay the applicable use tax directly to the commissioner instead of paying the sales tax to its vendors with respect to all materials purchased pursuant to ~~such~~ a direct pay permit.

[For text of subp 3, see M.R.]

Subp. 4. **Qualification requirements.** To qualify for a

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direct pay permit, a business must demonstrate to the satisfaction of the commissioner ~~of revenue~~ that:

A. the nature of the business is such that the direct pay method will materially reduce the administrative work of collecting the tax;

B. the firm's accounting system will clearly reflect the proper amount of tax due; ~~and~~

C. the firm makes taxable purchases in sufficient volume to justify the expense of regular audits by the Department of Revenue; and

D. it is in the best interests of the state to issue the permit.

~~Each request for a direct pay permit will be carefully reviewed, and~~ Each person whose application is ~~accepted~~ approved will receive a direct pay permit which will be numbered, dated, and signed by the commissioner ~~of revenue~~ or ~~his~~ the commissioner's delegated representative. ~~The commissioner of revenue shall issue a direct pay permit only in those cases in which, in his judgment, it is in the best interests of the state of Minnesota to do so.~~

Subp. 5. **Holder's duties to vendors.** The holder of a direct pay permit ~~shall~~ must furnish a copy of ~~his~~ the direct pay permit or a statement that ~~he~~ the holder holds a direct pay permit ~~number-----dated-----~~, the number of the permit and the date issued, to each vendor from whom ~~he~~ the holder purchases tangible personal property on which an exemption is claimed. ~~This shall~~ The use of the permit will relieve the vendor from the responsibility of collecting the sales tax on ~~purchases~~ sales made ~~by such~~ to a direct pay permit holder. Each person issued a direct pay permit must keep a current list of all vendors from whom purchases are made under the direct pay method, and, upon request by the commissioner, ~~shall~~ must submit such list for examination.

The holder of a direct pay permit must either issue the permit to all vendors required to collect Minnesota sales and use taxes (except those excluded in subpart 6), and accrue all

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liability as a use tax, or maintain accounting records in sufficient detail to show in summary, and in respect to each transaction, the amount of sales taxes paid to vendors in each reporting period.

If the holder of the permit chooses the latter alternative, then all purchases from any one supplier must be made either exempt or taxable. It is not permissible to request the vendor to assess the sales tax on only selected transactions.

Subp. 6. **Certain transactions not permitted.** A holder of a direct pay permit may never use it in connection with the following transactions:

[For text of items A and B, see M.R.]

C. purchases of admissions to places of amusement or athletic events, or the privilege of use of amusement devices;

D. purchases of motor vehicles taxed under Minnesota Statutes, chapter 297B; and

E. purchases of any of the taxable services listed in Minnesota Statutes, section 297A.01, subdivision 3, paragraphs (g) to (l).

Subp. 7. **Permit ~~not-transferable-and~~ revocable and not transferable or assignable.** A direct pay permit is not transferable nor may the use of a direct pay permit be assigned to a third party. The commissioner may revoke a direct pay permit at any time ~~for-failure-to~~ the permit holder fails to comply with the conditions under which ~~such-authority~~ the permit was granted or for any other reason constituting misuse of ~~such authority~~ the permit. The direct pay permit may also be revoked where the commissioner determines that its continued use ~~thereof is-determined-by-the-commissioner-to-be~~ is contrary to the best interests of the state of Minnesota.

~~A-facsimile-of-the-authorized-direct-pay-permit-is reproduced-at-part-8130.9956.~~

8130.3600 FLEA MARKET OPERATORS.

Subpart 1. **In general.** The operator of a flea market, craft show, antique show, coin show, stamp show, comic book

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show, convention exhibit area, or similar event must obtain evidence that any person desiring to engage or conduct business on the premises owned or controlled by the operator holds a valid seller's sales tax permit or obtain a written statement from the seller that items offered for sale are not subject to sales tax. See Minnesota Statutes, section 297A.041.

Even if the operator of one of these events fails to obtain the required evidence, a seller making taxable sales at those events must still obtain a permit and collect the tax unless there is an applicable exemption in Minnesota Statutes, chapter 297A.

Subp. 2. **Form to use.** The commissioner has prepared a form, Flea Market Operators Certificate of Compliance, for use by operators for complying with this law. Show event operators are required to keep completed certificates as part of their business records.

8130.3800 IMPOSITION OF USE TAX.

The "use tax" is a compensating or complementary tax, reaching the use, storage, or consumption of certain items purchased for use in Minnesota. ~~The use tax is imposed at the rate of four percent of the sales price at retail unless the sales tax previously has been paid thereon.~~

The use tax shall be imposed in accordance with the applicable provisions of the Sales and Use Tax Law that are controlling with respect to the imposition of the sales tax.

8130.3850 COMPUTATION OF USE TAX.

Compute the tax on the sales price to the nearest full cent. For sales under $1, use the following guidelines:

A. In the computation of the amount of use tax to be collected on any transaction subject to a four percent rate, amounts of less than one-half cent may be disregarded and the amounts of one-half cent or more are considered as an additional cent. Thus, on a sale of 12 cents or less, the purchaser pays no tax; on a sale between 13 cents to and including 37 cents, the purchaser is required to pay one cent tax; on a sale between

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38 cents to and including 62 cents, the purchaser is required to pay two cents tax; on a sale between 63 cents to and including 87 cents, the purchaser is required to pay three cents tax; on a sale of 88 cents to and including $1.12, the purchaser is required to pay four cents tax; on a sale in excess of $1, the purchaser is required to pay four percent on each full dollar plus the appropriate amount from the brackets above.

B. In the computation of the amount of tax to be collected on any transaction subject to a five percent rate, amounts of less than one-half cent may be disregarded and the amounts of one-half cent or more are considered as an additional cent. Thus, on a sale of nine cents or less, the purchaser pays no tax; on a sale between ten cents to and including 29 cents, the purchaser is required to pay one cent tax; on a sale between 30 cents to and including 49 cents, the purchaser is required to pay two cents tax; on a sale between 50 cents to and including 69 cents, the purchaser is required to pay three cents tax; on a sale between 70 cents to and including 89 cents, the purchaser is required to pay four cents tax; on a sale between 90 cents to and including $1.09, the purchaser is required to pay five cents tax; and on a sale in excess of $1, the purchaser is required to pay five percent on each full dollar plus the appropriate amount from the brackets above.

C. In the computation of the amount of tax to be collected on any transaction subject to a six percent rate, amounts of less than one-half cent may be disregarded and the amounts of one-half cent or more are considered as an additional cent. Thus, on a sale of eight cents or less, the purchaser pays no tax; on a sale between nine cents to and including 24 cents, the purchaser is required to pay one cent tax; on a sale between 25 cents to and including 41 cents, the purchaser is required to pay two cents tax; on a sale between 42 cents to and including 58 cents, the purchaser is required to pay three cents tax; on a sale between 59 cents to and including 74 cents, the purchaser is required to pay four cents tax; on a sale between 75 cents to and including 91 cents, the purchaser is required to

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pay five cents tax; on a sale between 92 cents to and including $1.08, the purchaser is required to pay six cents tax; and on a sale in excess of $1, the purchaser is required to pay six percent on each full dollar plus the appropriate amount from the brackets above.

8130.3900 LIABILITY FOR PAYMENT OF USE TAX.

Subpart 1. **General rule.** Minnesota Statutes, section 297A.15, imposes upon the purchaser of tangible personal property used, stored, or consumed in Minnesota, liability for the use tax until the tax has been paid to Minnesota. However, where the purchaser can satisfy the commissioner that the tax has been collected from the purchaser by a retailer who ~~maintains a place of business in~~ is required under Minnesota Statutes, chapter 297A, to collect sales or use tax for Minnesota, or by a retailer authorized by the commissioner to collect the tax, the purchaser's liability for payment of the tax due is extinguished.

Subp. 2. **Collection authorization.** ~~Under the due process clause of the United States Constitution, a seller neither authorized to do business in Minnesota nor maintaining a place of business in Minnesota, may not have imposed upon him an obligation to collect a use tax for the purpose of remitting such tax to Minnesota.~~ Where ~~such~~ a seller who is not required to collect Minnesota sales or use tax indicates ~~that he is willing~~ a willingness to collect a use tax on tangible personal property sold to persons located in Minnesota, authorization to do so may be granted to ~~him~~ the seller provided ~~he~~ the seller agrees:

A. to collect the use tax due from ~~his~~ customers on storage, use, or consumption in Minnesota of taxable personal property in accordance with Minnesota Statutes, section 297A.16;

B. to file a Minnesota sales and use tax return for each month on or before the ~~25th~~ 20th day of the succeeding month (see Minnesota Statutes, section ~~297A.26~~ 289A.18), and to remit the use tax collected to Minnesota ~~the use tax so~~

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~~collected.~~ (See Minnesota Statutes, section ~~297A.17~~ 289A.31); and

[For text of item C, see M.R.]

8130.4000 COLLECTION OF TAX AT TIME OF SALE.

Subpart 1. **Duty to collect tax.** ~~Any corporation authorized to do business in Minnesota (see Minnesota Statutes, chapter 303 for provisions regarding foreign corporations authorized to do business in Minnesota), any retailer maintaining a place of business in Minnesota, or any seller authorized to collect use tax under Minnesota Statutes, section 297A.15, upon making sales of taxable personal property for storage, use, or consumption in Minnesota, where such items are not exempt in respect of the purchaser under the Sales and Use Tax Law, shall collect the use tax from the purchaser and give to such purchaser a receipt or other written or printed memorandum evidencing payment of the tax.~~ The following persons making taxable sales for use, storage, or consumption in Minnesota are required to collect the use tax from the purchaser at the time of sale, and give to the purchaser a receipt or other written or printed memorandum evidencing payment of the tax:

A. an out-of-state retailer maintaining a place of business in Minnesota;

B. a retailer who has voluntarily filed an application for a permit and has been granted one under Minnesota Statutes, section 297A.21, subdivision 5; or

C. a retailer making retail sales from outside this state to a destination within this state if the retailer engages in the regular or systematic soliciting of sales from potential customers in this state.

If the tax is not imposed under Minnesota Statutes, chapter 297A, because of exemptions enumerated therein, the retailer is not required to collect the tax.

Subp. 2. **Retailer maintaining a place of business in Minnesota.** "Retailer maintaining a place of business in

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Minnesota" is defined for purposes of this part as any retailer having or maintaining within Minnesota an office, distribution house, sales house, warehouse, a manufacturer's representative, ~~salesman~~ salesperson, or any agent operating within this state under the authority of the retailer, whether ~~such~~ the place of business or agent is located in Minnesota permanently or temporarily. Thus when a manufacturer's representative, ~~salesman~~ salesperson, or agent ~~takes an order for merchandise and forwards the order to the out of state vendor who fills the order, ships the merchandise to the Minnesota purchaser, and bills the customer for the merchandise~~ is operating within Minnesota on behalf of the out-of-state retailer, the out-of-state ~~vendor~~ retailer is required to have a permit, collect the Minnesota use tax from the customer, and remit the tax to the state of Minnesota. See Minnesota Statutes, section 297A.21, subdivision 1.

[For text of subp 3, see M.R.]

Subp. 4. **Manufacturer's representative.** When a manufacturer's representative takes the order and bills the purchaser and collects for the merchandise ~~himself~~, ~~he~~ the representative is then considered a vendor for purposes of administering the Minnesota Sales and Use Tax Law, and is required to have a permit and collect the sales tax from the customer.

Subp. 5. **Penalty.** Where ~~such~~ an out-of-state vendor does not have a Minnesota sales and use tax permit, any manufacturer's representative, salesman, agent, or employee of ~~such~~ the vendor, who sells, solicits orders for, or delivers tangible personal property in this state for such vendors, is guilty of a misdemeanor ~~which is punishable by a fine of not more than $100 for each offense, or by imprisonment for not more than 30 days or by both such fine and imprisonment~~. See Minnesota Statutes, section 289A.63, subdivision 6.

8130.4200 REGISTRATION.

Subpart 1. ~~Statutory authority~~ Duty to obtain a

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permit. ~~Every corporation authorized to do business in Minnesota (see Minnesota Statutes, chapter 303, for provisions regarding foreign corporations authorized to do business in Minnesota) and every retailer maintaining a place of business in Minnesota (see Minnesota Statutes, section 297A.16) making sales of items subject to the imposition of the use tax under Minnesota Statutes, section 297A.14, shall secure a sales and use tax permit from the commissioner. The provisions of Minnesota Statutes, sections 297A.04 and 297A.05 shall be applicable to any corporation or retailer subject to this part.~~ The following persons making sales of items subject to the imposition of the use tax under Minnesota Statutes, section 297A.14, are required to obtain a sales and use tax permit from the commissioner:

A. any retailer maintaining a place of business in Minnesota; or

B. any retailer making retail sales from outside this state to a destination within this state if the retailer engages in the regular or systematic soliciting of sales from potential customers in this state.

Subp. 2. [See Repealer.]

Subp. 3. **Required information.** Each ~~such~~ applicant ~~shall~~ must furnish the commissioner with the names and addresses of all ~~his~~ the applicant's agents operating in Minnesota and the location of each of ~~his~~ the applicant's distribution and sales houses or offices or other places of business within this state.

8130.4300 PROPERTY BROUGHT INTO MINNESOTA.

Subpart 1. **General rule.** Except as provided in Minnesota Statutes, section 297A.25, subdivision ~~3~~ 32 (which exempts personal property from the tax where brought in by a nonresident just prior to becoming a resident), Minnesota Statutes, section 297A.23, ~~casts upon any~~ places the burden of proof on the purchaser of tangible personal property ~~the burden of proving~~ to prove that the items ~~subject to the imposition of a use tax under Minnesota Statutes, section 297A.14,~~ which were shipped or

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brought into Minnesota by such purchaser ~~subsequent to July 31, 1967,~~ were not purchased from a retailer for storage, use, or consumption in Minnesota, and thus are not subject to Minnesota sales or use tax. Whether the property has been purchased for use in Minnesota usually will be determinable at or near the time of its purchase. Thus, a nonresident purchaser who can show that property ~~which~~ had been purchased and previously used in another state for a reasonable period of time before being brought into Minnesota for use therein, usually will be deemed to have satisfied the requirements of Minnesota Statutes, section 297A.23.

~~Example 1.--A contractor with his principal place of business in Wisconsin is engaged to construct a portion of an interstate highway in Minnesota.--In order to perform the work, he brings into Minnesota various pieces of heavy equipment previously purchased and used in his road building activities in other states.--The contractor's records substantiate the previous purchase and use of this equipment outside Minnesota. Accordingly, no use tax is due.~~

~~Example 2.--Same facts as in example 1 except that the contractor purchases three additional pieces of equipment necessary for the Minnesota job and has such equipment delivered into this state.--Consequently, the presumption that the three additional pieces of equipment were purchased for initial use in Minnesota cannot be overcome by contractor.~~

Subp. 2. **Credit for tax paid to other state.** Whether a use tax is due and payable to Minnesota depends upon whether a tax ~~has been paid to~~ is legally imposed by some other state. ~~Such~~ The credit is limited to sales or use tax ~~paid~~ legally owed to ~~any other~~ another state of the United States. This credit is not allowed for taxes paid to governmental subdivisions or foreign countries. ~~In this connection~~ See Minnesota Statutes, section 297A.24.

8130.4400 CREDIT AGAINST USE TAX.

Subpart 1. **General rule.** Under Minnesota Statutes,

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section 297A.24, a credit is allowed against the use tax due under Minnesota Statutes, section 297A.14, from any person on any item purchased by ~~such~~ the person where ~~such~~ the item has previously been subjected to a sales or use tax in another state. The credit ~~shall be~~ is allowed to the extent of the rate legally imposed on ~~such~~ the item in the other state. If the tax paid in the other state is subject to refund by the other state, it is not legally imposed for purposes of this credit. If the rate imposed by ~~such~~ the other state is equal to or higher than the rate imposed under Minnesota Statutes, section 297A.14, then no tax ~~shall be~~ is due ~~thereon~~.

~~Example 1.--A corporation located in Minnesota purchases a special machine for delivery in state Y for $30,000 plus six percent sales tax imposed by state Y.--The corporation then transports the machine back to Minnesota in its own truck.--As state Y sales tax rate is in excess of the rate imposed under Minnesota Statutes, section 297A.14, no use tax is required to be paid to Minnesota on the machine.--Subsequently, B corporation purchases for delivery in Minnesota, accessory equipment for the machine from the same vendor in state Y at a cost of $5,000.--As a result thereof, no sales tax is paid to state Y on the accessory equipment.--Consequently, a use tax of $200 is due to Minnesota in respect of the accessory equipment. The unused credit of the original purchase, that is, the difference between the $1,800 sales tax paid in state Y, and the $1,200 use tax imposed under Minnesota Statutes, section 297A.14, may not be applied against the purchase of the accessory equipment or any other subsequent purchase made by the B corporation.~~

~~Example 2.--A Minnesota resident purchases tangible personal property from a vendor in state X for $3,000.--He accepts delivery of the property in state X and pays a sales tax at the five percent rate imposed on sales in that state.--When such property is brought into Minnesota for use in this state, a use tax return must be filed.--However, as the rate upon which the sales tax was imposed in state X is in excess of the four~~

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~~percent-rate-imposed-by-Minnesota,-no-use-tax-is-due-in Minnesota-thereon.~~

~~Example-3.--Same-facts-as-in-example-2,-except-that-the sales-tax-was-imposed-in-state-X-at-the-rate-of-three-percent. The-amount-of-the-use-tax-due-to-Minnesota-is-calculated-as follows:--Tax-on-$3,000-at-four-percent-(Minnesota-rate)-= $120.--Credit-for-tax-paid-to-state-X-($3,000-at-three-percent)-= $90.--Amount-required-to-be-paid-to-Minnesota,-$30.~~

~~Example-4.--A-Minnesota-resident-trades-in-an-old-machine in-state-V.--The-list-price-of-the-new-machine-is-$2,600,-and the-Minnesota-resident-is-allowed-$1,000-trade-in-allowance-on the-old-machine.--State-V-does-not-allow-a-deduction-for-value of-the-trade-in-when-determining-tax-liability.--The-Minnesota resident-pays-a-tax-of-two-percent-of-$2,600-($52)-to-state-V. The-new-machine-is-brought-to-Minnesota-for-use.--The-use-tax imposed-by-Minnesota-Statutes,-section-297A.14,-is-computed-as follows:--tax-in-Minnesota,-represented-by-the-sales-price-of $2,600,-less-$1,000-trade-in-allowance-(see-Minnesota-Statutes, section-297A.01,-subdivision-8),-at-the-rate-of-four-percent equals-$64.--Tax-on-$1,600-in-state-V-at-two-percent-equals $32.--Tax-due-to-Minnesota,-$32.--This-calculation-is-based-on the-provisions-of-Minnesota-Statutes,-section-297A.24,-which states-that-the-provisions-of-Minnesota-Statutes,-section 297A.14,-shall-apply-only-at-the-rate-measured-by-the-difference between-the-rate-fixed-by-Minnesota-Statutes,-section-297A.14, and-the-rate-by-which-the-previous-tax-was-calculated.~~

Calculation of use tax due is governed by Minnesota Statutes, section 297A.24. That section states that use tax provisions apply only at the rate measured by the difference between the rate fixed by Minnesota Statutes, section 297A.14, and the rate by which the previous tax was calculated in the other state. The maximum amount of tax which will be assessed by Minnesota according to Minnesota Statutes, section 297A.24, is the amount of tax calculated from the Minnesota rate. Use tax due to Minnesota is the tax prescribed by the rate in Minnesota Statutes, section 297A.14, less the rate paid in the

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state of purchase. If the sales tax imposed in the state of purchase is equal to or greater than the amount of Minnesota use tax, no Minnesota use tax is due.

Subp. 2. **Erroneous tax payment.** A Minnesota ~~resident~~ taxpayer who erroneously pays a sales tax to another state may not take a credit against the tax due Minnesota on ~~his~~ the Minnesota return. Credit is allowed against the tax due Minnesota if the Minnesota ~~resident~~ taxpayer has legally paid a sales tax to another state and may only be taken by the person who paid the tax to the other state.

~~Example.--A-Minnesota-retailer-purchasing-appliances-in Iowa-for-resale-and-paying-the-Iowa-sales-tax-cannot-deduct-from his-Minnesota-sales-tax-return-the-tax-paid-to-the-state-of-Iowa.~~

[For text of subp 3, see M.R.]

8130.7300 WHEN TAX IS DUE.

Subpart 1. **General rule.** Generally, except for the accelerated payment of the June liability, sales and use taxes imposed under law are due and payable at the office of the commissioner monthly on or before the ~~25th~~ 20th day of the month immediately following the month in which the taxable event or events occurred. See Minnesota Statutes, section 289A.20, subdivision 4.

Subp. 2. **Other reporting periods.** In addition, under authorization granted to ~~him~~ the commissioner by law (see Minnesota Statutes, section ~~297A.26~~ 289A.20, subdivision ~~1~~ 4), the commissioner may authorize other reporting periods. ~~Such~~

A. The authorizations may be granted provided:

~~A.~~ (1) the person desiring to file on other than a monthly basis must ~~file-form-ST-12,-application~~ apply to file quarterly or annual Minnesota sales and use tax returns, with the ~~Sales-and-Use-Tax~~ Taxpayer Information Division.

~~B.--The-application-for-quarterly-or-annual-returns must-be-filed-not-later-than-30-days-immediately-preceding-the first-day-of-a-quarter-period-beginning-on-either-January-1, April-1,-July-1,-or-October-1.~~

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~~c.~~ (2) The person applying for authorization to file on a quarterly basis must have had average sales and use tax liability of less than ~~$100~~ $250 per month for the six-month period preceding the period for which the change in filing is requested as adjusted under item B. The person applying for authorization to file an annual return must have had an average sales and use tax liability of less than ~~$10~~ $25 per month for the preceding one-year period as adjusted under item B.

B. The commissioner will annually recalculate the maximum liability amounts for quarterly or annual filing, using the percentage calculated pursuant to Minnesota Statutes, section 290.06, subdivision 2d, paragraph (b). If the maximum liability amount so calculated is more than $50 above the maximum liability amount for quarterly filing then in effect, the maximum liability amount for quarterly filing will be increased $50. The maximum liability amount for annual filing will be increased by $5 each time the quarterly maximum liability amount is increased.

C. If authorization to file on other than a monthly basis has been granted by the commissioner, the tax due thereunder ~~shall~~ must be paid at the office of the commissioner on or before the ~~25th~~ 20th day of the month immediately following the close of the authorized period.

D. If the person is applying for a new sales tax permit and has no history of tax liability, application for authorization may be made on the permit application. The person must estimate whether the expected liability will average less than $250 per month, for quarterly filing, as adjusted under item B, or less than $25 per month, for annual filing, as adjusted under item B.

Subp. 3. **Revocation of filing period.** Authorizations granted by the commissioner to file sales and use tax returns, either on a quarterly or annual basis, may be revoked if:

A. the person granted ~~such~~ the authorization is either delinquent in filing ~~his~~ the return or in paying the tax due;

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B. ~~such~~ the person's tax liability exceeds ~~$300~~ $750 for any subsequent quarter where the filing of quarterly returns has been authorized, or where ~~such~~ the person's tax liability exceeds ~~$120~~ $300 for any subsequent calendar year where an annual return has been authorized; or

C. the commissioner determines that the procedures authorized under this part unduly jeopardize the orderly and efficient administration of the Sales and Use Tax Law.

In the event that authorization to file returns and pay the tax due thereon, either on a quarterly or annual basis, is revoked by the commissioner, the person whose authorization has been ~~so~~ revoked shall thereafter ~~be required to~~ file ~~his~~ the return and pay the tax due thereon on a monthly basis in accordance with this part.

When the filing amounts in subpart 2, item A, are adjusted by the commissioner under subpart 2, item B, the amounts in this subpart must be adjusted proportionately by the commissioner.

In the event that a person authorized to file on a quarterly or annual basis ceases to engage in a kind of business which requires that ~~he file returns~~ a return be filed under the Sales and Use Tax Law, ~~such~~ the person ~~shall~~ must file a final return by the ~~25th~~ 20th day of the month following the discontinuance of such business.

Subp. 4. **Accelerated payment of June liability.** Some persons are required to file an estimated June sales tax return early using an estimated June sales and use tax return. A person whose May sales tax liability is $1,500 or more must file an estimated June tax return. The law requires these persons to pay one-half of the estimated June tax by June 20 each year, when the May return is filed.

A person required to make the estimated June tax payment must file the regular June return and pay the balance of the June payment by August 20, which is also the due date of the July return. This payment may be paid at any time before the due date. The taxpayer must file separate returns for the months of June and July. No estimated June tax payment is

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required if the May tax liability is less than $1,500.

Taxpayers who are not required to make the estimated June tax payment must file the June return by July 20.

Subp. 5. **Local sales and use tax procedure.** Retailers located outside of cities that impose local sales and use taxes are not required to remit the local use taxes until the amount of local use tax collected is $10 or more. See Minnesota Statutes, section 289.20, subdivision 4.

When the amount of local use tax collected is $10 or more, the total amount of local use tax must be remitted to the commissioner with a local sales and use tax return at the time of the retailer's next regular periodic payment.

8130.7400 UNCOLLECTIBLE DEBT DEDUCTION.

Subpart 1. **General rule.** Ordinarily, a deduction for ~~bad~~ uncollectible debts is allowed only for a person who is reporting on the accrual method of accounting for sales and use tax purposes. However, if a cash basis taxpayer accepts an unsecured check in payment for a sale, reports the sale, and subsequently determines that the check is uncollectible, ~~he~~ the taxpayer is entitled to an uncollectible debt deduction. Uncollectible debts (commonly referred to as bad debts) ~~shall~~ will be recognized as a deduction for sales tax purposes only when given recognition by a direct charge-off ~~on the accounting records of the retailer~~ for federal income tax purposes or, if the retailer is not required to file income tax returns, charged off in accordance with generally accepted accounting principles. Consequently, no anticipatory or statistical method of estimating future ~~bad~~ uncollectible debts will be allowed by the commissioner. See Minnesota Statutes, section 297A.26, subdivision 2.

~~Example.--A retailer uses the reserve method of accounting for bad debts; that is, periodically he estimates the value of accounts receivable that will become uncollectible.--For the month of September, the account books reflect bad debt expenses of $1,000 and a corresponding increase in the reserve for bad~~

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~~debts-account.--Accounts-receivable-actually-charged-off-during this-month-were-$800-with-a-corresponding-decrease-in-the reserve-for-bad-debts-account.--The-bad-debt-deduction-for-sales tax-purposes-is-$800.~~

Subp. 2. **Deduction determination.** If a debt becomes uncollectible, either in whole or in part, in a reporting period subsequent to ~~that~~ the period in which the transaction that ~~gives~~ gave rise to the ~~bad~~ uncollectible debt ~~occurs~~ occurred, the retailer may deduct ~~such bad~~ the uncollectible debt ~~against~~ from the gross receipts for the reporting period in which the ~~bad~~ uncollectible debt is determined to be uncollectible in accordance with the following rules.

A. If the uncollectible ~~bad~~ debt arose in respect of a sale required to be included in gross receipts, subject to a tax imposed under the Sales and Use Tax Law, the entire amount of the debt remaining uncollected ~~shall be~~ is allowed as a deduction.

B. If the uncollectible debt arose in respect of a sale partly subject to the tax imposed under the Sales and Use Tax Law and partly exempt thereunder, the amount of the uncollectible debt allowed as a deduction ~~shall be an~~ is the amount derived by multiplying the uncollectible debt by the percentage that the taxable sale bears to the total sales.

C. If the uncollectible debt arose in respect of two or more sales made at successive intervals, payments made ~~prior to~~ before the date the debt became uncollectible ~~shall~~ must be applied, first to the earliest sale upon which there is an unpaid balance, and to following sales in successive order.

~~Example 1.--S, a vendor of office furniture, sells five desks to C at $200 per desk on January 15, 1968.--S is on the accrual basis and includes in his gross receipts for January 1968, the sales made to C.--Subsequently, C makes payments of $400.--In June 1968, C is unable to make further payments.--C thereafter, by a common law composition, makes a pro rata settlement with his creditors.--S receives a final payment of $400 in November 1968.--The remaining balance of $200 is deemed~~

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uncollectible at that time. S, in reporting his gross receipts for the month of November, will be allowed to deduct as a bad debt the $200 balance remaining uncollected.

Example 2. An electric power company furnishes power to an industrial production company. Of the electric power so furnished, approximately 60 percent is used in the productive process and 40 percent is used for space heating, lighting, and air conditioning the production and office premises. The industrial production company files a voluntary petition in bankruptcy on March 15, 1968. At that time, it owed the electric power company $3,000 for power furnished. The electric power company had included in its gross receipts $3,000, which were reported on an accrual basis, and had deducted $1,800 as exempt sales, leaving a net of $1,200 of taxable electric power services. At the termination of the bankruptcy proceedings in February 1969, the electric power company received a distribution of $1,600. The uncollectible debt electric power company is entitled to deduct on the return for the month of February 1969 is computed as follows: From the total due of $3,000, there is subtracted $1,600, representing the amount paid to the electric power company in February 1969. This leaves a balance of $1,400 uncollectible. This amount is multiplied by a fraction, the numerator of which is the amount taxable, $1,200, and the denominator of which is the total amount charged for power, that is, $3,000.

$$\text{Thus, } \$1{,}400 \times \frac{\$1{,}200}{\$3{,}000} = \$560.00, \text{ the amount allowable as a deduction.}$$

Example 3. A supplier, who is on the accrual basis, sells a contractor retailer building supplies on March 15, 1968 for $20,000. At that time, there was no debt due the supplier from the contractor retailer. As these supplies were to be used by the contractor retailer in the alteration of real property, the sale is taxable. On April 5, 1968, the contractor retailer purchases tangible personal property for resale in the amount of $8,000 from the supplier and gives to the latter an exemption certificate. On April 10, 1968, the contractor retailer

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~~purchases an additional $3,000 of building supplies to be used in his contracting activities. This last transaction represents a taxable sale. The contractor retailer makes payments to the supplier during March, April, and May 1968 totaling $8,000. Thereafter, the contractor retailer is unable to meet his obligations. An out of court settlement with his creditors is reached, and on September 1, 1968, the supplier is paid $10,000 representing final settlement of his claims. The supplier will be entitled to deduct from the amount of gross receipts he reports for the month of September 1968 uncollectible accounts computed as follows:~~

~~March 15, 1968 taxable sales~~	~~$20,000~~
~~Payments received subsequently (total)~~	~~18,000~~
~~Balance due~~	~~2,000~~
~~April 10, 1968 taxable sales~~	~~3,000~~
~~Total uncollectible debt allowed as deduction on supplier's September 1968 return~~	~~$-5,000~~

~~The $8,000 debt due to the supplier in respect to the April 5, 1968, transaction is nontaxable and may not be deducted subsequently.~~

Subp. 3. **Excess carryover.** In the event that the seller is entitled to ~~a bad~~ an uncollectible debt deduction in excess of the amount ~~he~~ the seller is required to report for the month in which the debt is determined to be uncollectible, the balance of the deduction may be ~~utilized~~ used in a subsequent month.

~~Example. Assume in subpart 2, item C, example 3 that, for the month of September 1968, the supplier was required to report $4,000 in gross receipts before taking a deduction for the uncollectible debt of $5,000. He would be entitled to deduct the remaining $1,000 in a subsequent month.~~

Subp. 4. **Repossessions.** In the case of repossessions, ~~a bad~~ an uncollectible debt deduction is allowable only to the extent that the pro rata portion of all payments and credits, ~~including the wholesale value of the repossessed article,~~ attributable to the cash sales price of the merchandise is less than the net contract balance (after excluding unearned insurance and finance charges) at the date of repossession.

~~One of the prerequisites in computing the loss on~~

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~~repossessed-merchandise-is-determining-the-wholesale-value thereof.--In-establishing-the-wholesale-value-on-repossessed merchandise-such-as-jewelry,-furniture,-appliances,-etc.,-each case-will-have-to-be-considered-on-its-own-merits.--Generally, the-taxpayer-will-be-able-to-use-the-amount-at-which-the merchandise-is-brought-back-into-resale-inventory.~~

Subp. 5. **Recovery of uncollectible debts previously deducted.** If an uncollectible debt deduction is taken and the taxpayer subsequently collects the debt in whole or in part, the amount collected must be included in the first return filed after collection, and the amount of tax thereon must be paid with the return.

8130.7500 RETURNS AND RECORDS.

Subpart 1. **Sales and use tax return.** Any person to whom the commissioner has issued a permit under Minnesota Statutes, sections 297A.04~~,-297A.05~~ and 297A.06, ~~shall~~ must file ~~the-form ST-1,~~ a sales and use tax return, prescribed by the commissioner. ~~Form-ST-1,~~ The sales and use tax return and instructions issued as a guide thereto~~,-contain-all-the-information-required-in order-to-complete-the-return.--In-accordance-with-Minnesota Statutes,-section-297A.27,-subdivision-1,-the-form-contains-a statement-to-the-effect-that-it-is-made-under-the-penalties-of criminal-liability-for-wilfully-making-a-false-return~~ are available from the commissioner. The return must be signed either by the ~~person-required-to-file-it~~ permit holder or by ~~any person-authorized-by-him-to-do-so~~ a person having the control, supervision, or responsibility of filing returns and making payment of the sales and use tax.

Subp. 2. **Consumer's use tax return.** Any person required to file a use tax return under Minnesota Statutes, section ~~297A.27~~ 289A.11, subdivision ~~2~~ 3, and who has not been issued a sales and use tax permit, ~~shall~~ must file a ~~return-on-form-ST-1,~~ consumer's use tax return, on or before the ~~25th~~ 20th day of the month immediately following the month in which the property subject to use tax was first brought into Minnesota.

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Subp. 3. **Consolidated returns permitted.** Under Minnesota Statutes, section 289A.11, subdivision 1, if the person required to file a return has two or more places of business at which ~~he~~ the person engages in transactions subject to tax, ~~he~~ the person may elect to file a ~~consolidated return, form ST-1 (CON),~~ consolidated sales and use tax return, for all such places of business under the following conditions:

A. ~~he~~ the taxpayer has been granted a sales and use tax account number by the commissioner;

B. ~~he~~ the taxpayer furnishes to the commissioner a list containing the business name and address and reporting information specified in subpart 5 for each separate place of business; and

C. ~~he~~ the taxpayer makes available at the address used by ~~him~~ the taxpayer on ~~form ST-1 (CON),~~ the consolidated return the information pertinent to each separate place of business in order that the commissioner may be able to perform a proper audit with respect to the return so filed.

Subp. 4. **Time and place of filing.** Under Minnesota Statutes, section 289A.18, subdivision 4, all tax returns ~~shall~~ must be filed at the office of the commissioner on or before the ~~25th~~ 20th day of the month immediately following the month for which ~~such~~ the taxes are due, unless authorization has been granted to the person required to file either on a quarterly or annual basis. Where a quarterly or annual filing is authorized, the return is required to be filed at the office of the commissioner on or before the ~~25th~~ 20th day of the month immediately following the close of the period authorized. If any return required under the provisions of the Sales and Use Tax Law becomes due upon a Saturday, Sunday, or legal holiday, ~~such~~ the return ~~shall~~ will be considered timely filed if it is filed or received upon the next succeeding regular business day.

Subp. 5. **Reporting requirements.** Reporting requirements are:

A. All sales and use tax returns filed shall show

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total gross sales in any manner related to Minnesota business (not including the sales tax collected) on line one of the return without any exclusions except for the following:

(1) charges for personal services rendered;

(2) labor or service charges for installing or applying goods sold if separately stated;

(3) charges for interest, financing, and transportation incurred after the sale if separately stated;

(4) trade-in allowances;

(5) cash discounts and cash or credit refunds on taxable property returned by customers; ~~and~~

(6) installment payments on conditional or credit sales previously reported;

(7) labor used in repairing, which does not include altering, modifying, or assembling tangible personal property if separately stated;

(8) isolated or occasional sales of tangible personal property; and

(9) leases of real property, if the lease is not for lodging or similar use for a period of less than 30 days, subject to part 8130.1000 and leases of manufactured homes used for residential purposes for a continuous period of 30 days or more.

~~All of the above exclusions from gross sales shall be omitted from the amount entered on line one of the return. However,~~ All ~~such~~ exclusions from line one ~~shall~~ must be supported by the taxpayer's accounting records.

B. All gross sales included in line one of the return but not subject to tax under the provisions of the Sales and Use Tax Law ~~shall~~ must be itemized on the reverse side of the return. The total of itemized deductions ~~shall~~ must be shown on line two of the return. The itemized deductions ~~shall~~ must be supported by the taxpayer's accounting records and ~~shall not~~ cannot be computed by subtracting line three from line one of the return.

C. All sales revenues taxable under the provisions of the Sales and Use Tax Law ~~shall~~ must be shown on line three of

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the return, and ~~such~~ the amount ~~shall~~ must be computed by subtracting line two (~~total gross sales not subject to tax~~ deductions) from line one (~~total~~ gross sales).

D. All purchases not previously taxed by the vendor, and subject to the tax under the provisions of the Sales and Use Tax Law ~~shall~~ must be shown on line four of the return without regard to the location of the vendor.

E. The sum of ~~taxable~~ net sales from line three plus taxable purchases from line four ~~shall~~ must be shown on line five of the return.

F. The amount ~~of tax due on the return shall be shown on line six and shall be computed by multiplying the amount~~ on line five of the return ~~by the prevailing tax rate~~ multiplied by the current tax rate computes the amount of tax due that must be shown on line six of the return.

G. All liquor sales that are subject to a tax rate greater than the general sales tax rate must be shown on line seven of the return. The amount on line seven must also be included in gross sales on line one.

H. The amount of additional tax due on liquor sales must be shown on line eight of the return. The tax is computed by multiplying the amount on line seven by the tax rate on line eight of the return.

I. The sum of sales and use tax due from line six plus the additional liquor tax due from line eight must be shown on line nine of the return.

J. If an ~~error was made by reporting more or less than the correct~~ incorrect amount of tax was reported in a previous period, an adjustment may be entered on line ~~eight~~ 11. A detailed explanation of ~~such~~ the adjustment must be submitted with the return. The explanation must include the following:

(1) name;

(2) sales and use tax account number;

(3) the period(s) in which the ~~error was made~~ incorrect amount of tax was reported;

(4) computation to arrive at amount of

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adjustment; and

(5) the reason(s) for the adjustment (attach pertinent supporting documents).

The amount of the overpayment being taken as an adjustment on line 11 must not exceed the amount of tax due on line 9. The amount of the adjustment which exceeds the tax due on line 9 must be taken as line 11 adjustment on a subsequent return.

Overpayments in excess of ~~$500 may~~ $1,000 must not be entered on line ~~eight~~ 11. Refunds of ~~such~~ overpayments ~~should~~ must be requested by filing a claim for refund~~, form ST-11~~.

Subp. 6. **Records; general.** Every seller, retailer, and person storing, using, or otherwise consuming in this state tangible personal property or taxable services as defined in Minnesota Statutes, section 297A.01, subdivision 3, purchased from a retailer, and every lessor and lessee of tangible personal property for use in this state ~~shall~~ must keep adequate and complete records showing:

A. gross receipts from sales or ~~rental~~ lease payments from leases of tangible personal property (including any services that are a part of the sale or lease) made within Minnesota irrespective of whether the seller or lessor regards the receipts as taxable or nontaxable;

B. all deductions allowed by law and claimed in filing returns; and

C. total purchase price of all ~~tangible personal property~~ sales or purchases as defined in Minnesota Statutes, section 297A.01, subdivision 3, purchased for sale or consumption or lease in Minnesota.

These records must include the normal books of account ordinarily maintained by the average prudent ~~businessman~~ businessperson engaged in the activity in question, together with all bills, receipts, invoices, cash register tapes, or other documents of original entry supporting the entries in the books of account as well as all schedules or working papers used in connection with the preparation of tax returns.

[For text of subp 7, see M.R.]

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Subp. 8. **Records; EDP** Electronic data processing records. "Electronic data processing records" ~~are defined to~~ include punched cards, magnetic tapes, magnetic disk packs, computer disks, and other machine-sensible data media used for recording, consolidating, and summarizing accounting transactions and records within a taxpayer's electronic data processing system~~, and all such~~. These records are required to be retained so long as their contents may be material in the administration of any provision of the Sales and Use Tax Law. ~~Any machine sensible records which are clearly not material to the administration of this law need not be retained.~~ The commissioner shall decide the materiality of any such records, and if the materiality of any record is questionable, then ~~such~~ the record ~~shall~~ must be retained. It ~~shall~~ is not be required that taxpayers retain the same data on two or more machine-sensible media~~, i.e., if the same data is first punched into cards and then transferred to magnetic tape, then it is not necessary to retain the punched cards since the tape must be retained. If there is a duplication of data between punched cards and magnetic tapes, then the tapes shall always be retained rather than the cards~~. If there is a duplication of data between two or more electronic data processing media, the taxpayer must maintain a complete set of all the records on at least one of the media.

~~Although EDP accounting systems will vary from one taxpayer to another, all systems must include a method of producing visible and legible records from the machine sensible records which will provide the necessary information for the verification of the taxpayer's tax liability. Any records required under this subpart refer to printed "hard copy" records, and do not eliminate the necessity of maintaining the corresponding machine sensible records as also required by the first paragraph of this subpart.~~ These requirements apply to any taxpayer who maintains any records on ~~EDP~~ an electronic data processing media. The records to be maintained are as follows.

A. A general ledger, with source references, to coincide with financial reports for sales tax reporting

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periods. In cases where subsidiary ledgers are used to support the general ledger accounts, the subsidiary ledgers ~~should be written out periodically~~ must be maintained.

B. ~~The audit trail will be designed so that the details underlying the summary accounting data, such as invoices and vouchers, may~~ Invoices, vouchers, and other records which support the summary accounting data. There records must be identified and made available to the department upon request.

C. The records ~~must~~ which provide the opportunity to trace any transaction back to the original source or forward to a final total. If printouts are not made at the time of processing, then the system must have the ability to reconstruct these transactions.

D. ~~Adequate record retention facilities must be available for storing all machine sensible records as well as supporting documents.~~

E. A general description or documentation of the ~~EDP~~ electronic data processing portion of the accounting system. This includes but is not limited to:

[For text of subitems (1) and (2), see M.R. 1989]

(3) standard operating procedures and control procedures, including the reconciliation of ~~EDP~~ electronic data processing controls to ~~non-EDP~~ nonelectronic data processing controls, error listings and error logs, and any other controls, either ~~EDP~~ electronic data processing or manual, used to ensure accurate and reliable processing.

Any taxpayer retaining disbursement or revenue records on ~~machine sensible~~ electronic data processing records for any individual original transactions, or any summary of ~~such~~ the transactions subject to the tax under the provisions of the Sales and Use Tax Law ~~shall~~ must separately show the amount of sales tax paid or the amount of sales tax collected. It ~~shall be~~ is permissible, however, to group all taxable sales or all taxable purchases into various accounts, all of which are taxable, providing that if a nontaxable transaction is combined with a taxable transaction in the same account, then, with

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respect to each individual transaction, the tax ~~shall be~~ is separately shown in the ~~machine-sensible~~ electronic data processing record.

An electronic data processing system must include a method of producing visible and legible paper records from the electronic data processing records which will provide the necessary information for verification of the taxpayer's tax liability.

Production of these paper records does not eliminate the necessity of maintaining the corresponding electronic data processing records as required by the first paragraph of this subpart.

8130.7600 ~~COMMISSIONER MAY REQUIRE~~ SECURITY: NOTICE FROM COMMISSIONER.

Subpart 1. **In general.** In order to assure payment of the tax due, the commissioner may require that sufficient security be deposited with ~~him~~ the commissioner by a retailer required to remit payment of the tax under the Sales and Use Tax Law.

Subp. 2. to 4. [See Repealer.]

Subp. 5. **Notice of sale.** Notice of sale of such security must be served either personally upon the person who deposited the security or by mail in the same manner as used with respect to service of notice in Minnesota Statutes, section ~~297A.31~~ 289A.37, subdivision 5.

Subp. 6. **Notice of ~~retirement~~ requirement.** Whenever the commissioner requires a security deposit~~, he shall~~ under Minnesota Statutes, section 297A.07 and 297A.28, the commissioner must so notify, in writing, the person from whom the deposit is required. The written notification ~~shall~~ must be signed either by the commissioner or ~~his~~ an authorized representative. The notice ~~shall~~ must set forth the amount of security and the basis upon which the required amount ~~so required~~ was computed. ~~In addition, the notice shall inform the recipient as to the last effective date for depositing such security without incurring stated penalties.~~

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8130.7700 EXTENSION OF TIME TO FILE RETURN ~~AND REMIT TAX~~.

Subpart 1. **General rule.** Whenever~~, in his judgment,~~ the commissioner believes good cause exists, the commissioner may, upon application, extend the time for filing a return ~~and paying the tax due thereon. Such~~ The extension only applies to filing of the return, not payment of the tax. The tax must still be paid on the original due date. The extension shall not exceed 60 days from the date on which the return ~~and the tax thereon are~~ is due. (See Minnesota Statutes, sections ~~297A.26~~ 289A.18, subdivision ~~1~~ 4, and ~~297A.27~~ 289A.19, subdivision 5, regarding due dates for filing returns ~~and remitting tax.~~) ~~If an extension of time is granted, and the remittance of tax is submitted prior to the expiration of the period for which the extension is granted, the tax will be deemed to have been paid timely.~~

Subp. 2. [See Repealer.]

Subp. 3. **Conditions.** Extension may be granted subject to the following conditions:

A. the ~~application~~ extension request must be filed on or before the due date for filing the return, must be in writing, and contain the taxpayer's name, account number, and reason for request;

[For text of item B, see M.R.]

C. ~~each application must be filed in duplicate;~~

~~B.~~ the ~~application~~ extension request must be signed by ~~an~~ the applicant or ~~his~~ the applicant's duly authorized agent; and

~~E.~~ D. the ~~application~~ extension request must be forwarded to the Minnesota Department of Revenue, ~~Sales and Use Tax~~ Taxpayer Information Division, ~~Centennial Office Building~~ Mail Station 4453, Saint Paul, Minnesota ~~55145~~ 55146-4453, and ~~should be~~ submitted in an envelope marked "Extension Request."

If the ~~application~~ extension request is approved, the original copy, marked "Approved," will be returned to the applicant. The ~~application~~ extension request, as approved,

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should be attached to the completed return when filed.

~~(Note:--Form-ST-9,-application-for-extension-of-time-to file-Minnesota-sales-and-use-tax-return,-is-available-upon request.)~~

8130.7900 ~~FAILURE-TO-FILE-A~~ RETURN FILING; FAILURE TO FILE.

Subpart 1. ~~Persons-required~~ Duty to file returns. The following persons ~~are-required-to-file-returns-in-accordance with-the-provisions-of-this-part:~~ making taxable sales or taxable use of tangible personal property in Minnesota, or holding a sales and use tax permit, must file returns pursuant to Minnesota Statutes, chapter 289A:

A. ~~a-retailer-as-defined-in-Minnesota-Statutes, section-297A.01,-subdivision-10~~ any retailer located in Minnesota;

B. any retailer maintaining a place of business in Minnesota;

C. any retailer who has voluntarily filed an application for a permit and has been granted one under Minnesota Statutes, section 297A.21, subdivision 5;

D. any retailer making retail sales from outside this state to a destination within this state if the retailer engages in the regular or systematic soliciting of sales from potential customers in this state;

B E. a purchaser making use of ~~the-subject-of purchases~~ items obtained with an exemption certificate for other than the exemption purpose (see Minnesota Statutes, section 297A.12);

~~C.~~ F. a person upon whom liability for use tax is imposed by Minnesota Statutes, section 297A.14; and

~~D.~~ G. ~~a-retailer-(either-located-within-or-without Minnesota)-subject-to-Minnesota-Statutes,-sections-297A.16-and 297A.17~~ any person holding a direct pay permit.

Subp. 2. **Failure to file.** Any person described ~~above~~ in subpart 1 who is required to file a return and fails to do so within the time prescribed by law or by ~~regulation~~ rule, or who

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files an incorrect, false, or fraudulent return, ~~shall~~ must, upon the written demand of the commissioner, file the return required or the corrected return, as the case may be, within 30 days after the written demand for ~~such~~ the return has been mailed to ~~him~~ the person, and at the same time pay any tax due on the basis of ~~such~~ the return.

Subp. 3. **Failure to comply with demand.** If the person upon whom the written demand has been made ~~shall fail~~ fails to comply ~~therewith~~ with the demand, the commissioner, ~~from his own~~ through knowledge and ~~from such~~ information ~~as he can obtain~~ that is obtained through testimony or by any other means available to ~~him~~ the commissioner, ~~shall~~ will prepare a return or corrected return and assess a tax on the basis ~~thereof~~ of that return. The tax ~~so~~ assessed ~~shall~~ must be paid within ten days after the commissioner has mailed to ~~such~~ the person a written notice of the amount ~~thereof~~ assessed and a demand for its payment.

~~Pursuant to Minnesota Statutes, section 297A.32, any return or corrected return or assessment made by the commissioner shall be prima facie correct and valid, and the person for whom the return or corrected return was prepared and the tax thereunder assessed shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.~~

8130.8000 TIME LIMITATION ON ASSESSMENT AND COLLECTION.

Subpart 1. **In general.** Except as otherwise provided in the Sales and Use Tax Law and except for ~~such~~ circumstances referred to in other ~~regulations~~ rules pertinent to Minnesota Statutes, section ~~297A.34~~ 289A.38, the assessment of tax for any period for which a tax is due must be made within three and one-half years from the date the return was filed. A return filed before the last day prescribed by law for filing thereof ~~shall~~ will be considered as filed on ~~such~~ the last day.

Subp. 2. and 3. [See Repealer.]

Subp. 4. **Omission of 25 percent.** In the case of omission from the return of a dollar amount properly includible therein

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which is in excess of 25 percent of the dollar amount reported in the return the tax may be assessed or a proceeding in court for the collection of ~~such~~ the tax may be begun at any time within ~~five~~ six and one-half years after the return was filed. See Minnesota Statutes, section 289A.38, subdivision 6.

[For text of item A, see M.R.]

B. For purposes of computing the dollar amount of the omission there ~~shall not~~ cannot be included amounts disallowed as deductions or unreported retail sales which would constitute allowable deductions in determining net taxable sales. The computation of the percentage of omission is the percentage derived by dividing the dollar amount of taxable sales and use not reported on the return by the dollar amount of taxable sales and use that were reported on the return.

~~Example 1.--A taxpayer's return stated the following:~~

~~1.~~	~~Gross sales~~	~~$500,000~~
~~2.~~	~~Deductions~~	~~450,000~~
~~3.~~	~~Net sales~~	~~50,000~~
~~4.~~	~~Purchases subject to use tax~~	~~None~~
~~5.~~	~~Total taxable amount~~	~~50,000~~

~~Upon audit it was discovered that there was omitted from the return a purchase of a machine for $20,000 upon which no tax had been paid. The percentage of the omission is:~~

$$\frac{\text{\$20,000 (dollar amount of omission)}}{\text{\$50,000 (dollar amount reported)}} = 40\%$$

~~Example 2.--A taxpayer's return stated the following:~~

~~1.~~	~~Gross sales~~	~~$500,000~~
~~2.~~	~~Deductions~~	~~440,000~~
~~3.~~	~~Net sales~~	~~60,000~~
~~4.~~	~~Purchases subject to use tax~~	~~10,000~~
~~5.~~	~~Total taxable amount~~	~~70,000~~

~~Upon audit it was determined that deductions claimed in the amount of $440,000 included certain sales in the amount of $10,000 which were properly subject to the tax. The audit also disclosed purchases (properly taxable) in the amount of $15,000 upon which no tax was paid. The percentage of omission is:~~

$$\frac{\text{\$15,000 (dollar amount of omission)}}{\text{\$70,000 (dollar amount reported)}} = 21.4\%$$

Subp. 5. [See Repealer.]

Subp. 6. **Waivers.** The commissioner ~~of revenue~~ and the taxpayer may consent ~~in writing~~ to an extension of the period in

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which the tax may be assessed, ~~provided~~ by a written waiver ~~is~~ executed by both parties either within three and one-half years after the return was filed or, in the case of an omission of an amount as specified in subpart 4, within ~~five~~ six and one-half years after the return was filed. The period ~~so~~ agreed upon may be extended by subsequent ~~agreements~~ waivers in writing made before the expiration of the period previously agreed upon. See Minnesota Statutes, section 289A.42, subdivision 1.

Subp. 7. **Collection of tax by court action.** When the assessment of tax is made within the period of limitation as prescribed ~~above~~ in subparts 1, 4, and 6, the tax due and owing may be collected by a proceeding in court, provided that ~~such~~ the action is instituted ~~not later than nine months~~ within five years after ~~the expiration of the period prescribed above for~~ the assessment of the tax~~, or if there is an appeal from the commissioner's order assessing the tax, not later than nine months after final disposition of such appeal~~. See Minnesota Statutes, section 270.68, subdivision 1.

The period of time for collection proceedings is subject to suspension. See Minnesota Statutes, section 289A.41.

8130.8100 CLAIM FOR REFUND.

Subpart 1. **In general.** A person, as defined in Minnesota Statutes, section 297A.01, subdivision 2, who has overpaid sales or use tax for any period, may file a claim for refund with the commissioner for the amount of the overpayment. The claim for refund ~~shall~~ must be submitted on a department form ~~ST-11~~ as prescribed by the commissioner and ~~shall~~ be completed in the manner prescribed therein. ~~Every adjustment to total taxable amount, credits, and tax computation shall be adequately supported.~~ The claim ~~shall~~ must set forth in detail ~~each ground upon which it is made, and facts sufficient to indicate to the commissioner the exact basis thereof~~ the grounds for each adjustment and the facts supporting those grounds.

Subp. 2. **Requirements for refund claim.** Conditions to be met before the commissioner ~~shall~~ will entertain a claim for

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refund:

A. The person filing a claim for refund ~~shall~~ must have paid the tax and filed the sales and use tax return upon which the claim is based directly to the commissioner (or the tax was collected from such person other than by means of court action in district court, either at law or in equity by the commissioner), except the following:

(1) A person who has paid ~~an amount of~~ tax ~~to a retailer of~~ on electricity ~~for~~ used in agricultural production ~~which~~ that is exempt from ~~the tax~~ taxation under Minnesota Statutes, section 297A.25, subdivision ~~1~~ 9, ~~paragraph (h),~~ may file a claim ~~a~~ for refund ~~or credit of such tax on his Minnesota income tax return notwithstanding any other provisions of the Sales and Use Tax Law. Such refund or credit shall be made pursuant to Minnesota Statutes, section 290.501~~ with the commissioner if the tax was paid to the retail rural electric cooperative association based in Aitkin county. See Laws of Minnesota 1986, chapter 399, article 1, section 5.

(2) A disabled veteran who ~~himself~~ purchases building materials or on whose behalf a contractor, subcontractor, or builder purchases building materials ~~after June 30, 1971,~~ for use in the construction or remodeling of ~~his~~ the veteran's residence, when the construction or remodeling is financed in whole or in part by the United States in accordance with United States Code, title 38, sections 801 to 805, as amended, may claim a refund directly from the commissioner. A veterans's claim for refund form ~~ST-11dv~~ is available upon request from the Department of Revenue for use by disabled veterans in making ~~such~~ claims. See part ~~8130.6600~~ 8130.6400, and Minnesota Statutes, section 297A.25, subdivision 20.

~~Example 1. X company failed to file sales and use tax returns for the periods beginning August 1, 1967, and ending January 31, 1968. Acting upon information obtained from various sources, the commissioner prepared returns for X company for these periods and assessed a tax of $900, plus penalties and interest. As X company did not pay the tax, penalties, or~~

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~~interest within 30 days, the commissioner brought an action in Ramsey County District Court to collect the tax. Although X company contested the action, the court rendered judgment in favor of the commissioner for the entire amount of the assessment plus penalties and interest. Thereafter, X company paid the amount due and filed a claim for refund for $300. X company submitted additional information tending to substantiate its claim. However, as the payment was collected by means of a court action (see Minnesota Statutes, section 297A.33, subdivisions 1 and 3), the commissioner must deny the refund.~~

~~Example 2. Z company billed a consumer for the purchases made by latter. The consumer, who was engaged in industrial production, paid the amount billed, plus sales tax thereon, although the materials used by him were exempt from the tax because they were consumed in industrial production. Thereafter, the consumer filed a claim for refund of tax on materials properly exempt. The claim for refund will be denied as the consumer did not pay the tax to the commissioner. However, Z company may file with the commissioner for refund of such overpayment.~~

~~Example 3. An electrical power cooperative billed a farmer for the total amount recorded on the latter's meter. The farmer, who was engaged in agricultural production, paid the amount billed, plus sales tax thereon, although 50 percent of the electricity used by him was exempt from tax because it was consumed in agricultural production. The electrical power cooperative may complete the affidavit portion of form EAC and furnish it to the farmer to be completed and filed by the farmer with his Minnesota income tax return in accordance with Minnesota Statutes, section 290.501.~~

(3) Since July 1, 1984, the sales and use tax on capital equipment is initially paid at the six percent rate. In order to obtain the refund of sales and use tax paid on the purchases of qualifying capital equipment, the purchaser must file a claim for refund form with the commissioner. The claim is filed with the Business Trust Tax Unit, Department of

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Revenue. No adjustment for the tax paid on capital equipment will be allowed as credit against tax due on current sales and use tax returns being filed by a Minnesota sales and use tax permit holder.

Refund claims may include more than one purchase of machinery or equipment. However, no more than two claims will be accepted from a purchaser in a calendar year. See Minnesota Statutes, section 297A.15, subdivision 5.

Interest on capital equipment refunds or credits begins to accrue on the date the claim is filed. See Minnesota Statutes, section 289A.56, subdivision 4. For purposes of calculating the interest due, a claim is not considered filed until sufficient documentation to process the claim is submitted to the commissioner.

When filing a claim for refund for purchases of qualifying capital equipment, the purchaser must provide sufficient documentation to substantiate the allowance of the requested refund. The following information must be submitted with the completed claim for refund form:

(a) a Minnesota tax identification number or, if none, the purchaser's social security number;

(b) a description of the business activity including an explanation of the circumstances (for example, opening a new production facility, expansion of an existing facility, or whether or not the equipment purchased replaces existing equipment) under which the claim is filed;

(c) a description of the property purchased and how it will be used in the production process;

(d) a copy of the purchase invoice for each equipment purchase and written evidence of payment of the six percent tax or such other evidence as the commissioner deems necessary;

(e) for leased equipment, a copy of the invoice showing sales tax paid on the lease payments and a copy of the lease agreement; and

(f) if a use tax was accrued and reported

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for the equipment purchase, verification that the use tax was reported to the state of Minnesota, including evidence of payment of the six percent tax.

(4) The owner of homestead property may file a refund claim directly with the commissioner if a chair lift, ramp, or elevator was installed or constructed on the owner's homestead pursuant to Minnesota Statutes, section 297A.25, subdivision 43.

(5) A common carrier that has applied for a direct pay certificate under the provisions of Minnesota Statutes, section 297A.211, may file a claim for refund of tax previously paid to a seller. This refund will be calculated according to the provisions of Minnesota Statutes, section 297A.211, subdivision 3, and interest will be calculated according to the provisions of Minnesota Statutes, section 289A.56, subdivision 5.

B. A claim for refund ~~shall~~ must be filed within two years after ~~a~~ the tax was paid ~~or collected~~ in full, or within three and one-half years ~~after a return was filed~~ from the date prescribed for filing the return, whichever period ~~is longer~~ expires later. See Minnesota Statutes, section 289A.40, subdivision 1. If the commissioner and the claimant have consented to extend the time for assessment of tax under ~~the provisions of~~ Minnesota Statutes, section ~~297A.34~~ 289A.42, subdivision ~~6~~ 1, the claim may be filed within ~~such~~ the extended period. For purposes of ascertaining whether a claim for refund is timely filed with the commissioner, a return filed ~~prior to~~ before the date on which ~~such~~ the return was due ~~shall~~ will be determined to have been filed on the date when due. A return postmarked on the date due ~~shall~~ will be determined to have been filed as of that date.

~~Example 1.--R filed a sales and use tax return on January 15, 1968, for the month of December 1967, and paid to the commissioner $1,200, the tax due on the return.--On January 20, 1971, R filed a claim for refund of $300 and submitted evidence tending to substantiate his claim.--The commissioner will act on~~

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~~the-claim-for-refund-as-it-was-filed-within-three-years-of-the period-beginning-on-January-25,-1968,-the-due-date-for-filing the-return-for-December-1967.~~

C. ~~Such-person-shall-have-filed-the-sales-and-use-tax return-upon-which-such-claim-is-based.~~ A claim filed by a corporation must bear the signatures and titles of the officers having the authority to sign for the corporation.

Whenever it is necessary to have the claim executed by an attorney or agent on behalf of the claimant, an ~~authenticated copy-of-the-document~~ original, executed power of attorney specifically authorizing ~~such~~ the agent or attorney to sign the claim on behalf of the claimant must accompany the claim.

If a return is filed by a person who dies after filing ~~such~~ a return, and a refund claim is ~~thereafter~~ filed by a legal representative of the decedent, certified copies of the letters testamentary, letters of administration, or other similar evidence must be ~~annexed-to~~ filed with the claim to show the authority of the executor, administrator, or other fiduciary by whom the claim is filed. If an executor, administrator, ~~guardian,-trustee,-receiver,~~ or other fiduciary files a return and thereafter a refund claim is filed by the same fiduciary, documentary evidence to establish the legal authority of the fiduciary need not accompany the claim, provided a statement is made on the claim showing the return was filed by the fiduciary and that the latter is still acting in such capacity.

If a vendor has collected from a purchaser and remitted to the state a tax on a transaction that is not subject to tax under Minnesota Statutes, chapter 297A, the tax, and any interest earned on the tax, is refundable to the vendor only if and to the extent that the vendor submits written evidence that the tax and interest will be returned by the vendor to the purchaser or credited to amounts due to the vendor by the purchaser.

Subp. 3. **Commissioner action.** Action taken by the commissioner after a claim for refund is filed:

A. Upon receipt of a claim for refund, the

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commissioner ~~shall~~ will examine the return and make any investigation or examination of any of the accounts and records pertaining to ~~such~~ the claim that ~~he deems~~ the commissioner considers necessary. The commissioner ~~shall~~ will then prepare written findings, either denying or allowing the claim, in whole or in part, and ~~shall~~ will mail a notice to the person filing the claim at the address stated on the return or to any other address furnished by the claimant in writing.

B. The amount allowed by the commissioner as a refund ~~shall~~ is first ~~be~~ applied against any sales or use tax owed to the commissioner by the claimant, and any remaining balance due the claimant may be applied against any other delinquent tax liability owed by the claimant. Interest ~~shall~~ will be ~~allowed~~ computed on the amounts refunded or credited from the date of overpayment to the date when ~~such~~ the refund or credit is authorized by the commissioner, except for capital equipment claims and claims pursuant to Minnesota Statutes, section 297A.25, subdivision 43. See Minnesota Statutes, sections 289A.56, subdivision 4, and 297A.15, subdivisions 5 and 6.

~~On overpayments made on returns due before July 2, 1975, interest shall be allowed at the rate of four percent per annum.~~

~~On overpayments made on returns due after July 1, 1975, interest shall be allowed at the rate of six percent per annum.~~

The interest rate on overpayments will be the interest rate that the commissioner establishes under Minnesota Statutes, section 270.75, subdivision 5, to be charged on unpaid taxes. The interest rate will be adjusted annually and will become effective annually when the interest rate on unpaid taxes changes. See Minnesota Statutes, sections 270.76 and 289A.56, subdivision 1.

C. If a claim for refund made by a vendor is based upon overpayment of sales tax by a ~~consumer~~ purchaser to the ~~claimant~~ vendor, the commissioner, for purposes of ascertaining the validity of ~~such~~ the claim, may request substantiation of ~~such~~ the overpayment by the ~~consumer~~ purchaser, or examine ~~such consumer's~~ the purchaser's records.

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If the commissioner is unable to establish the validity of ~~such~~ the overpayment after conducting an examination of the ~~consumer's~~ purchaser's records, ~~he shall~~ the commissioner will deny the claim.

Subp. 4. [See Repealer.]

Subp. 5. **One dollar limitation.** No refund ~~shall~~ will be made where the amount is $1 or less.

8130.8300 ~~PENALTIES~~ ABATEMENT AND INTEREST ON UNPAID LIABILITIES.

Subpart 1. **Interest.** Interest on unpaid liabilities ~~shall~~ will accrue ~~as follows:~~ at the rate as periodically adjusted by the commissioner pursuant to Minnesota Statutes, section 270.75, subdivision 5.

~~A.--On returns due prior to May 24, 1969, unpaid tax plus the late payment penalty shall bear interest at the rate of four percent per annum until May 24, 1969, and thereafter at the rate of eight percent per annum on the total of the tax plus all penalties.~~

~~B.--On returns due after May 23, 1969, and prior to July 2, 1975, unpaid tax plus all penalties shall bear interest at the rate of eight percent per annum.~~

~~C.--On returns due after July 1, 1975, unpaid tax plus all penalties shall bear interest at the rate of ten percent per annum.~~

Subp. 2. **Late payment.** ~~In accordance with Minnesota Statutes, section 297A.39, if a taxpayer fails to pay any tax imposed by the Sales and Use Tax Law or any portion of such tax when due, a penalty equal to ten percent of the tax unpaid shall be assessed unless the commissioner has extended the time for filing the return and remitting the tax.--(See Minnesota Statutes, sections 297A.26, 297A.27, and 297A.30 regarding the due date for filing the return and remitting the tax.)~~

The amount of tax not timely paid together with the penalty imposed thereon ~~shall~~ will bear the applicable rate of interest from the time the tax should have been paid until paid. ~~The~~

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phrase "Timely paid" means paid on or before the due date as provided by law or under an extension of time as granted by the commissioner. See Minnesota Statutes, section 289A.55.

Example 1. On November 24, 1971, a retailer remits tax of $200 due on October 25, 1971, for the month of September. A ten percent penalty is assessed. The required amount to be paid on November 24, 1971, is calculated as follows:

Tax due and owing	$200.00
Ten percent penalty	20.00
Tax and penalty	$220.00
Interest for 30 days at 8 percent	1.45
Total amount due	$221.45

Example 2. A retailer requests an extension of 30 days in which to file the return and remit the tax thereon for the month of August 1971. The commissioner grants an extension of 30 days until October 25, 1971. The tax due is $500. On November 24, 1971, the retailer remits the tax, penalty, and interest computed as follows:

Tax due and owing		$500.00
Ten percent penalty		50.00
Tax and penalty		$550.00
Interest on tax due of $500.00 from original due date to extended due date at 8 percent	$3.29	
Interest on tax and penalty from extended due date to date filed at 8 percent	$3.62	
		6.91
Total amount due		$556.91

Example 3. On November 24, 1975, a retailer remits tax of $200 due on October 25, 1975, for the month of September. A ten percent penalty is assessed. Since the return was due after July 1, 1975, the tax and penalty bear interest at the rate of ten percent. The amount required to be paid is calculated as follows:

Tax due and owing	$200.00
Ten percent penalty	20.00
Tax and penalty	$220.00
Interest for 30 days at 10 percent	1.00
Total amount due	$221.00

Subp. 3. to 5. [See Repealer.]

Subp. 6. **Abatement of penalties and interest.** Pursuant to

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Under Minnesota Statutes, ~~sections-297A.39,-subdivision-6,-and~~ section 270.07, subdivision 1, the commissioner ~~shall-have~~ has the power to abate penalties and interest when, in ~~his~~ the commissioner's opinion, ~~their-enforcement-would-be-unjust-and inequitable~~ the failure to timely pay the tax or timely file the return is due to reasonable cause. The exercise of this power ~~shall-be~~ is subject to the approval of the attorney general if the abatement exceeds ~~$500~~ the amount specified in Minnesota Statutes, section 270.07, subdivision 1. All requests for abatement of penalties and/or interest ~~shall~~ must be in writing and ~~shall~~ must set forth the reasons for the failure to file the return and pay the tax timely.

8130.8400 LIMITATIONS ON DISCLOSURE OF SALES AND USE TAX INFORMATION.

Subpart 1. **General rule.** The particulars disclosed in any report or sales and use tax return as well as any information acquired from the records or from officers or employees concerning affairs of the person filing the return may not be divulged or made known other than to persons qualified or authorized under the Sales and Use Tax Law. Any person violating Minnesota Statutes, ~~section-297A.43~~ chapter 270B, ~~shall-be~~ is guilty of a gross misdemeanor.

Subp. 2. **Statistics.** The secrecy provision of Minnesota Statutes, ~~section-297A.43~~ chapter 270B, does not prohibit the commissioner from publishing statistics regarding sales and use tax returns in cases where the statistics do not identify in any manner the persons who filed the returns.

Subp. 3. **Inquiry as to a named retailer.** The secrecy provisions will not be violated where the commissioner or one of ~~his~~ the commissioner's employees, with respect to any inquiry regarding the issuance of a permit to a named retailer, advises the person making the inquiry whether or not a permit has been issued to ~~such~~ the named retailer. The ~~inquiry~~ commissioner or commissioner's employee may ~~be-furnished-such-particulars-in respect-of-information-contained-on~~ also furnish the ~~permit,~~

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~~such as~~ sales and use tax account number, ~~and~~ date of issuance of the permit, ~~and~~ whether the permit ~~is still active~~ has been canceled or revoked, name and address of the permit holder, and the business name and location. See Minnesota Statutes, section 270B.08.

Subp. 4. **~~Reciprocity~~ Information for Multistate Tax Commission audits.** The commissioner is authorized on a reciprocal basis to exchange information with the taxing officials of another state or with the taxing officials of any municipality of this state which has a local sales or use tax. The commissioner is also authorized to exchange information with the Multistate Tax Commission for the Multistate Tax Commission to audit corporate sales and use tax returns. See Minnesota Statutes, section 270B.12.

Subp. 5. **Relation to other tax laws.** To ensure consistent application and enforcement of all tax laws administered by ~~him~~ the commissioner, the commissioner is also authorized by Minnesota Statutes, section 270.065, to use information on sales and use tax returns to administer laws relating to other taxes under ~~his~~ the commissioner's jurisdiction. ~~He~~ The commissioner may also use any information in ~~his~~ the commissioner's possession relating to other taxes to administer the Sales and Use Tax Law.

Subp. 5a. **Contracts with private vendors.** The commissioner is authorized to contract with outside vendors for the processing of sales and use tax returns and the payment of sales and use taxes. Any private and nonpublic data disclosed to a vendor will be administered by the vendor consistent with the secrecy provisions of Minnesota Statutes, chapter 270B. See Minnesota Statutes, section 270B.13.

Subp. 5b. **License clearance.** The commissioner is authorized to notify a licensing authority of the state or a political subdivision that issues, transfers, or renews a license for the conduct of a profession, occupation, trade, or business, that an applicant owes the state taxes, if the applicant taxpayer owes $500 or more in delinquent taxes,

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penalties, or interest. See Minnesota Statutes, section 270B.07.

Subp. 5c. **Revocation of permits.** The commissioner is authorized to disclose information identifying the holder of a revoked permit and the basis for the revocation. See Minnesota Statutes, section 270B.08.

Subp. 5d. **Liquor posting.** The commissioner must submit to the commissioner of public safety, by the 15th of each month, a list of all liquor retailers who are required to withhold or collect tax imposed by Minnesota Statutes, section 290.92 or 297A.02, and who are 30 days or more delinquent in either filing a tax return or paying the tax. See Minnesota Statutes, sections 270.73 and 270B.12, subdivision 4.

Subp. 5e. **Liquor license applications.** Any county or municipality may request the commissioner to certify whether an applicant for a license to be issued under Minnesota Statutes, section 340A.403 or sections 340A.404 to 340A.406, is liable for any state or local taxes or assessments that were not paid when they became due. See Minnesota Statutes, section 297A.431.

Subp. 6. **Motor vehicle excise tax.** The commissioner may~~, at his discretion,~~ furnish the Motor Vehicle Division, Department of Public Safety, all information necessary to administer the motor vehicle excise tax, Minnesota Statutes, chapter 297B.

REPEALER. Minnesota Rules, parts 8130.2400; 8130.2700, subpart 4; 8130.2800; 8130.3000, subparts 9 and 10; 8130.3100, subparts 3 and 4; 8130.3300, subpart 2; 8130.4100; 8130.4200, subpart 2; 8130.7600, subparts 2, 3, and 4; 8130.7700, subpart 2; 8130.8000, subparts 2, 3, and 5; 8130.8100, subpart 4; 8130.8200; and 8130.8300, subparts 3, 4, and 5, are repealed.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Sales Tax Administration

AGENCY: Department of Revenue

MINNESOTA RULES: Chapter 8130

The attached rules are approved for publication in the State Register

Janet M. Rahm
Senior Assistant Revisor

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

In the Matter of the Proposed Adoption of Amendments to Rules Relating to Administration of the Sales and Use Tax and Sales and Use Tax Payments, Returns, Assessments, and Collections (Minnesota Rules Part 8130.2350 to 8130.3400, 8130.3800 to 8130.4400, and 8130.7300 to 8130.8400.)

STATEMENT OF NEED AND REASONABLENESS

General Statement

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 amended rules. It is submitted pursuant to Minnesota Statutes section 14.23 (1988) and Minnesota Rules Part 1400.0500 (1989) requiring a Statement of Need and Reasonableness.

A Notice of Intent to Solicit Outside Opinion regarding Administration of the Sales and Use Tax and Sales and Use Tax Payments, Returns, Assessments, and Collections, was published in the State Register on June 19, 1989. The notice specifically mentioned these rules and invited interested persons to submit comments or suggestions in writing to the Department by June 30, 1989. No one submitted written comments.

This rulemaking proceeding proposes to amend the rules relating to Administration of the Sales and Use Tax and Sales and Use Tax Payments, Returns, Assessments, and Collections. These rules were last amended in 1978. Since that time, the Minnesota

Legislature has amended Minnesota Statutes chapter 297A significantly. As a general statement, it is obviously necessary to amend these rules so that they comply with the changes made in the law.

The majority of the changes being proposed for this set of rules involve repeal of outdated information, examples, and duplicative statutory language; grammatical changes; and some form clarifications involving nonsubstantive changes. Many changes result from the enactment of Minnesota Statutes chapter 289A which was a statutory consolidation of administrative provisions applicable to major tax types. For the most part, this involves merely cite changes. Where indicated, "form" changes were changes in writing style which clarified, modernized, or simplified the meaning of a rule but did not make a material change to the rules' substance or effect. Where possible, examples have been repealed because they were outdated, and because the legal effect of examples is not always clear. If necessary, the examples were replaced with text covering the same materials as were in the example.

IMPACT ON SMALL BUSINESS.

The impact of these rules on small businesses has been considered. The proposed rules do not impose new filing, or payment requirements on small businesses and therefore are not expected to place any additional financial or administrative

burden on small businesses.

Where possible, reporting and compliance requirements have been simplified, consolidated, made less stringent, or eliminated. In addition, all persons (including small businesses) currently possessing a sales tax permit were given direct notification of the Department's rulemaking activities, pursuant to Minnesota Statutes section 14.115, subd. 4 (1988). This notification was published in the Department's January 1990 quarterly newsletter which was sent to all permit holders (146,918) in late December 1989, and early January 1990 (see attached).

AUTHORITY TO ADOPT RULES.

Minnesota Statutes section 297A.29 (1988) grants the Commissioner of Revenue authority to promulgate rules concerning administration and enforcement of the sales and use tax laws. Minnesota Statutes section 297A.25, subdivision 20 (1988) grants the Commissioner of Revenue authority to promulgate a rule for refund of taxes paid on sales exempt in accordance with that subdivision. Minnesota Statutes section 297A.27 provides the Commissioner with authority to promulgate rules regarding consolidated returns and recordkeeping requirements.

RULE-BY-RULE ANALYSIS

RULE 8130.2350 COMPUTATION OF SALES TAX.

This rule sets out the method to calculate sales tax on a taxable transaction. It is necessary for both retailers and consumers to have a uniform method for calculating sales tax on transactions involving other than round dollar figures. The proposed rule is reasonable because it establishes a method which mathematically apportions the tax based on the sales price.

Item A. This item covers the computation of tax on transactions subject to a 4 percent rate. This item was previously found at Minnesota Rules 8130.2400, subpart 2. This item is necessary because special tooling is subject to sales tax at a 4 percent rate, rather than the general 6 percent rate. See Minnesota Statutes section 297A.02, subdivision 2.

Item B. This item covers the computation of tax on transactions subject to a 5 percent rate. This item is necessary because there are some leases or other contracts which are still subject to the 5 percent rate (5 percent in effect from July 1, 1981, to December 31, 1982).

Item C. This item covers the computation of tax on transactions subject to a 6 percent rate.

RULE 8130.2400.

Subpart 1. This subpart was repealed because of recent legislation which repealed the prohibition against advertising that tax will be absorbed or assumed by the retailer.

Subpart 2. This subpart was repealed and the information moved to Rule 8130.2350, Item "A."

RULE 8130.2500 APPLICATION FOR PERMIT TO MAKE RETAIL SALES.

This rule is amended to clarify who is required to obtain a sales tax permit. The amendment put the requirements into a more easily understandable format and incorporates recent legislation on this subject. They clarify what information the Department needs in order to issue a permit, and how a retailer should handle situations involving multiple locations, consolidated returns, vending machines, and changes in ownership. The amendments are necessary to remove examples, excess or repetitive language, outdated requirements, and to add several new requirements (due to legislative changes). The amendments are reasonable because they improve and simplify the rule language which makes it more understandable.

Subpart 1. The existing language is repealed and replaced with language which says essentially the same thing as the old language but in a clearer format. It incorporates a 1987 statutory change which expanded the scope of persons required to obtain a permit, see explanation to Rule 8130.3900, *infra*.

Subpart 2. There are grammatical, but not substantive, changes to the first sentence. A sentence was added to clarify that nonprofit organizations must obtain permits if they make or plan to make sales which are not exclusively nontaxable. This is necessary because the Department frequently receives questions from nonprofit organizations on this subject. This language should provide the necessary information to those taxpayers. A statutory cite is added to aid the taxpayer in understanding the rule. The examples are repealed, see explanation in the introductory paragraph to this statement.

Subpart 3. This subpart contains clarifying grammatical changes only.

Subpart 4. This subpart contains clarifying and grammatical amendments. Unnecessary language was eliminated. The language regarding permit fees was stricken because there is no longer a statutory fee requirement. See explanation to subpart 7 of this rule, *infra*. The language regarding the list included with the application is to inform taxpayers that they can comply with the statutory requirement (Minn. Stat. § 297A.04) of filing an application for each place of business by including such a list.

Subpart 5. Gender neutral language was inserted where appropriate. The existing language contains lists of items

which were repealed and replaced with more general terms which covers the previously listed items. A sentence was added to clarify that the term "vending machines" does not include certain coin-operated services described in section 297A.01(3)(i) and (j). An example was repealed, see explanation in the introductory paragraph to this statement.

Subpart 6.

Item A. This item was amended to require the permit applicant to provide the name of the organization applying for the permit. If the organization is a corporation, the state and date of incorporation is also required. This additional information is necessary for the Department's enforcement and compliance activities. It is also reasonable since it is information which should be easily obtained by the applicant.

Item D. This amendment changes an obsolete reference to the Minnesota Tax Department, and requires the applicants to provide a federal identification number if they possess one. This information is necessary for the Department's enforcement and compliance activities. This number is utilized when exchanging information with the federal government, for various recordkeeping purposes, and to assist the Commissioner in determining when new Minnesota Identification numbers are necessary, see explanation to subpart 7(B) of this rule, *infra*.

Item I. This item contains a technical change and repeal of an obsolete term. There are grammatical and clarifying changes to the last paragraph. If the applicant is a corporation or association, an owner, partner, or officer must sign the application. This is necessary to clarify who must sign the application and because of the fact that owners, partners, or officers can be held personally liable for the tax if there is an outstanding liability.

Subpart 7. The first two sentences were stricken because the $1.00 statutory fee was repealed in 1983. See 1983 Minn. Laws chapter 301 section 235 and chapter 327 section 16.

Items A-B. References to the $1.00 fee were stricken, see explanation in Subpart 7, *supra*.

Item B. This item was amended to provide that resignation, death, or expulsion of a partner only requires a new application when the partnership is required to obtain a new federal identification number because of death, resignation, or expulsion. This reduces the amount of administrative work for a partnership in cases where there has not been a major change in the partnership.

Item D. The last sentence was stricken, see explanation in Subpart 7, *supra*. Unnecessary language was stricken from the

second sentence, and the third sentence was stricken because the Department will no longer require the old permit to accompany the request. The first sentence has form changes to clarify that the permit holder must request a corrected permit in this situation.

RULE 8130.2600 PERMIT WHEN VALID AND HOW DISPLAYED.

Subpart 1. Two statutory references were stricken, the first because it was obsolete, the second because it did not assist the reader in understanding the rule. The language regarding when the commissioner will require security was changed from "deems" to "finds" to conform to the statutory language.

Subpart 2. This subpart was retitled to clarify its scope. The examples have been repealed, see explanation in the introductory paragraph to this statement. The first four sentences contain grammatical and form clarifying changes. The first sentence is also amended to reflect a 1989 statutory change which gave the commissioner the authority to cancel permits. The last two sentences of the first paragraph have been stricken because the information is found in Rule 8130.2500, subpart 7. These changes are necessary to clarify the existing language and to incorporate statutory changes. They are reasonable because they help permit holders to understand the procedures necessary to remain in compliance with the law.

Subpart 3. The examples have been repealed, see explanation in the introductory paragraph to this statement. The second sentence was stricken because the commissioner will no longer require permit holders to submit lists in these situations. The lists are not needed by the commissioner in administration or enforcement of the sales and use tax law. The other changes are form only and are meant to clarify and simplify this subpart.

Subpart 4. The title is amended to delete information covered in rule 8130.2700. A grammatical change is made in the first sentence. The next two sentences are stricken because the information is covered in rule 8130.2700 and in chapter 297A. A sentence was added to clarify that another subpart covers information on the issue also.

RULE 8130.2700 REVOCATION OF PERMITS.

Subpart 1. Unnecessary statutory references were deleted, and form changes were made.

Subpart 2. Form and grammatical changes were made to clarify and simplify existing language. Unnecessary statutory references were deleted, and others were updated. Language was added to provide that service by mail may be made to the last known address of the taxpayer. This will allow the Department to serve notices where the taxpayer has failed to give a forwarding address.

Subpart 3. The existing language in this subpart was stricken because it duplicates language found in Minnesota Statutes, chapter 14, and it refers to matters which are under the control of the Office of Administrative Hearings, not the Department of Revenue. A new title and new language was inserted which covers language previously found in Rule 8130.2600, subpart 4. This is a more appropriate place for the language, since this rule deals with revocation of permits.

Subpart 4. This subpart was repealed because it duplicates statutory language found in Minnesota Statutes section 14.61 and Minnesota Rules section 1400.8100.

Subpart 5. Existing language was stricken and the same information was reworded to clarify the requirements for obtaining a new permit once an existing one has been revoked. These requirements are necessary for the commissioner to ensure compliance with Minnesota law in revocation circumstances where the taxpayer has a history of noncompliance. The requirements are reasonable because they allow a mechanism for a person to resume making taxable sales after a revocation has occurred while assuring compliance with chapter 297A. Language was also added to clarify that interest will be paid when money is deposited as security and how that interest will be calculated. The language also notifies taxpayers that the security may be applied to outstanding tax liabilities.

Subpart 6. Nonsubstantive gender and form changes were made to this subpart.

Subpart 7. This subpart was added to inform taxpayers by calling attention to the fact that the commissioner has statutory authority to release certain information regarding a person whose permit has been revoked. This information is found in a chapter (Minnesota Statutes chapter 270B) other than the sales tax chapter and thus has the potential to be overlooked by a taxpayer if not covered in the sales tax rules.

RULE 8130.2800 RETAIL SALES WITHOUT PERMIT; VIOLATION.

This rule was repealed because it duplicated statutory language, and did not provide the reader with information which assisted in understanding the administration of the sales and use tax chapter.

RULE 8130.2900 PRESUMPTION THAT TAX MUST BE PAID.

Subpart 1. The first sentence was stricken because it duplicated obsolete statutory language. Other unnecessary language was stricken but no substantive changes were made.

Subpart 2.

Item A. A gender change was made.

Item B. The existing language was stricken and replaced with clarifying language which enables taxpayers to understand how to overcome the statutory presumption that all sales are subject to sales tax.

Item C. The existing language was stricken because it is already covered by the new language in Item "B." The information in the old Item "D" is now found in this item.

Item D. The existing language was clarified to provide that a seller may accept a copy of the buyer's direct pay permit, or a statement as prescribed in Rule 8130.3400.

RULE 8130.3000 GOOD FAITH ACCEPTANCE OF EXEMPTION CERTIFICATES.

The changes in this rule are necessary to clarify a confusing area for taxpayers, and to make the rule understandable and up-to-date. They are reasonable because they place no additional financial or administrative demands on taxpayers.

Subpart 2. A gender change was made and a statutory reference added. The examples were removed, see explanation in the introductory paragraph to this statement.

Subpart 3. The first sentence was changed to more general

language which covers all of the applicable exemptions in Minnesota Statutes section 297A.25, rather than specifying each exemption. There are some clarifying form and gender changes. The second paragraph was stricken because it refers to a specific statutory cite and uses it as an example to illustrate this subpart. Since the specific language referring to industrial production was stricken from the first paragraph and replaced with more general language, this language was also stricken. The example was removed, see explanation in the introductory paragraph to this statement.

Subpart 4.

Items A & C. Obsolete language was stricken. Both of the statutory exemptions covered by these items have been repealed.

Item E. This item was relettered to "C" because of earlier stricken language. Language was added here to incorporate recent legislative changes.

Item F. This item was relettered to Item "D" because of earlier stricken language.

Item G. This item was relettered to Item "E" because of earlier stricken language. Confusing language was stricken and clarifying language added. No substantive changes were made.

Items F, G, & L. These items were added because of recent legislative changes. They clarify that these exemption certificates may be accepted in good faith from a buyer.

Items H-K & M. These items were added because they are also exemption certificates which a vendor may accept in good faith.

Subpart 5. Gender changes were made, and also a change clarifying that the seller should know what the purchase is to be used for in addition to whether the purchaser is who it claims to be. For example, if a vendor sells bingo equipment to a church for the church to use on its bingo nights, that purchase would not be used for religious purposes and the vendor could not accept the certificate in good faith, even though the sale was made to a religious organization. This follows the statutory requirement that items are exempt only if they are used in the performance of charitable, religious, or educational functions.

Subpart 6. Two form number reference were deleted to prevent confusion if the Department should change the form numbers. The term "vendor" was inserted to clarify the scope of the last sentence.

Subpart 7.

Item A & B. Clarifying form and technical changes were

made. No substantive changes were made.

Item C & D. New language was added to clarify the tax treatment of meals, lodging, and admissions when purchased by exempt organizations. This is necessary because the sale of one of these taxable transactions may be exempt depending on who it is sold to, and these items will assist taxpayers in understanding the differences. This language is reasonable because it sets out in clear language exactly when one of these transactions is exempt and thus an exemption certificate may be used. A sentence was added to inform taxpayers that the sale of meals at schools is covered by a separate rule. This is necessary because there is a specific statutory exemption for those sales which does not extend to other educational organizations.

Item E & F. These items were added to incorporate recent legislative limitations.

Item G. This language was previously found at subpart 10 of this rule. It was moved to this subpart because it is an exception to the acceptance of exemption certificates and thus is more appropriate to include under this subpart

Subpart 8. Language listing specific items was stricken, and new broader language which covers all of the stricken language was added. A reference to sales of utilities (electricity,

telephone service, etc.) was added to clarify that these sales are also covered by subpart 8.

Subpart 9. Subpart 9 is repealed because those issues are now covered under subpart 7, Items "C and D," *supra*.

Subpart 10. Subpart 10 is stricken and moved to a more appropriate location, subpart 7 "G," as a reference or limitation to good faith acceptance.

RULE 8130.3100 CONTENT AND FORM OF EXEMPTION CERTIFICATE.

Subpart 1. Form changes were made to clarify the existing language, and a statutory cite was added for reference purposes.

Subpart 2. The first sentence was stricken because clearer language was inserted into Item "A."

Item A. The first sentence was stricken and replaced with clearer language that sets out which exemption certificates must be approved by the commissioner before being used. This is necessary because a seller may only accept these certificates in good faith if they have been previously approved by the commissioner. It is reasonable because these are exemptions which require review by the commissioner before they are effective.

Item B. Existing specific language was stricken and more general language covering the same exemption was added. The new language sets out which exemption certificates may be used without prior approval from the commissioner.

Item C - E. These items were stricken because they are not exemptions but refer to forms. The rule has been restructured in terms of exemptions, rather than which forms should be used.

The last part of the 3rd sentence in the paragraph following the old Item "E" was stricken because it refers to a form which is not provided by the Department, but is under the control of another entity.

The last paragraph was stricken because the forms will no longer be reprinted in the rules, and taxpayers are notified in the Minnesota Sales and Use tax instructions that they may photocopy the exemption certificates, and that the commissioner does not furnish bulk copies. This change is necessary because the Department needs to change forms periodically which then out-dates the form in the rule.

Subparts 3 and 4. These subparts were repealed because the information was moved to subpart 2, Items "A and B."

RULE 8130.3200 NONEXEMPT USE OF PURCHASE OBTAINED WITH EXEMPTION CERTIFICATE.

Subpart 1. There were grammatical changes made to this paragraph. Language was added to clarify what a taxpayer must do when that taxpayer does not have a sales tax permit. Language was also added to clarify that using the property for demonstration or display does not constitute a taxable use. The examples were stricken, see explanatory paragraph in the introduction to this statement.

Subpart 2. This subpart was added to clarify how tax should be calculated when the property is used while held for sale. This is necessary because of the decision in Town and Country Homes, Inc., v. Commissioner of Taxation, 269 N.W.2d 7 (Minn. 1978). In that case, the Minnesota Supreme Court held that use tax should be based on the reasonable rental value of the property.

RULE 8130.3300 FUNGIBLE GOODS FOR WHICH EXEMPTION CERTIFICATE GIVEN.

Subpart 1. A statutory cite was added to assist the reader in understanding when, and in what situation, this definition is used.

Subpart 2. This subpart was repealed because it duplicates statutory language and does not assist taxpayers in interpreting what fungible goods are.

Subpart 2. There was a grammatical but not substantive change to this subpart.

Subpart 4. The last sentence in this subpart was moved to the list of qualification requirements, see item D. Clarifying gender and grammatical changes were made to the last sentence. The first part of the first sentence in the last paragraph was stricken because it does not assist in implementing the law or govern its organization or procedure.

Subpart 5. Grammatical and gender changes were made to the first paragraph, with no substantive change.

Subpart 6.

Item D. This item was added because purchases of motor vehicles are taxed under Minnesota Statutes chapter 297B, and there is no statutory authority in chapter 297B for allowing a taxpayer to use a direct pay permit for payment of the motor vehicle excise tax.

Item E. This item was added because taxable services cannot be used outside of Minnesota. Thus there is no way for them to be purchased exempt for use out-of-state, which is the main reason for the issuance of a direct pay permit, see subpart 1,

Item "A" of this rule.

Subpart 7. Language was added to the first sentence to clarify that a permit holder may not assign the use of the permit to any other party. A direct pay permit is granted to a specific taxpayer in order to reduce administrative burdens of collecting the tax, due to the nature of that taxpayer's business.

Assigning it to another party for their use would defeat the qualification requirements of the rule, found in subpart 4. Only businesses which satisfactorily demonstrate the qualification requirements contained in subpart 4 to the commissioner, may be granted a direct pay permit. If a direct pay permit holder were to assign the use of the permit to another taxpayer, that assignment would circumvent the rule since the second taxpayer would have the use of the permit without first meeting the requirements of the rule. A direct pay permit is not a statutory right, but is a discretionary permit granted by the commissioner in the circumstances described in the rule. It is necessary to clarify this in the rule and it is reasonable because it implements the statutory language requiring the commissioner to authorize the use of a direct pay permit. The other changes to this subpart are grammatical, not substantive. The last line is stricken since forms will not be published in the rules.

RULE 8130.3600 FLEA MARKET OPERATORS.

This is a new rule which is being added to clarify compliance with the statute regarding flea markets and similar events. Some of the rule is duplicative of statutory language but is necessary for the taxpayer to understand the language which clarifies implementation of the statute.

Subpart 1. Most of this language duplicates the statute but is necessary to understand the rest of the rule. The last sentence clarifies that sellers at these events must obtain a permit unless there is an applicable exemption.

Subpart 2. This language is necessary to clarify that use of a form which is provided by the commissioner will constitute compliance with the statutory requirement of obtaining evidence of a permit or the fact that no taxable sales are being made, from a seller. It is reasonable since the commissioner provides the forms to anyone requesting them and reduces the administrative burden on the event operator by providing them with a form designed to obtain the evidence required under the statute.

RULE 8130.3800 IMPOSITION OF USE TAX.

The second sentence has been stricken because it is obsolete.

RULE 8130.3850 COMPUTATION OF USE TAX.

This rule sets out the method to calculate use tax on a taxable use. It is necessary for consumers to have a uniform method for calculating use tax on prices involving other than round dollar figures. It is reasonable because it establishes a method which mathematically apportions the tax based on the sales price.

Item A. This item covers the computation of tax on taxable transactions subject to a 4 percent rate. This item was formerly found at Minnesota Rules 8130.4100, subpart 2. The language is necessary because special tooling is subject to 4 percent tax rate, rather than the 6 percent general rate. See Minnesota Statutes section 297A.02, subdivision 2.

Item B. This item covers the computation of tax on taxable transactions subject to a 5 percent rate. The language is necessary because there are some leases or other contracts which are still subject to the 5 percent rate (5 percent rate in effect from July 1, 1981, to December 31, 1982).

Item C. This item covers the computation of tax on taxable transactions subject to a 6 percent rate.

RULE 8130.3900 LIABILITY FOR PAYMENT OF USE TAX.

Subpart 1. Clarifying changes were made to this subpart. The stricken language was obsolete due to changes to Minnesota

Statutes section 297A.21. The language which replaces the stricken language reflects the statutory change which broadened the use tax collection requirement to include retailers who do not maintain a place of business in Minnesota, as well as those who do maintain a place of business here.

Subpart 2. This language is stricken because it conflicts with the statutory language in Minnesota Statutes section 297A.21 which obligates retailers who do not maintain a place of business here, to collect the use tax if the retailer engages in regular or systematic solicitation of sales from potential customers within Minnesota. The changes to the second sentence clarify that sellers who do not come within the statutory collection requirements can register to collect the tax if they agree to the requirements in Items "A through C." There is also a gender change in this subpart, and a cite change due to the recent consolidation legislation.

Item B. This item was changed to reflect the statutory return due date change and to clarify the remittance language.

RULE 8130.4000 COLLECTION OF TAX AT TIME OF SALE.

Subpart 1. The language in this subpart was stricken and replaced with clarifying language which puts the same information in an easier to read list format. Item "C" was added because of the law change discussed in the explanation to

rule 8130.3900, subpart 1, *supra*.

Subpart 2. Gender changes were made to this subpart, and a statutory cite was added for clarification. Information in the second sentence was stricken and replaced with new language. The old language was one example of what constitutes "operating within this state," and was misleading because a reader might think that taking orders for merchandise was the only way to operate within Minnesota on someone else's behalf. The new language does not list all the specific ways to operate within the state, but uses the general term to avoid trying to list all the possibilities that may be covered by the word "operating." The new language puts the reader on notice that a permit is required anytime a person is acting on behalf of a retailer within Minnesota.

Subpart 4. A gender change was made.

Subpart 5. A statutory cite was added to this subpart to clarify the statutory authority for this penalty. Language was stricken due to the consolidation legislation which removed the specific penalty language from the statute and just labels the crime as a misdemeanor.

RULE 8130.4100.

Subpart 1. This subpart was repealed because of recent

legislation which repealed the prohibition against advertising that tax will be absorbed or assumed by the retailer.

Subpart 2. This subpart was repealed and the information moved to Rule 8130.3850.

RULE 8130.4200 REGISTRATION.

Subpart 1. The existing language was stricken and replaced with clearer language in a list format which is easier to read. Item "C" was added, see explanation for Rule 8130.3900, subpart 1.

Subpart 2. This subpart was repealed because the statutory authority for this subpart was repealed in 1988. A taxpayer not maintaining a place of business in Minnesota or not having the required nexus, is not required to register to collect the use tax.

Subpart 3. Grammatical, form, and gender changes were made, with no substantive change.

RULE 8130.4300 PROPERTY BROUGHT INTO MINNESOTA.

Subpart 1. A statutory cite was updated. Grammatical, technical, and form changes were made with no substantive change. The examples were repealed, see explanation in the introductory paragraph to this statement.

Subpart 2. This subpart was amended by adding language which clarifies that credit for tax will be given only when tax is legally imposed or owed to the other state. This language is necessary to prevent a person from evading payment of Minnesota tax by paying tax to another state when it is not owed to that state, getting credit for that payment in Minnesota, and then going back to the first state and filing a claim for refund. It is reasonable because it places persons buying items within Minnesota on the same footing as those buying out-of-state for use within Minnesota.

A sentence was also added to clarify that the credit can only be given to taxes paid to other states, not local governments or other countries. This clarifies the wording of the statute, which provides that credit will be given when items have been subjected to tax "by any other state." (emphasis added.)

RULE 8130.4400 CREDIT AGAINST USE TAX.

Subpart 1. There were some grammatical changes to this subpart. Language was added to clarify that credit will only be given when tax is legally imposed on an item in another state. See the explanation in Rule 8130.4300, subpart 2. Examples were also repealed, see explanation in the introductory paragraph to this statement.

A new paragraph was added to clarify how the statutory credit will be calculated. This is necessary because it replaces information previously found in the examples which have been repealed. It is reasonable because the new language clarifies how the other states' tax will be credited against Minnesota tax.

Subpart 2. Gender changes were made. The word "resident" was stricken and replaced with the word "taxpayer." The new term is a more accurate description because a person may not be a "resident" of Minnesota but this subpart could still apply to them. The statute governing imposition of the use tax is not limited to residents of Minnesota. An example was repealed, see explanation in the introductory paragraph to this statement.

RULE 8130.7300 WHEN TAX IS DUE.

Subpart 1. The due date reference was changed from the 25th to the 20th of each month, to conform to the statute. The language regarding the June liability was added to alert taxpayers, since it is an exception to the general rule being stated. The statutory cites were added to assist taxpayers in understanding the rule.

Subpart 2. A gender and form change was made to the first paragraph, with no substantive change. A cite was changed to reflect recent consolidation legislation.

Item A. The form reference was deleted, because the Department no longer requires the use of a specific form to apply for a different reporting period. This reduces the amount of administrative work for small businesses. The reference to the Sales and Use Tax Division was updated to its new name, Taxpayer Information.

In clause (2) of this item, the average tax liabilities were increased to account for inflation over the last 12 years since these rules were last changed. A formula was developed to automatically increase these amounts without going through a rule change. The formula is based on Minnesota Statutes section 290.06 which is used by the Commissioner to adjust income tax rate brackets for inflation. This formula is necessary because it allows a mechanism for the average liability amounts to increase without going through the rulemaking process. This positively impacts small businesses by increasing the amount of sales tax they can collect and still be able to get authorization to file on a quarterly or annual basis, instead of having to file each month, thus reducing their administrative paperwork. The Department's Research Division has estimated that with average inflation, the $50 trigger amount will be reached every four or five years.

Item B. This item was stricken because the Department will no longer require the application within the specified time

period. This also reduces the administrative work for small businesses.

New Item C. The due date reference was changed, see explanation for subpart 1 of this rule. A grammatical change was also made.

Item D. This item was added to clarify that a person with no previous sales tax liability may also apply to file on a less-than-monthly basis. This allows a new business to estimate its liability and reduce potential administrative burdens.

Subpart 3.

Item A. Form and gender changes were made, with no substantive change.

Item B. Grammatical changes were made. The tax liability amounts were increased to account for inflation, see explanation under Subpart 2, Item "A" of this rule.

Item C. The last two paragraphs in this item were amended with form and gender changes and the due date change discussed earlier in this rule. A new paragraph was added which uses the formula found in Subpart 2, item "B" to adjust the Amounts in Subpart 3 for inflation. See explanation in Subpart 2, Item "A" of this rule.

Subpart 4. This subpart clarifies the statutory requirement of an accelerated June sales tax payment. This is necessary because it is a confusing area for taxpayers to deal with each June, and this rule sets out exactly who has to file and pay early, how to do it,and when it must be done. It is reasonable because it follows the statutory provisions which require the early June payment and sets out the information in a clear format.

Subpart 5. The first paragraph is duplicative of statutory language, but is necessary for taxpayers to understand the second paragraph. It is also an exception to the general rule set forth in subpart 1, so it is necessary to call taxpayers' attention to it. The second paragraph clarifies when the local tax must be remitted and that the entire amount should be remitted, not just the $10 or the excess over $10. It is necessary because it clarifies the provisions of the statute which allows retailers to delay remitting local taxes in this situation.

RULE 8130.7400 UNCOLLECTIBLE DEBT DEDUCTION.

Subpart 1. The term "bad" debt was changed to "uncollectible" in several places, to conform to the terminology used in the statute. A gender and a grammatical change was made. Language was added which requires the taxpayer to recognize the debt as

an uncollectible debt for federal income tax purposes or if the taxpayer is not required to file a return, in accordance with generally accepted accounting principles. This is necessary in order for the Department to be able to verify whether the amount being deducted is actually an uncollectible debt. It is reasonable because if it is a true uncollectible debt, the taxpayer will report it on a federal tax return, or charge it off using generally accepted accounting principles. It does not place any additional financial or administrative burdens on the taxpayer. A statutory cite was also added. The example was repealed, see explanation in the introductory paragraph to this statement.

Subpart 2. Grammatical and form changes were made, with no substantive change.

Items A-C. Grammatical changes were made with no substantive change. Examples were repealed, see explanation in the introductory paragraph to this statement.

Subpart 3. Grammatical, but not substantive, changes were made. The term "bad" was changed to "uncollectible," see explanation in subpart 1, *supra*. An example was repealed, see explanation in the introductory paragraph to this statement.

Subpart 4. The term "bad" was changed to "uncollectible," see explanation in subpart 1, *supra*. The language referring to

the value of repossessed articles (part of the first sentence and the entire second paragraph) was stricken. This is necessary because of the decision in Town and Country Homes, Inc., v. Commissioner of Taxation, 269 N.W.2d 7 (Minn., 1978). In that case, the Minnesota Supreme Court held that the sales tax credit on repossessed property is based on the amount of debt which is uncollectible, without regard to the value of the repossessed property.

Subpart 5. This is a new subpart which was added to provide for situations in which a taxpayer collects an uncollectible debt after it has been taken as a deduction. The new language requires the taxpayer to include the collected amount on the next return, and remit sales tax on that amount. This language is necessary because it follows the statutory provision which allows a debt to be deducted only to the extent to which it is uncollectable. If part of the debt is collected at some point, it is no longer uncollectible, and the statutory deduction does not apply. It is reasonable because it clarifies how a taxpayer should go about remitting the tax on the amount collected after the deduction, but does not add any additional reporting requirements since the tax will be included in the first return filed after collection.

RULE 8130.7500 RETURNS AND RECORDS.

Subpart 1. An obsolete statutory cite was stricken, and

grammatical and form changes were made. The references to Form ST-1 were stricken, see explanation to Rule 8130.3000, subpart 6, *supra*. Certain information was stricken from the second and third sentences because it did not aid taxpayers in understanding the sales and use tax rules, and did not aid the Department in administering the tax. The deletion of this language has no substantive effect on the interpretation of this rule or the applicable statute. It is necessary to delete this language in order to clarify this subpart and to remove excess, unneeded language.

The last sentence was amended to require the return to be signed by the permit holder or a person having control, supervision, or responsibility of filing the returns and paying the tax. If a person is not the permit holder and does not have control, supervision, or responsibility for filing the returns and paying the tax, they should not be signing the returns. The statute governing returns (Minnesota Statutes section 297A.27) provides that the return contain a confession of judgment for the amount of tax due. The definition of "person" in Minnesota Statutes section 297A.01, subd. 2 includes officers; directors; partners; or employees who have control, supervision, or responsibility as described in the rule. Because of the potential liability involved with filing a return, this language is necessary. It is reasonable because it makes it clear to taxpayers exactly who must file and sign a return.

Subpart 2. A grammatical change was made with no substantive change. The reference to the form was stricken, see explanation in Rule 8130.3000, subpart 6, *supra*. The due date reference was changed, see explanation in Rule 8130.7300, subpart 1, *supra*. The cite reference was also changed due to recent consolidation legislation.

Subpart 3. A statutory cite was added to assist readers in understanding the rule. Gender changes were made, and the form reference was stricken, see explanation in Rule 8130.3000, subpart 6, *supra*.

Items A and B. Gender changes were made.

Item C. Gender changes were made and the form reference was deleted, see explanation in Rule 8130.3000, subpart 6, *supra*.

Subpart 4. A statutory cite was added to assist readers in understanding the rule. Grammatical, but not substantive changes were made. The due date reference was changed, see explanation in Rule 8130.7300, subpart 1, *supra*.

Subpart 5.

Item A. This item lists exclusions from gross sales which do not need to be included on line one of the sales tax return. The new additions (numbers 7-9) are all items which are not

subject to sales tax and should not be included in the gross sales figure on line one. It is necessary to include these items because the Department frequently gets questions from taxpayers on whether they should be included on line one. It is reasonable since it saves taxpayers the time and inconvenience of having to contact the Department when preparing a return.

A sentence was stricken from the last paragraph since it is duplicative of information found in the first paragraph. Grammatical, but not substantive, changes were also made to the last paragraph.

Item B. Grammatical, but not substantive, changes were made to this item.

Item C. Grammatical, but not substantive changes were made to this item. The information in the first parenthesis was changed to reflect the actual wording on the return.

Item D. Grammatical, but not substantive, changes were made.

Item E. A grammatical, but not substantive, change was made. Language was added to clarify which line contains net or taxable sales. This information assists taxpayers in preparing their returns.

Item F. Some of the existing language was stricken and reworded in a clearer manner. The substance of the sentence remains the same, but it will now be easier for taxpayers to understand.

Items G-I. These are new items and were added to assist taxpayers in reporting taxable liquor sales on their returns. It is necessary to include these items because of a 1983 law change which imposed an 8.5 percent sales tax on liquor and beer sales. Because of the higher rate, liquor and beer sales must be put on a separate line on the return. It is reasonable because it provides an easy method for taxpayers to report liquor and beer sales, and makes it easy for the Department to verify the sales.

Item J. The first paragraph contains form changes, and changed a reference to a line number on the return which has been updated since the last time this rule was amended. Clause 3 of this item contains a form change, with no substantive change.

Language was added to clarify that an adjustment to a return can't exceed the amount of tax due on that return. In those situations, the taxpayer can either file a claim for refund or adjust a subsequent return.

The amount of overpayment which may be entered on a return

has been increased from $500 to $1,000 because of inflation. This means that when a taxpayer has overpaid sales tax of $1,000 or less, the taxpayer can adjust a subsequent return instead of filing a claim for refund. This increase is necessary because of inflation. It benefits small businesses by allowing them to account for overpayments of $1,000 or less on a return, rather than having to file a separate claim for refund. A form change was made and a reference to a line on the return was updated to reflect the return currently in use. A form reference was deleted, see explanation in Rule 8130.3000, subpart 6, *supra*.

Subpart 6. The first sentence contains a grammatical change, and clarifies that retailers of taxable services must maintain records as well as retailers of tangible personal property.

Item A. The term "rental" was stricken and replaced with the term "lease." This is not a substantive change, but is meant to conform to the statutory provisions which use the term "lease," rather than "rental."

Item C. The phrase "tangible personal property" was stricken and replaced with language which also includes taxable services. This is necessary because the sale of certain services is subject to sales tax, so the recordkeeping requirements should also apply to retailers of those services. A gender change was made in the last paragraph.

Subpart 8. There were grammatical and form changes to the first paragraph. The third sentence was stricken because it repeats information found in the preceding sentence. The last sentence in the first paragraph was stricken and new language was added which clarifies the information previously found in the stricken sentence.

The first sentence of the second paragraph was stricken and moved to a more appropriate place at the end of this subpart. The second sentence was stricken because the requirement of maintaining "machine-sensible" records is set out in the first paragraph.

Item A. The stricken language was vague and so was replaced with a clear requirement that the subsidiary ledgers must be maintained in certain circumstances.

Item B. The stricken language was not a record which was required to be maintained and did not fit into the rule at that point. The information was reworded to clarify that records which support summary accounting data must be maintained. This was not a substantive change.

Item C. This was a grammatical, but not substantive, change.

Item D. The stricken language was not a record which was

required to be maintained, and so did not fit into the rule at that point. The old Item "E" was relettered to Item "D," and technical, grammatical, and form changes were made. The last two sentences were added to replace information which was stricken from the first part of this subpart.

RULE 8130.7600 SECURITY: NOTICE FROM COMMISSIONER.

Subpart 1. There was a gender change to this subpart.

Subparts 3 and 4. These subparts were repealed because they duplicated statutory language and did not aid the taxpayers in understanding the rule or statute.

Subpart 2. This subpart was repealed because the form of security required by the commissioner is governed by Minnesota Statutes section 297A.28.

Subpart 5. A cite reference was changed due to recent consolidation legislation.

Subpart 6. The heading was changed to reflect what is being covered by this subpart. Two statutory cites were added to assist readers in understanding the rule. Grammatical changes were made. The last sentence was stricken because there is no statutory penalty for late deposit of security.

RULE 8130.7700 EXTENSION OF TIME TO FILE RETURN AND REMIT TAX.

Subpart 1. Grammatical and form changes were made. A statutory cite was added to assist readers in understanding the rule. Language was changed to reflect recent legislation which did away with extensions to pay sales tax.

Subpart 2. This subpart was repealed because it duplicated statutory language and did not assist readers in understanding the rule or the statutes.

Subpart 3.

Item A. This condition was amended to require an extension to be in writing, contain the taxpayer's name, the account number, and the reason for the request. These items are necessary for the commissioner to be able to consider extension requests in a timely fashion. If one or more of these items is missing from a request, there could be a delay in processing it which may result in the taxpayer not receiving the extension. It is reasonable to require these items because the commissioner needs the information in order to determine whether he believes good cause exists. These requirements will not impose additional financial or administrative burdens on a taxpayer, but will facilitate the processing of these requests.

Items C & D. The existing language was deleted since the

Department will no longer require an application to be filed in duplicate. The old Item "D" had some form and grammatical changes, and was relettered Item "C."

Item E. This item was relettered to "D," and technical and grammatical changes were made, with no substantive changes. The reference to a sales tax form was stricken, see explanation to Rule 8130.3000, subpart 6, *supra*.

RULE 8130.7900 RETURN FILING; FAILURE TO FILE.

Subpart 1. Existing language was stricken and replaced with language setting forth the same requirements in a clearer list format.

Item A. The existing language was stricken and replaced with clearer language. The definition in Minnesota Statutes, section 297A.01, subdivision 10 is still applicable, but was replaced with new language which is easier to understand.

New Items B-D. These items were added to make it clear that all of these retailers have a duty to file sales and use tax returns. Item "D" is due to a recent legislative change, see explanation to Rule 8130.3900, *supra*.

Old Items C and D. These items were stricken and replaced

with new clearer language, see explanation, *supra*.

Item E. This was previously labeled "B." Language was stricken because it was confusing and vague. The new language simplifies the item with no substantive change.

Item G. This language clarifies that direct pay permit holders must file returns. The language stricken from the old item "D" covered these permit holders.

Subpart 2. Grammatical and gender changes were made, with no substantive change.

Subpart 3. Form and grammatical changes were made to the first paragraph, with no substantive change. The last paragraph was stricken because it duplicated statutory language and did not assist the reader in understanding the rule or statutes.

RULE 8130.8000 TIME LIMITATION ON ASSESSMENT AND COLLECTION.

Subpart 1. Form and grammatical changes were made. A cite reference was changed to reflect recent consolidation legislation. The time limitation was also changed to reflect recent statutory changes.

Subparts 2 and 3. These subparts were repealed because they duplicated statutory language found in Minnesota Statutes

section 297A.34 and did not assist the reader in understanding the rule or statutes.

Subpart 4. A statutory cite was added to aid the reader in understanding this rule. The time limitation was changed to reflect recent statutory changes.

Item B. A grammatical change was made. The new language replaces what was previously found in the examples which were stricken, see explanation in the introductory paragraph to this statement.

Subpart 5. This subpart was repealed because it duplicated statutory language and did not assist the reader in understanding the rule or statutes.

Subpart 6. Form changes were made. The time limitations were changed to reflect recent statutory changes. A statutory cite was added to aid the reader in understanding the rule.

Subpart 7. Grammatical changes were made. Obsolete language was stricken or updated where it conflicted with current statutes. A statutory cite was added to aid the reader in understanding the rule. Language was added to inform the reader that the time period for tax collection proceedings may be affected by a statutory suspension in cases of bankruptcy.

RULE 8130.8100 CLAIM FOR REFUND.

Subpart 1. Form and grammatical changes were made, with no substantive change. Existing language was stricken and replaced with clarifying language. A form reference was deleted, see explanation to Rule 8130.3000, subpart 6., *supra*

Subpart 2.

Item A. Language was added which requires the person who is filing for a refund to be the same person who filed the return on which the claim is based. This is necessary for the commissioner to verify the accuracy and validity of the claim. This will prevent money from being refunded to more than one person on a single transaction, or to the wrong person. It helps ensure that money being refunded goes to the right person.

Clause (1). Form and grammatical changes were made. The language referring to income tax return credits was stricken because the reference is obsolete (statute was repealed in 1983, see 1983 Minn. Laws, chapter 399, article 1, section 5). The new language makes it clear that when tax is paid on electricity used in agricultural production to a retail rural electric co-op based in Aitkin county, the actual purchaser of the electricity can file for the refund, rather than the electric company who remitted it to the State. This language is necessary because the information is not found in the sales tax chapter, but in a

session law. The language informs taxpayers of this unique situation.

Clause (2). Gender changes were made, and a historic reference date was stricken. A form number was deleted, see explanation to Rule 8130.3000, subpart 6, *supra*. A statutory cite was added to assist taxpayers in understanding the rule. The examples were stricken, see explanation in the introductory paragraph to this statement.

Clause (3). This is a new clause which covers recent legislation providing for a capital equipment exemption. This is another situation in which the purchaser of the item can apply for a refund, rather than the retailer who remitted the tax. This clause describes the procedure a taxpayer must follow when filing for a refund. Since these claims must be filed with and approved by the commissioner, the taxpayer cannot take an adjustment on a sales and use tax return. A list of required documentation was added which specifies what information the taxpayer must provide before the claim will be considered filed and the commissioner can act on it. This information is necessary in order for the commissioner to establish the accuracy and validity of the claim. It is important for all of this information to be provided to prevent double refunds, refunds to the wrong person, and improper or fraudulent claims.

Clause (4). This clause covers recent legislation

which created an exemption for certain building materials and supplies. This is also a situation in which the purchaser can file for the refund directly, rather the retailer who remitted the tax.

Clause (5). This clause covers the exception in Minnesota Statutes, section 297A.211 to the general rule that the retailer rather, rather than the purchaser must file for the refund. It is necessary to put this information into the rule because it is an exception to the general rule stated earlier in this subpart. It informs taxpayers of this exception.

Item B. Grammatical and form changes were made. The time limitation was changed to reflect recent statutory changes. A statutory cite was added to aid the reader in understanding the rule, and another was changed to reflect recent consolidation legislation. The example was repealed, see explanation in the introductory paragraph to this statement.

Item C. The first sentence was stricken and moved to a more appropriate location, in subpart 2(A) of this rule. Other form and grammatical changes were made with no substantive change. A new paragraph was added which requires the vendor to submit written evidence that all tax and interest will be refunded to the purchaser. This is necessary to implement the provisions of Minnesota Statutes section 297A.35, subd. 5 which allows a refund only if a vendor returns any refunded money to the

purchaser. The written evidence provides a method for the commissioner to verify that the statutory provisions have been complied with.

Subpart 3.

Item A. Gender and grammatical, but no substantive, changes were made.

Item B. Grammatical changes were made and the exceptions to the general rule on interest computations were specified. Historic language on interest rates was stricken and replaced with general language which cites the statutory authorization, rather than specifying the interest rate. This will prevent the rule from becoming outdated each time the interest rate is changed.

Item C. Form, gender, and grammatical changes were made with no substantive change.

Subpart 4. This subpart was repealed because the commissioner will no longer accept amended returns in lieu of Claim for Refund forms. These cause administrative burdens for the Department and for taxpayers. There are no additional reporting or financial requirements being placed on taxpayers. The same documentation that is required to file a Claim for Refund is also required to be provided with an amended return. The

elimination of this option results in a simplified system for both taxpayers and the Department. There is no advantage or incentive for a taxpayer to use an amended return instead of a Claim for Refund, so this option is eliminated.

Subpart 5. A grammatical change was made.

RULE 8130.8200.

This rule was repealed because it duplicates statutory language and does not aid the reader in understanding the statutes.

RULE 8130.8300 ABATEMENT AND INTEREST ON UNPAID LIABILITIES.

Subpart 1. This subpart was changed from specific language which sets out the interest rates, to more general language which provides that the interest rate is governed by Minnesota Statues section 270.75, subd. 5. This is necessary to prevent the rule from becoming outdated each time there is a rate change. It gives the taxpayer the information necessary to find the interest rate. The current rate is also available upon request, from the Department.

Items A-C. These items were stricken, see explanation to subpart 1, *supra*.

Subpart 2. The first paragraph was stricken because it

duplicates the statute. Clarifying form and grammatical changes were made to the second paragraph, and a statutory cite was added to assist the taxpayers in understanding the rule. The examples were repealed, see explanation in the introductory paragraph to this statement. The language regarding extension of time to pay tax was stricken to reflect recent legislation which did away with such extensions.

Subparts 3-5. These subparts were repealed because they duplicated statutory language and did not assist taxpayers in understanding the rule.

Subpart 6. The statutory cites were updated to reflect current cites of statutory provisions governing abatement. Grammatical and gender changes were made. The first sentence was changed to conform to the provisions of the governing statute. The statutory standard for abatement is whether the failure to timely pay or file is due to reasonable cause, not whether enforcement would be unjust and inequitable. The abatement amount requiring attorney general approval was stricken and replaced with general language informing the reader where to find the information in the statute. This will prevent the rule from becoming outdated each time the statutory amount is changed.

RULE 8130.8400 LIMITATIONS ON DISCLOSURE OF SALES AND USE TAX INFORMATION.

Subpart 1. The statutory cite was changed to reflect the new statutory chapter (270B) which governs confidentiality.

Subpart 2. The statutory cite was changed, see explanation in Subpart 1, *supra*.

Subpart 3. Grammatical and form changes were made to clarify this subpart. The language providing that information contained on the permit can be disclosed was stricken and replaced with the specific items that can be disclosed.

Subpart 4. Language was added to make it clear that information may also be given to the Multistate Tax Commission, pursuant to statutory authority. This is another exception to the general rule of confidentiality and thus is necessary to include in the rule regarding disclosure.

Subpart 5. Gender changes were made with no substantive change.

Subpart 5a-e. These subparts were added to inform readers of these exceptions to the general rule of confidentiality of return information. This is necessary because the information is not found in the sales tax chapter, but in a new chapter which governs classification and disclosure of Revenue Department data.

Subpart 6. This language regarding the commissioner's discretion was stricken. The language was unnecessary and did not aid the reader in understanding the rule.

Repealer. The reasons for the repeal of these rules are covered in order in the rule-by-rule analysis.

TKS:cak:statementsofneed:adminsal:05/16/90

Minnesota Department of Revenue
Taxpayer Information
Mail Station 4453
St. Paul, Minnesota 55146-4453

Sales Tax Newsletter

Number 45
January 1990
Issued quarterly

Season's Greetings

The Department of Revenue, and especially the Taxpayer Information Division, wishes you a happy and prosperous New Year. We also thank you for your cooperation in collecting sales tax and filing reporting forms. Your efforts are sincerely appreciated!

New interest rates for 1990

Beginning January 1, 1990, the interest rate on delinquent sales and use taxes will be 11 percent per year. By law, the interest rate on unpaid taxes is adjusted each year according to the "adjusted prime rate charged by banks to businesses," as determined by the Board of Governors of the Federal Reserve System.

The interest rate paid on overpayments will also be 11 percent beginning January 1, 1990.

1989 sales tax law changes

Information about the 1989 sales tax law changes is included with this mailing. Please read it! Be sure to call or write us if you have any questions.

New toll-free telephone number: 1-800-657-3777

To give you better service, we have a new toll-free telephone number for business tax information (sales tax, withholding, and corporate income tax). Now you can call directly to our telephone assistance lines from anywhere within the continental United States. This number replaces the old toll-free number (1-800-652-9747).

The toll-free line for income tax information remains the same: 1-800-652-9094.

Instruction booklet revised

The sales and use tax instruction booklet, revised November 1989, has been mailed to all current permit holders and others on our mailing list. The booklet contains general information and instructions for filing sales and use tax returns. If you have not received your copy, please write or call us.

Newsletters and fact sheets

We publish the sales tax newsletter quarterly. Our purpose is to inform you of any changes in the sales tax law, and to give you helpful filing tips and other information that may be of interest to you. Our sales tax fact sheets cover specific topics. A brief list of the subjects covered during 1989 follows. If you are missing any newsletters or fact sheets and would like them mailed to you, call or write us.

Newsletter # 42–April 1989
Campgrounds and recreational areas
Labor charges
Health care products
Federal excise tax on diesel fuel

Newsletter # 43–July 1989
1989 law changes from the general session
Oxygen tanks
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Newsletter # 44–October 1989
Art and craft retailers need permits
Sales to residents of other states or countries
Food stamp guidelines
Party plan sales
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Fabric and sewing supplies
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Fact Sheet 126–Meat Processors

Fact Sheet 127–Waste Collection and Disposal Service

Reminder–we've moved

We are no longer located at the Centennial Office Building in the Capitol Complex. We have moved almost all of our offices into one building, located across the Mississippi River from downtown St. Paul, at the intersection of Robert and Fillmore streets. The street address is 10 River Park Plaza. Visitors can use the metered parking lot at the east side of our building.

To get help or forms, write: Taxpayer Information, Mail Station 4453, St. Paul, MN 55146-4453
or call: (612) 296-6181 in the Twin Cities; elsewhere, toll-free: 1-800-657-3777

Revision of the sales tax rules and regulations

The Department of Revenue is beginning to update the sales and use tax rules. The rulemaking process is governed by the provisions of the Minnesota Administrative Procedure Act, which is found in Minnesota Statutes, Chapter 14. The proposed rules will be published in the State Register, the official publication of the State of Minnesota. Copies of the Register can be found at libraries in each county seat, in the state law library, and many other public libraries. Once published, you will have 30 days to submit comments in support of, or opposition to, the proposed rules.

The rules that are being updated first are:
•Advertising agencies –published in the December 4 edition of the State Register
•Administrative Provisions and computer software–scheduled to be published sometime in January 1990.
•Capital equipment–publish date to be scheduled

After these rules are published, the department will begin to update the rest of the sales tax rules and to draft new rules to cover taxable services. Anyone wishing to give input or get more information can contact us by calling 296-6181, or toll-free nationwide at 1-800-657-3777.

Sales to American Indians

All sales of taxable items to individual American Indians that occur off the reservation are subject to sales tax. A sale to an individual American Indian that occurs on the reservation may or may not be subject to sales tax, depending on whether that reservation has entered into an agreement with the state. Under these agreements, sales tax is collected at the time of sale on all or most sales made on that reservation, and then the state refunds the tax quarterly according to a formula. If there is no agreement, sales occurring on that reservation are exempt from sales tax. At this time, the following reservations have entered into agreements with the state:

Bois Forte Chippewa Reservation, Nett Lake
Fond du Lac Chippewa Reservation, Cloquet
Grand Portage Chippewa Reservation, Grand Portage
Leech Lake Chippewa Reservation, Cass Lake
Lower Sioux Reservation, Morton
Red Lake Chippewa Reservation, Red Lake
Upper Sioux Reservation, Granite Falls
White Earth Chippewa Reservation, White Earth

Some of the agreements exempt sales of electricity, LP or natural gas, heating oil, and telephone services which are delivered onto the reservation. When making sales to Indians on a reservation, it is important to verify whether that reservation currently has a sales tax agreement with the state, and what is covered by that agreement, since both the number of agreements and their contents are subject to change. To get more information about these agreements, call or write our office.

Sales to a Reservation Business Committee of a reservation are exempt whether, they occur on or off the reservation. Sales to these committees should be treated the same as sales to the Federal government.

Preprinted returns

Please use the preprinted returns when filing and paying your sales and use tax! Using a computer printed return or other return of your own causes delays in the processing and timely recording of information into our computer system, since the name, address, and account number on all forms other than the pre-printed returns must first be hand-verified for accuracy. This verification process increases time and expense involved in processing returns.

If you don't receive your preprinted return at the usual time, it is still your responsibility to file a return on time. You should either contact our office for a blank return, or copy the line format from a previous return on a piece of paper to report the necessary information. In either case, be sure to include your account number, name and address and period of return on the form you file.

Did you know?

The *total retail price of drinks including the liquor, ice and mix is subject to the 8.5 percent tax* and any applicable city taxes. The appropriate liquor taxes must be charged, even if you itemize the price of each item in a drink.

Handling charges on non-taxable items such as clothing are not taxable.

Sales of *Christmas trees and wreaths* are taxable.

Not all hospitals and nursing homes are non-profit. *Hospitals and nursing homes that operate for a profit must pay sales or use tax* on their purchases of taxable items.

If you will be out of town or unavailable to file your sales and use tax return on the normal due date, you can send your return in early.

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

In the Matter of the Adoption of the Rules of the Minnesota Department of Revenue Governing Sales and Use Tax Administration

DECLARATION OF COUNSEL

I, Barry R. Greller, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed without exception. For Attorney General billing purposes, the four-digit docket client is 0735.

Dated: August 9, 1990.

Barry R. Greller
Special Assistant
Attorney General

1507

REVENUE
MAILROOM

JUN 14 1990

MINNESOTA TAXPAYERS ASSOCIATION

480 Cedar St., Suite 175, St. Paul, Minnesota 55101 Telephone (612) 224-7477

June 11, 1990

Ms. Terese Koenig-Smith
Appeals and Legal Services Division
Minnesota Department of Revenue
Mail Station 2220
Saint Paul, MN 55146-2220

Dear Terese:

Thank you for sending me the proposed sales tax rules relating to administration, tax payments, returns, assessments, and collection. I have reviewed the proposed rules and I have just three comments. (I have discussed my comments with you by telephone.)

1. In Part 8130.2350 you outline the computation of sales tax at various tax rates. This is repeated later in the rules for computing use tax. My concern relates to the language first found on page one, line 14. If the purchase is "between 13 cents to and including 37 cents", what is the tax on 13 cents? Is the language inclusive of 13 cents?

2. The 1990 legislature passed a bill providing for an exemption for the sale or lease of ambulances. You may want to reference this new law in the exemption section, page 20.

3. In Part 8130.7500, subp. 5, dealing with reporting requirements, the rules specify what should be reported on each line of the return. If the Department decides to redesign the sales tax return, your rules become obsolete even if no substantive change is made. You may want to consider listing the requirements but not the line numbers on the present return.

Please be aware that the Minnesota Taxpayers Association members support the revision of the sales tax rules. We appreciate the opportunity to comment on this first set of rules. We offer our assistance in your further work on rules modifications.

Sincerely,

Dorothy

Dorothy A. McClung
Executive Director

DAM/lg

cc: Jerome Geis

State of Minnesota

STATE REGISTER

Department of Administration—Print Communications Division



Rules edition
Published every Monday

29 May 1990

Volume 14, Number 48

Pages 2743-2830

STATE REGISTER

Judicial Notice Shall Be Taken of Material Published in the *State Register*

The *State Register* is the official publication of the State of Minnesota, containing executive and commissioners' orders, proposed and adopted rules, official notices, state and non-state contracts, contract awards, grants, supreme court and tax court decisions, and a monthly calendar of cases to be heard by the state supreme court.

***A Contracts Supplement* is published every Thursday and contains additional state contracts and advertised bids, and the most complete source of state contract awards available in one source.**

Printing Schedule and Submission Deadlines

Vol. 14 Issue Number	*Submission deadline for Adopted and Proposed Rules, Commissioners' Orders**	*Submission deadline for Executive Orders, Contracts, and Official Notices**	Issue Date
48	Monday 14 May	Monday 21 May	Tuesday 29 May
49	Monday 21 May	Friday 25 May	Monday 4 June
50	Friday 25 May	Monday 4 June	Monday 11 June
52	Monday 4 June	Monday 11 June	Monday 18 June

*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 *State Register* editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

The *STATE REGISTER* is published every Monday (Tuesday when Monday is a holiday) by the State of Minnesota, Department of Administration, Print Communications Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to *Minnesota Statutes* § 14.46. A *STATE REGISTER Contracts Supplement* is published every Thursday. The Monday edition is the vehicle for conveying all information about state agency rulemaking, including official notices; hearing notices; proposed, adopted and emergency rules. It also contains executive orders of the governor; commissioners' orders; state contracts and advertised bids; professional, technical and consulting contracts; non-state public contracts; state grants; decisions of the supreme and tax courts; a monthly calendar of scheduled cases before the supreme court; and other announcements. The Thursday edition contains additional state contracts and advertised bids, and the most complete listing of contract awards available in one source.

In accordance with expressed legislative intent that the *STATE REGISTER* be self-supporting, the following subscription rates have been established: the Monday edition costs $130.00 per year and includes an index issue published in August (single issues are available at the address listed above for $3.50 per copy); the combined Monday and Thursday editions cost $195.00 (subscriptions are not available for just the *Contracts Supplement*); trial subscriptions are available for $60.00, include both the Monday and Thursday edition, last for 13 weeks, and may be converted to a full subscription anytime by making up the price difference. No refunds will be made in the event of subscription cancellation.

Both editions are delivered postpaid to points in the United States, second class postage paid for the Monday edition at St. Paul, MN, first class for the Thursday edition. Publication Number 326630 (ISSN 0146-7751).

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.

Rudy Perpich, Governor

Sandra J. Hale, Commissioner
Department of Administration

Stephen A. Ordahl, Director
Print Communications Division

Robin PanLener, Editor

Paul Hoffman, Assistant Editor

Debbie George, Circulation Manager

Bonita Karels, Staff Assistant

FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

SENATE

Briefly-Preview—Senate news and committee calendar; published weekly during legislative sessions.

Perspectives—Publication about the Senate.

Session Review—Summarizes actions of the Minnesota Senate.

Contact: Senate Public Information Office
Room 231 State Capitol, St. Paul, MN 55155
(612) 296-0504

HOUSE

Session Weekly—House committees, committee assignments of individual representatives; news on committee meetings and action. House action and bill introductions

This Week—weekly interim bulletin of the House.

Session Summary—Summarizes all bills that both the Minnesota House of Representatives and Minnesota Senate passed during their regular and special sessions.

Contact: House Information Office
Room 175 State Office Building, St. Paul, MN 55155
(612) 296-2146

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NOTICE: How to Follow State Agency Rulemaking in the *State Register*

The ***State Register*** is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the ***State Register***. Published every Monday, the ***State Register*** makes it easy to follow and participate in the important rulemaking process. Approximately 75 state agencies have the authority to issue rules. Each agency is assigned specific ***Minnesota Rule*** chapter numbers. Every odd-numbered year the ***Minnesota Rules*** are published. This is a ten-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Proposed and adopted emergency rules do not appear in this set because of their short-term nature, but are published in the ***State Register***.

If an agency seeks outside opinion before issuing new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION in the ***Official Notices*** section of the ***State Register***. When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the ***State Register***. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the ***State Register*** as **Adopted Rules**. These final adopted rules are not printed in their entirety in the ***State Register,*** only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the ***State Register***, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the ***Minnesota Guidebook to State Agency Services.***

The ***State Register*** features partial and cumulative listings of rules in this section on the following schedule: issues 1-13 inclusive; issues 14-25 inclusive; issue 26, cumulative for issues 1-26; issues 27-38 inclusive; issue 39, cumulative for 1-39; issues 40-51 inclusive; and issue 52, cumulative for 1-52. An annual subject matter index for rules appears in August. For copies of the ***State Register***, a subscription, the annual index, the ***Minnesota Rules*** or the ***Minnesota Guidebook to State Agency Services***, contact the Print Communications Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000 or toll-free in Minnesota 1-800-9747.

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Proposed Rules

Pursuant to Minn. Stat. §§ 14.22, 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 25 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 the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 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 §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Board of Nursing

Proposed Permanent Rules Relating to Licensing and Registration

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Nursing (hereinafter "Board") intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1988). The statutory authority to adopt the rules is *Minnesota Statutes* §§ 148.191, subd. 2 and 148.231, subd. 1.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Board will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1988).

Comments or written requests for a public hearing must be submitted to:

Joyce M. Schowalter
Executive Director
Minnesota Board of Nursing
Suite 108
2700 University Avenue West
St. Paul, Minnesota 55113
Telephone: (612) 642-0567

The proposed rules may be modified if the modifications are supported by data and views submitted to the Board and do not result in a substantial change in the proposed rules as noticed.

A copy of the rules is attached.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Joyce M. Schowalter upon request.

Minnesota Statutes § 14.115 specifies certain actions which an agency must take if an agency engages in rulemaking which may affect small businesses. It is the Board's position that the Board's rules are not subject to section 14.115 pursuant to subdivision 7(b) or (c). Nevertheless, should the rules be subject to section 14.115 and it is determined that they will impact on small business, the Statement of Need and Reasonableness addresses this impact.

If no hearing is required, upon adoption of the rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of

the date of submission to the Attorney General. 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 adopted rules must submit the written request to Joyce M. Schowalter.

Dated: 11 May 1990.

Joyce M. Schowalter
Executive Director

Rules as Proposed

PROFESSIONAL AND PRACTICAL PROGRAM APPROVALS

6301.1700 CLINICAL SETTINGS.

Subpart 1. **Use of clinical settings ~~absent affiliation.~~** ~~If~~ Whenever a program uses a clinical setting to meet the requirements of parts 6301.1500 to 6301.2200 ~~and has no affiliation with that clinical setting, then~~ registered professional nurse faculty members must be responsible for determining clinical learning activities and for guiding and evaluating students in that setting.

Subps. 2. to 4. [See Repealer.]

6301.1800 NURSING ABILITIES TO BE EVALUATED.

[For text of subps 1 to 5, see M.R.]

Subp. 6. **Delegated medical treatment.** Students must be evaluated for the ability to:

[For text of items A to L, see M.R.]

M. observe effects of the administration of a prescribed medication; ~~and~~

N. follow procedure for working with controlled substances in the administration of prescribed medication; and

O. implement treatment related to cardiopulmonary function.

[For text of subps 7 and 8, see M.R.]

LICENSURE OF PROFESSIONAL AND PRACTICAL NURSES

~~6315.0100~~ 6305.0100 DEFINITIONS.

Subpart 1. **Scope.** As used in parts ~~6315.0100~~ 6305.0100 to ~~6315.0700~~ 6305.0700, the following terms have the meanings given them.

[For text of subps 2 to 7, see M.R.]

Subp. 7a. **Disaster.** "Disaster" means an occurrence such as a tornado, storm, flood, high water, earthquake, drought, blizzard, pestilence, fire, explosion, building collapse, commercial transportation wreck, or other situation that causes human suffering or create human needs that require substantial assistance and exceed the health care resources of the community.

[For text of subps 8 and 9, see M.R.]

Subp. 10. **Final term of study.** "Final term of study" means the last academic period (quarter, term, session, or semester) that is necessary for an applicant to complete graduation requirements. The term must have officially begun at least one day before the examination.

[For text of subps 11 to 14, see M.R.]

Subp. 15. and 16. [See Repealer.]

[For text of subps 17 to 21, see M.R.]

~~6315.0200~~ 6305.0200 PURPOSE AND AUTHORITY.

Parts ~~6315.0100~~ 6305.0100 to ~~6315.0700~~ 6305.0700 are adopted pursuant to *Minnesota Statutes*, section 148.191. The parts pertain to the authorization to practice, the requirements for licensure by examination, the requirements for licensure without examination, and nullification of applications. Part ~~6315.0400~~ 6305.0400 applies to applicants who have not passed an examination acceptable to the board. Part ~~6315.0500~~ 6305.0500 applies to applicants who have passed an examination acceptable to the board.

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.

~~6315.0300~~ 6305.0300 AUTHORIZATION TO PRACTICE NURSING.

Subpart 1. **Required authorization.** A Minnesota license and current registration certificate or a permit is required if an individual practices professional nursing as defined in *Minnesota Statutes*, section 148.171, clause (3), or practical nursing as defined in *Minnesota Statutes*, section ~~148.29~~ 148.171, ~~subdivision~~ 4 clause (5), whether for monetary compensation or as a volunteer, or if an individual is a faculty member for an out-of-state nursing or nursing assistant program and is supervising nursing students or nursing assistant students in Minnesota except as provided in *Minnesota Statutes*, ~~sections~~ section 148.271 ~~and 148.295~~. If the permit is revoked or expires, whichever occurs first, an applicant must not practice nursing until a license has been issued.

~~Minnesota licensure is not required for a nurse licensed in another jurisdiction who is in Minnesota as a student enrolled in a course of study which involves nursing practice, such as a course leading to a higher degree or certification in a nursing specialty or to enhanced skills in a clinical field.~~ Exceptions as identified in *Minnesota Statutes*, section 148.271, include the following:

A. Nursing assistance in an emergency as referenced in *Minnesota Statutes*, section 148.271, clause (1), is interpreted to include nursing service as follows:

(1) to patients during transport into, through, or out of Minnesota including during flights and while at airports or depots or during the period of stabilization in preparation for transport;

(2) for disaster relief during a period not to exceed seven days; and

(3) providing nursing services at the scene of an accident.

B. Formal, structured course of study as referenced in *Minnesota Statutes*, section 148.271, clause (6), is interpreted to mean that the course is sponsored by an educational institution or the educational department of a health care facility; has written, measurable objectives; has an organized plan of study which includes instructors and, when appropriate, clinical supervisors; uses a formalized method of evaluating student performance; and issues a document which verifies completion of the course.

C. Nursing program approved by the board as referenced in *Minnesota Statutes*, section 148.271, clause (7), is interpreted to include any nursing program in the United States or Canada which is approved by the state or province in which the program is located. However, the supervising instructor must hold a Minnesota registered nurse license and current registration.

Subp. 1a. **Authorized abbreviations.** The categories of nursing personnel listed below may use abbreviations as follows:

A. Public health nurse, abbreviated "PHN."

B. Registered nurse, abbreviated "RN," may only be used by a registered nurse who is currently registered in Minnesota or an applicant for licensure in Minnesota who holds a permit as authorized in subpart 9.

C. Licensed practical nurse, abbreviated "LPN," may only be used by a licensed practical nurse who is currently registered in Minnesota or an applicant for licensure in Minnesota who holds a permit as authorized in subpart 9.

D. Registered nurses and licensed practical nurses who are licensed in Minnesota but who are not currently registered may use the abbreviation "RN" and "LPN" respectively for personal identification provided it is not used for monetary gain.

E. Nursing assistants who are on the long-term care registry of the board are nursing assistants/registered, abbreviated "NA/R."

[For text of subps 2 and 3, see M.R.]

Subp. 4. **Eligibility for permit to practice nursing with direct supervision.** The board shall grant an applicant who is not the subject of a pending investigation or disciplinary action a permit to practice nursing under the direct supervision of a registered nurse if the applicant:

[For text of items A to F, see M.R.]

G. has graduated from an approved program as specified in part ~~6315.0400~~ 6305.0400, subpart 4 or 5; and

[For text of item H, see M.R.]

[For text of subp 5, see M.R.]

Subp. 6. **Permit to practice nursing without direct supervision.** The board shall grant an applicant who is not the subject of a pending investigation or disciplinary action a permit to practice nursing that does not require direct supervision if the applicant:

[For text of items A to D, see M.R.]

Subp. 7. **Length of permits.** The permit authorizing practice under the direct supervision of a registered nurse expires eight weeks after the administration of the examination or upon the applicant's notification by the board of failure on the examination, whichever occurs first. The board ~~shall not~~ may extend this permit ~~even if an applicant passes the examination~~ an additional eight weeks if the applicant's results are delayed due to a processing delay by another nurse licensing agency or until the matter is resolved for the applicant who is under investigation by the board.

The permit authorizing practice without direct supervision expires six months after the date of issue, but the board shall extend this permit if licensure cannot occur because of a processing delay by another nurse licensing agency.

Subp. 8. **Revocation of permit.** The board shall revoke a permit in the following situations.

A. The board shall revoke a permit if the permit holder:

(1) does not write the scheduled examination;

(2) has been notified of the results of the examination;

(3) is licensed by the board;

(4) did not write in another jurisdiction an examination acceptable to the board;

(5) did not pass an examination in another jurisdiction with a score acceptable to the board; ~~or~~

(6) is not eligible for licensure; or

(7) did not graduate.

B. The board may act to decide whether to revoke a permit if the board determines that:

(1) an applicant for licensure by examination did not meet the graduation ~~requirement specified~~ requirements in part ~~6315.0400~~ 6305.0400, subpart 4 or 5;

(2) an applicant for licensure without examination presented fraudulent evidence of licensure in another jurisdiction or Canadian province; or

(3) an applicant has engaged in conduct which constitutes grounds for denial of a license.

Subp. 9. **Designated titles.** The permit holder who is an applicant for registered nurse licensure by examination shall use the title "graduate nurse," abbreviated "GN." The permit holder who is an applicant for registered nurse licensure without examination shall use the title registered nurse, abbreviated "RN." The permit holder who is an applicant for licensed practical nurse licensure by examination shall use the title "graduate practical nurse," abbreviated ~~as~~ "GPN." The permit holder who is an applicant for licensed practical nurse licensure without examination shall use the title "licensed practical nurse," abbreviated "LPN."

~~6315.0400~~ 6305.0400 REQUIREMENTS FOR LICENSURE BY EXAMINATION.

Subpart 1. **Licensure application.** An applicant shall obtain the application forms for licensure and instructions for filing from the board. An applicant shall respond to questions on the application that relate to ~~causes for denial of licensure listed~~ the grounds for disciplinary action in *Minnesota Statutes*, section 148.261 ~~for the registered nurse and *Minnesota Statutes*, section 148.297 for the licensed practical nurse~~. An applicant shall submit true information. Falsification or omission of information ~~constitutes unethical conduct and~~ provides grounds for ~~denial of a license~~ disciplinary action. The application must be notarized. If an application is received without a fee, it shall be returned to the applicant.

[For text of subp 2, see M.R.]

Subp. 3. **Further evidence ~~of good moral character and good mental health.~~** ~~An applicant shall verify on the application that he or she is of good moral character and in good mental health. The board may require further evidence of an applicant's character or mental health if the board has information satisfying one of the following conditions:~~

~~A. implying a violation of a federal, state, or local law or rule;~~

~~B. constituting grounds for denial of a license, if true;~~

~~C. implying that the applicant provided inaccurate information or omitted information solicited on the licensure or examination applications;~~

~~D. pertaining to behavior of the applicant during the applicant's educational period which suggests that the applicant is not of good moral character or not in good mental health;~~

~~E. showing that the applicant may have cheated on the licensing examination;~~

~~F. showing that the applicant was discharged from employment;~~

~~G. showing that disciplinary action was taken or is pending or the applicant is under investigation by another nurse licensing agency; or~~

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.

~~H. showing that at the time of board action on an application the applicant is hospitalized for treatment of mental illness~~ The board may require further information of the applicant in order to determine whether the applicant has engaged in conduct warranting disciplinary action as set forth in *Minnesota Statutes*, section 148.261.

Subp. 4. **Graduation from approved professional nursing program.** An applicant who has graduated from an approved professional nursing program is eligible for licensure as a registered nurse if the applicant's nursing education includes classroom and clinical instruction. The learning activities must have been provided ~~in accordance with~~ according to either item A or B.

[For text of items A and B, see M.R.]

[For text of subp 5, see M.R.]

Subp. 6. **Transcripts necessary for applicants educated in foreign countries.** An applicant who has graduated from a program in another country shall submit a transcript in addition to the affidavit of graduation required in subpart 8. The applicant shall also submit a course description if the entries on the transcript are not self-explanatory as to course content. In lieu of the course description, an official of the program may complete a form provided by the board. On a notarized form, the official must attest to the applicant's participation in classroom and clinical instruction consistent with the required learning activities in part 6315.0400, subpart 4, for registered nurse applicants or subpart 5 for licensed practical nurse applicants. If the transcript and course description are not in English, a translation must be done by an agency or individual specified by the board. The cost of this translation must be paid by the applicant.

If an official transcript cannot be submitted because of political unrest or alleged governmental reprisal if the school releases the documents or if the original school records were destroyed because of a disaster or record destruction decision, or the school is closed, the board will accept one of the following:

A. verification of the applicant's nursing education from the Commission on Graduates of Foreign Nursing Schools;

B. verification of the applicant's nursing education from a licensing authority;

C. verification of the applicant's nursing education from a credentialing body for refugees which was established by a national or international nursing or governmental organization;

D. a copy of a transcript of the applicant's nursing education from a college or university that accepted the applicant for further study, the copy certified as a true and correct copy of the transcript in the files and records of the college or university; or

E. a copy of the transcript of the applicant's nursing education from another licensing authority, the copy certified as a true and correct copy of the transcript in the files and records of the licensing authority.

If the entries on an official transcript are not self-explanatory as to course content and further educational information cannot be obtained because of political unrest, alleged governmental reprisal if the school releases the information, or if the records have been destroyed, the board shall accept the verifications of item A or C.

[For text of subp 7, see M.R.]

Subp. 8. **Affidavit of graduation.** An applicant shall have an affidavit of graduation completed and signed by an official of the nursing program. The completed affidavit must bear the seal or stamp of the program. For an applicant who has graduated from a program in another country, if the school does not notarize or does not complete the affidavit, the transcript may be accepted in lieu of the notarization. An applicant must submit the affidavit ~~prior to~~ before the examination unless the applicant will be writing the examination before graduation. An applicant who graduates after writing an examination shall submit the affidavit after graduation but before licensure. An applicant who fails an examination shall submit the affidavit before reexamination.

If the board finds after the examination has been written that the affidavit of graduation was completed in error, the applicant's permit shall be considered void. The examination results shall not be released nor action taken on the application until the applicant has graduated. Graduation requirements must be met no later than the next available school term following notification of nongraduation. If there is evidence that the applicant was aware of nongraduation status before the examination and did not inform the board, the matter may be handled through a disciplinary proceeding.

[For text of subp 9, see M.R.]

Subp. 10. **Fees.** The board shall charge the following fees.

A. The licensure fee is $75 for an applicant for registered nurse licensure and $50 for an applicant for licensed practical nurse licensure~~, effective January 1, 1987~~. This fee must be paid to the board and must be received ~~prior to~~ before evaluation of an applicant's qualifications for examination and licensure.

B. The examination fee is set by the examination vendor and must be submitted to the agency specified by the board each time an applicant wants to be scheduled to write an examination.

C. The reexamination fee is $50 for an applicant for registered nurse licensure~~, effective January 1, 1987~~. The fee must be paid to the board.

D. ~~Effective January 1, 1987,~~ A late filing fee of $50 must be remitted to the board if one or more of the following materials is not properly postmarked or delivered by the deadline:

(1) licensure application and fee;

(2) examination application and fee;

(3) reexamination application and fee.

E. Personal checks are not accepted. Each remittance must be in the form of United States currency, cashier's check, or money order.

F. If for any reason a license is not issued, fees are not refundable.

Subp. 11. **Deadline for submitting material.** The deadline for submitting all required applications and fees is 56 calendar days preceding an examination. The board shall use the postmark and address to determine compliance. If the required applications and fees are not received on time, the applicant must pay a late filing fee.

~~All other documents,~~ Late applications and fees, and the late filing fee if applicable, must be received no later than 4:30 p.m. two working days before the examination. All other documents must be received no later than 4:30 p.m. the day ~~prior to~~ before an examination.

Subp. 12. **Written examination.** The licensure examinations are the examinations of the National Council of State Boards of Nursing, Inc. ~~The passing score required on the National Council Licensure Examination for Registered Nurses (NCLEX-RN) is a scaled score of 1,600. The passing score required on the National Council Licensure Examination for Practical Nurses (NCLEX-PN) is a scaled score of 350~~ An applicant must receive a pass on the National Council Licensure Examination.

[For text of items A to F, see M.R.]

G. An applicant who fails an examination may apply for reexamination on a reexamination application supplied by the board and must obey all other applicable rules. An applicant shall respond to questions on the application that relate to the grounds for disciplinary action listed in *Minnesota Statutes*, section 148.261. The board may require further information of the applicant in order to determine whether the applicant has engaged in conduct warranting disciplinary action. An applicant must submit true information. Falsification or omission of information provides grounds for denial of a license. The application must be notarized. If an application is received without a fee, it shall be returned to the applicant.

H. An applicant may write the examination for Minnesota licensure specified in this subpart ~~12~~ in another jurisdiction if the board authorizes the applicant to do so and the jurisdiction is willing to administer the examination. The applicant must meet any procedural requirements and pay any fees set by the other jurisdiction.

~~6315.0500~~ 6305.0500 REQUIREMENTS FOR LICENSURE WITHOUT EXAMINATION.

Subpart 1. **Proof of licensure in another jurisdiction or ~~country~~ Canada.** To be licensed to practice nursing in Minnesota without writing an examination, an applicant must submit proof, on a form provided by the board, that ~~he or she~~ the applicant is licensed in another jurisdiction~~,~~ or Canadian province~~, or country~~ and has passed an examination acceptable to the board as listed in subparts 11 and 12. Proof of licensure must be obtained from the jurisdiction~~,~~ or Canadian province~~, or country~~ in which the applicant ~~was first licensed and~~ wrote an acceptable examination as well as the jurisdiction or Canadian province in which the applicant was most recently employed. Proof of licensure must be obtained from the jurisdiction in which the applicant was first licensed, if this is different from the jurisdiction in which the applicant was licensed based on an acceptable examination.

Subp. 2. **Licensure application.** An applicant shall obtain the application forms and instructions for filing from the board. An applicant shall respond to questions on the application that relate to ~~causes for denial of licensure~~ the grounds for disciplinary action listed in *Minnesota Statutes*, section 148.261~~,~~ ~~for the registered nurse and *Minnesota Statutes*, section 148.297, for the licensed practical nurse.~~ An applicant shall submit true information. Falsification or omission of any information ~~constitutes unethical conduct and~~ provides grounds for denial of a license. The application must be notarized. If an application is received without a fee, it shall be returned to the applicant. Application for licensure begins on the date when an application and fee are received by the board.

Subp. 3. **Fee.** The fee for licensure is $55 ~~for registered nurse applicants and $55 for licensed practical nurse applicants, effective January 1, 1987~~. This fee must be paid to the board and must be received ~~prior to~~ before evaluation of an applicant's qualifications

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for licensure. Personal checks are not accepted. Remittance must be in the form of United States currency, cashier's check, or money order. If for any reason a license is not issued, the fee is not refundable.

Subp. 4. **Further evidence ~~of good moral character and good mental health.~~** ~~An applicant shall verify on the application that he or she is of good moral character and in good mental health. The board may require further evidence of an applicant's character or mental health if the board has information satisfying one of the following conditions:~~

~~A. implying a violation of a federal, state, or local law or rule;~~

~~B. constituting grounds for denial of a license, if true;~~

~~C. showing that disciplinary action was taken or is pending or the applicant is under investigation by another nurse licensing agency;~~

~~D. showing that the applicant provided inaccurate information or omitted information solicited on the licensure application;~~

~~E. showing that the applicant was discharged from employment; or~~

~~F. showing that at the time of application the applicant is hospitalized for treatment of mental illness~~ The board may require further information of the applicant in order to determine whether the applicant has engaged in conduct warranting disciplinary action as set forth in *Minnesota Statutes*, section 148.261.

[For text of subp 5, see M.R.]

Subp. 6. **Waiver of graduation requirement.** The board shall waive the requirement of graduation from an approved nursing program if:

[For text of item A, see M.R.]

B. an applicant for licensed practical nurse licensure has been licensed by another jurisdiction and passed ~~NCLEX-PN with a score~~ an acceptable examination as specified in subpart 12 and has had at least 4,000 clock hours of employment as a licensed practical nurse in the 60 calendar months preceding application for licensure in Minnesota.

Subp. 7. **Current nursing education or experience.** An applicant who has been employed in nursing or who has graduated from an approved nursing program during the two years immediately preceding application for licensure is exempt from the continuing education requirements ~~as specified~~ in subparts 8 and 9. Employment references must be submitted to verify employment dates. An affidavit of graduation or evidence from the nurse licensing agency in another jurisdiction or Canadian province must be submitted to verify the graduation date.

Subp. 8. **Continuing education for registered nurses.** An applicant for registered nurse licensure ~~who~~ must participate in continuing education activities as follows:

A. If the applicant has not been employed as a registered nurse during the two years immediately preceding receipt by the board of the application, the applicant must participate in continuing education activities which meet the criteria ~~specified~~ in part 6310.2800 and must submit an affidavit of continuing education. The continuing education participation must have occurred within the 24 months preceding board action on the application for licensure.

B. If an applicant for registered nurse licensure has not been employed as a registered nurse at least 320 hours within the four years preceding receipt by the board of the application for licensure, the applicant shall successfully complete a refresher course and submit an affidavit of completion. The refresher course must be completed within the 24 months immediately preceding board action on the application for licensure.

Subp. 9. **Continuing education for practical nurses.** An applicant for licensed practical nurse licensure ~~who~~ must participate in continuing education as follows:

A. If the applicant has not been employed ~~in nursing~~ as a licensed practical nurse during the two years immediately preceding receipt by the board of the application, the applicant must participate in ~~one of the following continuing education activities: at least 15 clock hours of a nurse refresher course;~~ at least 15 clock hours of nursing-related continuing education courses~~; or an orientation program at least 15 clock hours in length conducted by an employer or potential employer~~. The continuing education must have occurred within the 24 months preceding board action on the application for licensure. The applicant must submit an affidavit of continuing education.

B. If an applicant for licensed practical nurse licensure has not been employed as a licensed practical nurse at least 320 hours within the four years preceding receipt by the board of the application for licensure, the applicant shall successfully complete a refresher course and submit an affidavit of completion. The refresher course must be completed within the 24 months immediately preceding board action on the application for licensure.

Subp. 10. **Affidavit of graduation.** An applicant must submit an affidavit of graduation, signed by an official of the nursing program and bearing the seal or stamp of the program. If an official school transcript is submitted, it shall be accepted in lieu of an affidavit of graduation. An affidavit is not required if the licensing authority in another jurisdiction or Canadian province verifies graduation

from an approved program. If a licensed practical nurse applicant has not graduated from an approved program, the applicant shall send his or her employer a form supplied by the board for documentation of 4,000 clock hours of employment. The form must be completed by the employer and returned to the board. The board shall determine if the employment fulfills the requirement of *Minnesota Statutes*, section ~~148.291~~ 148.211, subdivision ~~3~~ 4.

Subp. 11. **Acceptable examinations for registered nurses.** The requirement of having passed a written examination acceptable to the board for registered nurse licensure is fulfilled if an applicant has:

A. passed a state-constructed examination or the State Board Test Pool Examination for Registered Nurses (SBTPE-RN) ~~prior to~~ before 1957;

B. passed the SBTPE-RN after December 31, 1956, and before July 1, 1982, with a scaled score of at least 350 on each of the five parts; ~~or~~

C. passed NCLEX-RN after June 30, 1982, and before February 1, 1989, with a scaled score of 1,600; or

D. passed NCLEX-RN after January 31, 1989, with a designation of pass.

Subp. 12. **Acceptable examinations for practical nurses.** The requirement of having passed a written examination acceptable to the board for licensed practical nurse licensure is fulfilled if an applicant has:

A. passed a state-constructed examination or the State Board Test Pool Examination for Practical Nurses (SBTPE-PN) ~~prior to~~ before 1960;

B. passed the SBTPE-PN after December 31, 1959, and before January 1, 1970, with a scaled score of at least 370;

C. passed the SBTPE-PN after December 31, 1969, and before October 1, 1982, with a scaled score of at least 400; ~~or~~

D. passed NCLEX-PN after September 30, 1982, and before October 1, 1988, with a scaled score of at least 350; or

E. passed NCLEX-PN after September 30, 1988, with a designation of pass.

Subp. 13. **Insufficient score.** An applicant for licensure whose examination score does not meet the Minnesota score requirement ~~specified~~ in subpart 11 or 12 must write the examination currently used in Minnesota, achieve the passing score established for the current examination, and meet the requirements ~~specified~~ in part ~~6315.0400~~ 6305.0400, subparts 2, 10, 11, and 12.

REGISTRATION OF PROFESSIONAL AND PRACTICAL NURSES

6310.2600 DEFINITIONS.

[For text of subps 1 to 4, see M.R.]

Subp. 5. **Continuing education ~~evidence~~ report form.** "Continuing education ~~evidence~~ report form" means the printed document provided by the board for use in reporting the information required in parts 6310.2800 to 6310.2900.

Subp. 5a. **Deferment.** "Deferment" means postponement of participation in and reporting of all or part of the continuing education activities for renewal.

[For text of subp 6, see M.R.]

Subp. 6a. **Late application fee.** "Late application fee" means the penalty fee ~~as~~ authorized in *Minnesota Statutes*, ~~sections~~ section 148.231, subdivision 1 ~~and 148.294, subdivision 1~~.

[For text of subps 7 to 8, see M.R.]

Subp. 8a. and 8b. [See Repealer.]

[For text of subps 8c and 9, see M.R.]

Subp. 9a. **Permit.** "Permit" means the document issued by the board to an applicant for reregistration that authorizes practice of professional or practical nursing in Minnesota during participation in a formal, structured refresher course for nurses that includes clinical practice.

Subp. 9b. **Practical nurse.** "Practical nurse" means a person authorized by the board to engage in the practice of practical nursing as defined in *Minnesota Statutes*, section ~~148.29, subdivision 4~~ 148.171, clause (5).

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Subp. ~~9b~~ 9c. **Professional nurse.** "Professional nurse" means a person authorized by the board to engage in the practice of professional nursing as defined in *Minnesota Statutes*, section 148.171, clause (3).

[For text of subps 10 to 14, see M.R.]

Subp. 15. **Registration period.** "Registration period" means a 24-month interval of time for which a registration certificate is issued. The period ~~begins the date the registration certificate is issued and~~ ends the last day of the licensee's month of birth in an even- or odd-numbered year according to the licensee's year of birth. The length may vary for a nurse's first registration period or reregistration period. For registration renewal, the period starts on the first day of the month following expiration of the previous registration period.

[For text of subp 16, see M.R.]

6310.2800 REGISTRATION RENEWAL REQUIREMENTS.

Subpart 1. **Requirement.** Each licensee is responsible for applying for renewal of registration if the person wishes to be authorized to practice as a professional or practical nurse in Minnesota.

Licensees are required to complete a registration renewal application and pay a renewal fee. In addition, professional nurses are required to accrue 30 contact hours of acceptable continuing education activities for registration renewal ~~on August 1, 1982, and thereafter~~. Contact hours shall be accrued during a 24-month continuing education participation period ending one month before the professional nurse's registration expiration date. The number of contact hours and length of participation period may vary for a professional nurse's first registration renewal following licensure or reregistration ~~in accordance with~~ according to part 6310.2900, subpart 6.

Subp. 2. **Demonstration of professional nursing skill.** At least one of the acceptable continuing education activities required for registration renewal ~~on or after August 1, 1986,~~ shall require the professional nurse to show evidence of having successfully demonstrated to the instructor skill in performing one or a portion of a professional nursing function as indicated in *Minnesota Statutes*, section 148.171, clause (3).

Subp. 4. **Application submission.** ~~Licensed practical nurses and registered nurses~~ Licensees shall submit a completed, signed application for registration renewal and a renewal fee to the board office. Renewal applications from professional nurses must be accompanied by a completed continuing education ~~evidence~~ report form meeting the requirements of parts 6310.2800 and 6310.2900. Renewal applications, fees, and continuing education report forms must be received in the board office in the month preceding the month in which the applicant's registration expires. Resubmission of a previously incomplete or incorrect application form and renewal fee received before the month in which the licensee's registration expires, shall constitute timely submission if received in the board office on or before the licensee's registration expiration date.

~~In 1988 and 1989 a registration renewal application and a renewal fee from a professional nurse who held current registration on July 31, 1987, shall be received in the board office on or before May 31 in the year in which the nurse's registration expires. Resubmission of a previously incomplete or incorrect application and renewal fee received on or before May 31 in the year in which the nurse's registration expires, shall constitute timely submission if received in the board office on or before July 31 of that year.~~

Subp. 5. **Late application fee.** A licensee filing for registration renewal shall pay a late application fee, as well as the renewal fee for the current renewal period if the application or renewal fee is received in the board office during the month in which the licensee's registration expires.

~~In 1988 and 1989 a registration renewal application received from a professional nurse who held current registration on July 31, 1987, shall incur a late application fee if the application or renewal fee is received in the board office during June or July in the year in which the nurse's registration expires.~~

[For text of subp 6, see M.R.]

Subp. 7. **True information.** A licensee shall submit true information. Falsification of any evidence for any registration period or failure to comply with parts 6310.2800 and 6310.2900 for any two registration periods shall ~~constitute unethical conduct and~~ provide grounds for ~~suspension or revocation of a license~~ disciplinary action.

[For text of subp 8, see M.R.]

6310.2900 REGISTRATION RENEWAL PROCEDURES.

[For text of subpart 1, see M.R.]

Subp. 2. **Application mailing date.** The board shall mail a registration renewal application at least three full calendar months before a licensee's registration expiration date ~~to the last known address of every licensee holding a current renewal certificate~~. The renewal application shall be mailed to the licensee's last known address. Failure to receive the ~~notice~~ registration renewal application shall not relieve a ~~license holder~~ licensee of the obligation to comply with parts 6310.2800 and 6310.2900. ~~In 1988 and 1989 registration renewal applications will be mailed by April 1 to professional nurses who held current registration on July 31, 1987.~~

Subp. 3. **Late submission.** An application and renewal fee received in the board office during the month in which the licensee's registration expires, shall not be processed and shall be returned to a licensee for payment of a late application fee. ~~In 1988 and 1989 a registration renewal application from a professional nurse who held current registration on July 31, 1987, which was received in the board office during June or July of the year in which the nurse's registration expires shall not be processed and shall be returned to the nurse for payment of a late application fee.~~

A renewal application and fee received one or more days after the licensee's registration expiration date shall be returned with an application for reregistration. The board will nullify incomplete registration renewal applications that are not completed within 30 days following notification of the deficiency or the licensees' registration expiration dates, whichever is later. For a nullified application, the fee shall be forfeited and the application and other documents may be destroyed according to the process provided in *Minnesota Statutes*, section 138.17, subdivision 7.

Subp. 4. **Continuing education evidence form.** For professional nurses, the registration renewal application shall include a continuing education ~~evidence~~ report form. Information to be provided by the professional nurse on ~~an evidence~~ a report form shall include:

[For text of items A to D, see M.R.]

[For text of subp 5, see M.R.]

Subp. 6. **Initial registration and first registration renewal.** An individual who is issued a license by the board shall also be registered by the board. The ~~license~~ licensure fee shall serve as payment for the initial registration period.

~~Effective August 1, 1987, and thereafter,~~ The initial registration period following licensure or reregistration is from six to 29 full calendar months ending the last day of the licensee's month of birth in an even-numbered year if the year of birth was an even-numbered year or in an odd-numbered year if the year of birth was an odd-numbered year.

~~A licensee who does not supply a month, day, and year of birth upon a second request from the board shall be assigned a month and year for registration purposes.~~

~~A licensee may correct the date of birth stated on the renewal application. The board may require a licensee who wishes to correct the date of birth on file with the board to substantiate the date with official documentation.~~

Professional nurses shall accrue for the first registration renewal following licensure and reregistration the number of contact hours of acceptable continuing education activities equivalent to the number of full months in their initial registration period. The contact hours shall include at least one successful demonstration of skill in performing a portion of a component of professional nursing. The continuing education participation period begins on the date the license was issued or reregistration was completed and extends through the month immediately preceding the month in which initial registration expires.

[For text of subp 6a, see M.R.]

Subp. 7. **Substantiation of continuing education activities.** Following each renewal date the board may select a sample of professional nurses applying for registration renewal and require substantiation of participation in acceptable continuing education activities. Selected professional nurses shall submit in writing the following data obtained from the provider of each continuing education activity which verifies the information on the ~~evidence~~ continuing education report form:

[For text of items A to F, see M.R.]

G. ~~In 1986 and thereafter,~~ Proof of compliance with part 6310.2800, subpart 2.

H. For continuing education activities meeting part 6310.2800, subpart 6, item L, a copy of the certificate may be required and considered sufficient.

I. Any additional documentation the board deems necessary.

Subp. 8. **Insufficient hours.** If a professional nurse cannot demonstrate sufficient hours of acceptable continuing education activities for a continuing education participation period, the number of hours lacking ~~to comply for that continuing education participation period~~ may be deferred. If the licensee has the required number of contact hours but the contact hours do not include a demonstration of skill, the licensee must defer one contact hour. The deferred hours shall be added to the contact hours required in the immediately succeeding continuing education participation period. If the licensee does not renew for the continuing education participation period that included the deferred hours, the deferred hours will be required for reregistration. This part may be applied once for any one professional nurse.

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[For text of subps 9 and 10, see M.R.]

6310.3100 REREGISTRATION.

Subpart 1. **Removal of name from list.** The names of licensees who do not return the complete renewal application, renewal fees, and late application fees by the registration expiration date shall be removed from the list of individuals authorized to practice professional or practical nursing during the current renewal period.

Subp. 2. **Reregistration requirements.** Reregistration shall be granted when the licensee has met all reregistration requirements. A licensee who applies for reregistration shall:

A. Submit a completed and signed reregistration application;

B. Respond to questions on the application that relate to ~~causes for denial or revocation of licensure~~ the grounds for disciplinary action listed in *Minnesota Statutes*, section 148.261 ~~for professional nurses and section 148.297 for practical nurses~~. The licensee shall submit true information. Falsification or omission of information provides grounds for disciplinary action. The board may require further information of the licensee in order to determine whether the licensee has engaged in conduct warranting disciplinary action as set forth in *Minnesota Statutes*, section 148.261;

C. Pay the registration renewal fee for the current period;

D. Pay the late application fee if registration expired within the last two years unless the licensee submitted evidence of an incomplete or incorrect renewal application before the registration renewal deadline; and

E. Submit evidence of meeting all relevant requirements specified in subparts 2a to 8.

Subp. 2a. **Continuing education.** A professional nurse must submit evidence of meeting all requirements specified in parts 6310.2800 and 6310.2900. Participation in continuing education activities must have occurred during the 24 months immediately before board action on the application for reregistration. ~~Beginning April 1, 1988, and thereafter,~~ This requirement applies only to professional nurses whose registration expired within the two years immediately preceding application for reregistration.

Subp. 2b. **Deferred contact hours.** A professional nurse who has deferred continuing education contact hours on record shall make up all the deferred contact hours before board action on the application for reregistration. The nurse shall submit a report of participation in the required number of contact hours and submit the substantiating documents required in part 6310.2900, subpart 7. The board shall audit the substantiating documents to be certain that the requirements in part 6310.2900, subpart 7, are met.

Subp. 5. [See Repealer.]

Subp. 6. **Acceptable practice requirement.** ~~Beginning April 1, 1988, and thereafter,~~ A licensee without current registration who is applying for reregistration must submit proof of at least 320 hours of acceptable nursing practice in the four years immediately preceding receipt by the board of the application for reregistration or meet the requirement in subpart 7. To be acceptable the practice must have:

A. consisted of employment or volunteer nursing in any setting, or participation in clinical nursing courses or any combination of these activities;

B. occurred only while the licensee was authorized to practice nursing unless legal authorization for the practice was not required in the jurisdiction where it occurred; or

C. included one or more of the functions defined in *Minnesota Statutes*, section 148.171, clause (3), for professional nurses or *Minnesota Statutes*, section ~~148.29~~ 148.171, ~~subdivision 4~~ clause (5), for practical nurses, or be determined by the patient, employer, volunteer supervisor, patient's family or physician, instructor, or peer as requiring the appropriate nursing license.

Subp. 7. **Refresher course requirement.** ~~Beginning April 1, 1988, and thereafter,~~ Licensees without current registration who do not demonstrate compliance with the acceptable practice requirement in subpart 6, shall successfully complete a refresher course and must submit an affidavit of successful completion of a refresher course which occurred within the 24 months immediately preceding board action on the application for reregistration. The affidavit must be signed by the person responsible for the course, hereinafter, coordinator. For a professional nurse, the refresher course may be used to fulfill the continuing education activities required in subpart 2a, provided the refresher course meets the criteria in part 6310.2800.

The refresher course must have been designed to meet the following criteria:

[For text of items A to C, see M.R.]

Subp. 8. ~~**Limited registration certificate**~~ **Permit to practice.** ~~A licensee presenting an affidavit of enrollment in a refresher course will upon written request and submission of a reregistration application and fee be provided a registration certificate valid only for participation in the clinical experience component of the refresher course and no longer than 90 days.~~ To participate in the clinical component of a refresher course, a licensee must have a permit. To receive a permit, the licensee must submit the completed reregistration application, fee, and an affidavit of enrollment in the refresher course that includes the request for a permit. When

issued, the permit is valid only for participation in the clinical component of the refresher course and for no longer than 90 days. While the permit is in effect, a registered nurse may use the title registered nurse, abbreviated "RN," and a licensed practical nurse licensee may use the title licensed practical nurse, abbreviated "LPN." The affidavit must be signed by the refresher course coordinator.

[For text of subps 9 and 10, see M.R.]

Subp. 11. **Nullification and reapplication.** The board will nullify incomplete reregistration applications that are not completed within the six month period following receipt of fees or within the six month period following issuance of a ~~registration certificate~~ permit for practice in a clinical component of a refresher course.

For a nullified application, the fee shall be forfeited and the application and other documents may be destroyed according to the process ~~specified~~ in *Minnesota Statutes*, section 138.17, subdivision 7. If a licensee fails to submit an application and fee within six months after the board received any other documents relating to the application, the board may destroy the documents.

If a licensee whose application has been nullified wants to be reregistered, a new reregistration application must be submitted and all applicable reregistration requirements must be met.

[For text of subp 12, see M.R.]

6310.3300 CHANGE OF NAME AND ADDRESS ON RECORDS.

Subpart 1. **Name change.** The licensee who has changed names shall notify the board in writing as soon as possible and request a revised registration certificate. When requesting a revised registration certificate, the licensee shall return the current certificate to the board. ~~If the current certificate has been lost, stolen, or destroyed, the licensee shall provide a written explanation of the situation.~~ The board may require substantiation of the name change by requiring official documentation.

[For text of subp 2, see M.R.]

6310.3400 DUPLICATE AND REPLACEMENT DOCUMENTS.

[For text of subpart 1, see M.R.]

Subp. 2. **Registration certificate.** A duplicate registration certificate shall not be issued. If a registration certificate is lost, stolen, or destroyed, the licensee shall submit a written explanation of the situation. ~~Upon~~ On written request of the licensee, a replacement registration certificate may be issued for a fee. The replacement registration certificate shall be marked "Replacement."

If a licensee does not receive a registration certificate which has been issued and notifies the board office in writing within 60 days of the ~~date of issuance~~ effective date, a replacement registration certificate may be issued without a fee.

Subp. 3. **Lost, stolen, or destroyed documents.** If a licensee's license or registration certificate or permit is lost, stolen, or destroyed, the licensee must report the loss to the board.

6310.3600 REGISTRATION FEES.

Subpart 1. **Amount.** The amount of fees shall be as follows:

A. registration renewal, ~~$25~~ $32 per registration period ~~effective June 1, 1988, and $26 effective August 1, 1988~~;

B. late application, $20 ~~effective June 1, 1988~~;

C. replacement license, $20 ~~effective June 1, 1988~~;

D. replacement registration certificate, ~~$20 effective June 1, 1988~~ $5;

E. verification of licensure status, $20 ~~effective June 1, 1988~~;

F. verification of examination scores, $20 ~~effective June 1, 1988~~;

G. a copy of licensure application materials, $20 ~~effective June 1, 1988~~; and

H. service charge for a dishonored check, $15.

Subp. 2. **Nonrefundable.** All fees are nonrefundable.

PUBLIC HEALTH NURSE REGISTRATION

6316.0100 REQUIREMENTS FOR REGISTRATION AS A PUBLIC HEALTH NURSE.

Subpart 1. **Licensure and current registration.** An applicant for registration as a public health nurse must be licensed and currently

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registered to practice professional nursing in Minnesota.

Subp. 2. **Application.** An applicant shall obtain the application forms and instructions for filing from the board. An applicant shall submit true information. The application must be notarized.

Subp. 3. **Fee.** An applicant must submit a fee of $25 with the application. This fee must be paid to the board in United States currency, cashier's check, or money order. Personal checks are not accepted. If for any reason a public health nurse registration certificate is not issued, the fee is not refundable.

Subp. 4. **Education.** An applicant must have a baccalaureate or higher degree with a major in nursing. The applicant's course work must have included theory and clinical practice in public health nursing. The theory portion of the public health nursing education must have been at least 30 hours in length. The public health nursing content in a hospital diploma or associate degree program does not qualify. At a minimum, the public health nursing education must have prepared the nurse to:

A. identify the incidence, distribution, and control of disease in a population, as well as the risk factors and environmental factors related to communities;

B. identify populations at high risk of illness, disability, premature death, or poor recovery;

C. intervene with high-risk populations;

D. evaluate the effect of interventions on the health status of a population; and

E. use community services, institutional resources, and other health care providers.

Subp. 5. **Affidavit of graduation.** An applicant must submit an affidavit of graduation from the institution that awarded the baccalaureate or higher degree. The affidavit must be completed by an official of the institution and bear the seal or stamp of the institution. An applicant may submit an official transcript in lieu of the affidavit.

Subp. 6. **Affidavit of completion of public health nursing education.** An applicant must submit an affidavit of completion of public health nursing education. Included with the affidavit must be evidence that the applicant successfully completed public health nursing education which meets the requirements in subpart 4. The affidavit must be completed by an official of the institution that provided public health nursing education which meets the requirements in subpart 4.

6316.0200 ISSUANCE OF PUBLIC HEALTH NURSE REGISTRATION CERTIFICATE.

Subpart 1. **Public health nurse registration certificate.** The board shall issue a public health nurse registration certificate to an applicant when the requirements have been met. The public health nurse registration certificate is valid only in conjunction with a current registration certificate for professional nursing.

Subp. 2. **Length of public health nurse registration certificate.** The public health nurse registration certificate is in effect when the nurse has a license and is currently registered to practice professional nursing in Minnesota. If a license is revoked or the nurse allows the registration to expire, the public health nurse registration certificate becomes invalid.

Subp. 3. **Replacement document.** If a nurse requests the replacement of a public health nurse registration certificate, the nurse shall explain in writing the reason for requesting a replacement. On written request of the nurse and the payment of a $5 fee, a replacement public health nurse registration certificate may be issued. The replacement certificate shall be marked "Replacement." The board may require substantiation of a name change by requiring official documentation. A replacement certificate shall not be issued for a change of address.

6316.0300 APPLICATION NULLIFICATION.

Subpart 1. **Time frame for nullification.** The board will nullify an application for public health nurse registration if the applicant fails to complete the application process within one year after submission of the application.

Subp. 2. **Destruction of application materials and forfeiture of fee.** For a nullified application, the fee shall be forfeited and the application and other documents may be destroyed according to the process specified in *Minnesota Statutes*, section 138.17, subdivision 7. If the applicant failed to submit the application and fee within one year after the board received any other documents relating to the application, the board may destroy the documents.

NURSING PRACTICE AND DISCIPLINE

6321.0100 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to this chapter.

Subp. 2. **Monitoring.** "Monitoring" means the periodic inspection by a registered nurse or licensed practical nurse of a directed function or activity and includes watching during performance, checking, and tracking progress, updating a supervisor of progress or accomplishment by the person monitored, and contacting a supervisor as needed for direction and consultation.

Subp. 3. **Supervision.** "Supervision" means the guidance by a registered nurse for the accomplishment of a function or activity. The guidance consists of the activities included in monitoring as well as establishing the initial direction, delegating, setting expectations, directing activities and courses of action, critical watching, overseeing, evaluating, and changing a course of action.

6321.0500 REPORTING OBLIGATIONS.

Subpart 1. **Institutions.** The reporting required of institutions in *Minnesota Statutes*, section 148.263, subdivision 2, is interpreted to include resignation in lieu of discharge, discharge, suspension, or other forms of discipline of a nurse for failure to carry out the responsibilities of a nurse. Examples of actions to be reported include but are not limited to dismissal of probationary employees, suspensions other than investigatory suspensions, restrictions or limitations of a nurses's practice, demotion, and discharge from employment.

Subp. 2. **Licensed professionals.** The reporting required of licensed professionals in *Minnesota Statutes*, section 148.263, subdivision 3, is interpreted to exclude the professional knowledge obtained in the course of a health professional-client relationship when the client is a nurse and the health professional successfully counsels the nurse to limit or withdraw from practice to the extent required by the impairment.

6330.0100 DEFINITIONS.

Subpart 1. **Advanced nursing practice.** "Advanced nursing practice" means the performance of health services by certified registered nurse anesthetists ~~(~~, abbreviated, "CRNA~~)~~," and certified nurse midwives ~~(~~, abbreviated "CNM~~)~~," certified nurse practitioners, abbreviated "RN,C," and certified clinical specialists in psychiatric or mental health nursing, abbreviated "RN,CS," as defined in *Minnesota Statutes*, section 62A.15, subdivision 3a.

Subp. 2. **Board.** "Board" means the Minnesota Board of Nursing.

Subp. 3. to 5. [See Repealer.]

6330.0200 PURPOSE.

Parts 6330.0100 to ~~6330.0500~~ 6330.0300 establish criteria ~~for programs of study of~~ certification of professional nurses to engage in advanced nursing practice. ~~Parts 6330.0600 and 6330.0700 list programs~~ Part 6330.0350 lists professional nursing organizations that fulfill the criteria. The criteria and list are established under *Minnesota Statutes*, section 62A.15, subdivision 3a, in order to qualify advanced nursing services for reimbursement by third parties.

6330.0300 ~~ACCREDITATION REQUIRED~~ CRITERIA TO BE A PROFESSIONAL NURSING ORGANIZATION WHICH CERTIFIES NURSES IN ADVANCED NURSING PRACTICE.

In order to ~~be included on the lists found in parts 6330.0600 and 6330.0700, a program of study must consist of subject matter beyond that required for registered nurse licensure and meet one of the following criteria:~~

~~A. programs preparing nurse anesthetists must be accredited by the Council on Accreditation of Nurse Anesthesia Education Programs/Schools; or~~

~~B. programs preparing nurse midwives must be accredited by the Division of Accreditation, American College of Nurse Midwives.~~ have the authority to certify professional nurses in advanced nursing practice as referenced in *Minnesota Statutes*, section 62A.15, subdivision 3a, the organization must have met the following criteria:

A. be national in the scope of its credentialing;

B. have an education requirement of at least one academic year or nine calendar months or its equivalent of full-time study beyond that required for registered nurse licensure;

C. have practice requirements beyond those required for registered nurse licensure;

D. have testing requirements beyond those required for registered nurse licensure;

E. issue certificates to qualified professional nurses; and

F. periodically review the qualifications of certified individuals.

6330.0350 PROFESSIONAL NURSING ORGANIZATIONS WITH AUTHORITY TO CERTIFY.

The following organizations meet the criteria in part 6330.0300 and have the authority to certify registered nurses in the advanced nursing practice categories listed:

A. American Association of Nurse Anesthetists Council on Certification and Council on Recertification: nurse anesthetist.

B. American College of Nurse-Midwives: nurse midwife.

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C. American Nurses Association:

(1) nurse practitioner:

(a) gerontological nurse practitioner;

(b) adult nurse practitioner;

(c) family nurse practitioner;

(d) school nurse practitioner;

(e) pediatric nurse practitioner.

(2) clinical specialist in psychiatric or mental health nursing:

(a) clinical specialist in adult psychiatric and mental health nursing;

(b) clinical specialist in child and adolescent psychiatric and mental health nursing.

D. National Certification Board of Pediatric Nurse Practitioners and Nurses: pediatric nurse practitioner.

E. Nurses Association of American College of Obstetrics and Gynecology Certification Corporation:

(1) obstetric-gynecological nurse practitioner;

(2) neonatal nurse clinician/practitioner.

6330.0500 MAINTENANCE OF LISTS.

Subpart 1. **List updating.** Each January ~~and July~~ the board shall add to the ~~lists programs~~ list professional nursing organizations which have met the criteria within the previous ~~six months~~ year and which certify nurses for advanced nursing practice, and remove from the ~~lists programs~~ list organizations which no longer meet the criteria.

Subp. 2. [See Repealer.]

RENUMBER. *Minnesota Rules*, parts 6315.0600 and 6315.0700 are renumbered as 6305.0600 and 6305.0700.

REPEALER. *Minnesota Rules*, parts 6301.0100, subpart 3; 6301.1200, subpart 6; 6301.1700, subparts 2, 3, and 4; 6310.2600, subparts 8a and 8b; 6310.3100, subpart 5; 6315.0100, subparts 15 and 16; 6330.0100, subparts 3, 4, and 5; 6330.0400; 6330.0500, subpart 2; 6330.0600; and 6330.0700, are repealed.

Department of Revenue

Proposed Permanent Rules Relating to Sales Tax Administration

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Revenue intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. Rules 8130.2400, 8130.2800, 8130.4100, 8130.8200 are proposed to be repealed in their entirety. The statutory authority to adopt these rules are *Minnesota Statutes* sections 297A.25, subd. 20; 297A.27; and 297A.29.

All persons have 30 days in which to submit comment in support of or in opposition to these proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on these rules within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Terese Koenig Smith, Attorney
Business Tax Unit
Appeals and Legal Services Division
10 River Park Plaza
Mail Station 2220
St. Paul, MN 55146-222
(612) 296-3438

The proposed rules may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rules as noticed. A copy of the proposed rules is attached to this notice. A free copy of these rules is available upon request from Terese Koenig Smith.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Terese Koenig Smith upon request.

If no hearing is required, upon adoption of the rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rules, must submit the written request to:

Terese Koenig Smith.
Business Tax Unit
Appeals and Legal Services Division
10 River Park Plaza
Mail Station 2220
St. Paul, MN 55146-222
(612) 296-3438

Dated: 11 May 1990

John P. James
Commissioner of Revenue
of the State of Minnesota

Rules as Proposed

8130.2350 COMPUTATION OF SALES TAX.

Compute the tax on the sales price to the nearest full cent. For sales under $1, use the guidelines in items A to C.

A. In computing the tax to be collected on any transaction subject to a four percent rate, amounts of less than one-half cent may be disregarded and the amounts of one-half cent or more are considered as an additional cent. Thus, on a sale of 12 cents or less, the purchaser pays no tax; on a sale between 13 cents to and including 37 cents, the purchaser is required to pay one cent tax; on a sale between 38 cents to and including 62 cents, the purchaser is required to pay two cents tax; on a sale between 63 cents to and including 87 cents, the purchaser is required to pay three cents tax; on a sale of 88 cents to and including $1.12, the purchaser is required to pay four cents tax; on a sale in excess of $1, the purchaser is required to pay four percent on each full dollar plus the appropriate amount from the brackets above.

B. In computing the tax to be collected on any transaction subject to a five percent rate, amounts of less than one-half cent may be disregarded and the amounts of one-half cent or more are considered as an additional cent. Thus, on a sale of nine cents or less, the purchaser pays no tax; on a sale between ten cents to and including 29 cents, the purchaser is required to pay one cent tax; on a sale between 30 cents to and including 49 cents, the purchaser is required to pay two cents tax; on a sale between 50 cents to and including 69 cents, the purchaser is required to pay three cents tax; on a sale between 70 cents to and including 89 cents, the purchaser is required to pay four cents tax; on a sale between 90 cents to and including $1.09, the purchaser is required to pay five cents tax; and on a sale in excess of $1, the purchaser is required to pay five percent on each full dollar plus the appropriate amount from the brackets above.

C. In computing the tax to be collected on any transaction subject to a six percent rate, amounts of less than one-half cent may be disregarded and the amounts of one-half cent or more are considered as an additional cent. Thus, on a sale of eight cents or less, the purchaser pays no tax; on a sale between nine cents to and including 24 cents, the purchaser is required to pay one cent tax; on a sale between 25 cents to and including 41 cents, the purchaser is required to pay two cents tax; on a sale between 42 cents to and including 58 cents, the purchaser is required to pay three cents tax; on a sale between 59 cents to and including 74 cents, the purchaser is required to pay four cents tax; on a sale between 75 cents to and including 91 cents, the purchaser is required to pay five cents tax; on a sale between 92 cents to and including $1.08, the purchaser is required to pay six cents tax; and on a sale in excess of $1, the purchaser is required to pay six percent on each full dollar plus the appropriate amount from the brackets above.

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8130.2500 APPLICATION FOR PERMIT TO MAKE RETAIL SALES.

Subpart 1. ~~In general~~ Duty to obtain a permit. ~~Generally, the tax imposed by the Sales and Use Tax Law is required to be collected by the seller and subsequently remitted to the commissioner in accordance with the provisions of the Sales and Use Tax Law. *Minnesota Statutes*, section 297A.04, requires that any person, as defined in *Minnesota Statutes*, section 297A.01, subdivision 2, who is engaged in making retail sales or is engaged in other activities taxable under the Sales and Use Tax Law, shall obtain a sales and use tax permit from the commissioner. Such a person includes not only a seller located in Minnesota, but also a seller located outside Minnesota who is authorized to do business within Minnesota, or who is authorized under *Minnesota Statutes*, section 297A.15, to collect the tax upon all transactions taxable under the Sales and Use Tax Law.~~ The following persons making taxable sales within Minnesota, or sales outside the state for use, storage, or consumption in Minnesota must obtain a sales tax permit and collect the sales or use tax from the purchaser at the time of sale:

A. a retailer located in Minnesota;

B. a retailer maintaining a place of business in Minnesota;

C. a retailer making retail sales from outside this state to a destination within this state if the retailer engages in the regular or systematic soliciting of sales from potential customers in this state.

Subp. 2. **Nontaxable retail activities.** Where a person engages in retail activities which are exclusively nontaxable, ~~he is not required~~ it is not necessary to apply for or secure a permit.

~~Example 1. F engages in the sale of poultry and eggs at his farmhouse. He engages in no other retail activities. As such food products are exempt under *Minnesota Statutes*, section 297A.25, subdivision 1, F is not required to secure a sales and use tax permit.~~

~~Example 2. A bakery engages in the sale of bakery goods for consumption off its premises. Since such food products are exempt, the bakery is not required to secure a sales and use tax permit.~~

If a charitable, religious, or educational organization makes or plans to make fundraising sales which are not exclusively nontaxable under *Minnesota Statutes*, section 297A.256, or any other part of *Minnesota Statutes*, chapter 297A, that organization must obtain a sales tax permit and collect the sales tax.

Subp. 3. **Multiple locations.** Where a person who is required to secure a permit has more than one place of business ~~wherein he engages in~~ and the activities conducted at each place are subject to tax under the Sales and Use Tax Law, and ~~he~~ the person elects to file a separate return for each place of business, ~~he is required to file~~ a separate application must be filed for each ~~such~~ business location. ~~He will thereafter receive~~ A permit will be issued which may be used only at the address indicated ~~therein~~ on the permit. A separate permit will be assigned to each ~~such~~ place of business. Members of a group of corporations related by stock ownership, where ~~such~~ the members are engaged in making sales at retail, ~~are required to~~ must make individual applications.

Subp. 4. **Consolidated return.** ~~In the event~~ If a person elects to file a consolidated return, ~~he is required to submit to the commissioner~~ a list containing the business name and address of each separate place of business must be submitted to the commissioner when applying for a permit. ~~In such event, the applicant need submit but one application to the commissioner. (However, see subpart 7 regarding the payment of permit fees where the election to file a consolidated return is made.) Thereafter, he will receive~~ An application containing such a list constitutes an application for each listed business name and address. A permit will be issued for each listed location ~~with the appropriate information contained therein~~. Each ~~of such permits~~ permit so issued will bear the same sales and use tax account number. If, thereafter, ~~he~~ the person elects to file a separate return for ~~one or more~~ any of ~~his~~ the listed places of business, a new account number ~~should~~ must be secured for the business location for which ~~such~~ the separate return is filed. See part 8130.2600 ~~regarding application for new permits~~.

Subp. 5. **Vending machines.** Where the person required to secure a sales and use tax permit operates vending machines in more than one location, ~~he shall~~ the person will not be required to secure a separate permit for each ~~such~~ location. Vending machines include, but are not limited to, coin-operated or bill-operated machines that dispense ~~soft drinks, coffee, tea, milk, candy bars, sandwiches, soups, and~~ food, candy, drinks, items of tangible personal property ~~such as combs, hair dressings, etc. Included in this definition are coin-operated devices providing,~~ or provide amusement and diversion. ~~These devices are commonly referred to as juke boxes, pinball machines, shuffleboards, etc.~~

Vending machines do not include the coin-operated services described in *Minnesota Statutes*, section 297A.01, subdivision 3, paragraphs (i) and (j).

~~Example. V operates 50 coffee and soft drink vending machines at various locations. He is required to secure only a single permit.~~

Subp. 6. **Information required.** Application for a permit ~~shall~~ must contain the following information:

A. the legal form and name of organization; ~~that is~~ for example, individual, partnership, Minnesota corporation, foreign corporation, or association~~, etc.~~, and if a corporation, the state and date of incorporation;

[For text of item B, see M.R.]

C. name and mailing address to which sales tax forms are to be sent;

D. Minnesota ~~tax~~ Department of Revenue identification number, unless no such number was previously assigned, and the federal identification number, unless none has been assigned;

[For text of items E to H, see M.R.]

I. type of business; ~~e.g.~~ for example, retail trade, wholesale trade, manufacturing, motion picture theater, hotel, or bowling alley~~, dance hall, etc.~~; and

J. whether business is operated seasonally and, if so, usual opening and closing dates.

~~Such~~ Applications ~~shall~~ must be signed by the owner, if a natural person, by a partner if the applicant is a partnership, or by ~~a person authorized to sign~~ an owner, partner, or officer if the applicant is a corporation or an association.

Subp. 7. ~~Fee~~ **Change in ownership or name.** ~~At the time of making an application, the applicant shall pay the commissioner a fee of $1 for each permit applied for. Where the applicant elects to file a consolidated return as provided in subpart 4, he is required to pay a $1 permit fee for each location.~~ Where there is a change in ownership or name, the following rules are applicable:

A. Sale of a business enterprise operated as a sole proprietorship requires a new application ~~and payment of the $1 fee~~, although the business may be continued under the same name.

B. Admission of a new partner ~~or resignation, expulsion, or death of a partner requires a new application and payment of the $1 fee, although the business may be continued under the same name~~ to a partnership requires a new application, even if the business is continued under the same name. Resignation, expulsion, or death of a partner requires a new application if the partnership is required to obtain a new federal identification number because of the resignation, expulsion, or death.

[For text of item C, see M.R.]

D. A change in name of a business enterprise or a change in location, where there has been no change in ownership, ~~requires the issuance of~~ means the permit holder must request a corrected permit ~~reflecting~~ from the department which reflects the changed name or address. ~~As no application is required by law, the permit holder will be issued~~ The corrected permit will be issued upon request. ~~As a matter of policy, the old permit should accompany the request. Payment of the $1 fee is not required.~~

[For text of item E, see M.R.]

8130.2600 PERMIT WHEN VALID AND HOW DISPLAYED.

Subpart 1. **Permit issued by commissioner.** Generally, after the applicant has complied with the provisions of *Minnesota Statutes,* ~~sections~~ section 297A.04 ~~and 297A.05~~, the commissioner will issue a separate permit for each place of business for which application was made unless the commissioner, in order to assure compliance with the Sales and Use Tax Law, ~~deems~~ finds it necessary for the applicant to deposit security. ~~(See *Minnesota Statutes,* section 297A.28.)~~ In that event, the commissioner will issue the permits requested at the time the applicant has complied with the additional provisions regarding the security requested.

Subp. 2. ~~Permit revocation~~ **When permit is valid.** The permit issued ~~shall be~~ is valid until revoked ~~in accordance with~~ or canceled according to *Minnesota Statutes,* section 297A.065 or 297A.07, and ~~shall~~ is not ~~be~~ assignable. ~~Such~~ The permit ~~shall be~~ is valid only for use by the person in whose name it is issued and for the transaction of business at the place designated therein. Thus, where there has been a change of ownership, so that the liability for payment of the sales and use tax is shifted either wholly or in part, or where there has been a change in name or in location of the business enterprise, the permit is no longer valid. ~~In such cases,~~ If there has been a change of ownership, the permit holder must apply for a new permit. ~~The procedures for securing a permit described in *Minnesota Statutes,* sections 297A.04, 297A.05, and 297A.06, are applicable where there has been a change in ownership. Where there has been a change in name or in the business location without a change in ownership, a new permit containing the changed name or address will be issued without charge upon return of the permit previously issued.~~

~~Example 1. P, a sole proprietor, applies for and is issued a permit under the business name of Modern Tobacco Shop. Subsequently, P sells the business to Q who continues the business activities under the same trade name. The permit previously issued to P is no longer valid as there has been a shift in the liability for payment of the sales and use tax from P to Q. An application for a new permit plus the $1 fee is required to be submitted.~~

~~Example 2. A and B, as partners, apply for and are issued a permit under the business name of Downtown Jewelry Store. Subsequently, C is admitted as a partner. The business name and the location remain the same. The permit previously issued to A~~

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~~and B, as partners, is no longer valid as the admission of C as a partner resulted in a shift of the liability for the sales and use tax. An application for a new permit, plus the $1 fee is required to be submitted.~~

~~Example 3. X, Y, and Z, between themselves, own 100 percent of the stock of Building Materials, Inc. A permit is applied for and issued in the corporate name. Subsequently, X sells all of his stock to Z. The permit holder, Building Materials, Inc., continues to transact business at the same location and under the same name. The permit previously issued is still valid as the liability for payment of the sales and use tax, which was previously imposed upon the corporate entity at the time the permit was issued, remains.~~

~~Example 4. A permit was applied for and issued in the name of General Trading Company, Inc. Subsequently, the name is changed to General Discount Corporation. The permit issued to the General Trading Company is no longer valid as a permit shall be valid only for the person in whose name it is issued. A new permit will be issued without charge upon return of the permit issued to General Trading Company, Inc.~~

~~Example 5. A permit was applied for and issued in the name of John Jones, 100 Main Street, Anytown, Minnesota. Subsequently, John Jones moves his quarters across the street to 115 Main Street. As a permit shall be valid only for the transaction of business at the place designated therein, a new permit containing the new address will be issued without charge upon return of the old permit.~~

Subp. 3. **Shifting or temporary locations.** Where a permit holder is primarily engaged in taxable activities which require ~~him to shift his~~ a change of location from place to place, ~~such~~ the change in location ~~shall~~ will not be ~~deemed to be~~ considered a change of address and the permit holder must display the permit at each temporary location when making taxable sales at that location. ~~However, such permit holder, upon filing his sales and use tax return at the time required to do so under *Minnesota Statutes*, section 297A.27, shall include a list of the locations at which he transacted business during the period in question and the dates applicable to each such location.~~ In the event ~~such~~ the permit holder engages in taxable activities ~~in~~ at two or more ~~dispersed~~ shifting or temporary locations within the same general area at the same time, ~~he~~ the permit holder may display ~~his~~ the original permit at one location and photocopies of ~~such~~ the original permit at ~~his~~ the other locations.

~~Example 1. A concessionaire at the state fair grounds during state fair week who operates several concessions may display his original permit at one location and photocopies thereof at his other locations.~~

~~Example 2. A permit was applied for and issued to the Deluxe Carnival Company, whose permanent office is 250 Main Street, Anytown, Florida. The carnival moves from town to town in Minnesota and sets up its tents and equipment in lots temporarily rented. The permit granted to the Deluxe Carnival Company is valid, and must be displayed at each temporary location.~~

Subp. 4. **Display ~~and surrender~~ of permits.** A permit issued by the commissioner ~~shall~~ must at all times be conspicuously displayed. ~~A permit revoked by the commissioner shall be surrendered to the commissioner immediately upon notice of revocation. (See *Minnesota Statutes*, section 297A.08, regarding penalties for engaging in retail sales without the required permit or permits.)~~ See subpart 3 for display of permits at shifting or temporary locations.

8130.2700 REVOCATION OF PERMITS.

Subpart 1. **In general.** The permit or permits issued to any person, hereinafter referred to as the permit holder, ~~under *Minnesota Statutes*, sections 297A.04, 297A.05, and 297A.06,~~ may be revoked or suspended by the commissioner if the permit holder fails to comply with any ~~of the~~ provisions of ~~the Sales and Use Tax Law~~ *Minnesota Statutes*, chapter 297A, or any rules adopted under that chapter. See *Minnesota Statutes*, section 297A.07.

Subp. 2. **Hearing requirement.** The commissioner ~~shall not~~ cannot revoke ~~or suspend~~ the permit holder's permit or permits ~~prior to~~ before granting ~~him~~ a hearing. ~~Such~~ The hearing ~~shall not~~ cannot be held unless the commissioner has served notice in writing at least 30 days ~~prior to~~ before the date for ~~such~~ the hearing. The commissioner may serve personal notice upon the permit holder or ~~he~~ may make such service by regular mail. ~~(Special Session Laws 1967, chapter 48, section 96, permits the commissioner of revenue to serve notice by regular mail in all cases if he deems the use of regular mail advisable.) Such~~ If service is made by mail, the notice provisions of *Minnesota Statutes*, section 289A.37, subdivision 5, will apply. The hearing ~~shall~~ and any post-hearing administrative procedures related to the hearing, will be conducted by ~~an administrative law judge appointed by the chief administrative law judge~~ the State of Minnesota Office of Administrative Hearings pursuant to the Administrative Procedure Act, ~~*Laws of Minnesota* 1975, chapter 380~~ *Minnesota Statutes*, chapter 14. The hearing ~~shall~~ will be held at the time and place specified in the notice of hearing.

Subp. 3. **~~Transcript~~ Surrender of permit.** ~~An official record of the testimony and exhibits presented at the hearing shall be prepared by the administrative law judge. If the permit holder wishes to secure a transcript of the procedures, such transcript will be available from the Office of Administrative Hearings upon payment of the fee prescribed by the administrative law judge.~~ A permit revoked by the commissioner must be surrendered to the commissioner immediately upon notice of revocation.

Subp. 4. [See Repealer.]

Subp. 5. **New application, or application for reinstatement of revoked permit.** ~~If the commissioner with reasonable cause after the hearing either revokes or suspends the permit or permits of the permit holder, the latter may submit a new application in accordance with *Minnesota Statutes*, sections 297A.04, 297A.05, and 297A.06. Such application shall be accompanied by reasonable evidence that the permit holder intends to comply with the provisions of the sections of the law or the regulations which he had previously~~

~~violated. Under *Minnesota Statutes,* section 297A.07, the commissioner may request that the permit holder deposit any security in addition to that authorized by *Minnesota Statutes,* section 297A.28 that the commissioner deems reasonably necessary in order to insure compliance by the permit holder.~~ The commissioner may reinstate a revoked sales and use tax permit, or issue a new permit to a taxpayer whose permit had been revoked if the taxpayer:

A. files all unfiled sales and use tax returns;

B. pays with a certified check, cashier's check, or money order the entire balance of tax, penalty, and interest due;

C. deposits with the commissioner, security or a surety bond in an amount equal to three times the average monthly liability; and

D. signs an agreement to file timely returns and remit tax when due in the future to a named individual within the department. The agreement will specify the individual to whom the returns and payments must be sent. All payments must be made by certified check, cashier's check, or money order.

The commissioner will hold the security deposit described in item C for two years.

The commissioner will pay interest on any money deposited as security. The interest will be calculated from the date of deposit to the date of refund, or date of application to any outstanding tax liability, at a rate specified in *Minnesota Statutes,* section 270.76. The security deposit will be refunded to the taxpayer at the end of the two-year period unless the taxpayer has any unpaid tax liabilities. The commissioner may apply the security deposit to any unpaid tax liabilities.

Subp. 6. **Appeal.** An alternative procedure is available to the permit holder. ~~He~~ The permit holder may appeal the commissioner's order revoking ~~or suspending his~~ the permit or permits to the Minnesota Tax Court in accordance with *Minnesota Statutes,* chapter 271.

Subp. 7. **Disclosure.** The commissioner may identify the holder of a revoked sales tax permit and disclose information regarding the reasons for revocation. See *Minnesota Statutes,* section 270B.08.

8130.2900 PRESUMPTION THAT TAX MUST BE PAID.

Subpart 1. **General rule.** ~~Under *Minnesota Statutes,* section 297A.02, the gross receipts of a retailer are subject to the sales tax of four percent.~~ *Minnesota Statutes,* section 297A.09, provides that all gross receipts are presumed to be subject to tax unless the contrary is established. ~~Under this section,~~ The burden of proving that a sale was not a sale at retail is upon the seller.

Subp. 2. **Overcoming the presumption.** For overcoming the presumption of subpart 1:

A. The presumption that a sale is a sale at retail may be overcome if the seller accepts and retains for ~~his~~ the records an exemption certificate given ~~to him,~~ by the purchaser, stating that the property ~~so~~ purchased is for resale.

B. ~~Under *Minnesota Statutes,* section 297A.10, the exemption certificate will conclusively relieve the retailer from collecting and remitting the tax only if taken in good faith from a person who holds a permit.~~ Under *Minnesota Statutes,* section 297A.10, if the seller accepts from the purchaser an exemption certificate to the effect that the property purchased is exempt under *Minnesota Statutes,* chapter 297A, the exemption certificate will relieve the retailer from the presumption that all gross receipts are subject to tax and from collecting and remitting the tax, if taken in good faith from the purchaser.

C. ~~The presumption that all gross receipts are subject to tax may be overcome if the seller accepts from the purchaser an exemption certificate to the effect that the property purchased is exempt under *Minnesota Statutes,* section 297A.25, subdivision 1, paragraph (h) or (i), as materials used or consumed in agricultural or industrial production of personal property intended to be sold ultimately at retail, or as tangible personal property used or consumed in, or which becomes a part of, any publication regularly issued at intervals not exceeding three months. An exemption certificate so accepted will relieve the retailer from collecting and remitting the tax only if taken in good faith.~~

~~D~~. The presumption that all gross receipts are subject to tax may be overcome if the seller accepts from the purchaser an exemption certificate to the effect that ~~such~~ the purchaser is exempt from paying the tax under the Sales and Use Tax Law.

~~E~~ D. The presumption that all gross receipts are subject to tax may be overcome if the seller accepts from the purchaser ~~an exemption certificate stating that the purchaser has been granted a direct pay permit~~ a copy of the direct pay permit issued to the purchaser, or a statement as provided in part 8130.3400, subpart 5.

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8130.3000 GOOD FAITH ACCEPTANCE OF EXEMPTION CERTIFICATES.

[For text of subpart 1, see M.R.]

Subp. 2. **Reasonable care.** Where a sale is made to a person claiming to purchase the property for resale, the presumption that the sale is subject to tax, will be conclusively overcome only if the retailer accepts a resale exemption certificate in good faith from the purchaser. See *Minnesota Statutes*, section 297A.10. Although the seller is under no duty to ascertain beyond all reasonable doubt that the purchaser is acquiring the property for resale, the provision that ~~he~~ the seller act in good faith requires the seller to exercise reasonable care and judgment before accepting the resale exemption certificate. The good faith provision requires that the seller accept only certificates meeting the requirements of *Minnesota Statutes*, section 297A.11.

~~Example 1. A supplier sells to retail customers at list, and to automotive repairmen at 60 percent of list. He receives an order for a new generator from an automobile garage operator with whom he has had no prior transactions. The generator, which has a list price of $25, is sold, after routine investigation, to the automobile garage operator for $15 (60 percent of list). The sale to the automobile garage operator at the discount price indicates that the resale exemption certificate offered by the purchaser was taken in good faith. Consequently, the supplier will be conclusively relieved of the duties of collecting and remitting the tax otherwise due on the sale. Had the supplier sold the generator at the list price of $25, he would not be conclusively relieved of the duty of collecting and remitting the tax due thereon even though he had accepted a resale exemption certificate.~~

~~Example 2. A jeweler orders a living room set from a distributor of furniture and offers a resale exemption certificate which states that the jeweler is engaged in the business of selling jewelry at retail. Since the resale exemption certificate does not indicate that the jeweler is in the business of selling furniture at retail, the distributor is not conclusively relieved of the duty of collecting and remitting the tax due on the sale of such living room furniture.~~

~~Example 3. A lumber dealer receives an order for a quantity of lumber accompanied by a resale exemption certificate. A customer specifies delivery to a construction site. Under such circumstances, the lumber dealer could not properly claim good faith acceptance of the resale exemption certificate. Without further investigation establishing that the lumber is intended to be resold, he would not be relieved of the burden of collecting and remitting the sales tax.~~

Subp. 3. **Awareness of business activity and specific nonexempt property.** Where a sale is made to a person claiming that the property purchased ~~will be used or consumed in agricultural or industrial production, or used or consumed in the production of any publication regularly issued at average intervals not exceeding three months~~ is exempt under *Minnesota Statutes*, section 297A.25, the presumption that the sale is subject to tax will be conclusively overcome where the retailer takes a certificate of exemption in good faith from the purchaser. The seller will be ~~deemed~~ considered to have exercised good faith provided ~~he~~ the seller is aware of the type of business activity conducted by the purchaser, and provided the property claimed to be exempt is of a character normally used ~~or consumed in the production process carried on by the purchaser~~ by the purchaser for an exempt purpose. The seller is under no duty to ascertain whether the property so purchased is, in fact, actually used for the exempt purpose.

~~*Minnesota Statutes*, section 297A.25, subdivision 1, paragraphs (h) and (i), specifically state that machinery, equipment, implements, tools, accessories, appliances, contrivances, and furniture and fixtures used in such production or publication, and fuel, electricity, gas, or steam used for space heating or lighting are not included in the exemption. Consequently, the retailer or supplier could not, in good faith, accept a certificate of exemption for sales of those items since they are subject to tax.~~

~~Example. M, manufacturer, orders ten gross of screws used in producing kitchen cabinets which are ultimately to be sold at retail. In addition, he orders a drill press from the same vendor. M had previously given V, vendor, a blanket certificate of exemption relating to materials used or consumed in industrial production. The blanket exemption certificate will be applicable to the sale of screws. As machinery and equipment used in production are not exempt, V is required to collect a sales tax on the drill press.~~

Subp. 4. **Acceptable exemption certificates.** Vendors may accept the following in good faith:

A. ~~certificates of exemption claiming exemption of purchases of railroad rolling stock and parts necessary for the maintenance and repair of such rolling stock, where such certificates are taken from railroad companies, freight line companies, sleeping car companies, and express companies which state thereon that they are subject to tax on a gross earnings basis in lieu of ad valorem taxation;~~

~~B.~~ certificates of exemption claiming exemption on purchases of airflight equipment, and flight simulators and parts necessary for the repair and maintenance of such equipment, where ~~such~~ the certificates are taken from persons who state thereon that they are taxed under the provisions of *Minnesota Statutes*, sections 270.071 to 270.079, inclusive;

~~C. certificates of exemption claiming exemption on purchases of telephone central office telephone equipment which state thereon that such property will be used in furnishing intrastate and interstate telephone service to the public;~~

~~D.~~ B. certificates of exemption claiming exemption on purchases of mill liners, grinding rods, and grinding balls where ~~such~~ the certificates are taken from persons who state thereon that they are taxed under the in lieu provisions of *Minnesota Statutes*, chapter 298, and where ~~such~~ the certificates state that ~~such~~ the property will be substantially consumed in the production of taconite, while becoming a part of the material produced;

~~E.~~ C. certificates of exemption claiming exemption on purchases of property which will be shipped or transported outside Minnesota by the purchaser without any intermediate use, which will be used in a trade or business outside Minnesota, and which state thereon that the property will not be returned to Minnesota except in the course of interstate commerce, if the property is not taxable in the state of destination and no exemption certificate is necessary in that state, or the property is not taxable in the state of destination if an exemption certificate is given to the vendor in that state and a copy of the destination state's exemption certificate is attached to the Minnesota certificate, or the property is to be used in the other state or country as part of a maintenance contract;

~~F.~~ D. certificates of exemption claiming exemption on purchases of packing materials used to pack and ship household goods to destinations outside Minnesota and which will not be returned to Minnesota except in the course of interstate commerce;

~~G.~~ E. certificates of exemption which state ~~thereon~~ that the materials purchased are ~~on purchases of materials~~ designed to advertise and promote the sale of merchandise or services, ~~which~~ when the material is purchased and stored for the purpose of subsequently shipping or otherwise transferring outside the state by the purchaser for use thereafter solely outside ~~the state~~ of Minnesota~~.~~;

F. certificates of exemption for equipment used for processing solid or hazardous waste at a resource recovery facility as defined in *Minnesota Statutes*, section 115A.03, subdivision 28. The purchaser must apply to the commissioner for the exemption certificate and supply sufficient documentation to support the application;

G. certificates of exemption covering certain purchases by veteran's organizations and their auxiliaries. The purchases must be for charitable, civic, educational, or nonprofit uses;

H. certificates of exemption for materials and supplies used or consumed in agricultural or industrial production of tangible personal property to be sold ultimately at retail. See *Minnesota Statutes*, section 297A.25, subdivision 9;

I. certificates of exemption for tangible personal property which will be resold;

J. certificates of exemption for repair or replacement parts used for the maintenance or repair of qualified farm machinery or logging equipment pursuant to *Minnesota Statutes*, section 297A.01, subdivision 15;

K. certificates of exemption for materials and supplies used or consumed in the production of newspapers and publications issued at average intervals of three months or less, pursuant to *Minnesota Statutes*, section 297A.25, subdivision 10;

L. certificates of exemption for commercial haulers of waste collection and disposal services; and

M. certificates of exemption for property purchased for business use outside city limits, for use when a local tax is applicable.

Subp. 5. **Religious and educational organizations.** Where a sale of tangible personal property is made to an organization that is organized and operated exclusively for religious or educational purposes, the seller will be relieved from the duty of collecting and remitting the tax otherwise due on the sale if ~~he~~ the seller receives a certificate of exemption from the organization stating to that effect, and provided that ~~he~~ the seller is reasonably certain that the purchaser is a religious or educational organization entitled to the exemption. Thus, although the seller is not obligated to investigate to determine whether the purchaser is entitled to the exemption, the seller, either from past experience or from ~~his~~ the seller's own general personal knowledge of the community and its affairs, should, in most cases, be able to determine whether the purchaser is the type of organization it claims to be and whether the purchase is to be used for religious or educational purposes. For example, the various schools and churches in any community are well known and, consequently, a seller would be reasonably certain that such a school or church making purchases of tangible personal property is entitled to exemption.

Subp. 6. **Charitable organizations.** Organizations claiming exemption as charitable organizations must establish their right to ~~such~~ the exemption by making application to the commissioner ~~of revenue~~ for a certificate of exempt status ~~on form ST-16~~. ~~Such~~ An application may also be made by religious and educational organizations wishing to obtain a certificate of exempt status as a convenience to themselves and their suppliers. A certificate of exempt status~~, form ST-17,~~ will be issued after the application and supporting documents are examined and approved. The certificate of exempt status will bear an ~~ES~~ exempt status number and the signature of an authorized official of the Department of Revenue. An organization holding a certificate of exempt status may reproduce the certificate as necessary to be furnished to its suppliers. A ~~seller of tangible personal property~~ vendor may accept a copy of a certificate of exempt status in good faith from the organization to which it was issued.

Subp. 7. **References and limitations.** ~~As to references and limitations:~~

A. ~~Refer to~~ See part 8130.6200 regarding criteria for determining whether or not organizations qualify for exemption as charitable, religious, or educational.

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B. As described above, the certificate of exemption or certificate of exempt status is valid for purchases made on behalf of the exempt organization, but not for purchases made for the personal use of persons affiliated with or employed by the exempt organization. The seller may be reasonably certain that ~~such is the case~~ a sale is made to the exempt organization if ~~he~~ the seller either bills the organization for the sales price, delivers the property to the location of the organization, or accepts payment by means of a check drawn by the organization~~, either at the time of purchase or subsequently~~.

C. ~~Refer to subpart 9 regarding meals, admissions, and lodging.~~ Although the furnishing of meals or lodging is defined as a taxable sale by *Minnesota Statutes*, section 297A.01, subdivision 3, paragraphs (c) and (e), it is not a sale of tangible personal property and, thus, is not within the exemptions described in subparts 5 to 8 for sales of tangible personal property to governmental, charitable, religious, and educational organizations in *Minnesota Statutes*, section 297A.25, subdivisions 11 and 16. Accordingly, a certificate of exemption, certificate of exempt status, or governmental purchase order may not be accepted in good faith for such a sale, except in the case of sales directly to the United States government. See part 8130.5700. Meals furnished, prepared, or served at public and private schools, universities, or colleges, are governed under part 8130.0800.

D. Although the furnishing of admissions is defined as a taxable sale by *Minnesota Statutes*, section 297A.01, subdivision 3, paragraph (d), it is not a sale of tangible personal property and, thus, is not within the exemptions described in subparts 5 to 8 for sales of tangible personal property to governmental entities in *Minnesota Statutes*, section 297A.25, subdivision 11. Accordingly, a certificate of exemption, certificate of exempt status, or governmental purchase order may not be accepted in good faith for such a sale.

The sale of admissions under *Minnesota Statutes*, section 297A.01, subdivision 3, paragraph (d), to charitable, religious, or educational organizations in *Minnesota Statutes*, section 297A.25, subdivision 16, may be purchased exempt pursuant to subparts 5 and 6.

E. Both government entities, except for the United States government, and charitable, religious, or educational organizations, must pay sales tax on leases of motor vehicles pursuant to *Minnesota Statutes*, section 297A.25, subdivisions 11 and 16.

F. Both government entities, except for the United States government, and charitable, religious, or educational organizations must pay sales tax on solid waste collection and disposal services imposed pursuant to *Minnesota Statutes*, section 297A.01, subdivision 3, paragraph (j), item (vii).

G. A seller is not required to collect and remit the tax on sales of tangible personal property which the seller delivers to a common carrier for delivery to an outstate destination, or places the property in the United States mail or parcel post directed to a purchaser outstate, or delivers the property to a purchaser outstate by means of the seller's own delivery vehicles. No exemption certificate is required under these circumstances. However, adequate evidence of shipment or delivery to the out-of-state destination must be maintained by the seller.

Subp. 8. **Sales to ~~United States~~ governmental entities.** Where a sale of tangible personal property or sales governed by *Minnesota Statutes*, section 297A.01, subdivision 3, paragraph (f), is made to ~~the United States, its agencies, its instrumentalities, a state, its agencies, its instrumentalities, or its political subdivisions~~ a governmental entity listed in *Minnesota Statutes*, section 297A.25, subdivision 11, the sale is exempt. The seller will be relieved of the duty of collecting and remitting the tax otherwise due on such property by accepting an authorized purchase order, payment voucher, or other document clearly showing that the purchaser is a governmental ~~unit~~ entity.

~~Refer to subpart 9 regarding meals, admissions, and lodging.~~

Subp. 9. and 10. [See Repealer.]

8130.3100 CONTENT AND FORM OF EXEMPTION CERTIFICATE.

Subpart 1. **In general.** *Minnesota Statutes*, section 297A.09, provides ~~for the furnishing of~~ that a person who makes a sale may take from a purchaser an exemption ~~certificates with respect to exempt sales. Vendors accepting exemption certificates which do~~ certificate for exempt sales. If the certificate does not include the following five elements ~~of a valid~~, the certificate ~~shall~~ will not be ~~deemed~~ considered to have been accepted ~~an exemption certificate~~ by the seller in good faith as required by *Minnesota Statutes*, section 297A.10. An exemption ~~certificates~~ certificate must contain the following information:

A. name and address of the purchaser;

B. the account number of the permit issued to the purchaser, or, if no number, state reason;

C. the general character of the property sold by the purchaser in the regular course of business;

D. description of the property purchased; and

E. signature of the purchaser.

See *Minnesota Statutes*, section 297A.11.

Subp. 2. **~~Approved~~ Application to use exemption certificates.** ~~The commissioner has approved use of the following certificates to assist purchasers in claiming exemption.~~

A. ~~ST-3 is to be used for claiming exemption for any of the reasons listed on the certificate.~~ ~~(See part 8130.9912.)~~ A taxpayer must submit an application to the commissioner in order to obtain an exemption certificate to be used for the following exemptions or situations:

(1) waste processing equipment used at a resource recovery facility;

(2) direct payment of sales or use tax;

(3) direct payment of tax by common carriers; and

(4) purchases of tangible personal property or services by a charitable organization.

B. ~~ST-4 is to be used for claiming a percentage exemption for fuels and energy utilized in industrial or agricultural production.~~ ~~(See part 8130.9916.)~~ A taxpayer does not need to submit an application to the commissioner in order to obtain an exemption certificate to be used for the following exemptions:

(1) agricultural or industrial production;

(2) educational or religious organizations;

(3) advertising material pursuant to *Minnesota Statutes*, section 297A.25, subdivision 22;

(4) farm machinery repair or replacement parts, pursuant to *Minnesota Statutes*, section 297A.25, subdivision 29;

(5) materials used in publications pursuant to *Minnesota Statutes*, section 297A.25, subdivision 10;

(6) taconite production materials pursuant to *Minnesota Statutes*, section 297A.25, subdivision 15;

(7) airflight equipment pursuant to Minneso*ta* Statutes, section 297A.25, subdivision 14;

(8) outstate transport or delivery pursuant to *Minnesota Statutes*, section 297A.25, subdivision 5;

(9) business use outside a city limit - local taxes;

(10) tangible personal property or services purchased for resale;

(11) veterans' groups pursuant to *Minnesota Statutes*, section 297A.25, subdivision 25;

(12) tipping fee sales tax exemption for commercial haulers of public and private mixed municipal solid waste; and

(13) fuels and energy used in agricultural or industrial production pursuant to *Minnesota Statutes*, section 297A.25, subdivision 9.

~~C. ST-5 is to be used for claiming exemption on property purchased for resale in substantially unchanged form or acquired for leasing or subleasing.~~ ~~(See part 8130.9920.)~~

~~D. ST-17 is to be used by the exempt organization to which it is issued for claiming exemption on purchases of tangible personal property.~~ ~~(See part 8130.9968.)~~

~~E. Uniform sales tax exemption certificate designed by the Multistate Tax Commission.~~

These certificates may be used for single purchases or for continuing future purchases. When used in this latter manner, the certificate is referred to as a blanket exemption certificate. Whether a certificate is a single purchase or blanket certificate is determined by marking the appropriate blank provided ~~in~~ on the form ~~except for the uniform sales tax exemption certificate which does not contain such a blank but may be used as either a single purchase or a blanket certificate~~.

~~The commissioner does not furnish exemption certificates in bulk. In order to assist purchasers in preparing their own copies, the forms approved by the commissioner are reproduced at parts 8130.9912 to 8130.9996.~~

Subp. 3. and 4. [See Repealer.]

8130.3200 NONEXEMPT USE OF PURCHASE OBTAINED WITH EXEMPTION CERTIFICATE.

Subpart 1. **Nonexempt use, use tax imposed.** Under *Minnesota Statutes*, sections 297A.09 and 297A.10, the seller may accept an exemption certificate from the purchaser on items otherwise taxable under the Sales and Use Tax Law. Under *Minnesota Statutes*, section 297A.12, if ~~such~~ the purchaser ~~should thereafter make any~~ makes a nonexempt use of the property for which ~~he~~ the purchaser

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had given an exemption certificate ~~other than for a purpose exempt under the Sales and Use Tax Law the~~ that use ~~thereof shall be deemed~~ is considered a retail sale by the purchaser ~~as of the time~~ when the item is first used by ~~him~~ the purchaser~~, and~~. The sales price (see *Minnesota Statutes*, section 297A.01, subdivision 8 regarding the calculation of sales price) ~~shall~~ must be reported as ~~purchases~~ a purchase subject to use tax on the sales and use tax return.

~~Example 1. A retailer, engaged in making sales of TV sets, purchases ten TV sets at $500 each and gives a resale exemption certificate to his supplier. Subsequently, he removes one TV set from stock for personal use in his home. This constitutes making use of the TV set for a purpose other than resale in the regular course of the retailer's business. Consequently, the retailer is required to include $500 as a purchase subject to use tax.~~

~~Example 2. A manufacturer of office equipment gives an exemption certificate for material used or consumed in the process of producing such equipment. Thereafter the manufacturer removes 20 desks from finished goods stock for use in his own offices. His accounting records disclose that the total cost of the material used in the production of the 20 desks was $1,000. As the manufacturer made use of the material other than for a purpose exempt under *Minnesota Statutes*, section 297A.25, subdivision 1, paragraph (h), the manufacturer is required to include in his purchases subject to use tax the retail price of the material used or consumed in manufacturing the desks, that is, $1,000. If the manufacturer is not engaged in the business of making sales at retail and consequently, has not made application for, or been issued a permit (see *Minnesota Statutes*, sections 297A.04 to 297A.06), he should report the purchases subject to use tax by filing a consumer's use tax return, form UT-1, in such cases. These returns are available upon request to the Commissioner of Revenue, Department of Revenue, Centennial Office Building, Saint Paul, Minnesota 55145.~~

If the purchaser does not have a sales tax permit and is not required to file a sales and use tax return, the purchaser must file a consumer's use tax return.

Use of the property for demonstration or display while holding it for sale or lease in the regular course of business is not a taxable use by the purchaser.

Subp. 2. **Temporary use.** If the purchaser temporarily uses the property other than for demonstration or display, while holding it for sale or lease, the use tax is calculated on the reasonable rental value of the property.

8130.3300 FUNGIBLE GOODS FOR WHICH EXEMPTION CERTIFICATE GIVEN.

Subpart 1. **Defined.** Fungible goods are movable goods which may be estimated and replaced according to weight, measure, and number. Such goods comprise those belonging to the same class that do not have to be dealt with in specie (retaining existence as a distinct individual of a particular class). Common examples of fungible goods are grain in silos or elevators, oil in tanks, coal in hoppers, and lumber in piles. See *Minnesota Statutes*, section 297A.13.

Subp. 2. **Commingled goods.** If a purchaser gives an exemption certificate in respect of fungible goods as provided ~~for~~ by *Minnesota Statutes*, sections 297A.09 and 297A.10, and thereafter commingles these goods with other fungible goods not so purchased but of such similarity that the goods purchased under the exemption certificate cannot be distinguished from the other goods, sales from the mass of commingled goods ~~shall be deemed~~ is considered to be sales of the goods purchased under the exemption certificate until all the nontaxable purchases have been accounted for.

8130.3400 DIRECT PAY PERMIT PROCEDURE.

[For text of subpart 1, see M.R.]

Subp. 2. **Payment.** The holder of a direct pay permit ~~shall~~ must report and pay the applicable use tax directly to the commissioner instead of paying the sales tax to its vendors with respect to all materials purchased pursuant to ~~such~~ a direct pay permit.

[For text of subp 3, see M.R.]

Subp. 4. **Qualification requirements.** To qualify for a direct pay permit, a business must demonstrate to the satisfaction of the commissioner ~~of revenue~~ that:

A. the nature of the business is such that the direct pay method will materially reduce the administrative work of collecting the tax;

B. the firm's accounting system will clearly reflect the proper amount of tax due; ~~and~~

C. the firm makes taxable purchases in sufficient volume to justify the expense of regular audits by the Department of Revenue; and

D. it is in the best interests of the state to issue the permit.

~~Each request for a direct pay permit will be carefully reviewed, and~~ Each person whose application is ~~accepted~~ approved will receive a direct pay permit which will be numbered, dated, and signed by the commissioner ~~of revenue~~ or ~~his~~ the commissioner's delegated representative. ~~The commissioner of revenue shall issue a direct pay permit only in those cases in which, in his judgment, it is in the best interests of the state of Minnesota to do so.~~

Subp. 5. **Holder's duties to vendors.** The holder of a direct pay permit ~~shall~~ must furnish a copy of ~~his~~ the direct pay permit or a statement that ~~he~~ the holder holds a direct pay permit ~~number _____ dated _____~~, the number of the permit and the date issued, to each vendor from whom ~~he~~ the holder purchases tangible personal property on which an exemption is claimed. ~~This shall~~ The use of the permit will relieve the vendor from the responsibility of collecting the sales tax on ~~purchases~~ sales made ~~by such~~ to a direct pay permit holder. Each person issued a direct pay permit must keep a current list of all vendors from whom purchases are made under the direct pay method, and, upon request by the commissioner, ~~shall~~ must submit such list for examination.

The holder of a direct pay permit must either issue the permit to all vendors required to collect Minnesota sales and use taxes (except those excluded in subpart 6), and accrue all liability as a use tax, or maintain accounting records in sufficient detail to show in summary, and in respect to each transaction, the amount of sales taxes paid to vendors in each reporting period.

If the holder of the permit chooses the latter alternative, then all purchases from any one supplier must be made either exempt or taxable. It is not permissible to request the vendor to assess the sales tax on only selected transactions.

Subp. 6. **Certain transactions not permitted.** A holder of a direct pay permit may never use it in connection with the following transactions:

[For text of items A and B, see M.R.]

C. purchases of admissions to places of amusement or athletic events, or the privilege of use of amusement devices;

D. purchases of motor vehicles taxed under *Minnesota Statutes*, chapter 297B; and

E. purchases of any of the taxable services listed in *Minnesota Statutes*, section 297A.01, subdivision 3, paragraphs (g) to (l).

Subp. 7. **Permit ~~not transferable and~~ revocable and not transferable or assignable.** A direct pay permit is not transferable nor may the use of a direct pay permit be assigned to a third party. The commissioner may revoke a direct pay permit at any time ~~for failure to~~ the permit holder fails to comply with the conditions under which ~~such authority~~ the permit was granted or for any other reason constituting misuse of ~~such authority~~ the permit. The direct pay permit may also be revoked where the commissioner determines that its continued use ~~thereof is determined by the commissioner to be~~ is contrary to the best interests of the state of Minnesota.

~~A facsimile of the authorized direct pay permit is reproduced at part 8130.9956.~~

8130.3600 FLEA MARKET OPERATORS.

Subpart 1. **In general.** The operator of a flea market, craft show, antique show, coin show, stamp show, comic book show, convention exhibit area, or similar event must obtain evidence that any person desiring to engage or conduct business on the premises owned or controlled by the operator holds a valid seller's sales tax permit or obtain a written statement from the seller that items offered for sale are not subject to sales tax. See *Minnesota Statutes*, section 297A.041.

Even if the operator of one of these events fails to obtain the required evidence, a seller making taxable sales at those events must still obtain a permit and collect the tax unless there is an applicable exemption in *Minnesota Statutes*, chapter 297A.

Subp. 2. **Form to use.** The commissioner has prepared a form, Flea Market Operators Certificate of Compliance, for use by operators for complying with this law. Show event operators are required to keep completed certificates as part of their business records.

8130.3800 IMPOSITION OF USE TAX.

The "use tax" is a compensating or complementary tax, reaching the use, storage, or consumption of certain items purchased for use in Minnesota. ~~The use tax is imposed at the rate of four percent of the sales price at retail unless the sales tax previously has been paid thereon.~~

The use tax shall be imposed in accordance with the applicable provisions of the Sales and Use Tax Law that are controlling with respect to the imposition of the sales tax.

8130.3850 COMPUTATION OF USE TAX.

Compute the tax on the sales price to the nearest full cent. For sales under $1, use the following guidelines:

A. In the computation of the amount of use tax to be collected on any transaction subject to a four percent rate, amounts of less than one-half cent may be disregarded and the amounts of one-half cent or more are considered as an additional cent. Thus, on a sale of 12 cents or less, the purchaser pays no tax; on a sale between 13 cents to and including 37 cents, the purchaser is required to pay one cent tax; on a sale between 38 cents to and including 62 cents, the purchaser is required to pay two cents tax; on a sale

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between 63 cents to and including 87 cents, the purchaser is required to pay three cents tax; on a sale of 88 cents to and including $1.12, the purchaser is required to pay four cents tax; on a sale in excess of $1, the purchaser is required to pay four percent on each full dollar plus the appropriate amount from the brackets above.

B. In the computation of the amount of tax to be collected on any transaction subject to a five percent rate, amounts of less than one-half cent may be disregarded and the amounts of one-half cent or more are considered as an additional cent. Thus, on a sale of nine cents or less, the purchaser pays no tax; on a sale between ten cents to and including 29 cents, the purchaser is required to pay one cent tax; on a sale between 30 cents to and including 49 cents, the purchaser is required to pay two cents tax; on a sale between 50 cents to and including 69 cents, the purchaser is required to pay three cents tax; on a sale between 70 cents to and including 89 cents, the purchaser is required to pay four cents tax; on a sale between 90 cents to and including $1.09, the purchaser is required to pay five cents tax; and on a sale in excess of $1, the purchaser is required to pay five percent on each full dollar plus the appropriate amount from the brackets above.

C. In the computation of the amount of tax to be collected on any transaction subject to a six percent rate, amounts of less than one-half cent may be disregarded and the amounts of one-half cent or more are considered as an additional cent. Thus, on a sale of eight cents or less, the purchaser pays no tax; on a sale between nine cents to and including 24 cents, the purchaser is required to pay one cent tax; on a sale between 25 cents to and including 41 cents, the purchaser is required to pay two cents tax; on a sale between 42 cents to and including 58 cents, the purchaser is required to pay three cents tax; on a sale between 59 cents to and including 74 cents, the purchaser is required to pay four cents tax; on a sale between 75 cents to and including 91 cents, the purchaser is required to pay five cents tax; on a sale between 92 cents to and including $1.08, the purchaser is required to pay six cents tax; and on a sale in excess of $1, the purchaser is required to pay six percent on each full dollar plus the appropriate amount from the brackets above.

8130.3900 LIABILITY FOR PAYMENT OF USE TAX.

Subpart 1. **General rule.** *Minnesota Statutes*, section 297A.15, imposes upon the purchaser of tangible personal property used, stored, or consumed in Minnesota, liability for the use tax until the tax has been paid to Minnesota. However, where the purchaser can satisfy the commissioner that the tax has been collected from the purchaser by a retailer who ~~maintains a place of business in~~ is required under *Minnesota Statutes*, chapter 297A, to collect sales or use tax for Minnesota, or by a retailer authorized by the commissioner to collect the tax, the purchaser's liability for payment of the tax due is extinguished.

Subp. 2. **Collection authorization.** ~~Under the due process clause of the United States Constitution, a seller neither authorized to do business in Minnesota nor maintaining a place of business in Minnesota, may not have imposed upon him an obligation to collect a use tax for the purpose of remitting such tax to Minnesota.~~ Where ~~such~~ a seller who is not required to collect Minnesota sales or use tax indicates ~~that he is willing~~ a willingness to collect a use tax on tangible personal property sold to persons located in Minnesota, authorization to do so may be granted to ~~him~~ the seller provided ~~he~~ the seller agrees:

A. to collect the use tax due from ~~his~~ customers on storage, use, or consumption in Minnesota of taxable personal property in accordance with *Minnesota Statutes*, section 297A.16;

B. to file a Minnesota sales and use tax return for each month on or before the ~~25th~~ 20th day of the succeeding month (see *Minnesota Statutes*, section ~~297A.26~~ 289A.18), and to remit the use tax collected to Minnesota ~~the use tax so collected.~~ (See *Minnesota Statutes*, section ~~297A.17~~ 289A.31); and

[For text of item C, see M.R.]

8130.4000 COLLECTION OF TAX AT TIME OF SALE.

Subpart 1. **Duty to collect tax.** ~~Any corporation authorized to do business in Minnesota (see *Minnesota Statutes*, chapter 303 for provisions regarding foreign corporations authorized to do business in Minnesota), any retailer maintaining a place of business in Minnesota, or any seller authorized to collect use tax under *Minnesota Statutes*, section 297A.15, upon making sales of taxable personal property for storage, use, or consumption in Minnesota, where such items are not exempt in respect of the purchaser under the Sales and Use Tax Law, shall collect the use tax from the purchaser and give to such purchaser a receipt or other written or printed memorandum evidencing payment of the tax.~~ The following persons making taxable sales for use, storage, or consumption in Minnesota are required to collect the use tax from the purchaser at the time of sale, and give to the purchaser a receipt or other written or printed memorandum evidencing payment of the tax:

A. an out-of-state retailer maintaining a place of business in Minnesota;

B. a retailer who has voluntarily filed an application for a permit and has been granted one under *Minnesota Statutes*, section 297A.21, subdivision 5; or

C. a retailer making retail sales from outside this state to a destination within this state if the retailer engages in the regular or systematic soliciting of sales from potential customers in this state.

If the tax is not imposed under *Minnesota Statutes*, chapter 297A, because of exemptions enumerated therein, the retailer is not required to collect the tax.

Subp. 2. **Retailer maintaining a place of business in Minnesota.** "Retailer maintaining a place of business in Minnesota" is defined for purposes of this part as any retailer having or maintaining within Minnesota an office, distribution house, sales house, warehouse, a manufacturer's representative, ~~salesman~~ salesperson, or any agent operating within this state under the authority of the retailer, whether ~~such~~ the place of business or agent is located in Minnesota permanently or temporarily. Thus when a manufacturer's representative, ~~salesman~~ salesperson, or agent ~~takes an order for merchandise and forwards the order to the out-of-state vendor who fills the order, ships the merchandise to the Minnesota purchaser, and bills the customer for the merchandise~~ is operating within Minnesota on behalf of the out-of-state retailer, the out-of-state ~~vendor~~ retailer is required to have a permit, collect the Minnesota use tax from the customer, and remit the tax to the state of Minnesota. See *Minnesota Statutes*, section 297A.21, subdivision 1.

[For text of subp 3, see M.R.]

Subp. 4. **Manufacturer's representative.** When a manufacturer's representative takes the order and bills the purchaser and collects for the merchandise ~~himself, he~~ the representative is then considered a vendor for purposes of administering the Minnesota Sales and Use Tax Law, and is required to have a permit and collect the sales tax from the customer.

Subp. 5. **Penalty.** Where ~~such~~ an out-of-state vendor does not have a Minnesota sales and use tax permit, any manufacturer's representative, salesman, agent, or employee of ~~such~~ the vendor, who sells, solicits orders for, or delivers tangible personal property in this state for such vendors, is guilty of a misdemeanor ~~which is punishable by a fine of not more than $100 for each offense, or by imprisonment for not more than 30 days or by both such fine and imprisonment~~. See *Minnesota Statutes*, section 289A.63, subdivision 6.

8130.4200 REGISTRATION.

Subpart 1. **~~Statutory authority~~ Duty to obtain a permit.** ~~Every corporation authorized to do business in Minnesota (see *Minnesota Statutes*, chapter 303, for provisions regarding foreign corporations authorized to do business in Minnesota) and every retailer maintaining a place of business in Minnesota (see *Minnesota Statutes*, section 297A.16) making sales of items subject to the imposition of the use tax under *Minnesota Statutes*, section 297A.14, shall secure a sales and use tax permit from the commissioner of revenue. The provisions of *Minnesota Statutes*, sections 297A.04 and 297A.05 shall be applicable to any corporation or retailer subject to this part.~~ The following persons making sales of items subject to the imposition of the use tax under *Minnesota Statutes*, section 297A.14, are required to obtain a sales and use tax permit from the commissioner:

A. any retailer maintaining a place of business in Minnesota; or

B. any retailer making retail sales from outside this state to a destination within this state if the retailer engages in the regular or systematic soliciting of sales from potential customers in this state.

Subp. 2. [See Repealer.]

Subp. 3. **Required information.** Each ~~such~~ applicant ~~shall~~ must furnish the commissioner with the names and addresses of all ~~his~~ the applicant's agents operating in Minnesota and the location of each of ~~his~~ the applicant's distribution and sales houses or offices or other places of business within this state.

8130.4300 PROPERTY BROUGHT INTO MINNESOTA.

Subpart 1. **General rule.** Except as provided in *Minnesota Statutes*, section 297A.25, subdivision ~~3~~ 32 (which exempts personal property from the tax where brought in by a nonresident just prior to becoming a resident), *Minnesota Statutes*, section 297A.23, ~~casts upon any~~ places the burden of proof on the purchaser of tangible personal property ~~the burden of proving~~ to prove that the items ~~subject to the imposition of a use tax under *Minnesota Statutes*, section 297A.14,~~ which were shipped or brought into Minnesota by such purchaser ~~subsequent to July 31, 1967,~~ were not purchased from a retailer for storage, use, or consumption in Minnesota, and thus are not subject to Minnesota sales or use tax. Whether the property has been purchased for use in Minnesota usually will be determinable at or near the time of its purchase. Thus, a nonresident purchaser who can show that property ~~which~~ had been purchased and previously used in another state for a reasonable period of time before being brought into Minnesota for use therein, usually will be deemed to have satisfied the requirements of *Minnesota Statutes*, section 297A.23.

~~Example 1. A contractor with his principal place of business in Wisconsin is engaged to construct a portion of an interstate highway in Minnesota. In order to perform the work, he brings into Minnesota various pieces of heavy equipment previously purchased and used in his road building activities in other states. The contractor's records substantiate the previous purchase and use of this equipment outside Minnesota. Accordingly, no use tax is due.~~

~~Example 2. Same facts as in example 1 except that the contractor purchases three additional pieces of equipment necessary for~~

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~~the Minnesota job and has such equipment delivered into this state. Consequently, the presumption that the three additional pieces of equipment were purchased for initial use in Minnesota cannot be overcome by contractor.~~

Subp. 2. **Credit for tax paid to other state.** Whether a use tax is due and payable to Minnesota depends upon whether a tax ~~has been paid to~~ is legally imposed by some other state. ~~Such~~ The credit is limited to sales or use tax ~~paid~~ legally owed to ~~any other~~ another state of the United States. This credit is not allowed for taxes paid to governmental subdivisions or foreign countries. ~~In this connection~~ See *Minnesota Statutes*, section 297A.24.

8130.4400 CREDIT AGAINST USE TAX.

Subpart 1. **General rule.** Under *Minnesota Statutes*, section 297A.24, a credit is allowed against the use tax due under *Minnesota Statutes*, section 297A.14, from any person on any item purchased by ~~such~~ the person where ~~such~~ the item has previously been subjected to a sales or use tax in another state. The credit ~~shall be~~ is allowed to the extent of the rate legally imposed on ~~such~~ the item in the other state. If the tax paid in the other state is subject to refund by the other state, it is not legally imposed for purposes of this credit. If the rate imposed by ~~such~~ the other state is equal to or higher than the rate imposed under *Minnesota Statutes*, section 297A.14, then no tax ~~shall be~~ is due ~~thereon~~.

~~Example 1. A corporation located in Minnesota purchases a special machine for delivery in state Y for $30,000 plus six percent sales tax imposed by state Y. The corporation then transports the machine back to Minnesota in its own truck. As state Y sales tax rate is in excess of the rate imposed under *Minnesota Statutes*, section 297A.14, no use tax is required to be paid to Minnesota on the machine. Subsequently, B corporation purchases for delivery in Minnesota, accessory equipment for the machine from the same vendor in state Y at a cost of $5,000. As a result thereof, no sales tax is paid to state Y on the accessory equipment. Consequently, a use tax of $200 is due to Minnesota in respect of the accessory equipment. The unused credit of the original purchase, that is, the difference between the $1,800 sales tax paid in state Y, and the $1,200 use tax imposed under *Minnesota Statutes*, section 297A.14, may not be applied against the purchase of the accessory equipment or any other subsequent purchase made by the B corporation.~~

~~Example 2. A Minnesota resident purchases tangible personal property from a vendor in state X for $3,000. He accepts delivery of the property in state X and pays a sales tax at the five percent rate imposed on sales in that state. When such property is brought into Minnesota for use in this state, a use tax return must be filed. However, as the rate upon which the sales tax was imposed in state X is in excess of the four percent rate imposed by Minnesota, no use tax is due in Minnesota thereon.~~

~~Example 3. Same facts as in example 2, except that the sales tax was imposed in state X at the rate of three percent. The amount of the use tax due to Minnesota is calculated as follows: Tax on $3,000 at four percent (Minnesota rate) = $120. Credit for tax paid to state X ($3,000 at three percent) = $90. Amount required to be paid to Minnesota, $30.~~

~~Example 4. A Minnesota resident trades in an old machine in state V. The list price of the new machine is $2,600, and the Minnesota resident is allowed $1,000 trade-in allowance on the old machine. State V does not allow a deduction for value of the trade-in when determining tax liability. The Minnesota resident pays a tax of two percent of $2,600 ($52) to state V. The new machine is brought to Minnesota for use. The use tax imposed by *Minnesota Statutes*, section 297A.14, is computed as follows: tax in Minnesota, represented by the sales price of $2,600, less $1,000 trade-in allowance (see *Minnesota Statutes*, section 297A.01, subdivision 8), at the rate of four percent equals $64. Tax on $1,600 in state V at two percent equals $32. Tax due to Minnesota, $32. This calculation is based on the provisions of *Minnesota Statutes*, section 297A.24, which states that the provisions of *Minnesota Statutes*, section 297A.14, shall apply only at the rate measured by the difference between the rate fixed by *Minnesota Statutes*, section 297A.14, and the rate by which the previous tax was calculated.~~

Calculation of use tax due is governed by *Minnesota Statutes*, section 297A.24. That section states that use tax provisions apply only at the rate measured by the difference between the rate fixed by *Minnesota Statutes*, section 297A.14, and the rate by which the previous tax was calculated in the other state. The maximum amount of tax which will be assessed by Minnesota according to *Minnesota Statutes*, section 297A.24, is the amount of tax calculated from the Minnesota rate. Use tax due to Minnesota is the tax prescribed by the rate in *Minnesota Statutes*, section 297A.14, less the rate paid in the state of purchase. If the sales tax imposed in the state of purchase is equal to or greater than the amount of Minnesota use tax, no Minnesota use tax is due.

Subp. 2. **Erroneous tax payment.** A Minnesota ~~resident~~ taxpayer who erroneously pays a sales tax to another state may not take a credit against the tax due Minnesota on ~~his~~ the Minnesota return. Credit is allowed against the tax due Minnesota if the Minnesota ~~resident~~ taxpayer has legally paid a sales tax to another state and may only be taken by the person who paid the tax to the other state.

~~Example. A Minnesota retailer purchasing appliances in Iowa for resale and paying the Iowa sales tax cannot deduct from his Minnesota sales tax return the tax paid to the state of Iowa.~~

[For text of subp 3, see M.R.]

8130.7300 WHEN TAX IS DUE.

Subpart 1. **General rule.** Generally, except for the accelerated payment of the June liability, sales and use taxes imposed under law are due and payable at the office of the commissioner monthly on or before the ~~25th~~ 20th day of the month immediately following the month in which the taxable event or events occurred. See *Minnesota Statutes*, section 289A.20, subdivision 4.

Subp. 2. **Other reporting periods.** In addition, under authorization granted to ~~him~~ the commissioner by law (see *Minnesota Statutes*, section ~~297A.26~~ 289A.20, subdivision ~~1~~ 4), the commissioner may authorize other reporting periods. ~~Such~~

A. The authorizations may be granted provided:

~~A.~~ (1) the person desiring to file on other than a monthly basis must ~~file form ST-12, application~~ apply to file quarterly or annual Minnesota sales and use tax returns, with the ~~Sales and Use Tax~~ Taxpayer Information Division.

~~B. The application for quarterly or annual returns must be filed not later than 30 days immediately preceding the first day of a quarter period beginning on either January 1, April 1, July 1, or October 1.~~

~~C.~~ (2) The person applying for authorization to file on a quarterly basis must have had average sales and use tax liability of less than ~~$100~~ $250 per month for the six-month period preceding the period for which the change in filing is requested as adjusted under item B. The person applying for authorization to file an annual return must have had an average sales and use tax liability of less than ~~$10~~ $25 per month for the preceding one-year period as adjusted under item B.

B. The commissioner will annually recalculate the maximum liability amounts for quarterly or annual filing, using the percentage calculated pursuant to *Minnesota Statutes*, section 290.06, subdivision 2d, paragraph (b). If the maximum liability amount so calculated is more than $50 above the maximum liability amount for quarterly filing then in effect, the maximum liability amount for quarterly filing will be increased $50. The maximum liability amount for annual filing will be increased by $5 each time the quarterly maximum liability amount is increased.

C. If authorization to file on other than a monthly basis has been granted by the commissioner, the tax due thereunder ~~shall~~ must be paid at the office of the commissioner on or before the ~~25th~~ 20th day of the month immediately following the close of the authorized period.

D. If the person is applying for a new sales tax permit and has no history of tax liability, application for authorization may be made on the permit application. The person must estimate whether the expected liability will average less than $250 per month, for quarterly filing, as adjusted under item B, or less than $25 per month, for annual filing, as adjusted under item B.

Subp. 3. **Revocation of filing period.** Authorizations granted by the commissioner to file sales and use tax returns, either on a quarterly or annual basis, may be revoked if:

A. the person granted ~~such~~ the authorization is either delinquent in filing ~~his~~ the return or in paying the tax due;

B. ~~such~~ the person's tax liability exceeds ~~$300~~ $750 for any subsequent quarter where the filing of quarterly returns has been authorized, or where ~~such~~ the person's tax liability exceeds ~~$120~~ $300 for any subsequent calendar year where an annual return has been authorized; or

C. the commissioner determines that the procedures authorized under this part unduly jeopardize the orderly and efficient administration of the Sales and Use Tax Law.

In the event that authorization to file returns and pay the tax due thereon, either on a quarterly or annual basis, is revoked by the commissioner, the person whose authorization has been ~~so~~ revoked shall thereafter ~~be required to~~ file ~~his~~ the return and pay the tax due thereon on a monthly basis in accordance with this part.

When the filing amounts in subpart 2, item A, are adjusted by the commissioner under subpart 2, item B, the amounts in this subpart must be adjusted proportionately by the commissioner.

In the event that a person authorized to file on a quarterly or annual basis ceases to engage in a kind of business which requires that ~~he file returns~~ a return be filed under the Sales and Use Tax Law, ~~such~~ the person ~~shall~~ must file a final return by the ~~25th~~ 20th day of the month following the discontinuance of such business.

Subp. 4. **Accelerated payment of June liability.** Some persons are required to file an estimated June sales tax return early using an estimated June sales and use tax return. A person whose May sales tax liability is $1,500 or more must file an estimated June tax return. The law requires these persons to pay one-half of the estimated June tax by June 20 each year, when the May return is filed.

A person required to make the estimated June tax payment must file the regular June return and pay the balance of the June payment by August 20, which is also the due date of the July return. This payment may be paid at any time before the due date. The taxpayer must file separate returns for the months of June and July. No estimated June tax payment is required if the May tax liability is less than $1,500.

Taxpayers who are not required to make the estimated June tax payment must file the June return by July 20.

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Subp. 5. **Local sales and use tax procedure.** Retailers located outside of cities that impose local sales and use taxes are not required to remit the local use taxes until the amount of local use tax collected is $10 or more. See *Minnesota Statutes*, section 289.20, subdivision 4.

When the amount of local use tax collected is $10 or more, the total amount of local use tax must be remitted to the commissioner with a local sales and use tax return at the time of the retailer's next regular periodic payment.

8130.7400 UNCOLLECTIBLE DEBT DEDUCTION.

Subpart 1. **General rule.** Ordinarily, a deduction for ~~bad~~ uncollectible debts is allowed only for a person who is reporting on the accrual method of accounting for sales and use tax purposes. However, if a cash basis taxpayer accepts an unsecured check in payment for a sale, reports the sale, and subsequently determines that the check is uncollectible, ~~he~~ the taxpayer is entitled to an uncollectible debt deduction. Uncollectible debts (commonly referred to as bad debts) ~~shall~~ will be recognized as a deduction for sales tax purposes only when given recognition by a direct charge-off ~~on the accounting records of the retailer~~ for federal income tax purposes or, if the retailer is not required to file income tax returns, charged off in accordance with generally accepted accounting principles. Consequently, no anticipatory or statistical method of estimating future ~~bad~~ uncollectible debts will be allowed by the commissioner. See *Minnesota Statutes*, section 297A.26, subdivision 2.

~~Example. A retailer uses the reserve method of accounting for bad debts; that is, periodically he estimates the value of accounts receivable that will become uncollectible. For the month of September, the account books reflect bad debt expenses of $1,000 and a corresponding increase in the reserve for bad debts account. Accounts receivable actually charged off during this month were $800 with a corresponding decrease in the reserve for bad debts account. The bad debt deduction for sales tax purposes is $800.~~

Subp. 2. **Deduction determination.** If a debt becomes uncollectible, either in whole or in part, in a reporting period subsequent to ~~that~~ the period in which the transaction that ~~gives~~ gave rise to the ~~bad~~ uncollectible debt ~~occurs~~ occurred, the retailer may deduct ~~such bad~~ the uncollectible debt ~~against~~ from the gross receipts for the reporting period in which the ~~bad~~ uncollectible debt is determined to be uncollectible in accordance with the following rules.

A. If the uncollectible ~~bad~~ debt arose in respect of a sale required to be included in gross receipts, subject to a tax imposed under the Sales and Use Tax Law, the entire amount of the debt remaining uncollected ~~shall be~~ is allowed as a deduction.

B. If the uncollectible debt arose in respect of a sale partly subject to the tax imposed under the Sales and Use Tax Law and partly exempt thereunder, the amount of the uncollectible debt allowed as a deduction ~~shall be an~~ is the amount derived by multiplying the uncollectible debt by the percentage that the taxable sale bears to the total sales.

C. If the uncollectible debt arose in respect of two or more sales made at successive intervals, payments made ~~prior to~~ before the date the debt became uncollectible ~~shall~~ must be applied, first to the earliest sale upon which there is an unpaid balance, and to following sales in successive order.

~~Example 1. S, a vendor of office furniture, sells five desks to C at $200 per desk on January 15, 1968. S is on the accrual basis and includes in his gross receipts for January 1968, the sales made to C. Subsequently, C makes payments of $400. In June 1968, C is unable to make further payments. C thereafter, by a common law composition, makes a pro rata settlement with his creditors. S receives a final payment of $400 in November 1968. The remaining balance of $200 is deemed uncollectible at that time. S, in reporting his gross receipts for the month of November, will be allowed to deduct as a bad debt the $200 balance remaining uncollected.~~

~~Example 2. An electric power company furnishes power to an industrial production company. Of the electric power so furnished, approximately 60 percent is used in the productive process and 40 percent is used for space heating, lighting, and air conditioning the production and office premises. The industrial production company files a voluntary petition in bankruptcy on March 15, 1968. At that time, it owed the electric power company $3,000 for power furnished. The electric power company had included in its gross receipts $3,000, which were reported on an accrual basis, and had deducted $1,800 as exempt sales, leaving a net of $1,200 of taxable electric power services. At the termination of the bankruptcy proceedings in February 1969, the electric power company received a distribution of $1,600. The uncollectible debt electric power company is entitled to deduct on the return for the month of February 1969 is computed as follows: From the total due of $3,000, there is subtracted $1,600, representing the amount paid to the electric power company in February 1969. This leaves a balance of $1,400 uncollectible. This amount is multiplied by a fraction, the numerator of which is the amount taxable, $1,200, and the denominator of which is the total amount charged for power; that is, $3,000.~~

~~Thus, $1,400 × $\frac{\$1,200}{\$3,000}$ = $560.00, the amount allowable as a deduction.~~

~~Example 3. A supplier, who is on the accrual basis, sells a contractor-retailer building supplies on March 15, 1968 for $20,000. At that time, there was no debt due the supplier from the contractor-retailer. As these supplies were to be used by the contractor-retailer in the alteration of real property, the sale is taxable. On April 5, 1968, the contractor-retailer purchases tangible personal property for resale in the amount of $8,000 from the supplier and gives to the latter an exemption certificate. On April 10, 1968, the contractor-retailer purchases an additional $3,000 of building supplies to be used in his contracting activities. This last transaction represents a~~

~~taxable sale. The contractor-retailer makes payments to the supplier during March, April, and May 1968 totaling $8,000. Thereafter, the contractor-retailer is unable to meet his obligations. An out-of-court settlement with his creditors is reached, and on September 1, 1968, the supplier is paid $10,000 representing final settlement of his claims. The supplier will be entitled to deduct from the amount of gross receipts he reports for the month of September 1968 uncollectible accounts computed as follows:~~

~~March 15, 1968 taxable sales~~	~~$20,000~~
~~Payments received subsequently (total)~~	~~18,000~~
~~Balance due~~	~~2,000~~
~~April 10, 1968 taxable sales~~	~~3,000~~
~~Total uncollectible debt allowed as deduction on supplier's September 1968 return~~	~~$ 5,000~~

~~The $8,000 debt due to the supplier in respect to the April 5, 1968, transaction is nontaxable and may not be deducted subsequently.~~

Subp. 3. **Excess carryover.** In the event that the seller is entitled to ~~a bad~~ an uncollectible debt deduction in excess of the amount ~~he~~ the seller is required to report for the month in which the debt is determined to be uncollectible, the balance of the deduction may be ~~utilized~~ used in a subsequent month.

~~Example. Assume in subpart 2, item C, example 3 that, for the month of September 1968, the supplier was required to report $4,000 in gross receipts before taking a deduction for the uncollectible debt of $5,000. He would be entitled to deduct the remaining $1,000 in a subsequent month.~~

Subp. 4. **Repossessions.** In the case of repossessions, ~~a bad~~ an uncollectible debt deduction is allowable only to the extent that the pro rata portion of all payments and credits, ~~including the wholesale value of the repossessed article,~~ attributable to the cash sales price of the merchandise is less than the net contract balance (after excluding unearned insurance and finance charges) at the date of repossession.

~~One of the prerequisites in computing the loss on repossessed merchandise is determining the wholesale value thereof. In establishing the wholesale value on repossessed merchandise such as jewelry, furniture, appliances, etc., each case will have to be considered on its own merits. Generally, the taxpayer will be able to use the amount at which the merchandise is brought back into resale inventory.~~

Subp. 5. **Recovery of uncollectible debts previously deducted.** If an uncollectible debt deduction is taken and the taxpayer subsequently collects the debt in whole or in part, the amount collected must be included in the first return filed after collection, and the amount of tax thereon must be paid with the return.

8130.7500 RETURNS AND RECORDS.

Subpart 1. **Sales and use tax return.** Any person to whom the commissioner has issued a permit under *Minnesota Statutes*, sections 297A.04~~,~~ ~~297A.05,~~ and 297A.06, ~~shall~~ must file ~~the form ST-1,~~ a sales and use tax return, prescribed by the commissioner. ~~Form ST-1,~~ The sales and use tax return and instructions issued as a guide thereto~~,~~ ~~contain all the information required in order to complete the return. In accordance with *Minnesota Statutes*, section 297A.27, subdivision 1, the form contains a statement to the effect that it is made under the penalties of criminal liability for wilfully making a false return~~ are available from the commissioner. The return must be signed either by the ~~person required to file it~~ permit holder or by ~~any person authorized by him to do so~~ a person having the control, supervision, or responsibility of filing returns and making payment of the sales and use tax.

Subp. 2. **Consumer's use tax return.** Any person required to file a use tax return under *Minnesota Statutes*, section ~~297A.27~~ 289A.11, subdivision ~~2~~ 3, and who has not been issued a sales and use tax permit, ~~shall~~ must file a ~~return on form UT-1,~~ consumer's use tax return, on or before the ~~25th~~ 20th day of the month immediately following the month in which the property subject to use tax was first brought into Minnesota.

Subp. 3. **Consolidated returns permitted.** Under *Minnesota Statutes*, section 289A.11, subdivision 1, if the person required to file a return has two or more places of business at which ~~he~~ the person engages in transactions subject to tax, ~~he~~ the person may elect to file a ~~consolidated return, form ST-1 (CON),~~ consolidated sales and use tax return, for all such places of business under the following conditions:

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A. ~~he~~ the taxpayer has been granted a sales and use tax account number by the commissioner;

B. ~~he~~ the taxpayer furnishes to the commissioner a list containing the business name and address and reporting information specified in subpart 5 for each separate place of business; and

C. ~~he~~ the taxpayer makes available at the address used by ~~him~~ the taxpayer on ~~form ST-1 (CON),~~ the consolidated return the information pertinent to each separate place of business in order that the commissioner may be able to perform a proper audit with respect to the return so filed.

Subp. 4. **Time and place of filing.** Under *Minnesota Statutes*, section 289A.18, subdivision 4, all tax returns ~~shall~~ must be filed at the office of the commissioner on or before the ~~25th~~ 20th day of the month immediately following the month for which ~~such~~ the taxes are due, unless authorization has been granted to the person required to file either on a quarterly or annual basis. Where a quarterly or annual filing is authorized, the return is required to be filed at the office of the commissioner on or before the ~~25th~~ 20th day of the month immediately following the close of the period authorized. If any return required under the provisions of the Sales and Use Tax Law becomes due upon a Saturday, Sunday, or legal holiday, ~~such~~ the return ~~shall~~ will be considered timely filed if it is filed or received upon the next succeeding regular business day.

Subp. 5. **Reporting requirements.** Reporting requirements are:

A. All sales and use tax returns filed shall show total gross sales in any manner related to Minnesota business (not including the sales tax collected) on line one of the return without any exclusions except for the following:

(1) charges for personal services rendered;

(2) labor or service charges for installing or applying goods sold if separately stated;

(3) charges for interest, financing, and transportation incurred after the sale if separately stated;

(4) trade-in allowances;

(5) cash discounts and cash or credit refunds on taxable property returned by customers; ~~and~~

(6) installment payments on conditional or credit sales previously reported;

(7) labor used in repairing, which does not include altering, modifying, or assembling tangible personal property if separately stated;

(8) isolated or occasional sales of tangible personal property; and

(9) leases of real property, if the lease is not for lodging or similar use for a period of less than 30 days, subject to part 8130.1000 and leases of manufactured homes used for residential purposes for a continuous period of 30 days or more.

~~All of the above exclusions from gross sales shall be omitted from the amount entered on line one of the return. However,~~ All ~~such~~ exclusions from line one ~~shall~~ must be supported by the taxpayer's accounting records.

B. All gross sales included in line one of the return but not subject to tax under the provisions of the Sales and Use Tax Law ~~shall~~ must be itemized on the reverse side of the return. The total of itemized deductions ~~shall~~ must be shown on line two of the return. The itemized deductions ~~shall~~ must be supported by the taxpayer's accounting records and ~~shall not~~ cannot be computed by subtracting line three from line one of the return.

C. All sales revenues taxable under the provisions of the Sales and Use Tax Law ~~shall~~ must be shown on line three of the return, and ~~such~~ the amount ~~shall~~ must be computed by subtracting line two (~~total gross sales not subject to tax~~ deductions) from line one (~~total~~ gross sales).

D. All purchases not previously taxed by the vendor, and subject to the tax under the provisions of the Sales and Use Tax Law ~~shall~~ must be shown on line four of the return without regard to the location of the vendor.

E. The sum of ~~taxable~~ net sales from line three plus taxable purchases from line four ~~shall~~ must be shown on line five of the return.

F. The amount ~~of tax due on the return shall be shown on line six and shall be computed by multiplying the amount~~ on line five of the return ~~by the prevailing tax rate~~ multiplied by the current tax rate computes the amount of tax due that must be shown on line six of the return.

G. All liquor sales that are subject to a tax rate greater than the general sales tax rate must be shown on line seven of the return. The amount on line seven must also be included in gross sales on line one.

H. The amount of additional tax due on liquor sales must be shown on line eight of the return. The tax is computed by multiplying the amount on line seven by the tax rate on line eight of the return.

I. The sum of sales and use tax due from line six plus the additional liquor tax due from line eight must be shown on line nine of the return.

J. If an ~~error was made by reporting more or less than the correct~~ incorrect amount of tax was reported in a previous period, an adjustment may be entered on line ~~eight~~ 11. A detailed explanation of ~~such~~ the adjustment must be submitted with the return. The explanation must include the following:

(1) name;

(2) sales and use tax account number;

(3) the period(s) in which the ~~error was made~~ incorrect amount of tax was reported;

(4) computation to arrive at amount of adjustment; and

(5) the reason(s) for the adjustment (attach pertinent supporting documents).

The amount of the overpayment being taken as an adjustment on line 11 must not exceed the amount of tax due on line 9. The amount of the adjustment which exceeds the tax due on line 9 must be taken as line 11 adjustment on a subsequent return.

Overpayments in excess of ~~$500 may~~ $1,000 must not be entered on line ~~eight~~ 11. Refunds of ~~such~~ overpayments ~~should~~ must be requested by filing a claim for refund~~, form ST-11~~.

Subp. 6. **Records; general.** Every seller, retailer, and person storing, using, or otherwise consuming in this state tangible personal property or taxable services as defined in *Minnesota Statutes*, section 297A.01, subdivision 3, purchased from a retailer, and every lessor and lessee of tangible personal property for use in this state ~~shall~~ must keep adequate and complete records showing:

A. gross receipts from sales or ~~rental~~ lease payments from leases of tangible personal property (including any services that are a part of the sale or lease) made within Minnesota irrespective of whether the seller or lessor regards the receipts as taxable or nontaxable;

B. all deductions allowed by law and claimed in filing returns; and

C. total purchase price of all ~~tangible personal property~~ sales or purchases as defined in *Minnesota Statutes*, section 297A.01, subdivision 3, purchased for sale or consumption or lease in Minnesota.

These records must include the normal books of account ordinarily maintained by the average prudent ~~businessman~~ businessperson engaged in the activity in question, together with all bills, receipts, invoices, cash register tapes, or other documents of original entry supporting the entries in the books of account as well as all schedules or working papers used in connection with the preparation of tax returns.

[For text of subp 7, see M.R.]

Subp. 8. **~~Records; EDP~~ Electronic data processing records.** "Electronic data processing records" ~~are defined to~~ include punched cards, magnetic tapes, magnetic disk packs, computer disks, and other machine-sensible data media used for recording, consolidating, and summarizing accounting transactions and records within a taxpayer's electronic data processing system~~, and all such~~. These records are required to be retained so long as their contents may be material in the administration of any provision of the Sales and Use Tax Law. ~~Any machine-sensible records which are clearly not material to the administration of this law need not be retained.~~ The commissioner shall decide the materiality of any such records, and if the materiality of any record is questionable, then ~~such~~ the record ~~shall~~ must be retained. It ~~shall~~ is not ~~be~~ required that taxpayers retain the same data on two or more machine-sensible media~~, i.e., if the same data is first punched into cards and then transferred to magnetic tape, then it is not necessary to retain the punched cards since the tape must be retained. If there is a duplication of data between punched cards and magnetic tapes, then the tapes shallalways be retained rather than the cards~~. If there is a duplication of data between two or more electronic data processing media, the taxpayer must maintain a complete set of all the records on at least one of the media.

~~Although EDP accounting systems will vary from one taxpayer to another, all systems must include a method of producing visible and legible records from the machine-sensible records which will provide the necessary information for the verification of the taxpayer's tax liability. Any records required under this subpart refer to printed "hard copy" records, and do not eliminate the necessity of maintaining the corresponding machine-sensible records as also required by the first paragraph of this subpart.~~ These requirements apply to any taxpayer who maintains any records on ~~EDP~~ an electronic data processing media. The records to be maintained are as follows.

A. A general ledger, with source references, to coincide with financial reports for sales tax reporting periods. In cases where subsidiary ledgers are used to support the general ledger accounts, the subsidiary ledgers ~~should be written out periodically~~ must be maintained.

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B. ~~The audit trail will be designed so that the details underlying the summary accounting data, such as invoices and vouchers, may~~ Invoices, vouchers, and other records which support the summary accounting data. There records must be identified and made available to the department upon request.

C. The records ~~must~~ which provide the opportunity to trace any transaction back to the original source or forward to a final total. If printouts are not made at the time of processing, then the system must have the ability to reconstruct these transactions.

D. ~~Adequate record retention facilities must be available for storing all machine sensible records as well as supporting documents.~~

~~E.~~ A general description or documentation of the ~~EDP~~ electronic data processing portion of the accounting system. This includes but is not limited to:

[For text of subitems (1) and (2), see M.R. 1989]

(3) standard operating procedures and control procedures, including the reconciliation of ~~EDP~~ electronic data processing controls to ~~non EDP~~ nonelectronic data processing controls, error listings and error logs, and any other controls, either ~~EDP~~ electronic data processing or manual, used to ensure accurate and reliable processing.

Any taxpayer retaining disbursement or revenue records on ~~machine sensible~~ electronic data processing records for any individual original transactions, or any summary of ~~such~~ the transactions subject to the tax under the provisions of the Sales and Use Tax Law ~~shall~~ must separately show the amount of sales tax paid or the amount of sales tax collected. It ~~shall be~~ is permissible, however, to group all taxable sales or all taxable purchases into various accounts, all of which are taxable, providing that if a nontaxable transaction is combined with a taxable transaction in the same account, then, with respect to each individual transaction, the tax ~~shall be~~ is separately shown in the ~~machine sensible~~ electronic data processing record.

An electronic data processing system must include a method of producing visible and legible paper records from the electronic data processing records which will provide the necessary information for verification of the taxpayer's tax liability.

Production of these paper records does not eliminate the necessity of maintaining the corresponding electronic data processing records as required by the first paragraph of this subpart.

8130.7600 ~~COMMISSIONER MAY REQUIRE~~ SECURITY: NOTICE FROM COMMISSIONER.

Subpart 1. **In general.** In order to assure payment of the tax due, the commissioner may require that sufficient security be deposited with ~~him~~ the commissioner by a retailer required to remit payment of the tax under the Sales and Use Tax Law.

Subp. 2. to 4. [See Repealer.]

Subp. 5. **Notice of sale.** Notice of sale of such security must be served either personally upon the person who deposited the security or by mail in the same manner as used with respect to service of notice in *Minnesota Statutes*, section ~~297A.31~~ 289A.37, subdivision 5.

Subp. 6. **Notice of ~~retirement~~ requirement.** Whenever the commissioner requires a security deposit~~, he shall~~ under *Minnesota Statutes*, section 297A.07 and 297A.28, the commissioner must so notify, in writing, the person from whom the deposit is required. The written notification ~~shall~~ must be signed either by the commissioner or ~~his~~ an authorized representative. The notice ~~shall~~ must set forth the amount of security and the basis upon which the required amount ~~so required~~ was computed. ~~In addition, the notice shall inform the recipient as to the last effective date for depositing such security without incurring stated penalties.~~

8130.7700 EXTENSION OF TIME TO FILE RETURN ~~AND REMIT TAX~~.

Subpart 1. **General rule.** Whenever~~, in his judgment,~~ the commissioner believes good cause exists, the commissioner may, upon application, extend the time for filing a return ~~and paying the tax due thereon~~. ~~Such~~ The extension only applies to filing of the return, not payment of the tax. The tax must still be paid on the original due date. The extension shall not exceed 60 days from the date on which the return ~~and the tax thereon are~~ is due. (See *Minnesota Statutes*, sections ~~297A.26~~ 289A.18, subdivision ~~1~~ 4, and ~~297A.27~~ 289A.19, subdivision 5, regarding due dates for filing returns ~~and remitting tax~~.) ~~If an extension of time is granted, and the remittance of tax is submitted prior to the expiration of the period for which the extension is granted, the tax will be deemed to have been paid timely.~~

Subp. 2. [See Repealer.]

Subp. 3. **Conditions.** Extension may be granted subject to the following conditions:

A. the ~~application~~ extension request must be filed on or before the due date for filing the return, must be in writing, and contain the taxpayer's name, account number, and reason for request;

[For text of item B, see M.R.]

C. ~~each application must be filed in duplicate;~~

~~D.~~ the ~~application~~ extension request must be signed by ~~an~~ the applicant or ~~his~~ the applicant's duly authorized agent; and

~~E.~~ D. the ~~application~~ extension request must be forwarded to the Minnesota Department of Revenue, ~~Sales and Use Tax~~ Taxpayer Information Division, ~~Centennial Office Building~~ Mail Station 4453, Saint Paul, Minnesota ~~55145~~ 55146-4453, and ~~should be~~ submitted in an envelope marked "Extension Request."

If the ~~application~~ extension request is approved, the original copy, marked "Approved," will be returned to the applicant. The ~~application~~ extension request, as approved, should be attached to the completed return when filed.

~~(Note: Form ST-9, application for extension of time to file Minnesota sales and use tax return, is available upon request.)~~

8130.7900 ~~FAILURE TO FILE A~~ RETURN FILING; FAILURE TO FILE.

Subpart 1. **~~Persons required~~ Duty to file returns.** The following persons ~~are required to file returns in accordance with the provisions of this part:~~ making taxable sales or taxable use of tangible personal property in Minnesota, or holding a sales and use tax permit, must file returns pursuant to *Minnesota Statutes*, chapter 289A:

A. ~~a retailer as defined in *Minnesota Statutes*, section 297A.01, subdivision 10~~ any retailer located in Minnesota;

B. any retailer maintaining a place of business in Minnesota;

C. any retailer who has voluntarily filed an application for a permit and has been granted one under *Minnesota Statutes*, section 297A.21, subdivision 5;

D. any retailer making retail sales from outside this state to a destination within this state if the retailer engages in the regular or systematic soliciting of sales from potential customers in this state;

~~B~~ E. a purchaser making use of ~~the subject of purchases~~ items obtained with an exemption certificate for other than the exempt purpose (see *Minnesota Statutes*, section 297A.12);

~~C.~~ F. a person upon whom liability for use tax is imposed by *Minnesota Statutes*, section 297A.14; and

~~D.~~ G. ~~a retailer (either located within or without Minnesota) subject to *Minnesota Statutes*, sections 297A.16 and 297A.17~~ any person holding a direct pay permit.

Subp. 2. **Failure to file.** Any person described ~~above~~ in subpart 1 who is required to file a return and fails to do so within the time prescribed by law or by ~~regulation~~ rule, or who files an incorrect, false, or fraudulent return, ~~shall~~ must, upon the written demand of the commissioner, file the return required or the corrected return, as the case may be, within 30 days after the written demand for ~~such~~ the return has been mailed to ~~him~~ the person, and at the same time pay any tax due on the basis of ~~such~~ the return.

Subp. 3. **Failure to comply with demand.** If the person upon whom the written demand has been made ~~shall fail~~ fails to comply ~~therewith~~ with the demand, the commissioner, ~~from his own~~ through knowledge and ~~from such~~ information ~~as he can obtain~~ that is obtained through testimony or by any other means available to ~~him~~ the commissioner, ~~shall~~ will prepare a return or corrected return and assess a tax on the basis ~~thereof~~ of that return. The tax ~~so~~ assessed ~~shall~~ must be paid within ten days after the commissioner has mailed to ~~such~~ the person a written notice of the amount ~~thereof~~ assessed and a demand for its payment.

~~Pursuant to *Minnesota Statutes*, section 297A.32, any return or corrected return or assessment made by the commissioner shall be prima facie correct and valid, and the person for whom the return or corrected return was prepared and the tax thereunder assessed shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.~~

8130.8000 TIME LIMITATION ON ASSESSMENT AND COLLECTION.

Subpart 1. **In general.** Except as otherwise provided in the Sales and Use Tax Law and except for ~~such~~ circumstances referred to in other ~~regulations~~ rules pertinent to *Minnesota Statutes*, section ~~297A.34~~ 289A.38, the assessment of tax for any period for which a tax is due must be made within three and one-half years from the date the return was filed. A return filed before the last day prescribed by law for filing thereof ~~shall~~ will be considered as filed on ~~such~~ the last day.

Subp. 2. and 3. [See Repealer.]

Subp. 4. **Omission of 25 percent.** In the case of omission from the return of a dollar amount properly includible therein which is in excess of 25 percent of the dollar amount reported in the return the tax may be assessed or a proceeding in court for the collection of ~~such~~ the tax may be begun at any time within ~~five~~ six and one-half years after the return was filed. See *Minnesota Statutes*, section 289A.38, subdivision 6.

[For text of item A, see M.R.]

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B. For purposes of computing the dollar amount of the omission there ~~shall not~~ cannot be included amounts disallowed as deductions or unreported retail sales which would constitute allowable deductions in determining net taxable sales. The computation of the percentage of omission is the percentage derived by dividing the dollar amount of taxable sales and use not reported on the return by the dollar amount of taxable sales and use that were reported on the return.

~~Example 1. A taxpayer's return stated the following:~~

~~1. Gross sales~~	~~$500,000~~
~~2. Deductions~~	~~450,000~~
~~3. Net sales~~	~~50,000~~
~~4. Purchases subject to use tax~~	~~None~~
~~5. Total taxable amount~~	~~50,000~~

~~Upon audit it was discovered that there was omitted from the return a purchase of a machine for $20,000 upon which no tax had been paid. The percentage of the omission is:~~

$$\frac{\text{~~\$20,000 (dollar amount of omission)~~}}{\text{~~\$50,000 (dollar amount reported)~~}} = \text{~~40\%~~}$$

~~Example 2. A taxpayer's return stated the following:~~

~~1. Gross sales~~	~~$500,000~~
~~2. Deductions~~	~~440,000~~
~~3. Net sales~~	~~60,000~~
~~4. Purchases subject to use tax~~	~~10,000~~
~~5. Total taxable amount~~	~~70,000~~

~~Upon audit it was determined that deductions claimed in the amount of $440,000 included certain sales in the amount of $10,000 which were properly subject to the tax. The audit also disclosed purchases (properly taxable) in the amount of $15,000 upon which no tax was paid. The percentage of omission is:~~

$$\frac{\text{~~\$15,000 (dollar amount of omission)~~}}{\text{~~\$70,000 (dollar amount reported)~~}} = \text{~~21.4\%~~}$$

Subp. 5. [See Repealer.]

Subp. 6. **Waivers.** The commissioner ~~of revenue~~ and the taxpayer may consent ~~in writing~~ to an extension of the period in which the tax may be assessed, ~~provided~~ by a written waiver ~~is~~ executed by both parties either within three and one-half years after the return was filed or, in the case of an omission of an amount as specified in subpart 4, within ~~five~~ six and one-half years after the return was filed. The period ~~so~~ agreed upon may be extended by subsequent ~~agreements~~ waivers in writing made before the expiration of the period previously agreed upon. See *Minnesota Statutes*, section 289A.42, subdivision 1.

Subp. 7. **Collection of tax by court action.** When the assessment of tax is made within the period of limitation as prescribed ~~above~~ in subparts 1, 4, and 6, the tax due and owing may be collected by a proceeding in court, provided that ~~such~~ the action is instituted ~~not later than nine months~~ within five years after ~~the expiration of the period prescribed above for~~ the assessment of the tax~~, or if there is an appeal from the commissioner's order assessing the tax, not later than nine months after final disposition of such appeal~~. See *Minnesota Statutes*, section 270.68, subdivision 1.

The period of time for collection proceedings is subject to suspension. See *Minnesota Statutes*, section 289A.41.

8130.8100 CLAIM FOR REFUND.

Subpart 1. **In general.** A person, as defined in *Minnesota Statutes*, section 297A.01, subdivision 2, who has overpaid sales or use tax for any period, may file a claim for refund with the commissioner for the amount of the overpayment. The claim for refund ~~shall~~ must be submitted on a department form ~~ST-11~~ as prescribed by the commissioner and ~~shall~~ be completed in the manner prescribed therein. ~~Every adjustment to total taxable amount, credits, and tax computation shall be adequately supported.~~ The claim ~~shall~~ must set forth in detail ~~each ground upon which it is made, and facts sufficient to indicate to the commissioner the exact basis thereof~~ the grounds for each adjustment and the facts supporting those grounds.

Subp. 2. **Requirements for refund claim.** Conditions to be met before the commissioner ~~shall~~ will entertain a claim for refund:

A. The person filing a claim for refund ~~shall~~ must have paid the tax and filed the sales and use tax return upon which the claim is based directly to the commissioner (or the tax was collected from such person other than by means of court action in district court, either at law or in equity by the commissioner), except the following:

(1) A person who has paid ~~an amount of~~ tax ~~to a retailer of~~ on electricity ~~for~~ used in agricultural production ~~which~~ that is

exempt from ~~the tax~~ taxation under *Minnesota Statutes*, section 297A.25, subdivision ~~1~~ 9, ~~paragraph (h),~~ may file a claim ~~a~~ for refund ~~or credit of such tax on his Minnesota income tax return notwithstanding any other provisions of the Sales and Use Tax Law. Such refund or credit shall be made pursuant to *Minnesota Statutes*, section 290.501~~ with the commissioner if the tax was paid to the retail rural electric cooperative association based in Aitkin county. See Laws of Minnesota 1986, chapter 399, article 1, section 5.

(2) A disabled veteran who ~~himself~~ purchases building materials or on whose behalf a contractor, subcontractor, or builder purchases building materials ~~after June 30, 1971,~~ for use in the construction or remodeling of ~~his~~ the veteran's residence, when the construction or remodeling is financed in whole or in part by the United States in accordance with United States Code, title 38, sections 801 to 805, as amended, may claim a refund directly from the commissioner. A veterans's claim for refund form ~~ST-11dv~~ is available upon request from the Department of Revenue for use by disabled veterans in making ~~such~~ claims. See part ~~8130.6600~~ 8130.6400, and *Minnesota Statutes*, section 297A.25, subdivision 20.

~~Example 1. X company failed to file sales and use tax returns for the periods beginning August 1, 1967, and ending January 31, 1968. Acting upon information obtained from various sources, the commissioner prepared returns for X company for these periods and assessed a tax of $900, plus penalties and interest. As X company did not pay the tax, penalties, or interest within 30 days, the commissioner brought an action in Ramsey County District Court to collect the tax. Although X company contested the action, the court rendered judgment in favor of the commissioner for the entire amount of the assessment plus penalties and interest. Thereafter, X company paid the amount due and filed a claim for refund for $300. X company submitted additional information tending to substantiate its claim. However, as the payment was collected by means of a court action (see *Minnesota Statutes*, section 297A.33, subdivisions 1 and 3), the commissioner must deny the refund.~~

~~Example 2. Z company billed a consumer for the purchases made by latter. The consumer, who was engaged in industrial production, paid the amount billed, plus sales tax thereon, although the materials used by him were exempt from the tax because they were consumed in industrial production. Thereafter, the consumer filed a claim for refund of tax on materials properly exempt. The claim for refund will be denied as the consumer did not pay the tax to the commissioner. However, Z company may file with the commissioner for refund of such overpayment.~~

~~Example 3. An electrical power cooperative billed a farmer for the total amount recorded on the latter's meter. The farmer, who was engaged in agricultural production, paid the amount billed, plus sales tax thereon, although 50 percent of the electricity used by him was exempt from tax because it was consumed in agricultural production. The electrical power cooperative may complete the affidavit portion of form EAC and furnish it to the farmer to be completed and filed by the farmer with his Minnesota income tax return in accordance with *Minnesota Statutes*, section 290.501.~~

(3) Since July 1, 1984, the sales and use tax on capital equipment is initially paid at the six percent rate. In order to obtain the refund of sales and use tax paid on the purchases of qualifying capital equipment, the purchaser must file a claim for refund form with the commissioner. The claim is filed with the Business Trust Tax Unit, Department of Revenue. No adjustment for the tax paid on capital equipment will be allowed as credit against tax due on current sales and use tax returns being filed by a Minnesota sales and use tax permit holder.

Refund claims may include more than one purchase of machinery or equipment. However, no more than two claims will be accepted from a purchaser in a calendar year. See *Minnesota Statutes*, section 297A.15, subdivision 5.

Interest on capital equipment refunds or credits begins to accrue on the date the claim is filed. See *Minnesota Statutes*, section 289A.56, subdivision 4. For purposes of calculating the interest due, a claim is not considered filed until sufficient documentation to process the claim is submitted to the commissioner.

When filing a claim for refund for purchases of qualifying capital equipment, the purchaser must provide sufficient documentation to substantiate the allowance of the requested refund. The following information must be submitted with the completed claim for refund form:

(a) a Minnesota tax identification number or, if none, the purchaser's social security number;

(b) a description of the business activity including an explanation of the circumstances (for example, opening a new production facility, expansion of an existing facility, or whether or not the equipment purchased replaces existing equipment) under which the claim is filed;

(c) a description of the property purchased and how it will be used in the production process;

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(d) a copy of the purchase invoice for each equipment purchase and written evidence of payment of the six percent tax or such other evidence as the commissioner deems necessary;

(e) for leased equipment, a copy of the invoice showing sales tax paid on the lease payments and a copy of the lease agreement; and

(f) if a use tax was accrued and reported for the equipment purchase, verification that the use tax was reported to the state of Minnesota, including evidence of payment of the six percent tax.

(4) The owner of homestead property may file a refund claim directly with the commissioner if a chair lift, ramp, or elevator was installed or constructed on the owner's homestead pursuant to *Minnesota Statutes*, section 297A.25, subdivision 43.

(5) A common carrier that has applied for a direct pay certificate under the provisions of *Minnesota Statutes*, section 297A.211, may file a claim for refund of tax previously paid to a seller. This refund will be calculated according to the provisions of *Minnesota Statutes*, section 297A.211, subdivision 3, and interest will be calculated according to the provisions of *Minnesota Statutes*, section 289A.56, subdivision 5.

B. A claim for refund ~~shall~~ must be filed within two years after ~~a~~ the tax was paid ~~or collected~~ in full, or within three and one-half years ~~after a return was filed~~ from the date prescribed for filing the return, whichever period ~~is longer~~ expires later. See *Minnesota Statutes*, section 289A.40, subdivision 1. If the commissioner and the claimant have consented to extend the time for assessment of tax under ~~the provisions of~~ *Minnesota Statutes*, section ~~297A.34~~ 289A.42, subdivision ~~6~~ 1, the claim may be filed within ~~such~~ the extended period. For purposes of ascertaining whether a claim for refund is timely filed with the commissioner, a return filed ~~prior to~~ before the date on which ~~such~~ the return was due ~~shall~~ will be determined to have been filed on the date when due. A return postmarked on the date due ~~shall~~ will be determined to have been filed as of that date.

~~Example 1. R filed a sales and use tax return on January 15, 1968, for the month of December 1967, and paid to the commissioner $1,200, the tax due on the return. On January 20, 1971, R filed a claim for refund of $300 and submitted evidence tending to substantiate his claim. The commissioner will act on the claim for refund as it was filed within three years of the period beginning on January 25, 1968, the due date for filing the return for December 1967.~~

C. ~~Such person shall have filed the sales and use tax return upon which such claim is based.~~ A claim filed by a corporation must bear the signatures and titles of the officers having the authority to sign for the corporation.

Whenever it is necessary to have the claim executed by an attorney or agent on behalf of the claimant, an ~~authenticated copy of the document~~ original, executed power of attorney specifically authorizing ~~such~~ the agent or attorney to sign the claim on behalf of the claimant must accompany the claim.

If a return is filed by a person who dies after filing ~~such~~ a return, and a refund claim is ~~thereafter~~ filed by a legal representative of the decedent, certified copies of the letters testamentary, letters of administration, or other similar evidence must be ~~annexed to~~ filed with the claim to show the authority of the executor, administrator, or other fiduciary by whom the claim is filed. If an executor, administrator, ~~guardian, trustee, receiver,~~ or other fiduciary files a return and thereafter a refund claim is filed by the same fiduciary, documentary evidence to establish the legal authority of the fiduciary need not accompany the claim, provided a statement is made on the claim showing the return was filed by the fiduciary and that the latter is still acting in such capacity.

If a vendor has collected from a purchaser and remitted to the state a tax on a transaction that is not subject to tax under *Minnesota Statutes*, chapter 297A, the tax, and any interest earned on the tax, is refundable to the vendor only if and to the extent that the vendor submits written evidence that the tax and interest will be returned by the vendor to the purchaser or credited to amounts due to the vendor by the purchaser.

Subp. 3. **Commissioner action.** Action taken by the commissioner after a claim for refund is filed:

A. Upon receipt of a claim for refund, the commissioner ~~shall~~ will examine the return and make any investigation or examination of any of the accounts and records pertaining to ~~such~~ the claim that ~~he deems~~ the commissioner considers necessary. The commissioner ~~shall~~ will then prepare written findings, either denying or allowing the claim, in whole or in part, and ~~shall~~ will mail a notice to the person filing the claim at the address stated on the return or to any other address furnished by the claimant in writing.

B. The amount allowed by the commissioner as a refund ~~shall~~ is first ~~be~~ applied against any sales or use tax owed to the commissioner by the claimant, and any remaining balance due the claimant may be applied against any other delinquent tax liability owed by the claimant. Interest ~~shall~~ will be ~~allowed~~ computed on the amounts refunded or credited from the date of overpayment to the date when ~~such~~ the refund or credit is authorized by the commissioner, except for capital equipment claims and claims pursuant to *Minnesota Statutes*, section 297A.25, subdivision 43. See *Minnesota Statutes*, sections 289A.56, subdivision 4, and 297A.15, subdivisions 5 and 6.

~~On overpayments made on returns due before July 2, 1975, interest shall be allowed at the rate of four percent per annum.~~

~~On overpayments made on returns due after July 1, 1975, interest shall be allowed at the rate of six percent per annum.~~

The interest rate on overpayments will be the interest rate that the commissioner establishes under *Minnesota Statutes*, section

270.75, subdivision 5, to be charged on unpaid taxes. The interest rate will be adjusted annually and will become effective annually when the interest rate on unpaid taxes changes. See *Minnesota Statutes*, sections 270.76 and 289A.56, subdivision 1.

C. If a claim for refund made by a vendor is based upon overpayment of sales tax by a ~~consumer~~ purchaser to the ~~claimant~~ vendor, the commissioner, for purposes of ascertaining the validity of ~~such~~ the claim, may request substantiation of ~~such~~ the overpayment by the ~~consumer~~ purchaser, or examine ~~such consumer's~~ the purchaser's records. If the commissioner is unable to establish the validity of ~~such~~ the overpayment after conducting an examination of the ~~consumer's~~ purchaser's records, ~~he shall~~ the commissioner will deny the claim.

Subp. 4. [See Repealer.]

Subp. 5. **One dollar limitation.** No refund ~~shall~~ will be made where the amount is $1 or less.

8130.8300 ~~PENALTIES~~ ABATEMENT AND INTEREST ON UNPAID LIABILITIES.

Subpart 1. **Interest.** Interest on unpaid liabilities ~~shall~~ will accrue ~~as follows:~~ at the rate as periodically adjusted by the commissioner pursuant to *Minnesota Statutes*, section 270.75, subdivision 5.

~~A. On returns due prior to May 24, 1969, unpaid tax plus the late payment penalty shall bear interest at the rate of four percent per annum until May 24, 1969, and thereafter at the rate of eight percent per annum on the total of the tax plus all penalties.~~

~~B. On returns due after May 23, 1969, and prior to July 2, 1975, unpaid tax plus all penalties shall bear interest at the rate of eight percent per annum.~~

~~C. On returns due after July 1, 1975, unpaid tax plus all penalties shall bear interest at the rate of ten percent per annum.~~

Subp. 2. **Late payment.** ~~In accordance with *Minnesota Statutes*, section 297A.39, if a taxpayer fails to pay any tax imposed by the Sales and Use Tax Law or any portion of such tax when due, a penalty equal to ten percent of the tax unpaid shall be assessed unless the commissioner has extended the time for filing the return and remitting the tax. (See *Minnesota Statutes*, sections 297A.26, 297A.27, and 297A.30 regarding the due date for filing the return and remitting the tax.)~~

The amount of tax not timely paid together with the penalty imposed thereon ~~shall~~ will bear the applicable rate of interest from the time the tax should have been paid until paid. ~~The phrase~~ "Timely paid" means paid on or before the due date as provided by law ~~or under an extension of time as granted by the commissioner~~. See *Minnesota Statutes*, section 289A.55.

~~Example 1. On November 24, 1971, a retailer remits tax of $200 due on October 25, 1971, for the month of September. A ten percent penalty is assessed. The required amount to be paid on November 24, 1971, is calculated as follows:~~

~~Tax due and owing~~	~~$200.00~~
~~Ten percent penalty~~	~~20.00~~
~~Tax and penalty~~	~~$220.00~~
~~Interest for 30 days at 8 percent~~	~~1.45~~
~~Total amount due~~	~~$221.45~~

~~Example 2. A retailer requests an extension of 30 days in which to file the return and remit the tax thereon for the month of August 1971. The commissioner grants an extension of 30 days until October 25, 1971. The tax due is $500. On November 24, 1971, the retailer remits the tax, penalty, and interest computed as follows:~~

~~Tax due and owing~~		~~$500.00~~
~~Ten percent penalty~~		~~50.00~~
~~Tax and penalty~~		~~$550.00~~
~~Interest on tax due of $500.00 from original due date to extended due date at 8 percent~~	~~$3.29~~	
~~Interest on tax and penalty from extended due date to date filed at 8 percent~~	~~$3.62~~	
		~~6.91~~
~~Total amount due~~		~~$556.91~~

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~~Example 3. On November 24, 1975, a retailer remits tax of $200 due on October 25, 1975, for the month of September. A ten percent penalty is assessed. Since the return was due after July 1, 1975, the tax and penalty bear interest at the rate of ten percent. The amount required to be paid is calculated as follows:~~

~~Tax due and owing~~	~~$200.00~~
~~Ten percent penalty~~	~~20.00~~
~~Tax and penalty~~	~~$220.00~~
~~Interest for 30 days at 10 percent~~	~~1.80~~
~~Total amount due~~	~~$221.80~~

Subp. 3. to 5. [See Repealer.]

Subp. 6. **Abatement of penalties and interest.** ~~Pursuant to~~ Under *Minnesota Statutes*, ~~sections 297A.39, subdivision 6, and~~ section 270.07, subdivision 1, the commissioner ~~shall have~~ has the power to abate penalties and interest when, in ~~his~~ the commissioner's opinion, ~~their enforcement would be unjust and inequitable~~ the failure to timely pay the tax or timely file the return is due to reasonable cause. The exercise of this power ~~shall be~~ is subject to the approval of the attorney general if the abatement exceeds ~~$500~~ the amount specified in *Minnesota Statutes*, section 270.07, subdivision 1. All requests for abatement of penalties and/or interest ~~shall~~ must be in writing and ~~shall~~ must set forth the reasons for the failure to file the return and pay the tax timely.

8130.8400 LIMITATIONS ON DISCLOSURE OF SALES AND USE TAX INFORMATION.

Subpart 1. **General rule.** The particulars disclosed in any report or sales and use tax return as well as any information acquired from the records or from officers or employees concerning affairs of the person filing the return may not be divulged or made known other than to persons qualified or authorized under the Sales and Use Tax Law. Any person violating *Minnesota Statutes*, ~~section 297A.43~~ chapter 270B, ~~shall be~~ is guilty of a gross misdemeanor.

Subp. 2. **Statistics.** The secrecy provision of *Minnesota Statutes*, ~~section 297A.43~~ chapter 270B, does not prohibit the commissioner from publishing statistics regarding sales and use tax returns in cases where the statistics do not identify in any manner the persons who filed the returns.

Subp. 3. **Inquiry as to a named retailer.** The secrecy provisions will not be violated where the commissioner or one of ~~his~~ the commissioner's employees, with respect to any inquiry regarding the issuance of a permit to a named retailer, advises the person making the inquiry whether or not a permit has been issued to ~~such~~ the named retailer. The ~~inquiry~~ commissioner or commissioner's employee may ~~be furnished such particulars in respect of information contained on~~ also furnish the ~~permit, such as~~ sales and use tax account number, ~~and~~ date of issuance of the permit, ~~and~~ whether the permit ~~is still active~~ has been canceled or revoked, name and address of the permit holder, and the business name and location. See *Minnesota Statutes*, section 270B.08.

Subp. 4. ~~**Reciprocity**~~ **Information for Multistate Tax Commission audits.** The commissioner is authorized on a reciprocal basis to exchange information with the taxing officials of another state or with the taxing officials of any municipality of this state which has a local sales or use tax. The commissioner is also authorized to exchange information with the Multistate Tax Commission for the Multistate Tax Commission to audit corporate sales and use tax returns. See *Minnesota Statutes*, section 270B.12.

Subp. 5. **Relation to other tax laws.** To ensure consistent application and enforcement of all tax laws administered by ~~him~~ the commissioner, the commissioner is also authorized by *Minnesota Statutes*, section 270.065, to use information on sales and use tax returns to administer laws relating to other taxes under ~~his~~ the commissioner's jurisdiction. ~~He~~ The commissioner may also use any information in ~~his~~ the commissioner's possession relating to other taxes to administer the Sales and Use Tax Law.

Subp. 5a. **Contracts with private vendors.** The commissioner is authorized to contract with outside vendors for the processing of sales and use tax returns and the payment of sales and use taxes. Any private and nonpublic data disclosed to a vendor will be administered by the vendor consistent with the secrecy provisions of *Minnesota Statutes*, chapter 270B. See *Minnesota Statutes*, section 270B.13.

Subp. 5b. **License clearance.** The commissioner is authorized to notify a licensing authority of the state or a political subdivision that issues, transfers, or renews a license for the conduct of a profession, occupation, trade, or business, that an applicant owes the state taxes, if the applicant taxpayer owes $500 or more in delinquent taxes, penalties, or interest. See *Minnesota Statutes*, section 270B.07.

Subp. 5c. **Revocation of permits.** The commissioner is authorized to disclose information identifying the holder of a revoked permit and the basis for the revocation. See *Minnesota* Statutes, section 270B.08.

Subp. 5d. **Liquor posting.** The commissioner must submit to the commissioner of public safety, by the 15th of each month, a list of all liquor retailers who are required to withhold or collect tax imposed by *Minnesota Statutes*, section 290.92 or 297A.02, and who are 30 days or more delinquent in either filing a tax return or paying the tax. See *Minnesota Statutes*, sections 270.73 and 270B.12, subdivision 4.

Subp. 5e. **Liquor license applications.** Any county or municipality may request the commissioner to certify whether an applicant for a license to be issued under *Minnesota Statutes*, section 340A.403 or sections 340A.404 to 340A.406, is liable for any state or local taxes or assessments that were not paid when they became due. See *Minnesota Statutes*, section 297A.431.

Subp. 6. **Motor vehicle excise tax.** The commissioner may~~, at his discretion,~~ furnish the Motor Vehicle Division, Department of Public Safety, all information necessary to administer the motor vehicle excise tax, *Minnesota Statutes*, chapter 297B.

REPEALER. *Minnesota Rules*, parts 8130.2400; 8130.2700, subpart 4; 8130.2800; 8130.3000, subparts 9 and 10; 8130.3100, subparts 3 and 4; 8130.3300, subpart 2; 8130.4100; 8130.4200, subpart 2; 8130.7600, subparts 2, 3, and 4; 8130.7700, subpart 2; 8130.8000, subparts 2, 3, and 5; 8130.8100, subpart 4; 8130.8200; and 8130.8300, subparts 3, 4, and 5, are repealed.

Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. §14.14-14.28 have been met and five working days after the rule is published in *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 strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in 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 emergency rule will be published in the manner provided for adopted rules under §14.18.

Department of Agriculture

Adopted Permanent Rules Relating to Retail Food Store Plan Review Fees

The rule proposed and published at *State Register*, Volume 14, Number 35, pages 2080-2081, February 26, 1990 (14 S.R. 2080) is adopted as proposed.

Higher Education Coordinating Board

Adopted Permanent Rules Relating to Child Care Grants Program

The rules proposed and published at *State Register*, Volume 14, Number 26, pages 1474-1477, December 26, 1989 (14 S.R. 1474) are adopted with the following modifications:

Rules as Adopted

4830.7710 PROCEDURES FOR DENIAL OR TERMINATION OF A CHILD CARE AWARD.

Subpart 1. **Applicability.** Students meeting the eligibility requirements in part 4830.7100, subpart 5, but denied a child care grant award due to an institution's lack of program funds, shall be placed on the institution's waiting list pending the availability of program funds. Subpart 2 and part 4830.7720 are not applicable to students who are denied child care grant awards due to lack of program funds.

Subp. 2. **Procedures.** A school must follow the procedures in items A to D when denying or terminating a child care grant award except in cases where the denial is due to lack of program funds.

A. The school shall notify a student, in writing, of denial or termination of a child care grant award. The notice must state the reason or reasons the assistance is being denied or terminated. The notice shall inform the student of the right to contest the adverse action and the procedure for doing so. Except for cases of suspected fraud when a child care grant is terminated, the notice must be mailed to the student's last known address, or hand delivered to the recipient at least 14 calendar days before terminating

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assistance. In cases of suspected fraud, the termination notice must be mailed or hand delivered at least five working days before the effective date of the termination.

B. Failure of a child care grant recipient to provide required information or documentation, to report changes required under part 4830.7100, subpart 5, or to pay the family copayment fee or the provider charge if the state share of the subsidy is paid directly to the family, is just cause for terminating assistance.

C. Child care assistance payments shall be terminated pending the result of the appeal process in part 4830.7720. If the appeal results in the continuation of child care payments to the student, payments covering the period from termination to the appeal decision to continue child care payments shall be made retroactively to the extent allocated funds are available.

D. If the child care grant award is made by vendor payment, the school shall inform the child care provider of the notice of termination pending the results of the appeal process.

4830.7720 APPEAL PROCESS.

Subpart 1. **Appeal request.** An applicant or recipient of a child care subsidy adversely affected by a school's action may file a written request for an appeal.

Subp. 2. **Informal conference.** The school shall offer an informal conference to students adversely affected by the school's decision in an attempt to resolve the dispute. The school shall advise such students that a request for a conference with the school is optional and does not delay or replace the right to an appeal under subpart 1.

Subp. 3. **Appeal process.** Students must follow the normal appeal process established by the school to handle complaints about financial aid program decisions. The school's appeal process must be completed within two weeks of the student's filing a written request for an appeal with the school. If the student is not satisfied with the result of the appeal, the student may ask the school to forward the results to the executive director of the Minnesota Higher Education Coordinating Board for review. The school must forward the results of the appeal and documentation provided by the student at the appeal to the executive director within two weeks of the school's appeal decision. The executive director shall review the decision and accompanying documentation, and shall make a decision according to *Minnesota Statutes*, section 136A.125, and parts 4830.7000 to 4830.7900. The student and school shall be advised in writing of the executive director's decision. The executive director's decision is final.

Commissioners' Orders

Department of Natural Resources

Commissioner's Order No. 2378: Regulations for the Taking and Possession of Freshwater Clams and Mussels; Superseding Commissioner's Order Nos. 2229 and 2315

PURSUANT TO AUTHORITY vested in my by *Minnesota Statutes* Sec. 97C.701, 97C.705, 97C.711 and other applicable law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby prescribe the following regulations for the taking and possession of freshwater clams and mussels.

Section 1. **HARVESTING FOR PERSONAL USE**

Any person possessing a valid resident or nonresident angling license may take and possess for personal use only, not more than 50 pounds of live, whole freshwater clams or mussels. Such clams or mussels may be harvested in any waters of the state where fish may be taken by angling unless otherwise posted; shall be harvested by hand picking, hand shoveling or hand raking only; and shall not be purchased or sold.

Sec. 2. **PERMITS**

(a) **Permit Required**. No person shall take or possess more than 50 pounds of live, whole freshwater clams or mussels without first obtaining a written permit from the Director of Fish and Wildlife.

(b) **Permit Issuance**. Permits shall be issued upon application pursuant to the following criteria:

(1) Application shall be made on forms supplied by the Commissioner and shall be submitted to the local area fisheries office. Permits will be issued from the Regional Fisheries Office within 10 working days of receipt of properly completed application.

(2) Permits will be issued only to Minnesota residents who possess a valid Minnesota resident angling license.

(3) Application forms must be signed by the applicant. All requested information must be provided. Failure to properly and fully complete an application form will result in its rejection.

(c) **Permit Duration**. No permit shall be valid for more than one season, as defined in Section 3 of this order. Permits may be issued for periods of time shorter than one season, at the discretion of the Director.

(d) **Permit Revocation**. In addition to the penalties set forth in Section 10, the Director may revoke any permit upon 10 days' written notice if he determines that revocation is necessary for protection of natural resources.

Sec. 3. **SEASON**

(a) The open season for taking clams and mussels is May 16 to September 15, both dates inclusive.

(b) Clams and mussels may be harvested from sunrise to sunset, only.

(c) Permittees shall not harvest Three ridge mussels (*Amblema Plicata*) from the Pomme deTerre River in Grant, Stevens, Ottertail, Swift, and Lac Qui Parle Counties.

Sec. 4. **SPECIES**

Only Pimpleback, Three ridge and Pigtoe clams and mussels shall be harvested. Additional species may be harvested by special permit from specific sites. All clams and mussels must be greater than 2-3/4 inches in height. Height is defined as the distance from the center of the hinge side, perpendicular and at a right angle across the shall to the order edge.

Sec. 5. **HARVEST SITES FOR PERMITTEES**

(a) Clam and mussel harvest sites will be identified in the permit by legal description and in other defining terms as needed to physically locate the area.

(b) The taking of clams or mussels by a permittee or member of their crew from any place outside the permitted harvest site boundary is prohibited.

Sec. 6. **GEAR FOR PERMITTEES**

(a) Clams and mussels shall be taken only by the gear and methods identified in the permit.

(b) No permittee or member of any permittee's crew shall, during clam or mussel harvesting activities, have in their possession or control any gear that is specifically designed to take fish.

(c) The dredge is prohibited as a clam or mussel harvesting apparatus. A dredge is defined as any apparatus designed or used for the scouring of lake or river bottoms.

(d) Crow foot bars may be used for harvesting clams and mussels unless prohibited in the permit. A crow foot bar is defined as a bar or rod with flexible extensions attached to it carrying hooks or grapples, that is dragged over river or lake bottoms for the purpose of harvesting clams or mussels.

(e) Not more than one boat or rig, dragging not more than two crow foot bars, shall be used when harvesting clams.

(f) One additional boat may be used for towing if no clam taking apparatus is attached thereto.

Sec. 7. **PERMITTEE OPERATIONS**

(a) All clam and mussel harvesting operations shall be conducted in accordance with the terms and requirements of state law, this order, and the permittee's permit.

(b) The permittee shall inform the local Area Fisheries Office 24 hours in advance of any intended harvest operations.

(c) The permittee shall be in personal attendance at all harvest operations.

(d) Clams and mussels legally harvested under permit may be bought, sold and transported.

Sec. 8. **PERMITTEES' REPORTS, RECORDS, INSPECTION**

(a) **Records**. All permittees shall keep records in the English language of all clam and mussel sales transactions. This record shall be verifiable with supporting sales slips and include: species percentage and pounds of clams and mussels sold; number of pearls sold; name and address of buyer and date of each transaction. These records shall be kept current within 48 hours. Failure to keep complete and current records shall result in immediate revocation of the permit and shall render the permittee ineligible for future permits.

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(b) **Reports**. Permittees shall submit monthly reports on forms provided by the Commissioner by the 15th of each month. All information requested on the report shall be provided. Failure to submit a complete report at the time required shall render the permittee ineligible for future permits.

(c) **Inspections**. Permittees are subject to inspection at all reasonable times by agents of the Commissioner. Subjects of inspection shall include records as required by paragraph (a) of this section, business and operations premises, and all boats, vehicles and gear used in clam and mussel harvesting operations.

Sec. 9. **SPECIAL RESTRICTIONS**

(a) Dead clams and mussels or the shells or meats thereof shall not be returned to the water or deposited on any shoreline or adjacent.

(b) The Higgins' Eye clam (*Lampsilis higginsi*) and Fat Pocketbook clam (*Proptera capax*) shall not be harvested or intentionally disturbed or molested. If either species is located within or near the harvest site, all harvest operations shall immediately stop and the permittee or personal use harvester shall notify the Area Fisheries Office within 24 hours, pending further investigation.

(c) The placement in waters of the state of any clam or mussel imported from outside the state is prohibited.

Sec. 10. **PENALTIES**

Violations of any provisions of state law pertaining to the harvest of clams or mussels, or any provisions of this order, or any terms or conditions of the permit shall immediately render the permit null and void. In addition, the violator shall be subject to all other penalties imposed by state law.

Sec. 11. Commissioner's Orders Nos. 2229 and 2315 are hereby superseded.

Dated at St. Paul, Minnesota this 16 day of May, 1990.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Department of Natural Resources

Commissioner's Order No. 2379: Regulations for the Taking of Turkeys During the Fall of 1990

PURSUANT TO AUTHORITY vested in me by *Minnesota Statutes* §§ 97A.045, 97A.435, 97B.711, 97B.723, 97B.725 and other applicable law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby prescribe the following regulations for the taking of turkeys during the fall of 1990. Unless otherwise specified, all dates and time periods in this order are inclusive.

Section 1. **DEFINITIONS**.

(a) **Legal firearms**: Only shotguns 20 gauge or larger, or muzzleloading shotguns 12 gauge or larger, using fine shot size No. 4, 5 or 6 shall be used.

(b) **Legal bow and arrow**: Bows must have a pull of no less than 40 pounds at or before full draw. It shall be unlawful to hunt turkeys with any poisoned arrow or arrow with explosive tip. The bow may not be drawn, held, or released by mechanical means, except for permits issued under *Minnesota Statutes* Sec. 97B.106, or except that a person may use a mechanical device attached to the bowstring if the person's own strength draws, holds, and releases the bowstring. Arrowheads must:

(1) be sharp, have a minimum of two metal cutting edges, be of a barbless broadhead design, and have a diameter of at least seven-eighths inch; or

(2) be of a blunthead design.

(c) **Legal turkey**: A turkey of any sex and any age.

(d) **Drawings**: Computerized random drawings will be conducted by the Department of Natural Resources to determine those who will be eligible to apply for a fall turkey license. Beginning with the 1990 fall hunt drawing, preference in the fall drawings will be given to each applicant based upon the number of times he or she has correctly applied for a fall permit but has been unsuccessful in the drawing.

(e) **Agricultural or grazing land means land**: (1) that is plowed or tilled; (2) that has standing crops or crop residues; or (3) within a maintained fence for the purpose of enclosing domestic livestock.

Sec. 2. **LICENSE ELIGIBILITY**.

A person is not eligible for a turkey license unless the person:

(a) is at least 16 years of age or possesses a valid Minnesota Firearms Safety Certificate prior to October 17, 1990;

(b) has maintained a legal residence in Minnesota for a period of 60 days immediately preceding October 17, 1990; and

(c) has not had any small game hunting privileges revoked within one year prior to August 10, 1990.

Sec. 3. **TURKEY HUNT DRAWING**.

(a) **License application drawings**: Persons desiring to hunt turkeys must take part in one of the computerized license application drawings conducted by the Department of Natural Resources. The drawings shall be subject to the quotas set forth in Sec. 6. All persons selected by the drawings may apply for a license to hunt turkeys, as set forth in Sec. 4.

(b) **Participation in drawings**: All persons desiring to take part in one of the turkey license application computer drawings must complete an official application form for either the general turkey hunt or, if appropriate pursuant to paragraph (c) of this section, for the resident landowner-tenant turkey hunt.

(1) All information requested on the forms must be supplied. Applicants age 16 or over by October 17, 1990 must provide their individual Minnesota drivers license number of 13 characters or an official State of Minnesota Identification number of 13 characters issued by the Department of Public Safety. Applicants age 12 to 15 by October 17, 1990 may supply either of the above numbers or must provide a Minnesota Firearms Safety Certificate number. Individuals who apply with a Minnesota Firearms Safety Certificate and are unsuccessful will not gain preference in the 1991 drawing. Persons submitting the landowner-tenant form must provide a complete and accurate description of the qualifying land. All applicants must choose one of the three (3) zones.

(2) Applications for a group must all be for the same zone and time period. Two, but not more than four persons desiring to hunt together may apply together by submitting their drawing applications in one envelope. The individual within a group with the lowest preference rating will determine the preference rating of the group. Properly completed applications which are submitted in one envelope will either all be selected or none selected. Mixing landowner-tenant applications with general applications will not be permitted for purposes of applying as a party.

(3) Any person who makes a faulty application or who applies as a landowner or tenant but does not live on at least 40 acres of agricultural or grazing land or does not live within the zone applied for, will be ineligible for both the landowner-tenant fall drawing and general fall drawing.

(4) Applications must be returned to the DNR License Bureau, 500 Lafayette Road, Box 26, St. Paul, MN 55155-4026. If mailed, applications must be postmarked no later than June 15, 1990. If hand delivered, applications must be delivered no later than 4:30 p.m., June 15, 1990.

(c) **Special landowner or tenant drawing**: A special landowner-tenant license application drawing will be held subject to the following restrictions:

(1) Applicants must be able to meet all eligibility requirements in Sec. 2 of this order.

(2) Applicants must be a landowner or tenant, or a member of their immediate family, living on, as their primary residence, 40 acres or more of agricultural or grazing land, defined by Section 1 of this order, which is located within the zone for which the application is made.

(3) For each zone and time period, not more than twenty percent of the successful participants shall be drawn from the special landowner-tenant applications.

(4) Individual participants in the landowner-tenant drawing may submit only one drawing application and only for the turkey zone in which they reside.

(5) Valid applications of participants unsuccessful in the landowner-tenant drawing will be included in the general drawing.

(6) Applicants for the landowner-tenant drawing that are determined to be ineligible for the landowner- tenant drawing will be disqualified from the entire 1990 fall turkey computer drawing.

(7) All participants who are successful in the special landowner-tenant drawing must allow turkey hunting on their lands. The Commissioner will provide descriptions of these lands to licensed turkey hunters.

(d) **Application Fee**: Each applicant must submit along with his/her application a cashiers check, money order or personal check in the amount of $3.00 payable to the Minnesota Department of Natural Resources. Any checks that are returned to the Department of Natural Resources for non-payment shall invalidate the application and the check will be destroyed. Refunds of application fees shall not be made for any reason.

(e) **Penalties**: No person shall submit more than a total of one application for participation in the drawings. Any person who submits more than one application for the fall season shall be ineligible to receive a turkey license in that season and shall be guilty of a misdemeanor.

Sec. 4. **LICENSING.**

(a) Only applicants successful in a computerized drawing will be notified.

(b) Applicants successful in the drawing will receive a license application with instructions for obtaining their licenses. Successful applicants who do not return the license application and the fee according to the provisions specified on the license application or who do not provide all of the requested information will be disqualified. All accumulated preference for the fall hunt is lost upon issuance of a fall turkey hunting license.

(c) Before hunting turkeys, participants successful in a drawing must:

(1) Apply for and receive a 1990 fall turkey hunting license.

(2) Purchase a 1990 Minnesota small game hunting license if age 16 or older, except that persons exempt from the small game hunting license requirement pursuant to *Minnesota Statutes* Sec. 97B.601, subd. 4(b) need not purchase a small game license.

(3) Possess a valid Minnesota Firearms Safety Certificate if not age 16 or older prior to October 17, 1990.

Sec. 5. **SEASON DATES, ZONES, HOURS AND WEAPONS.**

(a) Dates: The 1990 fall turkey season is open in three zones during the following dates:

October 17-21, 1990

Each hunter may hunt only during the five day period designated on his or her license. All dates are inclusive.

(b) **Zones**: Each hunter may hunt only within the zone designated on his or her license.

(1) **Turkey Zone 1**.

That portion of the state lying within the following described boundary:

Beginning at the intersection of State Trunk Highway (STH) 26 and STH 16; thence along STH 16 to STH 44; thence along STH 44 to County State Aid Highway (CSAH) 4, Houston County; thence along CSAH 4 to the southern boundary of the state; thence along the southern boundary of the state to the eastern boundary of the state; thence along the eastern boundary of the state to STH 16; thence along STH 16 to the point of beginning.

(2) **Turkey Zone 2**.

That portion of the state lying within the following described boundary:

Beginning at the intersection of State Trunk Highway (STH) 26 and STH 16; thence along STH 16 to STH 44; thence along STH 44 to County State Aid Highway (CSAH) 4, Houston County; thence along CSAH 4 to the southern boundary of the state; thence along the southern boundary of the state to CSAH 28, Fillmore County; thence along CSAH 28 to STH 43; thence along STH 43 to Interstate 90; thence along Interstate 90 to CSAH 33, Winona County; thence along CSAH 33 to U.S. Highway 14; thence along U.S. Highway 14 to CSAH 33, Winona County; thence along CSAH 33 to STH 248; thence along STH 248 to CSAH 31, Winona County; thence along CSAH 31 to CSAH 28, Winona County; thence along CSAH 28 to CSAH 25, Winona County; thence along CSAH 25 to the intersection of CSAH 25 and U.S. Highway 61; thence due east to the eastern boundary of the state; thence along the eastern boundary of the state to STH 16; thence along STH 16 to the point of beginning.

(3) **Turkey Zone 3**.

That portion of the state lying within the following described boundary:

Beginning at the intersection of Interstate 90 and U.S. Highway 63; thence along Interstate 90 to State Trunk Highway (STH) 43; thence along STH 43 to County State Aid Highway (CSAH) 28, Fillmore County; thence along CSAH 28 to the southern boundary of the state; thence along the southern boundary of the state to U.S. Highway 63; thence along U.S. Highway 63 to the point of beginning.

(c) **Hours and weapons**: Legal turkeys may be taken by licensed hunters using legal shotgun or legal bow and arrow, as defined in Section 1, from one-half hour before sunrise to sunset daily during the dates and within the zones described in this section.

Sec. 6. QUOTAS.

The following quotas on hunter numbers are established for each zone and time period. These quotas may be subject to modification in order to accommodate party members if the last applicant to be drawn for a zone is a member of a party.

	Zones and Quotas		
Time Period	1	2	3
Oct. 17-21	200	400	400

GRAND TOTAL: 1,000

Sec. 7. **SPECIAL PROVISIONS**.

(a) **Bag limit**: No hunter shall: take more than one legal turkey; tag a turkey that he or she did not take; or tag a turkey with the tag of another hunter. All turkeys taken must be killed before being removed from the site where taken.

(b) **Assisting**: Only a turkey hunter licensed for the same zone and time period may assist any other licensed turkey hunter in hunting turkeys.

(c) **12-15 Year Olds**: A licensed turkey hunter who is not age 16 or older prior to October 17, 1990 must have a valid Minnesota Firearms Safety Certificate in possession. Licensed turkey hunters age 12 or 13 must be accompanied by a parent or guardian while turkey hunting. "Guardian" is a legal guardian or any person age 18 or older authorized by the parent or legal guardian to supervise the person age 12 or 13. Licensed turkey hunters age 14 or 15 may hunt turkeys unaccompanied by a parent or guardian.

(d) **Tagging**: Immediately after taking a turkey, hunters must punch date of kill, sign and attach the tag to the turkey. This tag must remain attached to the turkey during transit.

(e) **Registration**: Every person taking a turkey must register the turkey at a designated registration station no later than 24 hours after the time when taken. The feathers, head and feet must remain on the turkey until it is registered. No unregistered turkey shall be possessed outside the zone where taken unless it is being transported in a direct route to a registration station. Registration stations will include the following. If necessary, additions, deletions or changes to this list may be made.

1. Caledonia	B &M Service Center (Mobil Gas Station) 128 N. Kingston
2. LaCrescent	Tri-State Bait and Tackle 103 Hillview Blvd.
3. Rushford	Larry's Mobil Jct. Hwys. US 16 and STH 43
4. Chatfield	Chatfield Motor Mart 302 South Main
5. Lanesboro	Root River Oil Co. US Hwy. 16
6. Rochester	Wild Goose Sports 1117 N. Broadway
7. Houston	Halverson Standard Oil Hwy. 16 East
8. Spring Valley	Fowler Standard Oil 221 North Section
9. Harmony	Harmony Amoco Hwy. 52
10. Winona	West End Bait Co. 950 West 5th Street

Registration stations normally open at 8:00 a.m.

(f) Turkeys may not be taken with the aid of dogs. No person shall be accompanied by a dog or dogs while hunting or assisting in hunting turkeys.

(g) Turkeys may not be taken with the aid of any electronic device.

(h) Use of live decoys is prohibited.

(i) While afield hunting turkeys, no person shall have in his possession or control any firearm or bow and arrow except those defined by Section 1 of this order as legal for taking turkeys.

(j) No turkeys shall be taken in any manner in any area of the state except as herein expressly provided or as otherwise provided by statute or Commissioner's Order.

(k) Except as specifically provided herein, none of the provisions of this order shall be construed as modifying or superseding any order establishing legal refuges within the state nor as permitting the taking of any wild animals within such refuges or within state parks.

(l) The Lost Lake Refuge in Fillmore County is open for the taking of turkeys during the 1990 Fall Turkey Hunt.

Dated at St. Paul, Minnesota this 16 day of May, 1990.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Department of Natural Resources

Commissioner's Order No. 2375: Experimental Regulations for the Taking and Possession of Smallmouth Bass in the Mississippi River, Sherburne and Wright Counties, and the Rum River, Mille Lacs County

PURSUANT TO AUTHORITY vested in me by *Minnesota Statutes* § 97C.001, and other applicable law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby prescribe the following experimental regulations for the taking and possession of smallmouth bass in the Mississippi River in Sherburne and Wright Counties and the Rum River in Mille Lacs County.

Section 1. The provisions of this order shall apply only to the Mississippi River, Sherburne and Wright Counties, Townships 32 and 121 North, Range 23 West, Sections 10 and 14, from the upstream side of the bridge at Highway 101 in Elk River upstream to the downstream side of the bridge at Highway 24 near Clearwater Township 134 North, Range 30 West, Sections 22 and 23, Main Branch Rum River from the downstream side of the Minnesota Highway 27 Bridge near Onamia in Township 41 North, Range 26 West, Section 6, Mille Lacs County, downstream to the rock dam in Princeton in Township 36 North, Range 26 West, Section 33, Mille Lacs County, and that portion of the West Branch Rum River, from the downstream side of U. S. Highway 169 bridge in Princeton in Township 36 North, Range 26 West, Section 36, Mille Lacs County, downstream to its confluence with the Main Branch Rum River in the same section.

Sec. 2. On the above-described section of the Mississippi River, the following experimental regulations shall apply:

(a) The daily and possession limit of smallmouth bass is three (3);

(b) Any smallmouth bass over 12 inches but less than 20 inches in length as measured from the tip of the nose to the tip of the tail when fully extended must be immediately returned to the water; and

(c) Only one (1) smallmouth bass over 20 inches in length may be possessed.

Sec. 3. On the above-described section of the Rum River, the following experimental regulations shall apply:

(a) The daily and possession limit of smallmouth bass is three (3);

(b) Any smallmouth bass over 10 inches and less than 18 inches in length as measured from the tip of the nose to the tip of the tail when fully extended must be immediately returned to the water; and

(c) Only one (1) smallmouth bass over 18 inches in length may be possessed.

Sec. 4. No person shall be in possession of any smallmouth bass while angling in the above-described sections of the Mississippi River and the Rum River unless allowed under Secs. 2 and 3 above. No fillets of smallmouth bass may be possessed while on the above-described waters.

Sec. 5. The provisions of this order shall not be construed to supersede the provisions of any other order of the commissioner, except insofar as such other orders may be inconsistent with the provisions of this order.

Dated at Saint Paul, Minnesota, this 18th day of May, 1990.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Department of Natural Resources

Commissioner's Order No. 2376: Regulating the Taking and Possession of Fish in East Beaver Creek, Houston County; Revoking Commissioner's Order No. 2232

PURSUANT TO AUTHORITY invested in me by *Minnesota Statutes* § 97C.001 and other applicable law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby revoke Commissioner's Order No. 2232 which prescribed experimental regulations for the taking and possession of fish in East Beaver Creek in Houston County.

Dated at Saint Paul, Minnesota this 18th day of May, 1990.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Department of Natural Resources

Commissioner's Order No. 2377: Experimental Regulations for the Taking and Possession of Trout and Salmon in Square Lake, Washington County; Superseding Commissioner's Order No. 2305

PURSUANT TO AUTHORITY vested in me by *Minnesota Statutes* § 97C.001 and other applicable law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby prescribe the following experimental regulations for the taking and possession of trout and salmon in Square Lake, Washington County.

Section 1. The provisions of this order shall apply to Square Lake located in Sections 23 and 26, Township 31 North, Range 20 West, Washington County.

Sec. 2. Square Lake is closed to the possession of trout and salmon for 28 consecutive days immediately following and including the May opening day each year. All trout and salmon taken by anglers during that period must be returned to the water immediately.

Sec. 3. During other portions of the open season for trout and salmon fishing, the possession limit for trout and salmon is two in aggregate while on or fishing in the waters of Square Lake. Only one of these fish may be on Atlantic salmon, which must be a minimum of 16 inches in length.

Sec. 4. While on or fishing in the waters of Square Lake no resident over the age of 16 and under the age of 65 years and no nonresident over the age of 16 years who is otherwise required to possess a Minnesota fishing license, shall possess trout or salmon without first possessing a current validated trout and salmon stamp.

Sec. 5. The provisions of this order shall not be construed to supersede the provisions of any other order of the Commissioner, except insofar as such other orders may be inconsistent with the provisions of this order.

Sec. 6. Commissioner's Order No. 2305 is hereby superseded.

Dated at Saint Paul, Minnesota, this 18th day of May, 1990.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Official Notices

Pursuant to the provisions of Minnesota Statutes §14.10, 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 Administration

Materials Management Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Emergency Rule Governing the State of Minnesota Small, Targeted Small, and Economically Disadvantaged Area Small Business Program

NOTICE IS HEREBY GIVEN that the State Department of Administration, Materials Management Division, is seeking information or opinions from sources outside the agency in preparing to amend or repeal rules in effect governing the program for small businesses owned by disadvantaged persons, Chapter 1230.1400 thru .2300, and to add new parts and subparts governing eligibility; targeted and/or preference procurements, proportionate purchasing, waivers, incentives/penalties, set-aside, limits, and graduation; removal from eligibility lists; which were authorized by the legislature during the 1990 session. The adoption of the rule(s) is authorized by *Minnesota Statutes*, 16B.04, subdv 1, (subject to Chapter 14) which permits the agency to adopt, amend, and rescind rules relating to any purpose, responsibility, or authorization in (the) chapter, specifically subdv 2 (1), supervise, control review, and approve all State contracts and purchasing. The new legislation specifically authorized the Department in amended Statute 16B.19, Subdv 1 (a) to adopt rules defining "small business"; and amended Statute 16B.22 (a) to adopt by rule, standards and procedures for certifying that small businesses, small targeted group businesses, and small businesses located in economically disadvantaged areas are eligible to participate . . . ; adoption of rules of hear appeals and grievances and to exclude or limit participation of non-manufacturing business, such as third party lessors, brokers, franchises, jobbers, manufacturers representative and others, and to set time limits and other eligibility limits on business participation . . . sections 31 and 33 of the new legislation authorizes the Department to adopt these rules as emergency rules, and allows initial implementation of the program under existing rules.

The State Department of Administration requests information and opinions concerning the subject matter of the rule(s). Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Department of Administration
Materials Management Division
50 Sherburne Avenue, Room #112
Attn: R. J. Baldwin
St. Paul, Minnesota 55155

Oral statements will be received during regular business hours, 8:00 a.m. to 4:30 p.m. Monday thru Friday over the telephone at (612) 297-2543, and in person at the above address.

A draft copy of the proposed rule amendments is available for review at the reception desk, room #112 at the above address or a copy can be mailed upon request in writing or by calling the Materials Management Division Helpline at (612) 296-2600.

All statements of information and opinions will be accepted until June 22, 1990. Any written material received by the State Department of Administration shall become part of the rulemaking record to be submitted to the Attorney General or Administrating Law Judge in the event that the proposed amendments and repealing action is adopted.

Dated: 21 May 1990

Sandra J. Hale
Commissioner of Administration

Department of Agriculture

Notice of Special Local Need Registration

Pursuant to *Minnesota Statutes* 18B.27 and Parts 1505.0870—1505.0930, the Minnesota Department of Agriculture, on May 15, 1990, issued a Special Local Need Registration 24(c) for Cygon 400 Insecticide, manufactured by American Cyanamid Company, Wayne, NJ 07470. The State Registration Number assigned is MN-900001.

In addition to the uses prescribed on the product label, this Special Local Need registration permits the use of this product for the control of cone and seed insects on spruce in orchards where spruce seed is being produced.

Written comments may be submitted to:

Calvin Blanchard
MDA—Agronomy Services Division
90 West Plato Boulevard
St. Paul, MN 55107

Comment deadline is June 27, 1990.

Department of Human Services

Notice of Child Care Fund Sliding Fee Scale

Below is the sliding fee scale for the Child Care Fund for state fiscal year 1991

SFY 1991 Child Care Fund Sliding Fee Scale for Family Sizes Two through Ten

	Family of Two				**Family of Three**		
	SMI	**$27,932**			**SMI**	**$34,504**	
	ANNUAL INCOME RANGE FOR MINIMUM FEE						
ONE ADULT	HOUSEHOLD	$9,709-$11,733	$20	ONE ADULT	HOUSEHOLD	$11,809-$14,494	$20
TWO ADULT	HOUSEHOLD	N/A		TWO ADULT	HOUSEHOLD	$11,329-$14,494	$20
	ANNUAL INCOME RANGES FOR SLIDING FEE						
	Income Range		**Monthly copayment**		**Income Range**		**Monthly copayment**
	$11,734	$12,013	$26		$14,495	$14,839	$32
	$12,014	$12,292	$29		$14,840	$15,184	$35
	$12,293	$12,571	$31		$15,185	$15,529	$39

Income Range		Monthly copayment
$12,572	$12,851	$34
$12,852	$13,130	$37
$13,131	$13,409	$40
$13,410	$13,688	$43
$13,689	$13,968	$47
$13,969	$14,107	$49
$14,108	$14,247	$52
$14,248	$14,387	$55
$14,388	$14,526	$58
$14,527	$14,666	$61
$14,667	$14,806	$64
$14,807	$14,945	$67
$14,946	$15,085	$70
$15,086	$15,225	$74
$15,226	$15,364	$77
$15,365	$15,504	$81
$15,505	$15,644	$85
$15,645	$15,783	$89
$15,784	$15,923	$93
$15,924	$16,063	$97
$16,064	$16,202	$101
$16,203	$16,342	$106
$16,343	$16,482	$110
$16,483	$16,621	$114
$16,622	$16,761	$119
$16,762	$16,901	$123
$16,902	$17,040	$128
$17,041	$17,180	$132
$17,181	$17,320	$137
$17,321	$17,459	$142
$17,460	$17,599	$147
$17,600	$17,739	$152
$17,740	$17,878	$158
$17,879	$18,018	$164
$18,019	$18,158	$169
$18,159	$18,297	$175
$18,298	$18,437	$181
$18,438	$18,577	$187
$18,578	$18,716	$193
$18,717	$18,856	$200
$18,857	$18,996	$206
$18,997	$19,135	$212
$19,136	$19,275	$218
$19,276	$19,415	$225
$19,416	$19,554	$231
$19,555	$19,694	$238
$19,695	$19,834	$245
$19,835	$19,973	$251
$19,974	$20,113	$258
$20,114	$20,252	$265
$20,253	$20,392	$272
$20,393	$20,532	$279
$20,533	$20,671	$286
$20,672	$20,811	$293
$20,812	$20,951	$300
$20,952		INELIGIBLE

Income Range		Monthly copayment
$15,530	$15,874	$42
$15,875	$16,219	$46
$16,220	$16,564	$50
$16,565	$16,909	$54
$16,910	$17,254	$58
$17,255	$17,427	$61
$17,428	$17,599	$65
$17,600	$17,772	$68
$17,773	$17,945	$72
$17,946	$18,117	$75
$18,118	$18,290	$79
$18,291	$18,462	$83
$18,463	$18,635	$87
$18,636	$18,807	$91
$18,808	$18,980	$95
$18,981	$19,152	$100
$19,153	$19,325	$105
$19,326	$19,497	$110
$19,498	$19,670	$115
$19,671	$19,842	$120
$19,843	$20,015	$125
$20,016	$20,187	$130
$20,188	$20,360	$136
$20,361	$20,532	$141
$20,533	$20,705	$147
$20,706	$20,877	$152
$20,878	$21,050	$158
$21,051	$21,222	$164
$21,223	$21,395	$169
$21,396	$21,567	$175
$21,568	$21,740	$181
$21,741	$21,912	$188
$21,913	$22,085	$195
$22,086	$22,258	$202
$22,259	$22,430	$209
$22,431	$22,603	$217
$22,604	$22,775	$224
$22,776	$22,948	$231
$22,949	$23,120	$239
$23,121	$23,293	$246
$23,294	$23,465	$254
$23,466	$23,638	$262
$23,639	$23,810	$270
$23,811	$23,983	$278
$23,984	$24,155	$286
$24,156	$24,328	$294
$24,329	$24,500	$302
$24,501	$24,673	$310
$24,674	$24,845	$319
$24,846	$25,018	$327
$25,019	$25,190	$336
$25,191	$25,363	$344
$25,364	$25,535	$353
$25,536	$25,708	$362
$25,709	$25,880	$371
$25,881		INELIGIBLE

Family of Four			
SMI		$41,076	
ONE ADULT	HOUSEHOLD	$13,789-$17,255	$20
TWO ADULT	HOUSEHOLD	$13,429-$17,255	$20

Income Range		Monthly copayment
$17,256	$17,666	$38
$17,667	$18,077	$42
$18,078	$18,487	$46
$18,488	$18,898	$50
$18,899	$19,309	$55
$19,310	$19,720	$59
$19,721	$20,130	$64
$20,131	$20,541	$68
$20,542	$20,746	$73
$20,747	$20,952	$77
$20,953	$21,157	$81
$21,158	$21,363	$85
$21,364	$21,568	$90
$21,569	$21,773	$94
$21,774	$21,979	$99
$21,980	$22,184	$104
$22,185	$22,390	$108
$22,391	$22,595	$113
$22,596	$22,800	$119
$22,801	$23,006	$125
$23,007	$23,211	$131
$23,212	$23,416	$137
$23,417	$23,622	$143
$23,623	$23,827	$149
$23,828	$24,033	$155
$24,034	$24,238	$162
$24,239	$24,443	$168
$24,444	$24,649	$175
$24,650	$24,854	$181
$24,855	$25,059	$188
$25,060	$25,265	$195
$25,266	$25,470	$202
$25,471	$25,676	$209
$25,677	$25,881	$216
$25,882	$26,086	$224
$26,087	$26,292	$232
$26,293	$26,497	$241
$26,498	$26,703	$249
$26,704	$26,908	$258
$26,909	$27,113	$267
$27,114	$27,319	$275
$27,320	$27,524	$284
$27,525	$27,729	$293
$27,730	$27,935	$303
$27,936	$28,140	$312
$28,141	$28,346	$321
$28,347	$28,551	$331
$28,552	$28,756	$340
$28,757	$28,962	$350
$28,963	$29,167	$360
$29,168	$29,372	$370
$29,373	$29,578	$380

Family of Five			
SMI		$47,648	
ONE ADULT	HOUSEHOLD	$15,481-$20,016	$20
TWO ADULT	HOUSEHOLD	$15,409-$20,016	$20

Income Range		Monthly copayment
$20,017	$20,492	$44
$20,493	$20,969	$49
$20,970	$21,445	$54
$21,446	$21,922	$58
$21,923	$22,398	$63
$22,399	$22,875	$69
$22,876	$23,351	$74
$23,352	$23,828	$79
$23,829	$24,066	$84
$24,067	$24,304	$89
$24,305	$24,542	$94
$24,543	$24,781	$99
$24,782	$25,019	$104
$25,020	$25,257	$109
$25,258	$25,495	$115
$25,496	$25,734	$120
$25,735	$25,972	$126
$25,973	$26,210	$131
$26,211	$26,448	$138
$26,449	$26,687	$145
$26,688	$26,925	$151
$26,926	$27,163	$158
$27,164	$27,401	$166
$27,402	$27,640	$173
$27,641	$27,878	$180
$27,879	$28,116	$187
$28,117	$28,354	$195
$28,355	$28,593	$203
$28,594	$28,831	$210
$28,832	$29,069	$218
$29,070	$29,307	$226
$29,308	$29,546	$234
$29,547	$29,784	$242
$29,785	$30,022	$250
$30,023	$30,260	$260
$30,261	$30,498	$269
$30,499	$30,737	$279
$30,738	$30,975	$289
$30,976	$31,213	$299
$31,214	$31,451	$309
$31,452	$31,690	$319
$31,691	$31,928	$330
$31,929	$32,166	$340
$32,167	$32,404	$351
$32,405	$32,643	$362
$32,644	$32,881	$373
$32,882	$33,119	$384
$33,120	$33,357	$395
$33,358	$33,596	$406
$33,597	$33,834	$417
$33,835	$34,072	$429
$34,073	$34,310	$440

Income Range		Monthly copayment
$29,579	$29,783	$390
$29,784	$29,989	$400
$29,990	$30,194	$410
$30,195	$30,399	$420
$30,400	$30,605	$431
$30,606	$30,810	$442
$30,811		INELIGIBLE

Income Range		Monthly copayment
$34,311	$34,549	$452
$34,550	$34,787	$464
$34,788	$35,025	$476
$35,026	$35,263	$488
$35,264	$35,502	$500
$35,503	$35,740	$512
$35,741		INELIGIBLE

Family of Six
SMI $54,220

ONE ADULT	HOUSEHOLD	$17,161-$22,777	$20
TWO ADULT	HOUSEHOLD	$17,101-$22,777	$20

Income Range		Monthly copayment
$22,778	$23,319	$51
$23,320	$23,861	$56
$23,862	$24,403	$61
$24,404	$24,946	$67
$24,947	$25,488	$72
$25,489	$26,030	$78
$26,031	$26,572	$84
$26,573	$27,114	$90
$27,115	$27,386	$96
$27,387	$27,657	$101
$27,658	$27,928	$107
$27,929	$28,199	$113
$28,200	$28,470	$119
$28,471	$28,741	$125
$28,742	$29,012	$131
$29,013	$29,283	$137
$29,284	$29,554	$143
$29,555	$29,825	$149
$29,826	$30,097	$157
$30,098	$30,368	$164
$30,369	$30,639	$172
$30,640	$30,910	$180
$30,911	$31,181	$188
$31,182	$31,452	$197
$31,453	$31,723	$205
$31,724	$31,994	$213
$31,995	$32,265	$222
$32,266	$32,536	$230
$32,537	$32,808	$239
$32,809	$33,079	$248
$33,080	$33,350	$257
$33,351	$33,621	$266
$33,622	$33,892	$275
$33,893	$34,163	$285
$34,164	$34,434	$296
$34,435	$34,705	$307
$34,706	$34,976	$318
$34,977	$35,247	$329
$35,248	$35,519	$340
$35,520	$35,790	$352
$35,791	$36,061	$364

Family of Seven
SMI $55,453

ONE ADULT	HOUSEHOLD	$18,877-$23,295	$20
TWO ADULT	HOUSEHOLD	$18,781-$23,295	$20

Income Range		Monthly copayment
$23,296	$23,849	$52
$23,850	$24,404	$57
$24,405	$24,958	$62
$24,959	$25,513	$68
$25,514	$26,067	$74
$26,068	$26,622	$80
$26,623	$27,177	$86
$27,178	$27,731	$92
$27,732	$28,008	$98
$28,009	$28,286	$104
$28,287	$28,563	$109
$28,564	$28,840	$115
$28,841	$29,117	$121
$29,118	$29,395	$127
$29,396	$29,672	$134
$29,673	$29,949	$140
$29,950	$30,226	$146
$30,227	$30,504	$152
$30,505	$30,781	$160
$30,782	$31,058	$168
$31,059	$31,335	$176
$31,336	$31,613	$184
$31,614	$31,890	$193
$31,891	$32,167	$201
$32,168	$32,445	$210
$32,446	$32,722	$218
$32,723	$32,999	$227
$33,000	$33,276	$236
$33,277	$33,554	$245
$33,555	$33,831	$254
$33,832	$34,108	$263
$34,109	$34,385	$272
$34,386	$34,663	$282
$34,664	$34,940	$291
$34,941	$35,217	$302
$35,218	$35,494	$313
$35,495	$35,772	$325
$35,773	$36,049	$336
$36,050	$36,326	$348
$36,327	$36,604	$360
$36,605	$36,881	$372

Income Range		Monthly copayment
$36,062	$36,332	$375
$36,333	$36,603	$387
$36,604	$36,874	$399
$36,875	$37,145	$412
$37,146	$37,416	$424
$37,417	$37,687	$436
$37,688	$37,958	$449
$37,959	$38,230	$462
$38,231	$38,501	$475
$38,502	$38,772	$488
$38,773	$39,043	$501
$39,044	$39,314	$514
$39,315	$39,585	$528
$39,586	$39,856	$541
$39,857	$40,127	$555
$40,128	$40,398	$569
$40,399	$40,669	$583
$40,670		INELIGIBLE

Income Range		Monthly copayment
$36,882	$37,158	$384
$37,159	$37,435	$396
$37,436	$37,713	$409
$37,714	$37,990	$421
$37,991	$38,267	$434
$38,268	$38,544	$446
$38,545	$38,822	$459
$38,823	$39,099	$472
$39,100	$39,376	$486
$39,377	$39,653	$499
$39,654	$39,931	$512
$39,932	$40,208	$526
$40,209	$40,485	$540
$40,486	$40,763	$554
$40,764	$41,040	$568
$41,041	$41,317	$582
$41,318	$41,594	$596
$41,595		INELIGIBLE

Family of Eight

SMI $56,685

ONE ADULT	HOUSEHOLD	$20,341-$23,812	$20
TWO ADULT	HOUSEHOLD	$20,497-$23,812	$20

Income Range		Monthly copayment
$23,813	$24,379	$53
$24,380	$24,946	$58
$24,947	$25,513	$64
$25,514	$26,080	$70
$26,081	$26,647	$75
$26,648	$27,213	$82
$27,214	$27,780	$88
$27,781	$28,347	$94
$28,348	$28,631	$100
$28,632	$28,914	$106
$28,915	$29,197	$112
$29,198	$29,481	$118
$29,482	$29,764	$124
$29,765	$30,048	$130
$30,049	$30,331	$136
$30,332	$30,615	$143
$30,616	$30,898	$149
$30,899	$31,181	$156
$31,182	$31,465	$164
$31,466	$31,748	$172
$31,749	$32,032	$180
$32,033	$32,315	$188
$32,316	$32,599	$197
$32,600	$32,882	$205
$32,883	$33,165	$214
$33,166	$33,449	$223
$33,450	$33,732	$232
$33,733	$34,016	$241
$34,017	$34,299	$250
$34,300	$34,583	$259

Family of Nine

SMI $57,917

TWO ADULT	HOUSEHOLD	$21,757-$24,330	$20
TWO ADULT	HOUSEHOLD	$21,961-$24,330	$20

Income Range		Monthly copayment
$24,331	$24,909	$54
$24,910	$25,488	$59
$25,489	$26,067	$65
$26,068	$26,647	$71
$26,648	$27,226	$77
$27,227	$27,805	$83
$27,806	$28,384	$90
$28,385	$28,963	$97
$28,964	$29,253	$102
$29,254	$29,542	$108
$29,543	$29,832	$114
$29,833	$30,122	$120
$30,123	$30,411	$127
$30,412	$30,701	$133
$30,702	$30,990	$139
$30,991	$31,280	$146
$31,281	$31,570	$153
$31,571	$31,859	$159
$31,860	$32,149	$167
$32,150	$32,438	$176
$32,439	$32,728	$184
$32,729	$33,017	$193
$33,018	$33,307	$201
$33,308	$33,597	$210
$33,598	$33,886	$219
$33,887	$34,176	$228
$34,177	$34,465	$237
$34,466	$34,755	$246
$34,756	$35,045	$255
$35,046	$35,334	$265

Income Range		Monthly copayment
$34,584	$34,866	$269
$34,867	$35,149	$278
$35,150	$35,433	$288
$35,434	$35,716	$298
$35,717	$36,000	$309
$36,001	$36,283	$320
$36,284	$36,566	$332
$36,567	$36,850	$344
$36,851	$37,133	$356
$37,134	$37,417	$368
$37,418	$37,700	$380
$37,701	$37,984	$392
$37,985	$38,267	$405
$38,268	$38,550	$418
$38,551	$38,834	$430
$38,835	$39,117	$443
$39,118	$39,401	$456
$39,402	$39,684	$470
$39,685	$39,968	$483
$39,969	$40,251	$496
$40,252	$40,534	$510
$40,535	$40,818	$524
$40,819	$41,101	$538
$41,102	$41,385	$552
$41,386	$41,668	$566
$41,669	$41,952	$580
$41,953	$42,235	$595
$42,236	$42,518	$609
$42,519		INELIGIBLE

Income Range		Monthly copayment
$35,335	$35,624	$275
$35,625	$35,913	$284
$35,914	$36,203	$294
$36,204	$36,493	$304
$36,494	$36,782	$316
$36,783	$37,072	$327
$37,073	$37,361	$339
$37,362	$37,651	$351
$37,652	$37,940	$364
$37,941	$38,230	$376
$38,231	$38,520	$388
$38,521	$38,809	$401
$38,810	$39,099	$414
$39,100	$39,388	$427
$39,389	$39,678	$440
$39,679	$39,968	$453
$39,969	$40,257	$466
$40,258	$40,547	$480
$40,548	$40,836	$493
$40,837	$41,126	$507
$41,127	$41,415	$521
$41,416	$41,705	$535
$41,706	$41,995	$549
$41,996	$42,284	$564
$42,285	$42,574	$578
$42,575	$42,863	$593
$42,864	$43,153	$608
$43,154	$43,443	$623
$43,444		INELIGIBLE

Family of Ten

SMI **$59,149**

ONE ADULT	HOUSEHOLD	$22,981-$24,847	$20
TWO ADULT	HOUSEHOLD	$23,377-$24,847	$20

Income Range		Monthly copayment
$24,848	$25,439	$55
$25,440	$26,030	$61
$26,031	$26,622	$67
$26,623	$27,213	$73
$27,214	$27,805	$79
$27,806	$28,396	$85
$28,397	$28,988	$92
$28,989	$29,579	$99
$29,580	$29,875	$105
$29,876	$30,171	$111
$30,172	$30,467	$117
$30,468	$30,762	$123
$30,763	$31,058	$129
$31,059	$31,354	$136
$31,355	$31,650	$142
$31,651	$31,945	$149
$31,946	$32,241	$156
$32,242	$32,537	$163
$32,538	$32,833	$171

Income Range		Monthly copayment
$32,834	$33,128	$179
$33,129	$33,424	$188
$33,425	$33,720	$197
$33,721	$34,016	$205
$34,017	$34,311	$214
$34,312	$34,607	$223
$34,608	$34,903	$233
$34,904	$35,199	$242
$35,200	$35,494	$251
$35,495	$35,790	$261
$35,791	$36,086	$271
$36,087	$36,382	$280
$36,383	$36,677	$290
$36,678	$36,973	$300
$36,974	$37,269	$311
$37,270	$37,565	$322
$37,566	$37,860	$334
$37,861	$38,156	$347
$38,157	$38,452	$359
$38,453	$38,748	$371
$38,749	$39,043	$384
$39,044	$39,339	$397
$39,340	$39,635	$410
$39,636	$39,930	$423
$39,931	$40,226	$436
$40,227	$40,522	$449
$40,523	$40,818	$463
$40,819	$41,113	$476
$41,114	$41,409	$490
$41,410	$41,705	$504
$41,706	$42,001	$518
$42,002	$42,296	$532
$42,297	$42,592	$547
$42,593	$42,888	$561
$42,889	$43,184	$576
$43,185	$43,479	$591
$43,480	$43,775	$605
$43,776	$44,071	$621
$44,072	$44,367	$636
$44,368		INELIGIBLE

Department of Human Services

Notice of Hospital Cost Index

Minnesota Statutes 256.969, subdivision 1 and *Minnesota Rules*, parts 9500.1120 require the establishment of a Hospital Cost Index (HCI) for rate setting purposes for inpatient hospital services under the General Assistance Medical Care and Medical Assistance Programs. The inflation forecasts provided below were obtained from the Data Resources, Inc./McGraw-Hill, *Health Care Costs* as published in the first quarter of 1990 using the percent moving average. The cost category weights were provided by the Minnesota Hospital Association. The HCI will be used to adjust the rates of hospitals whose next fiscal year begins during the third calendar quarter of 1990.

Minnesota Statutes, 256.9695, subd. 3, (c) limits the HCI to five percent effective June 1, 1990 except in the case of small hospitals that currently meet the criteria for the current rateable increase.

Comments concerning the HCI may be forwarded to the following address:

Richard Tester
Hospital Reimbursement Section
Audit Division
444 Lafayette Road, Fifth Floor
St. Paul, Minnesota 55155-3836

Cost Category	Weight	Percent	Weighted Percent
Salaries	.535	7.1	3.80
Employee Benefits	.091	5.0	.46
Medical Fees (Medical Care Service)	.056	8.2	.46
Raw Food	.013	3.7	.05
Medical Supplies (Medical Commodities)	.113	4.3	.49
Pharmaceuticals	.044	4.3	.19
Utilities	.024	2.6	.06
Repairs/Maintenance	.018	4.4	.08
Insurance*	.014	4.4	.06
Other Operating	.092	4.4	.40
	1.000		6.05
		HCI =	6.1%

*Excludes Malpractice

Department of Human Services

Notice of Vacancies on Newly Created Advisory Committee on Organ and Tissue Transplants

NOTICE IS HEREBY GIVEN that, pursuant to *Minnesota Statutes* 256B.0629, the Commissioner of Human Services will be appointing an Advisory Committee on Organ and Tissue Transplants.

APPOINTING AUTHORITY: Commissioner of the Department of Human Services. COMPENSATION: Reimbursed for expenses.

The committee will meet at least twice per year and advise the Commissioner of Human Services on the efficacy of various transplant procedures, availability of qualified transplant facilities, current practice standards, and medical ethics, law, economics, and other issues relating to the transplantation of organs and tissues.

Committee membership will consist of 12 representatives of the following interests: the transplant provider community; hospitals; recipient groups or organizations; the Departments of Human Services, Finance, and Health; accident and health insurance plans, nonprofit health insurance plans, or health maintenance organizations; and persons with expertise in ethics, law, and economics. The committee will be appointed and a committee meeting convened by July 1, 1990. Written expressions of interest and qualifications, post-marked no later than Friday, June 8, 1990, may be submitted to:

Christine Dobbe
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3853
Telephone: (612) 297-2388

Department of Jobs & Training

Division of Rehabilitation Services

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Amendments to Permanent Rules Relating to Extended Employment Programs Including the Impact of the Rules on Small Businesses

NOTICE IS HEREBY GIVEN that the Department of Jobs and Training is seeking information or opinions from sources outside the agency in proposing to adopt amendments to *Minnesota Rules*, parts 3300.1950 through 3300.3050, relating to extended employment programs. These permanent rules are being proposed to interpret *Minnesota Statutes*, Chapter 129A. Outside opinion is also being solicited concerning how these rules will affect small businesses as defined by *Minnesota Statutes*, section 14.115, subdivision 1.

The proposed amendments to rules will revise the disability index as defined at part 3300.2050, subpart 7, delete certain exclusions from rate calculations in part 3300.2450 and provide for an extension to certification due to unforeseen circumstances. Furthermore, the proposed amendments will change language in the definition of fundamental personnel benefits at part 3300.2050, subpart 14, and delete certain policies for calculating the rate of retention in competitive employment at part 3300.2450, subpart 3. Other technical and housekeeping changes will also be proposed, including changes in terminology.

Interested persons or groups may submit data or comments in writing. Written comments should be addresed to:

Marvin Spears
Division of Rehabilitation Services
390 North Robert Street, Fifth Floor
St. Paul, MN 55101

All comments and information will be accepted until 4:30 p.m. on June 30, 1990. Any written material received by the Department of Jobs and Training will become part of the rulemaking record to be submitted to the Attorney General or Administrative Law Judge in the event the rules are adopted.

Joe Samargia, Commissioner
Department of Jobs & Training

Office of the Ombudsman for Mental Health and Mental Retardation

Notice of Meeting

The Ombudsman for Mental Health and Mental Retardation Advisory Committee will hold a general meeting at 9:00 a.m. on Friday, June 1, 1990. The meeting will be held at the Ombudsman Office, Suite 202, Metro Square Building on 7th and Robert Street, St. Paul.

Office of the Secretary of State

Notice of Vacancies in Multi-Member Agencies

NOTICE IS HEREBY GIVEN to the public that vacancies have occurred in multi-member state agencies, pursuant to *Minnesota Statutes* 15.0597, subdivision 4. Application forms may be obtained from the Office of the Secretary of State, Open Appointments, 180 State Office Building, St. Paul, MN 55155-1299; (612) 297-5845, or in person at Room 174 of the State Office Building. More specific information about these vacancies may be obtained from the agencies listed below. The application deadline is June 20, 1990.

Minnesota Council for the Hearing Impaired
Deaf Services, Dept. of Human Services, 444 Lafayette Rd., St. Paul 55155-3814. 612-297-1872
Minnesota Statutes 256C.28

APPOINTING AUTHORITY: Commissioner of Human Services. COMPENSATION: $35. per diem.
VACANCY: One member: To be a hearing impaired person, preferably hard of hearing or late-deafened.

The council advises the commissioner and governor regarding policies, programs, services affecting hearing impaired citizens;

creates public awareness of needs and potential of hearing impaired people. The council includes fifteen members, seven of whom are appointed at-large, plus one member from each advisory committee under section 256C.24, subd. 3. At least fifty percent of the members must be hearing impaired. Terms are for two years. Members who are full time state employees or full time employees of political subdivisions of the state will not receive the per diem.

Minnesota-Wisconsin Boundary Area Commission
619 2nd St., Hudson, WI 54016. 612-436-7131
Minnesota Statutes 1.31

APPOINTING AUTHORITY: Governor. COMPENSATION: Reimbursed for expenses.
VACANCY: One member: Resident of Minnesota; familiarity with Mississippi and St. Croix River management and public issues preferred.

The commission studies, makes recommendations, and coordinates intergovernmental activities on the use, development and protection of the St. Croix and Mississippi rivers that form the interstate border of Minnesota and Wisconsin. Members include five commissioners from each state, each Minnesota member has a four year term. Terms are staggered. Bi-monthly meetings.

Hearing Instrument Dispenser Advisory Council
717 Delaware St. S.E., Mpls. 55440. 612-623-5751
Minnesota Statutes 214.13

APPOINTING AUTHORITY: Commissioner of Health. COMPENSATION: Per diem plus expenses.
VACANCY: Seven members: Please see the description below of this new advisory council.

The council advises the Commissioner of the Department of Health on matters relating to registration and regulation of hearing instrument dispensers including: registration standards, enforcement of registration rules, and continuing education. Seven members include two public members as defined by *Minnesota Statutes* 214.02, one to be a hearing instrument user and one to be either a hearing instrument user or an advocate of a hearing instrument user; three hearing instrument dispensers who will be registered under *Minnesota Rules* by 12-1-90 and are currently, and have been for the five years preceding appointment, engaged in hearing instrument selling as defined by *Minnesota Statutes* 153A.13, subd. 4; one audiologist engaged in hearing instrument selling as defined by *Minnesota Statutes* 153A.13, subd. 4, and who is registered under *Minnesota Rules* as an audiologist or, if no such rules exist at the time of appointment, holds a current Certificate of Clinical Competence from the American Speech-Language-Hearing Association; and one member to be either an audiologist, as defined above, or a Minnesota licensed physician specializing in treatment of diseases of the ear who is either board eligible or board certified by the American Board of Otolaryngology—if a physician is appointed to this position, the physician must not be a seller of hearing instruments and must not have a financial interest in the business of selling hearing instruments. Monthly four-hour meetings for the first six months after creation; quarterly thereafter. Meetings held at the Minnesota Department of Health.

Pollution Prevention Task Force
Minnesota Office of Waste Management, 1350 Energy Lane, St. Paul 55108. 612-649-5750
Minnesota Statutes 15.014

APPOINTING AUTHORITY: Director, Office of Waste Management. COMPENSATION: None.
VACANCY: Fifteen members: Please see the description below of this new task force.

The task force shall act in an advisory capacity on matters related to the Minnesota Toxic Pollution Prevention Act. The Act, passed by the 1990 Legislature, declares that it is the policy of the state to encourage toxic pollution prevention. The task force will be involved in several programs to reduce, or eliminate at the source, the use, generation, or release of toxic pollutants. Fifteen members with equal representation from the following groups: (1) industry; (2) citizens; (3) government representatives involved in pollution prevention activities. Monthly meetings to occur at the Office of Waste Management in St. Paul.

Hazardous Waste Management Planning Council
1350 Energy Lane, St. Paul 55108. 612-649-5750
Minnesota Statutes 115A.12

APPOINTING AUTHORITY: Office of Waste Management. COMPENSATION: Reimbursed for expenses.
VACANCY: Eighteen members: Six industry representatives, six local government representatives, six citizen representatives.

The council makes recommendations to the Office of Waste Management on industrial waste management planning, waste management facility development, and industrial waste reduction issues and programs. The council may have up to eighteen members and includes public members, representatives of local government units, hazardous waste generators and private hazardous waste management firms. Meetings once a month.

Solid Waste Management Advisory Council
1350 Energy Lane, St. Paul 55108. 612-649-5750
Minnesota Statutes 115A.12

APPOINTING AUTHORITY: Office of Waste Management. COMPENSATION: Reimbursed for expenses.
VACANCY: Eighteen members: Six industry representatives, six local government representatives, six citizen representatives.

The council makes recommendations on solid waste management activities. The council may have up to eighteen members, to include six public members, six representatives of local government units, and six representatives of the solid waste industry; at least one member must be experienced in each of the following areas: state and municipal finance, solid waste collection, processing and disposal, and solid waste reduction and resource recovery. Meetings once monthly.

State Curriculum Advisory Committee
647 Capitol Square Bldg., St. Paul 55101. 612-296-7834
Minnesota Statutes 126.67

APPOINTING AUTHORITY: Commissioner of Education. COMPENSATION: None.
VACANCY: Three members: To be residents of the following Education Cooperative Service Unit Regions; Region 4 (West Central), Region 5, and Region 6 or 8 (Southwest or West). Members must be current or former members of a local curriculum advisory committee, and must be either a parent, teacher, school administrator, or a member of a local Board of Education.

The committee advises the State Board and Department of Education on the planning, evaluation, and reporting process. Eleven members include nine members, one appointed from each educational cooperative service unit and two at-large members.

Minnesota Academic Excellence Foundation
751 Capitol Square Building, St. Paul 55101. 612-297-1875
Minnesota Statutes 121.612

APPOINTING AUTHORITY: Governor. COMPENSATION: None.
VACANCY: Five new members: One representative of an education group such as the School Board Association, Association of School Administrators, Non-public School Accreditation Association; and four representatives from the following groups: Minnesota Business Partnership, Minnesota Chamber of Commerce, a small business group, and a state-wide service organization such as the American Legion, Kiwanis, Eagles, Rotary, etc. Members should be committed to the M.A.E.F. mission, willing and able to do fund raising, knowledgeable of non-profit operations and public-private partnerships. One member with ability to contribute financial management and/or public relations expertise is desired. Individuals from non-metro areas—St. Cloud, southern and northern Minnesota, and from communities of color are urged to apply.

The foundation promotes academic excellence in Minnesota schools through public-private partnerships. The board of directors consists of a member of the State Board of Education who shall serve as chair, the commissioner of the Department of Education, and twenty members including eight who represent various education groups and twelve who represent various business groups.

Minnesota Office on Volunteer Services Advisory Committee
500 Rice St., St. Paul 55155. 612-296-4731
Minnesota Statutes 4.31

APPOINTING AUTHORITY: Commissioner of Administration. COMPENSATION: Reimbursed for expenses.
VACANCY: Four members: Two at-large members and one representative from Region 6W and one from Region 7E.

The Minnesota Office on Volunteer Services is the statewide leader and a primary service provider to the volunteer community. Its mission is to encourage and sustain volunteer programs, citizen participation efforts and public/private partnerships that contribute to the quality of life for Minnesota citizens. Twenty-one members include at least one member from each economic development region. Three to five meetings per year, usually at the state capitol complex.

Emergency Medical Services Advisory Council
717 S.E. Delaware St., Mpls. 55414. 612-643-2164
Minnesota Laws of 1990, Chapter 568, Art. 1, Sec. 16

APPOINTING AUTHORITY: Commissioner of Health. COMPENSATION: Travel expenses.
VACANCY: Seventeen members: Eight members to represent the governing bodies of the eight regional emergency medical systems designated under *Minnesota Statutes* 144.8093; one hospital administrator; one emergency medical services physician; one emergency department nurse; one representative of an emergency medical care training institution; one representative of a licensed ambulance service; one emergency medical technician (ambulance, intermediate, or paramedic); one first responder; one member of a community health services agency; one representative of the public at large.

The council advises, consults with, and makes recommendations to the commissioner of health regarding the formulation of policy and plans for the organization, delivery, and evaluation of emergency medical services within the state. Seventeen members include: eight representatives of regional EMS governing boards; seven technical representatives; one health services community agency representative and one representative of the public at large. Meetings at the Minnesota Department of Health, four to six times per year; meetings are five to six hours in length.

Board of Water and Soil Resources
155 S. Wabasha, Suite 104, St. Paul 55107. 612-296-3767
Minnesota Statutes 110B.35

APPOINTING AUTHORITY: Governor. Senate confirmation. COMPENSATION: $48 per diem plus expenses.
VACANCY: One member: a citizen not employed by, or the appointed or elected official of, any governmental office, board, or agency; knowledgeable of water and soil problems and conditions within the state.

The board coordinates the water and soil resources management activities of local units of government through educational activities, approval of local plans, administration of state grants and cost-sharing contracts. Twelve members include three county commissioners, three soil and water conservation district supervisors, three watershed district or watershed management organization representatives, and three unaffiliated citizens. One member must come from each of the current soil and water conservation administrative regions throughout the state. At least three but no more than five members must come from the seven-county metropolitan area. All members must be knowledgeable of soil and water problems. Four additional soil and water conservation supervisors will serve through December, 1989. Members must file with the Ethical Practices Board. Monthly meetings.

Social Work Licensing Board
2700 University Ave. W. #225, St. Paul 55114. 612-643-2580
Minnesota Statutes 148B.19

APPOINTING AUTHORITY: Governor. COMPENSATION: $35 per diem plus expenses.
VACANCY: One member: To be a licensed social worker who is an educator engaged in regular teaching duties at an accredited program of social work.

The board adopts and enforces rules for licensure of social workers and for regulation of their professional conduct. Ten members include six licensed social workers, (two licensed independent clinical social workers, two licensed independent social workers, and two licensed social workers); three public members as defined in *Minnesota Statutes* 214.02; and one school social worker licensed by the Board of Teaching. The social workers shall represent the following employment settings: two shall represent public agencies, two shall represent private agencies, one shall be in private practice, and one shall be an educator engaged in regular teaching duties at an accredited program of social work. In addition, at least two members shall be persons of color, and at least four members shall reside outside of the seven-county metropolitan area. Members must file with the Ethical Practices Board.

Department of Trade & Economic Development

Minnesota Agricultural and Economic Development Board

Notice of Public Hearing on Proposed Project on Behalf of Charles Vogel Manufacturing Company, Inc. and the Issuance of Bonds under *Minnesota Statutes* 1986, Chapter 116M and *Minnesota Statutes*, Chapter 41A

NOTICE IS HEREBY GIVEN that the Minnesota Agricultural and Economic Development Board (the "Board") or its designated representative, shall meet on June 21, 1990, at 9:30 a.m. o'clock, Room 3 at 900 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota, for the purpose of conducting a public hearing on a proposed issue of bonds (the "Bonds") and the provision of other financial assistance under *Minnesota Statutes* 1986, Chapter 116M, and *Minnesota Statutes*, Chapter 41A, as amended (the "Act"), to undertake and finance a project **on behalf of Charles Vogel Manufacturing Company, Inc.,** a Wisconsin corporation (the "Applicant"). Such persons as desire to be heard with reference to said issue of Bonds will be heard at this public hearing.

The project to be financed consists of the acquisition, construction and equipping of a manufacturing facility in the City of Oakdale, Minnesota [general description of the location being at Helmo Avenue, 1¼ miles north of 10th Street, Oakdale, Minnesota (the "Project")]. The initial owner of the Project will be the Applicant and the Project is expected to be operated and managed by the Applicant. It is contemplated that the Project will be used for molding of silicone medical soft tissue implantable devices and related activities. The estimated amount of the Board's proposed bond issue is an amount not to exceed $2,000,000. The Bonds shall be

limited obligations of the Board, the Bonds and the interest thereon shall be payable solely from the revenue pledged to the payment thereof, and a mortgage or security interest or other security arrangements to be established by or on behalf of the Applicant. In addition, the Bonds and the Project may be subsequently considered by the Board for financial assistance to be provided by the Economic Development Fund created and established under *Minnesota Statutes* 1986, Chapter 116M or other financial or special assistance from the Board. Notwithstanding the foregoing, no holders of any such Bonds shall ever have the right to compel any exercise of the taxing powers of the State of Minnesota or any political subdivision thereof to pay the Bonds or the interest thereon nor to enforce payment against any property of said State or said political subdivision.

A copy of the Application to the Board for approval of the Project, together with all attachments and exhibits thereto and a copy of the Board's resolution accepting the Application and accepting the Project is available for public inspection at the offices of the Board at 900 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota from the date of this notice to the date of the public hearing hereinabove identified, during normal business hours.

Dated: 17 May 1990

BY ORDER OF THE MEMBERS OF THE
MINNESOTA AGRICULTURAL AND ECONOMIC
DEVELOPMENT BOARD

Paul Moe, Executive Director
Minnesota Agricultural and Economic
Development Board

Department of Trade & Economic Development

Minnesota Agricultural and Economic Development Board

Notice of Public Hearing on Proposed Project on Behalf of May Printing Company and the Issuance of Bonds under *Minnesota Statutes* 1986, Chapter 116M and *Minnesota Statutes*, Chapter 41A

NOTICE IS HEREBY GIVEN that the Minnesota Agricultural and Economic Development Board (the "Board") or its designated representative, shall meet on June 21, 1990, at 9:30 a.m. o'clock, Room 3 at 900 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota, for the purpose of conducting a public hearing on a proposed issue of bonds (the "Bonds") and the provision of other financial assistance under *Minnesota Statutes* 1986, Chapter 116M, and *Minnesota Statutes*, Chaper 41A, as amended (the "Act"), to undertake and finance a project **on behalf of May Printing Company,** a Minnesota corporation, (the "Applicant"). Such persons as desire to be heard with reference to said issue of Bonds will be heard at this public hearing.

The project to be financed consists of the acquisition, construction and equipping of a manufacturing facility in the City of St. Cloud, Minnesota [general description of the location being in the Corporate Woods Industrial Park with a street address of 4110 Clearwater Road (the "Project")]. The initial owner of the Project will be the Applicant and the Project is expected to be operated and managed by Applicant. It is contemplated that the Project will be used primarily for commercial printing and related activities. The estimated amount of the Board's proposed bond issue is an amount not to exceed $4,205,000. The Bonds shall be limited obligations of the Board, the Bonds and the interest thereon shall be payable solely from the revenue pledged to the payment thereof, and a mortgage or security interest or other security arrangements to be established by or on behalf of the Applicant. In addition, the Bonds and the Project may be subsequently considered by the Board for financial assistance to be provided by the Economic Development Fund created and established under *Minnesota Statutes* 1986, Chapter 116M or other financial or special assistance from the Board. Notwithstanding the foregoing, no holders of any such Bonds shall ever have the right to compel any exercise of the taxing powers of the State of Minnesota or any political subdivision thereof to pay the Bonds or the interest thereon nor to enforce payment against any property of said State or said political subdivision.

A copy of the Application to the Board for approval of the Project, together with all attachments and exhibits thereto and a copy of the Board's resolution accepting the Application and accepting the Project is available for public inspection at the offices of the Board at 900 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota from the date of this notice to the date of the public hearing hereinabove identified, during normal business hours.

Dated: 17 May 1990

BY ORDER OF THE MEMBERS OF THE
MINNESOTA AGRICULTURAL AND ECONOMIC
DEVELOPMENT BOARD

Paul Moe, Executive Director
Minnesota Agricultural and Economic

Department of Trade and Economic Development

Community Development Division

Rural Development Board

Notice of Request for Applications to Participate in a "Community Needs Assessment Model"

The Department of Trade and Economic Development (DTED) requests applicants from rural communities wishing to participate in a pilot project administered by the Department and its Rural Development Board.

DTED is currently developing a "Community Needs Assessment Model." The model will identify community needs in the areas of social services, transportation, housing, education, health care, recreation, employment, public infrastructure, and economic development. The model will contain techniques and methods by which a community can identify those needs, analyze existing resources, establish priorities, and develop strategies. The emphasis in the model will be on practical solutions to the immediate problems facing rural communities. There will be no cost for a community to participate, beyond the "in-kind" contribution of citizens who participate in the assessment.

The Community Needs Assessment Model will be tested in five rural communities in 1990, and in ten rural communities in 1991. By law, at least one of the communities selected for testing in 1990 must have a population under 1,000. For purposes of this program, "rural" is defined as the portion of Minnesota excluding the seven county Twin Cities metropolitan area. "Community" is defined as a statutory city.

Applications to serve as pilot communities for this program should consist of the following:

- **A statement about the needs** which the community believes it could address through participation in this pilot project;
- **A description of prior needs assessment activities** which the community has conducted (if any), either through its own efforts or with outside assistance; if prior assessment activities have been attempted, explain what was accomplished;
- **A resolution from the city council** authorizing the community to submit an application; this should be supplemented by other evidence of community interest in better assessment of local needs, such as letters of support from community groups, newspaper articles about the community, or any other evidence which the community may be able to offer; and
- **Name, address, phone number, and title** of a person who can be contacted for additional information about the application.

Selection of communities will be based on: (1) an evaluation of applications which are received and (2) the need for statewide geographic balance of the communities which are selected.

Applications and questions about the Community Needs Assessment Model should be directed to:

Mark Lofthus
Director, Rural Development Board
Community Development Division
Department of Trade and Economic Development
900 American Center Building
150 E. Kellogg Boulevard
St. Paul, Minnesota 55101
(612) 296-9090

Applications to participate in the program should be submitted to the above address by 5:00 p.m., June 25, 1990.

Board of Unlicensed Mental Health Providers

Official Notice of Schedule of Meetings for 1990/1991

Scheduled meetings have been set for the following dates:

July 13, 1990
August 10, 1990
September 14, 1990
October 12, 1990
November 9, 1990
December 14, 1990
January 11, 1991
February 8, 1991
March 8, 1991
April 12, 1991
May 10, 1991
June 14, 1991

All meetings are scheduled from 1:00 p.m. to 4:00 p.m. on the second Friday of each month at the Board Office.

Board of Unlicensed Mental Health Service Providers
2700 University Avenue West
Suite 225
St. Paul, Minnesota 55114

State Board of Vocational Technical Education

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Rules for Licensure of Postsecondary Technical Education Personnel

NOTICE IS HEREBY GIVEN that the State Board of Vocational Technical Education is seeking information or opinions from sources outside the agency in preparing to amend Chapter Thirty-Five; Rules for Licensure of Vocational Technical Education Personnel and specifically Health occupations in new venture programs/Health occupations in Sonography Technology and Dental Hygiene, revision of licensure rules in special needs instructional and supportive personnel, and general rules for license renewal. The adoption of these rules is authorized by *Minnesota Statutes* § 136C.04, subd. 9, and 125.185 subd. 4.

The State Board of Vocational Technical Education requests information and comments concerning the subject matter of these rules. Interested or affected persons may submit written statements of information or comment orally. Written comments should be addressed to:

Ms. Jeanette Daines
State Board of Vocational
Technical Education
100 Capitol Square Bldg.
550 Cedar Street
St. Paul, MN 55101
(612) 296-0679

Ms. Georgia Pomroy
State Board of Vocational
Technical Education
100 Capitol Square Bldg.
550 Cedar Street
St. Paul, MN 55101
(612) 296-0680

Oral statements will be received during regular business hours over the telephone at (612) 296-0680 or in person at the above address.

All statements of information and comments shall be accepted until 4:30 p.m., Friday, June 29, 1990. Any written material received by the State Board of Vocational Technical Education shall become part of the record to be submitted to the Attorney General or Administrative Law Judge in the event the rule is adopted.

Helen Henrie, Interim State Director
State Board of Vocational Technical Education

Metropolitan Waste Control Commission

Notice of Informational Meetings for Infiltration and Inflow

NOTICE IS HEREBY GIVEN that the MWCC is initiating a systemwide study to evaluate infiltration and inflow in the Metropolitan Disposal System. Informational meetings will be held for the purpose of providing details of proposed methodologies, the goals and objectives of the study, and community input and discussion. Meetings will be held:

June 18 2:30-4:30 p.m.
Dakota County Library—Wescott
1340 Wescott Road
Eagan, Minnesota 55123
Public Meeting Room

June 18 2:30-4:30 p.m.
Hennepin Technical College
Eden Prairie Campus
9200 Flying Cloud Drive
Eden Prairie, Minnesota 55344
Room #H117 and #H118

June 20 2:30-4:30 p.m.
White Bear Lake Police Station
4700 Miller Avenue
White Bear Lake, Minnesota 55110
Old City Council Chambers

June 20	7:00-9:00 p.m.	City of Falcon Heights 2077 West Larpenteur Avenue Falcon Heights, Minnesota 55113 City Council Chambers
June 21	2:30-4:30 p.m.	Brooklyn Center Civic Center Community Center 6301 Shingle Creek Parkway Brooklyn Center, Minnesota 55430 Constitution Hall

For additional information, contact Wayne Rikala, Project Manager, MWCC, at 229-2127 or Mary Richardson, Richardson, Richter and Associates, at 334-3210.

State Contracts and Advertised Bids

Pursuant to the provisions of Minn. Stat. §14.10, an agency must make reasonable effort to publicize the availability of any 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. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Commodities contracts with an estimated value of $15,000 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 whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

Awards of contracts and advertised bids for commodities and printing, as well as awards of professional, technical and consulting contracts, appear in the midweek STATE REGISTER Contracts Supplement, published every Thursday. Call (612) 296-0931 for subscription information.

Department of Administration: Materials Management Division

Contracts and Requisitions Open for Bid

Call 296-2600 for information on a specific bid, or to request a specific bid.

Commodity: Rubbish disposal
Contact: Joyce Dehn 297-3830
Bid due date at 2pm: May 31
Agency: Southwest State University
Deliver to: Marshall
Requisition #: Price Contract

Commodity: Wesson Audio Unit
Contact: Pam Anderson 296-1053
Bid due date at 4:30pm: June 1
Agency: State University
Deliver to: Winona
Requisition #: 26074-13431

Commodity: Tables
Contact: John Bauer 296-2621
Bid due date at 2pm: June 1
Agency: Vocational Technical Education Board
Deliver to: St. Paul
Requisition #: 36000-50010

Commodity: American seating furniture
Contact: John Bauer 296-2621
Bid due date at 2pm: June 1
Agency: Transportation Department
Deliver to: St. Paul
Requisition #: 79000-05540

Commodity: Mower & attachments
Contact: Mary Jo Bruski 296-3772
Bid due date at 2pm: June 1
Agency: Human Services Department—Regional Treatment Center
Deliver to: Faribault
Requisition #: 55303-14439

Commodity: Unleaded Gasoline: No. 1 & 2 Regular Diesel Fuel
Contact: Dale Meyer 296-3773
Bid due date at 2pm: June 4
Agency: Department of Transportation
Deliver to: Baudette, Bagley, Walker, Northome, Deer River
Requisition #: Price Contracts

Commodity: Mower with sweeper
Contact: Mary Jo Bruski 296-3772
Bid due date at 4:30pm: June 5
Agency: State University
Deliver to: Mankato
Requisition #: 26071-19670

Commodity: Purchase copier, estimated usage 20,000 copies per month
Contact: Joseph Gibbs 296-3750
Bid due date at 4:30pm: June 5
Agency: Public Safety Department
Deliver to: St. Paul
Requisition #: 07700-61414

Commodity: Copy machine—Volume 4000 copies per month
Contact: Joseph Gibbs 296-3750
Bid due date at 4:30pm: June 5
Agency: Natural Resources Department
Deliver to: Bemidji
Requisition #: 29001-16341

Commodity: Copy machine—Usage 2,000 copies per month
Contact: Joseph Gibbs 296-3750
Bid due date at 4:30pm: June 5
Agency: Itasca State Park
Deliver to: Lake Itasca
Requisition #: 29001-16345

Commodity: Tractor/tractor loader
Contact: Mary Jo Bruski 296-3772
Bid due date at 2pm: June 5
Agency: Natural Resources Department
Deliver to: Various
Requisition #: 29000-54234

Commodity: Copy machine, Usage 45000 copies/mo
Contact: Joseph Gibbs 296-3750
Bid due date at 2pm: June 5
Agency: Natural Resources Department
Deliver to: Bemidji
Requisition #: 29001-16340

Commodity: Sign frames
Contact: John Bauer 296-2621
Bid due date at 4:30pm: June 5
Agency: Natural Resources Department
Deliver to: Various
Requisition #: 29000-54127

Commodity: Forms
Contact: John Bauer 296-2621
Bid due date at 4:30pm: June 5
Agency: Community College Board
Deliver to: St. Paul
Requisition #: 27138-51703

Commodity: Sony Dictaphone maintenance
Contact: John Bauer 296-3750
Bid due date at 4:30pm: June 5
Agency: Administrative Hearings Office
Deliver to: Minneapolis
Requisition #: 99690-10037

Commodity: Heavy duty truck
Contact: Mary Jo Bruski 296-3772
Bid due date at 2pm: June 5
Agency: Correctional Facility
Deliver to: Oak Park Heights
Requisition #: 78630-09160

Commodity: Rental of two high speed copiers
Contact: Joseph Gibbs 296-3750
Bid due date at 2pm: June 6
Agency: Transportation Department
Deliver to: St. Paul
Requisition #: 79000-10001

Commodity: Purchase copier
Contact: Joseph Gibbs 296-3750
Bid due date at 4:30pm: June 6
Agency: Administrative Hearings Office
Deliver to: Duluth
Requisition #: 99690-000154

Commodity: Rental of copy machines
Contact: Joseph Gibbs 296-3750
Bid due date at 4:30pm: June 6
Agency: Natural Resources Department
Deliver to: Various
Requisition #: 29001-16344

Commodity: State gov't recyclable confidential records
Contact: Norma Cameron 296-3779
Bid due date at 2pm: June 6
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Commodity: Copies—40,000 copies/mo
Contact: Joseph Gibbs 296-3750
Bid due date at 2pm: June 8
Agency: State University
Deliver to: Bemidji
Requisition #: 26070-14166

Commodity: Step van—rebid
Contact: Mary Jo Bruski 296-3750
Bid due date at 2pm: June 11
Agency: State University
Deliver to: Winona
Requisition #: 26074-13453

Commodity: Purple loosestrife control: Aerial rebid #2
Contact: Pam Anderson 296-1053
Bid due date at 2pm: June 11
Agency: Natural Resources Department
Deliver to: Various
Requisition #: Price Contract

Commodity: Crushed rock salt
Contact: Dale Meyer 296-3773
Bid due date at 2pm: June 14
Agency: Transportation Department
Deliver to: Various
Requisition #: Price Contract

Commodity: Crawler dozer
Contact: Mary Jo Bruski 296-3772
Bid due date at 2pm: June 16
Agency: Natural Resources Department
Deliver to: Bemidji
Requisition #: 29000-54137

Item: Electrical subcontractor proposals for Health and Applied Science Bldg—rebid
Contact: Joyce Dehn 297-3830
Bid due date at 10am: May 31
Agency: State University
Deliver to: Winona
Requisition #: 26137-05402

Commodity: American seating furniture
Contact: John Bauer 296-2621
Bid due date at 2pm: June 5
Agency: Transportation Department
Deliver to: St. Paul
Requisition #: 79000-05540

Commodity: Filament winder
Contact: Joan Breisler 296-9071
Bid due date at 2pm: June 6
Agency: State University
Deliver to: Winona
Requisition #: 26074-13467

Commodity: Lektriever
Contact: John Bauer 296-2621
Bid due date at 2pm: June 6
Agency: Human Services Department
Deliver to: St. Paul
Requisition #: 55000-03655

Commodity: Tractor/tractor loader
Contact: Mary Jo Bruski 296-3772
Bid due date at 2pm: June 7
Agency: Natural Resources Department
Deliver to: Various
Requisition #: 29000-54234

Commodity: Crawler dozer
Contact: Mary Jo Bruski 296-3772
Bid due date at 2pm: June 8
Agency: Natural Resources Department
Deliver to: Bemidji
Requisition #: 29000-54137

Commodity: Eurasian watermilfoil control utilizing boat mounted spray equipment
Contact: Patricia Anderson 296-3770
Bid due date at 2pm: June 11
Agency: Natural Resources Department
Deliver to: Various
Requisition #: Price Contract

Department of Administration: Print Communications Division

Printing vendors for the following printing contracts must review contract specifications in printing buyers office at 117 University Avenue, Room 134-B, St. Paul, MN.

Printing vendors NOTE: Other printing contracts can be found in the Materials Management Division listing above, and in the Professional, Technical & Consulting Contracts section immediately following this section.

Commodity: Program participation, 25M 2-part forms, 12″ x 8½″ overall, fan fold 1-up, type to set + nets, 1-sided, carbon interleave
Contact: Printing Buyer's Office
Bids are due: May 31
Agency: Jobs & Training Department
Deliver to: St. Paul
Requisition #: 7398

Commodity: The Store Bags, 1M bags, 12″ x 15″ + ½″ lip, type to set, 1-sided
Contact: Printing Buyer's Office
Bids are due: May 31
Agency: Jobs & Training Department
Deliver to: St. Paul
Requisition #: 7397

Commodity: Political Contribution Receipt Book, 2M books of 25 2-part sets (50M forms), camera ready, 8″ x 4¼″, 1- and 2-sided, carbonless
Contact: Printing Buyer's Office
Bids are due: June 1
Agency: Revenue Department
Deliver to: St. Paul
Requisition #: 7395

Commodity: Confirmation of Lien Perfection Form, 1,000M (2-up 500M), 12⅝₁₀″ x 4″, camera ready, 2-sided, perfs.
Contact: Printing Buyer's Office
Bids are due: May 31
Agency: Public Safety Department
Deliver to: St. Paul
Requisition #: 7388

Commodity: Minnesota Grown 1″ and 3″ stickers (2 designs), 37,500 3″ stickers and 100,000 1″ stickers, camera ready, 1-sided, several different designs
Contact: Printing Buyer's Office
Bids are due: June 1
Agency: Department of Agriculture
Deliver to: St. Paul
Requisition #: 7422

Commodity: State overload bindery contract
Contact: Printing Buyer's Office
Bids are due: June 5
Agency: Print Communications—Administration Department
Deliver to: St. Paul
Requisition #: Price Contract

Professional, Technical & Consulting Contracts

Correction Notice:

Department of Revenue

Request for Bid Collection Agency Program

A professional contract for the above titled services was published in the May 21, 1990 *State Register* in the "Official Notices" section on pages 2724-2727. It should have appeared in this section for "Professional, Technical & Consulting Contracts." Those vendors interested in this contract should consult the May 21, 1990 issue for the full contract.

Department of Agriculture

Division of Agronomy Services

Notice of Request for Proposals to Develop and Conduct a Northeast Minnesota By-Product Lime Demonstration Project

Project Description

Industrial by-product liming materials produced in northeast Minnesota have been underutilized for agricultural purposes. The goal of the project is to develop the groundwork for establishment of an on-going agricultural utilization market. The project must encompass the following counties: Carlton, Aitkin, St. Louis, Pine. Project tasks include: 1) coordinate and conduct an on farm delivery program 2) Development of educational material 3) Provide technical assistance to participating farmers 4) Conduct on-farm demonstrations 5) Collect and evaluate by-product lime information 6) Evaluate storage alternatives 7) Prepare final report and recommendations.

Estimated Cost: $15,000

Contact Person: Michael O'Leary
Soil Scientist, Division of Agronomy Services
Minnesota Department of Agriculture
90 West Plato Boulevard, St. Paul, MN 55107
(612) 296-2586

Final submission date of completed proposals: June 11, 1990

State Designer Selection Board

To Minnesota Registered Design Professionals

The May 14, 1990 issue of the *State Register* contained a request for proposal for ***Project 11-90, Heavy Equipment Maintenance Building, Camp Ripley.*** We have been informed by the agency that the project is to be cancelled. The Board, therefore, will take no further action with respect to this project.

Mark Anderson, Chairman
State Designer Selection Board

Higher Education Coordinating Board

Notice of Availability of Request for Proposals for Production of Videotape

The Higher Education Coordinating Board is requesting proposals for the creation and production of a videotape emphasizing the link between academic choices and careers to help middle school students and parents understand the need for academic preparation.

Copies of the RFP are available from:

Communications
MHECB
400 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101
612-296-9678

Minnesota Historical Society

Advertisement for Bids for Exterior Painting and Millwork Replacement Minnesota Historical Society's Alexander Ramsey House

1. Bids

Sealed bid proposals for exterior painting and millwork replacement at Alexander Ramsey House, 265 South Exchange Street, Saint Paul, MN in accordance with bidding documents dated May 14, 1990 and prepared by MacDonald and Mack Architects, Ltd. will be received in the office of the Contracting Officer, Minnesota Historical Society, 1500 Mississippi Street, St. Paul, MN 55101 until 2:00 p.m., Central Daylight Time, on June 15, 1990, at which time the bid proposals will be publicly opened and read aloud. Bids received after 2:00 p.m., June 15, 1990, will be returned unopened.

2. Bid Security

Each bid proposal must be accompanied by a cashier's check, certified check, or surety bond of a surety company authorized to do business in Minnesota, in the sum of not less than five percent (5%) of the total bid, payable without condition to the Minnesota Historical Society, which is submitted as bid security to guarantee that the bidder, if awarded the contract, will promptly execute such contract in accordance with the bid proposal and project specifications and will furnish the required Payment and Performance bond and insurance coverages.

3. Plans and Specifications

Copies of bidding documents for preparation of bids will be available for inspection at the offices of MacDonald and Mack Architects, Ltd., 712 Grain Exchange Building, Minneapolis, Minnesota 55415; at the Builder's Exchanges in Minneapolis and St. Paul and at the F. W. Dodge Corporation Plan Room, Edina, MN. Copies of the Contract Documents for use by contractors submitting a bid may be obtained from the architects without charge.

4. Conditions of Bids

The Minnesota Historical Society reserves the right to accept any bid or reject all bids and to waive any informalities therein. No bid may be withdrawn within the thirty (30) days after the scheduled closing time for the receipt of bids.

Department of Human Services

Residential Program Management Division

Notice of Availability of Contract for Newsletter Editing and Production

The Residential Program Management Division requires the services of a consultant for the purpose of producing a six-page bimonthly newsletter, including design, layout, editing, and delivery of final product. Interviewing, writing, graphics, and photography will be required for each issue.

Consultant's experience and expertise in the following areas, as well as cost, will be basis for final selection. Consultant must be able to travel throughout the state. The areas for consideration include:

1. Knowledge of desktop publishing and access to related software and hardware.

2. Experience in writing for publication, editing, and photography.

3. Knowledge of state government and human services fields.

Cost Estimate: The estimated fee for consultant's services is approximately $3000 per issue, not to exceed a total of $20,000.

Individuals desiring consideration should submit a proposal including their experience and cost breakdown per issue by June 11, 1990.

Proposals should be sent to:

Susan Ager
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3826
(612) 297-3191

Department of Human Services

Children's Services Division

Request for Proposals for Central Site Independent Living Skills Program

I. Introduction

The Minnesota Department of Human Services is soliciting proposals from qualified private nonprofit agencies to develop and staff a Central Site Independent Living Skills Program for youth ages 16 and older, referred by Ramsey county social services. A collaborative effort by two or more youth serving agencies will be considered favorably.

ADDITIONAL FUNDING MUST BE SECURED FROM OTHER SOURCES OR BE COMMITTED BY THE NONPROFIT AGENCY(IES) AS A PART OF THE PROPOSAL.

This request for proposals does not obligate the State to complete the project, and the State reserves the right to cancel the solicitation if it is considered to be in its best interest.

II. Qualifications of Respondents

Respondents should be youth-serving private nonprofit agencies with experience and expertise in group work, individual counseling and guidance, effective methods of teaching adolescents, successful outreach to youth with problems, and a demonstrated ability in program development and fund-raising. A history of successful collaboration with other agencies for project implementation and an ability to bring the private sector into a partnership is desired.

III. Project Costs

The Department will not accept any proposals that exceed a total cost of $50,000 to the Department.

IV. Project Completion Date

The project and final report will be completed by October 31, 1991.

V. Human Rights Compliance

All responders must show evidence of compliance with *Minnesota Statutes*, section 363.073 and *Minnesota Rules*, parts 5000.3400 to 5000.3600 within their application. Such compliance will be incorporated into any contract between these parties based upon this specification or any modification to it. A copy of *Minnesota Statutes*, section 363.073 and *Minnesota Rules*, parts 5000.3400 to 5000.3600 is available upon request from the contracting agency, the Department of Human Services.

VI. Submission of Proposals

Interested responders should call Mary Cider at 612/296-2612 for an application packet. All proposals must be sent to and received by:

Mary Cider, Program Evaluation Specialist
Minnesota Department of Human Services
Children's Services Division
444 Lafayette Road
St. Paul, MN 55155-3832

not later than 4:00 PM, August 3, 1990.

Late proposals will not be accepted. Submit 6 copies of proposals. Proposals must be submitted in a sealed mailing envelope or package with the responder's name and address clearly written on the outside. Evidence of compliance with Human Rights must be attached to the outside of the envelope; any proposal without such evidence will not be accepted.

Each copy of the proposal must be signed, in ink, by an authorized member of the agency. Prices and terms of the proposal must be valid for the length of the proposal.

VIII. Department Contacts

Prospective responders who have any questions regarding this Request for Proposals may call or write:

Mary Cider, Program Evaluation Specialist
Minnesota Department of Human Services
Children's Services Division
444 Lafayette Road
St. Paul, MN 55155-3832
612/296-2612

Please Note: Other Department personnel are not allowed to discuss the project with responders before the submittal of proposal deadline.

Department of Human Services

Children's Services Division

Request for Proposals for Independent Living Skills Rural Referrals

I. Introduction

The Minnesota Department of Human Services is soliciting proposals from qualified private nonprofit agencies to develop and staff regional Independent Living Skills Programs for youth ages 16 and older, referred by rural county social service agencies.

This request for proposals does not obligate the State to complete the project, and the State reserves the right to cancel the solicitation if it is considered to be in its best interest.

II. Qualifications of Respondents

Respondents should be youth-serving private nonprofit agencies with experience and expertise in group work, individual counseling and guidance, effective methods of teaching adolescents, successful outreach to youth with problems, and a demonstrated ability in program development.

III. Project Costs

The Department will not accept any proposals that exceed a total cost of $75,000.

IV. Project Completion Date

The project and final report will be completed by October 31, 1991.

V. Human Rights Compliance

All responders must show evidence of compliance with *Minnesota Statutes*, section 363.073 and *Minnesota Rules*, parts 5000.3400 to 5000.3600 within their application. Such compliance will be incorporated into any contract between these parties based upon this specification or any modification to it. A copy of *Minnesota Statutes*, section 363.073 and *Minnesota Rules*, parts 5000.3400 to 5000.3600 is available upon request from the contracting agency, the Department of Human Services.

VI. Submission of Proposals

Interested responders should call Mary Cider at 612/296-2612 for an application packet. All proposals must be sent to and received by:

Mary Cider, Program Evaluation Specialist
Minnesota Department of Human Services
Children's Services Division
444 Lafayette Road
St. Paul, MN 55155-3832

not later than 4:00 PM, August 17, 1990.

Late proposals will not be accepted. Submit 6 copies of proposals. Proposals must be submitted in a sealed mailing envelope or package with the responder's name and address clearly written on the outside. Evidence of compliance with Human Rights must be attached to the outside of the envelope; any proposal without such evidence will not be accepted.

Each copy of the proposal must be signed, in ink, by an authorized member of the agency. Prices and terms of the proposal must be valid for the length of the proposal.

VIII. Department Contacts

Prospective responders who have any questions regarding this Request for Proposals may call or write:

Mary Cider, Program Evaluation Specialist
Minnesota Department of Human Services
Children's Services Division
444 Lafayette Road
St. Paul, MN 55155-3832
612/296-2612

Please Note: Other Department personnel are not allowed to discuss the project with responders before the submittal of proposal deadline.

Minnesota Sentencing Guidelines Commission

Contract Available for Data Collection Services to Study Felony Sentencing Issues

The Minnesota Sentencing Guidelines Commission is seeking two individuals to contract for data collection services for the purpose of studying felony sentencing issues. Services are needed for approximately six months, generally eight hours per day, five days per week. Services will be contracted for $11.34 per hour. Seeking individuals with a social science background and research skills who can work independently. Some travel will be necessary. Send resumes to the Minnesota Sentencing Guidelines Commission, Meridian National Bank Building, 205 Aurora Ave., Suite 205, St. Paul, MN 55103. The deadline for accepting resumes has been extended to June 8, 1990. For more information call 296-0144.

Department of Trade and Economic Development

Community Development Division

Rural Development Board

Notice of Request for Proposals to Develop a Community Needs Assessment Model

The Department of Trade and Economic Development (DTED) requests proposals to develop, test, and implement a community needs assessment model. The project was established by *Minnesota Laws* 1989, Chapter 350, article 2. The project will be completed by June 30, 1991.

The principal goal of this project is to create a model which a community can use to conduct a self-assessment. At the conclusion of the contractor's work, the Department should have a standardized set of needs assessment materials which it could provide to interested rural communities.

The model will be tested in five rural communities in 1990, and ten rural communities in 1991. The communities selected by DTED for testing will represent the diversity of communities in rural Minnesota which may wish to use the model in the future. At least one of the communities selected in 1990 will have a population of 1,000 or less.

Required Components of the Model

1. The model must include a straightforward set of self-explanatory instructions, steps, procedures, and forms, which can be used by local officials and community members. It should incorporate, to the extent practicable, the needs assessment procedures associated with the state development assistance programs for which communities are eligible. The model should be constructed to provide for systematic participation by Department staff, without requiring their continuous presence at all stages of the needs assessment. Throughout the model, the contractor will need to clearly delineate the respective functions of Department staff and community representatives.

2. Needs identified through the model should be addressed at two lengths:

(a) Primary attention should be given to the immediate concerns of the community which could be resolved through specific projects or community activities in the foreseeable short-term. The model should help the community determine how it can gain access to various forms of assistance, including the Department of Trade and Economic Development's community development application process, and other available public and private resources.

(b) Broader needs of the community, which may require sustained effort by the community over a longer time frame, may be included in the model. However, the model's response to needs of this kind should be aimed at ways the community can reasonably and satisfactorily act upon them; development of long-term strategies or multiple year plans which are not likely to lead to community improvements should not be the outcome of the model.

3. The model must be designed to maximize community involvement and participation in the needs identification process. It should describe methods by which the community can insure broad participation.

4. The model should clearly describe the type of information required for a needs assessment and the methods to be used in collecting it. The data collection role of DTED's staff and of other state agencies should be spelled out clearly.

Project Tasks

Department of Trade and Economic Development staff will work closely with the selected organization at the outset of the project, and will regularly consult with the organization to review and approve all phases of the work. Major milestones, which the organization should consider in developing its work program and budget, will be:

1. Prepare a detailed work plan and timeline for all project activities.

2. Prepare a draft of the methodology and techniques to be employed in the model.

3. Receive approval on the model, prior to implementation in the first set of five communities.

4. Implement the needs assessment model in the first five communities.

5. Prepare an evaluation of the model based on implementation in the first set of communities, and propose revisions as deemed necessary.

6. Implement revised model in the second set of ten communities.

7. Prepare final evaluation and report to the Department.

Proposal Contents

1. A re-statement by the organization, in 100 words or less, to demonstrate its understanding of the goals of the project.

2. An outline of project tasks which incorporates the required components of the model into its work on the project.

3. A work program and budget, including costs necessary to accomplish project tasks and anticipated timeframes for completion. Proposals should not exceed $125,000. Applicants should bear in mind that all costs associated with the development of the model, including preparation and printing of standardized materials, must be borne by the project budget.

4. A description of the organization's relevant experience in developing and conducting community needs assessments.

5. A description of the organization's staff who would be assigned to the project, with their credentials and relevant experience.

6. Evidence of the organization's knowledge of the concerns and needs of rural Minnesota residents and their communities.

Evaluation Criteria

The Rural Development Board will select an organization to develop the Rural Community Needs Assessment Model based upon the following criteria:

1. The organization's demonstrated expertise in performing needs assessments;

2. The organization's knowledge of the concerns and needs of rural Minnesota residents and their communities;

3. The organization's ability to develop, test, refine, demonstrate, and implement a community needs assessment process;

4. The organization's experience in gathering, classifying, analyzing, reporting, and interpreting data;

5. The clarity with which the organization's proposed plan reflects the goals of the model.

Submission of Proposals

All proposals should be submitted by 4:30 p.m., June 25, 1990 to Mark Lofthus, Department of Trade and Economic Development, 900 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101-1421. Questions about this project should be directed to Mark Lofthus at 612/296-9090.

David J. Speer
Commissioner

Department of Transportation

Division of Technical Services

Notice of Potential Availability of Contracts for a Variety of Highway Related Technical Activities

The Minnesota Department of Transportation (Mn/DOT) is carrying out an expanded highway program. To assist it with the implementation of this program, Mn/DOT may require the services of qualified consultants for work which may include but not be limited to:

Category A: Preliminary Design (Environmental Studies, Project Development Reporting and Geometric Layouts).

Category B: Detail Design & Plan Preparation

1. Highway
2. Lighting
3. Signing
4. Traffic Signals
5. Landscaping
6. Hydraulics

Category C: Field Surveys (Control, Design)

Category D: Geotechnical Investigation

1. Soils Survey/Borings
2. Soils Analysis/Recommendations
3. Foundation Survey/Borings
4. Foundation Analysis/Recommendations
5. Geological Survey/Analysis/Recommendations

Category C: Special Services

1. Contamination/Hazardous/Analysis/Recommendations
2. Land Use Study (Planning)
3. Chemical Disposal and Recycle
4. Endangered Species
5. Building Condition Survey
6. Traffic Forecasting and Analysis
7. Water
8. Air
9. Noise
10. Hydrologic
11. Vibration (Blasting, Pile Driving)
12. Expert Witness (Litigation-Testimony)
13. Pavement Management

Category F: Construction

1. Management
2. Inspection
3. Staking

Those consultants who wish to be considered for any of the potential projects, please furnish the following information:

1. Federal Forms 254 and 255 and your brochure if you have one.

2. Indicate the category of activity in which you are qualified and wish to be considered (Example: B-1-5-6, C).

3. Provide representative samples of work in each category you have chosen. Samples, for example, could be one or two representative 11 x 17 plan sheets or a section from a report. This packet should not exceed 20 sheets.

4. Where applicable to the categories of work you have chosen, provide the following information:

   a. Description of your CADD system.

   b. Description of the methods used in the preparation of plan sheets.

   c. Description of the computer software used to develop earthwork computations, cross sections and alignment.

5. Indicate in which fields your key personnel are registered or have related certifications (Engineer, Architect, OSHA, etc.)

6. Indicate whether your firm has a Certificate of Compliance from the Minnesota Department of Human Rights. *Minnesota Statutes* 363.073.

7. Indicate if your firm is certified with the State of Minnesota as a Disadvantaged Business Enterprise (DBE).

8. Indicate if your firm qualifies as a Small Business Enterprise within the definition contained in *Minnesota Statutes* 645.445.

9. Indicate if your firm is certified with the Department of Administration as an Economically, Disadvantaged (EDB) business.

10. Description of Company's Accounting System. The description shall include answers to the following questions:

   a. Is your accounting system a cash or an accrual based system?

   b. How are direct expenses reported? Are direct expenses segregated from overhead costs?

   c. How are bonuses distributed to employees?

It is expected that a qualified reference list will be developed from the response that will remain in effect until June 30, 1991.

This is not a request for proposal. All expressions of interest in being considered shall be delivered to the address indicated below not later than three o'clock (3:00) p.m. June 29, 1990.

Gabriel S. Bodoczy, P.E.
Consultant Agreements Engineer
Transportation Building, Room 720-S
St. Paul, Minnesota 55155
Telephone: (612) 296-3051

Non-State Public Contracts

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector.

It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as $1,000. Contact the editor for further details.

Dakota County

Request for Proposals for Landfill Disposal Services

Dakota County is issuing a Request for Proposals (RFP) for Landfill Disposal Services. The County is soliciting responses from qualified firms or governmental entities. Wastes to be landfilled consist of certain solid waste streams associated with the Dakota County Resource Recovery Facility. This solicitation is not for the disposal of mixed municipal solid waste combustor ash residue.

Interested parties may obtain a copy of the RFP by contacting Norm Schiferl or Barry Schade, at the Dakota County Resource Recovery Project, 7300 W. 147th Street, Suite 503, Apple Valley, MN 55124. Telephone: (612) 431-1158.

State Grants

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grant funds available through any agency or branch of state government. Although some grant programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself.

Agencies are encouraged to publish grant notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

State Planning Agency

Criminal Justice

Notice of Way to Grow/School Readiness Grants Program

The State Planning Agency received $100,000 from the legislature (*Minnesota Session Laws, 1990,* Chapter 562, Article 7, Section 23) to administer, in consultation with the commissioners of the Departments of Human Service and Education, a Way to Grow/School Readiness program to promote intellectual, social, emotional, and physical development and school readiness of children, prebirth to age five, by coordinating and improving access to community-based and neighborhood-based services that support and assist all parents in meeting the health and developmental needs of their children at the earliest possible age. Up to three grants will be awarded to eligible applicants outside the seven-county metropolitan area. (*Minnesota Statutes* 145.926.)

Eligible Grantees

(1) Cities outside the seven-county metropolitan area (*Minnesota Session Laws, 1990,* Chapter 526, Article 7, Section 23);

(2) A school district in the above cities;

(3) Two or more governmental units organized under a joint powers agreement within the above cities;

(4) A community action agency, within the above cities, that satisfies the requirements of *Minnesota Statutes*, Section 268.53, subdivision 1; or

(5) A nonprofit organization, or consortium of nonprofit organizations in the above cities, that demonstrates collaborative effort with at least one unit of local government.

Applications must be received by the Human Services Division of the State Planning Agency by 4:30 p.m., July 13, 1990. No applications sent via FAX will be accepted.

Contact Person:

Ann Jaede
300 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155
(612) 296-7819

Supreme Court Calendar

Listed below are the cases scheduled to be heard by the Minnesota Supreme Court in the next few weeks. This listing has been compiled by the Minnesota State Law Library for informational purposes only. Cases may be rescheduled by the Court subsequent to publication in the *State Register*. Questions concerning dates, locations, cases, etc., should be directed to: Clerk of the Appellate Courts, Room 230 State Capitol, St. Paul, MN 55155 612-296-2581.

Calendar of Cases to Be Heard During June 1990

Compiled by Dale A. Hansen, (612) 297-4050.

Listed below are the cases scheduled to be heard by the Minnesota Supreme Court in the next few weeks. This listing has been compiled by the Minnesota State Law Library for informational purposes only. Cases may be rescheduled by the Court subsequent to publication in the *State Register*. Questions concerning the time and location of hearings should be directed to: Clerk of the Appellate Courts, Room 230 State Capitol, St. Paul, MN 55155, (612) 296-2581.

Monday, June 4, 1990 9:00 am

C0-89-1404 In Re Petition for Disciplinary Action against DEAN D. LARSEN, an Attorney at Law of the State of Minnesota (Attorney for Respondent: William C. Pribble, Jr.). Petition for Disciplinary Action.

C1-90-459 In Re Petition for Disciplinary Action against SAMUEL WALKER, JR., an Attorney at Law of the State of Minnesota (Attorney for Respondent: Samuel Walker, Jr.). Petition for Disciplinary Action.

C9-89-1076 In Re Petition for Disciplinary Action against WILLIAM G. MOSE, an Attorney at Law of the State of Minnesota. (Attorney for Respondent: William G. Mose). Order to Show Cause.

Tuesday, June 5, 1990 9:00 a.m.

C7-89-1139 JOHN LARSON, individually and JOHN LARSON as father and natural guardian of JESSICA LARSON, a minor, Respondent (Attorney: Terry W. Viesselman of Wilhelm & Viesselman, P.A.) **vs. LOREE CAROL DUNN a/k/a JENNIFER DUNN, et al., Defendents, FRANKLIN RIGENHAUGEN, et al., petitioners, Appellants** (Attorney: James R. Carlson of Muir, Heuel, Carlson & Spelhaug, P.A.), **RICK OLSON, Respondent** (Attorney: Steven R. Sunde of Sunde, Olson, Kircher & Zender). Opinion Court of Appeals.

Is the court of appeal's adoption of the tort of intentional interference of custodial rights inappropriate when the legislature has already considered and passed legislation concerning interference of custodial rights?

C5-89-1625 STATE OF MINNESOTA, Respondent (Attorney: Brian D. Simonson, Assistant County Attorney, St. Louis County) **vs. WILLIAM EDWARD DRIEMAN, Appellant** (Attorney: Michael F. Cromett, Assistant State Public Defender). Judgment St. Louis County.

Did pre-trial publicity and voir dire demonstrate a pervasive community sentiment of Appellant's guilt such that a denial of change of venue by the trial court was error?

Did statements made by the prosecutor during the grand jury proceeding concerning the fact that Appellant was already charged with second-degree murder constitute prosecutorial misconduct requiring dismissal of the indicment?

Wednesday, June 6, 1990 9:00 a.m.

CO-90-288 RONALD JACOBSON, Relator (Attorney: James Courtney, III) **vs. D.M. & I.R. RAILROAD, Self-Insured, Respondent** (Attorney: Robert E. Mathias). Workers' Compensation Court of Appeals.

Does the Minnesota Workers' Compensation Act deny coverage to injured employees of railroads engaged in interstate commerce where the injured employee has a remedy for his injury under federal law?

C5-89-1592 MARK A. WIELAND, petitioner, Appellant (Attorney: Frederick J. Goetz) **vs. STATE OF MINNESOTA, Respondent** (Attorney: Robert Stanich, Special Assistant State Attorney General). Order Redwood County.

Was the denial of Appellant's petition for postconviction relief in the form of a new trial based on alleged newly-discovered evidence that Appellant suffered from hyperthyroidism and was thyrotoxic when he committed the murder a proper exercise of judicial discretion?

Thursday, June 7, 1990 9:00 a.m.

C5-89-555, CX-89-1166, C5-89-1169 STATE OF MINNESOTA, petitioner, Appellant (Attorney: Paul R. Kempainen, Assistant State Attorney General) **vs. JEFFREY SCOTT BUSWELL, Respondent** (C5-89-555) (Attorney: Robert W. Owens, Jr. of Heuer & Associates), **GARY LEE SCHWARTZMAN, Respondent** (CX-89-1166) (Attorney: John J. Leunig of Meshbesher, Birrell & Dunlap, Ltd.), **DALE JAY SCHMIDT, Respondent** (C5-89-1169) (Attorney: Richard D. Genty). Opinion Court Appeals.

C5-89-653 MARGARET WIRIG, petitioner, Appellant (Attorneys: Sam T. Courey of Courey, Schwinn & Kodadek, P.A. and Lawrence R. Altman) **vs. KINNEY SHOE CORPORATION, petitioner, Appellant** (Attorney: Joseph J. Roby, Jr. of Johnson, Killen, Thibodeau and Seiler, P.A.). Opinion Court of Appeals.

Does the Minnesota Human Rights Act prohibit an employee from bringing common-law causes against an employer arising out of the same set of facts and circumstances as the cause of action brought under the statute?

Does the Minnesota Human Rights Act require the imposition of a civil penalty upon a finding that an employer has committed an unfair discriminatory act?

Did Respondent have a qualified privilege to publish a theft accusation against Appellant, an employee, at a store meeting?

Monday, June 13, 1990 9:00 a.m.

C5-88-1937 STATE OF MINNESOTA, Respondent (Attorney: John Carlson, Pine County Attorney) **vs. KENDALL KEITH BLISS, Appellant** (Attorney: Susan L. P. Hauge, Assistant State Public Defender), Judgment Pine County.

C7-89-2100, C9-89-2101 RICHARD WIGGIN, as Trustee for the heirs and next-of-kin of KELLY M. WIGGIN, deceased, Respondent (Attorney: Reed K. Mackenzie of Mackenzie & Hallberg) **vs. APPLE VALLEY MEDICAL CLINIC, LTD., petitioner, Appellant** (Attorney: Gregory P. Bulinski of Bassford, Heckt, Lockhart, Truesdell & Briggs, P.A.) **STANLEY A. LEONARD, Respondent** (Attorney: John McBride of Felhaber, Larson, Fenlon & Vogt). Court of Appeals.

Did the trial court abuse its discretion in ordering product of the statement of a non-party, non-owner/manager employee of Appellant?

Supreme Court Decisions, Opinions & Rules

Decisions filed 25 May 1990

C1-89-2254, C6-89-2301 Federated Mutual Insurance Company v. Litchfield Precision Components, Inc., Appellant (C6-89-2301), and Robins, Zelle, Larson & Kaplan, Appellant (C1-89-2254). Hennepin County.

Resolution of a plaintiff's underlying claim is necessary to demonstrate cognizable injury for purposes of a spoliation action, should such a tort be recognized.

Certified questions answered; reversed and remanded. Popovich, C.J.

Dissenting in part, Simonett, Yetka, Coyne, JJ.

C0-89-981 In Re Petition for Disciplinary Action Against Dennis R. Peterson an Attorney at Law of the State of Minnesota. Supreme Court.

The misconduct warrants disbarment. Disbarred. Per Curiam. Took no part, Keith, J.

Orders

C4-89-1793 In Re Reinstatement of Dean A. Nyquist, an Attorney at Law of the State of Minnesota. Supreme Court.

Reinstated. Popovich, C.J.

CX-90-1156 In Re the Petition for Disciplinary Action Against Thomas C. Bartsh, an Attorney at Law of the State of Minnesota. Supreme Court.

Disbarred. Popovich, C.J.

C0-87-2385 In Re the Petition for Disciplinary Action Against James T. Skonnord, an Attorney at Law of the State of Minnesota. Supreme Court.

Indefinitely suspended. Kelley, J.

Amended Order C9-81-1206—In Re Amendment to Rules of the Supreme Court for Registration of Attorneys

The Rules of the Supreme Court for Registration of Attorneys are hereby amended as follows:

Rule 5. Reinstatement

The right to practice law may be reinstated by the court after suspension upon application and upon the payment of all delinquent registration fees and additional late penalty sum of ~~Five ($5.00)~~ Fifty ($50.00). This court may, in hardship cases, waive payment of delinquent fees. and late penalties. All late penalty payments shall be allocated to an attorney registration account to defray the registration costs.

This rule change shall be effective for registrations processed on or after July 1, 1990.

Dated: 22 May 1990

BY THE COURT:
Peter S. Popovich, Chief Justice

Order C5-84-2139—Order Amending the Rules of the Supreme Court and of the State Board of Law Examiners for Admission to the Bar

WHEREAS, *Minnesota Statutes* 481.01 charges the Board of Law Examiners with the administration of the Rules for Admission to Practice Law in the State,

WHEREAS, the Board of Law Examiners has recommended that the Rules of the Supreme Court and of the State Board of Law Examiners for Admission to the Bar be amended to add the topic of Family Law to the list of topics to be tested on the Minnesota Bar Exam, commencing with the February, 1993 exam,

NOW, THEREFORE, it is hereby ordered that the annexed Rules of the Supreme Court and of the State Board of Law Examiners for Admission to the Bar be, and the same hereby are, adopted, prescribed and promulgated to be effective on July 1, 1990.

DATED: 21 May 1990

BY THE COURT
Peter S. Popovich
Chief Justice

Rule III. Admission by Examination

A. Application. An applicant for admission by examination shall file a timely application in the office of the Director accompanied by the information listed in the Rules of the Board and the proper fee.

B. Scope of Exam. Applicants for admission by examination shall be tested on any combination of the following subjects:

Administrative Law
Civil Procedure
Constitutional Law
Contracts
Criminal Law and Procedure
Ethics and Professional Responsibility
Evidence
Family Law (effective for the February, 1993 exam)
Federal Individual Income Taxation
Partnership, Proprietorship, and Corporations
Real Property
Torts
Uniform Commercial Code, Art. 1, 2, 9
Wills, Estates and Trusts

(Amended October 1, 1986; amended May 25, 1988, amended May 21, 1990.)

Announcements

Public Meeting on Small Airports: The Metropolitan Council will hold a public information meeting on June 5 to discuss recommendations for improvements at the region's smaller "reliever" airports. The recommendations, which have been prepared by the Council's Regional Reliever Airports Task Force, range from making short-term inprovements at the existing airports to looking in the long term at building a new airport in northwestern Hennepin County. In addition, the task force is suggesting ways to use the existing airports more efficiently as traffic grows. The Twin Cities region has seven "reliever" facilities, so named because they offer small aircraft and corporate jets an alternative to using Minneapolis-St. Paul International Airport, thereby relieving congestion there. The meeting will be held at 7 p.m. in the board room of the Edina Community Center, 5701 Normandale Rd. (Hwy 100). Participants should enter, using door number two. Call the Council's Data Center at 291-8140 for free copies of a Summary of the Reliever Airport Study.

Penalties for Boaters Who Spread Water Milfoil: Boaters who spread water milfoil will face misdemeanor penalties under a bill passed by the 1990 Legislature and signed into law May 11 by Gov. Rudy Perpich during the Governor's Fishing Opener activities in Hill City. The new law was prompted by concern about the spread of Eurasian water milfoil, an exotic (non-native) aquatic plant that can hamper recreational activities on lakes. It also shades out native vegetation valuable to fish as habitat. The plant's main method of reproduction is by fragmentation. Even small fragments of the plant transported between bodies of water can regenerate into new plants, thus spreading the infestation. Boaters should remove vegetation from all parts of their boats and trailers at accesses before launching and again before leaving. The brochure, "Eurasian Water Milfoil; Spread the Word, Not the Plant," is available at all regional DNR offices. It is also available by calling the DNR Information Center in St. Paul at (612) 296-6157, or toll-free in Minnesota 1-800-652-9747. It will soon be available at retail outlets and resorts.

Danger in Pruning Oaks Pruning or injuring oak trees between now and July 1, 1990, leaves them susceptible to the killer tree disease, Oak wilt, say officials at the Minnesota Department of Agriculture. "Preventing widespread loss of oak trees is easy, just don't prune or injure oaks in May or June," said Dave Stephenson, plant health specialist for the Minnesota Department of Agriculture. "Open wounds on trees at this time of the year provides an entry for Oak wilt disease." Construction damage also leaves oaks vulnerable to Oak wilt infection. A publication from the Minnesota Department of Agriculture, "Thinking About Building a House in the Woods," can help homeowners minimize construction damage to trees. Stephenson said that if an oak tree has an open wound between now and July 1, it should be treated with a non-toxic tree wound dressing. This is the only time a tree wound dressing should be used, he said. Once a tree is infected, Oak wilt will spread through grafted or common root systems to other trees. If you suspect your tree already has Oak wilt, contact your community forester or call the Minnesota Department of Agriculture at (612) 296-0592. To obtain a copy of the tree publication, write the Plant Industry Division, Minnesota Department of Agriculture, 90 West Plato Blvd., St. Paul, Minn., 55107.

Announcements

Outdoor Recreation Plan Charts Future: Minnesota's Statewide Comprehensive Outdoor Recreation Plan for 1990-94 has been completed and is now available for distribution. This five-year strategic plan for outdoor recreation builds upon earlier efforts, including that of the Governor's Commission on Minnesotans Outdoors (1986), in recommending future directions. The Comprehensive Outdoor Recreation Plan will be used to guide state and local recreation planning, programming, and the allocation of federal dollars for public land acquisition and facility development projects through the Land and Water Conservation Fund (matching grant) Program. The 1990 Outdoor Recreation Plan provides new information on recreation supply and projected demand, and it highlights emerging issues that citizens and governments agree are instrumental to providing quality outdoor recreation opportunities for the future. The plan contains nearly 100 goals and strategies designed to address these recreation issues and to move recreation interests forward into the 1990s and beyond. Minnesota's Outdoor Recreation Plan is the product of input received from a variety of sources, including public opinion polls, recreation research and user surveys, public meetings and mailings. Drafts underwent extensive document review. In addition, the planning process was guided by both a citizen's advisory committee and a technical review committee that endorsed the reports basic findings and recommendations. Copies of the 1990 Outdoor Recreation Plan are free and available by contacting: Brian McCann, Minnesota Department of Natural Resources, 500 Lafayette Road, St. Paul, MN 55155-4010. People may also call (612) 297-3357, or toll-free 1-800-652-9747 (ask for the DNR). Copies of the draft Outdoor Recreation Action Program (for 1991-92) are also available for public review at all DNR regional offices, at regional public libraries, or by contacting DNR's St. Paul office at the above address. Comments on the draft Outdoor Recreation Action Program will be accepted through June 30.



Morel: Minnesota's mushroom

The Mushroom Hunter's Field Guide. An all-color guide by Alexander Smith and Nancy Smith Weber with clear and orderly facts, explicit pictures and scientific accuracy. Stock # 9-10, $14.95 + tax.

Edible Mushrooms, a classic guide to safe mushrooms, describes 60 species in detail, with photographs (many in color) to show each in its natural habitat. Advice to amateur mushroom hunters. Paperbound, 118 pp. Code #19-11, $9.95.

Malfred Ferndock's Morel Cookbook, brim full of morel lore, interesting and tall tales, recounts of the hunt, and many savory recipes. Spiral bound, 117 pgs., black & white photos and drawings. Code #19-83, $8.50.

Northland Wildflowers, the perfect mushroomers companion. An excellent guide for identification and enjoyment of wildflowers, with 308 color photographs and descriptions of 300 species. Paperbound. 236 pp. Code #19-9, $14.95.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add $2.00 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard and American Express orders accepted over phone and through mail. ***Prices are subject to change.*** FAX: (612) 296-2265.

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Murder in Minnesota: A treasury of vintage crimes in which famous and obscure characters come to life in all their cleverness or murderous madness. Minnesota cases from 1858-1917. 253 pp. photos, index. Code 17-35, $5.95.

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Chemical Dependency Programs Directory 1989. Features comprehensive listings for programs ranging from Prevention/Intervention Services to a wide range of Treatment Services. Each type of program includes an alphabetical listing of facilities and brief narrative description of programming provided. Stock No. 1-12, $15.00 plus tax.

Process Parenting—Breaking the Addictive Cycle. A training manual that provides parent education and treatment techniques for professionals who work with recovering chemically dependent parents or dysfunctional families. Stock No. 5-4, $15.00 plus tax.

It's Never Okay: A Handbook for Professionals on Sexual Exploitation by Counselors and Therapists. Therapeutic and prevention issues and employer responsibilities are discussed in this task force report, as well as recommended curriculum for training institutions for counselors and therapists. Stock No. 14-16, $19.95

Hazardous Waste Rules 1989. Governs the storage, treatment, utilization, processing, transfer, and disposal of hazardous waste. Contains the complete requirements for application for permits for discharge of hazardous waste on construction and operation of a treatment facility. Stock No. 3-71, $16.95 plus tax.

Environmental Quality Board Rules 1989. Essential for long-term planning. Details the scope, purpose and objectives of the rules. Explains the need for environmental impact statements and the review process. Includes a special section on large energy facilities and high voltage transmission lines. Stock No. 3-54, $5.00 plus tax.

OTHER PUBLICATIONS

Our Minnesota. More than 100 full-color photos by Les and Craig Blacklock portray Minnesota in her seasonal beauty, with text from the personal journal of Fran Blacklock's thirty years of traveling the state. Stock #9-23. $13.95 plus tax.

Historic Sites and Place Names of Minnesota's North Shore. John Fritzen, long time employee of the Minnesota DNR draws upon his almost 40 years as a forester, mostly spent on Minnesota's colorful and legendary North Shore, to regale readers with tales of timbermen, pioneer settlers, miners, commercial fishermen and others. Black and white photos. Stock #9-11. $3.50 plus tax.

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Woodworking for Wildlife. Carefully illustrated with a variety of game bird and mammal box designs, including maintenance requirements and important tips on placement of nests in proper habitat areas. 47 pages with diagrams. Stock #9-14, $3.95 plus tax. See "Special Set Offer" below.

"Special Set Offer." Save 15% by purchasing the two books together on wildlife mentioned above. Stock #9-20, $10.95 plus tax.

Minnesota Manufacturer's Directory, 1990. More than 7,000 entries listing name, address, phone, staff size, sales volume, market area, year of establishment, type of firm, CEO, sales or marketing and purchasing managers, and four manufactured products. Stock #40-2. $78.50 + $4.71 sales tax.

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STATE OF MINNESOTA

DEPARTMENT OF REVENUE

In the Matter of the Proposed Adoption of the Rules of the Minnesota Department of Revenue Governing Sales and Use Tax Administration	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES WITHOUT PUBLIC HEARING

(1) Notice of the Commissioner of Revenue's intent to adopt the above-entitled rules was published in the State Register on May 29, 1990, and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on May 23, 1990. (2) The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

(4) All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. (3) No requests for a public hearing on the rules were received by the agency.

One written comment on the rules was received by the Department. A copy of the comment is enclosed. No requests for notice of submission to the attorney general were received by the Department.

Based on the comments and evidence in the record before the Department, I find the following:

1) Changes to the proposed rule as originally noticed are as follows:

a. Page 1, lines 14 through 20 and lines 29 through 35; and page 2, lines 1 and 2, and lines 12 through 22 are changed to clarify the computation of the sales tax. The new language makes it clear that the word "between" actually means "from and including" when used in this context. The change reflects the Department's interpretation and administration of this language since 1969. These changes were made in response to the written comment submitted by the Minnesota Taxpayers' Association.

b. Page 11, lines 26 through 31 were added because of recent legislative additions to the statutory list of sales tax exemptions. These changes were made in response to the written comment submitted by the Minnesota Taxpayers' Association.

c. Page 16, lines 15 through 20 were added because of recent legislative additions to the statutory list of sales tax exemptions. These changes were made in response to the written comment submitted by the Minnesota Taxpayers' Association.

d. Page 17, line 26, subpart 2 was repealed. This repeal was in the proposed rules as noticed but the subpart was also amended in the proposed rules as noticed. This change resolves the discrepancy in the rules as noticed. The language being repealed duplicates statutory language, see statement of need and reasonableness.

e. Page 20, lines 22, 24, 26, and 28; and page 21 lines 3, 5, 7, 9, 11, 21, 23, 25, 27, 29, and 31 are changed to clarify the computation of the use tax, see explanation to item "a" above.

f. Page 28, line 27 is changed to reflect a typographical error in the proposed rule as noticed.

g. Page 37, lines 23 through 27 are changed to clarify the fact that the taxpayer will be notified in writing whether an extension request is approved or denied, rather than the Department returning the extension request only if approved.

h. Page 39, lines 8, 14 through 16 and 22 through 24 are changed because of recent 1990 legislation which changes the method by which 25 percent omission is calculated. These changes reflect the new statutory language in Minn. Stat. section 289A.38, subdivision 6.

2) The changes do not constitute substantial change from the proposed rules as noticed because the changes clarify provisions of the proposed rules as noticed, correct typographical errors, update the rules due to statutory changes, and do not:

a. affect classes of persons who could not reasonably have been expected to comment on the proposed rules as originally noticed;

b. introduce significant subject matter which a reasonable person, on the basis of the proposed rules as originally noticed, would not have anticipated would occur in the rulemaking proceeding; or

c. make a major substantive change that was not raised by the proposed rules as originally noticed in such a way as to invite reaction.

8) The above-captioned rules are needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rules identified as Minnesota Rules Part 8130.2350 to 8130.3400, 8130.3600 to 8130.4400, and 8130.7300 to 8130.8400 and the repealer as modified are adopted this 9th day of August 1990, pursuant to authority vested in me by Minnesota Statutes, section 297A.29

(9)

John P. James

Commissioner of Revenue
of the State of Minnesota

TKS:cak:propnot\adoptfac

STATE OF MINNESOTA
DEPARTMENT OF REVENUE
APPEALS AND LEGAL SERVICES DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF THE RULES OF THE STATE OF MINNESOTA GOVERNING ADMINISTRATION OF SALES AND USE TAX AND PAYMENTS, RETURNS, ASSESSMENTS, AND COLLECTIONS.

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Margaret A. Connolly, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the state Department of Revenue rulemaking mailing list is accurate, complete, and current as of this 23rd day of May, 1990.

That on the 23rd day of May, 1990, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt A Rule Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Subscribed and sworn to
before me this
23rd day of May, 1990

PATRICK J. FINNEGAN
NOTARY PUBLIC — MINNESOTA
HENNEPIN COUNTY
My commission expires Oct. 25, 1990

Patrick J. Finnegan, Notary
May 23, 1990

Margaret A. Connolly
MARGARET A. CONNOLLY

210 mailed

Stat. Authority

297A.25 subd 20

The commissioner shall provide by rule for the refund of taxes paid on sales exempt in accordance with this subdivision.

297.25 subd 27

The ~~gross~~ receipts from the sale of a manufactured home, as defined in section 327.31 subdivision 6, to be used by the purchaser for residential purposes are exempt, unless the sale is ~~the first retail sale of the~~ manufactured home in his state.

297A.27

... a return for the preceding reporting period shall be filed with the commissioner in such form as the commissioner may prescribe

297A.29

The commissioner shall promulgate all needful rules for the administration and enforcement of sections 297A.01 to 297A.44 not inconsistant with its provisions and such rules have the force and effect of law.

Rules - page 61, C. lines 26 - 33
"written evidence" what do they
have to submit? - an affadavit?
is there a form?

page 65, lines 1-12,
"reasonable cause" is there
criteria for whats reasonable
this may however be better
than enforament would be
"unjust and inequitable"

Office of the Revisor of Statutes
Administrative Rules

Janet M. Rahm
Senior Assistant Revisor
296-0952

700 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1297

July 26, 1990

Terese Koenig-Smith
Business Tax Unit
Department of Revenue
10 River Park Plaza - 8th Floor
St. Paul, MN 55146-2220

RE: File No. 1511

Dear Ms. Koenig-Smith:

Enclosed are four copies of your rule with the modifications you requested.

Please submit the rules to the Attorney General or the Office of Administrative Hearings, as appropriate.

If you have any questions or need further modifications, please call me.

Very truly yours,

Janet M. Rahm

*Please note that on page 11, lines 26 and 29, I added the language "certificates of exemption for."

Subp. 3. **Certificate of need process.** Except upon a showing of an emergency, a utility shall not submit a certificate of need application for a large energy facility, unless the general type of facility is included in its most recently approved resource plan. An emergency must be deemed to exist if failure to consider the certificate of need application could reasonably result in an electricity supply which is inadequate, unreliable, unnecessarily expensive, or environmentally unacceptable.

Subp. 4. **Construction of major utility facilities.** A utility submitting a proposed resource plan shall be exempt from the filing requirements of *Minnesota Rules*, parts 7841.0100 to 7841.0500. However, if a utility proceeds with construction of, or planning for the construction of, a major utility facility not in the utility's most recently approved resource plan, the commission may review the prudence of such construction or planning in the utility's next resource plan and general rate case proceedings.

Subp. 5. **Ratemaking.** During general rate case proceedings, the commission may consider a utility's performance in planning to meet the needs of its customers. Specifically, the commission may consider the utlity's efforts in complying with approved resource plans and in makign appropriate adjustments to those plans as circumstances change.

Subp. 6. **Conservation improvement program filings.** In preparing its conservation improvement program filings under *Minnesota Statutes*, Section 216B.241, the utility shall, to the extent practicable, consider and comply with the conservation targets established under part 7843.0500, subpart 4.

Department of Revenue

Appeals and Legal Services Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Administration of the Sales Tax; Administration of the Use Tax; and Payments, Returns, Assessments, and Collections

NOTICE IS HEREBY GIVEN that the State Department of Revenue is seeking information or opinions from sources outside the agency in preparing to propose the amendment of the rules governing administration of the sales tax; administration of the use tax; and payments, returns, assessments, and collections. The adoption of these rules are authorized by *Minnesota Statutes*, section 297A.29, which required the agency to promulgate all needful rules for the administration and enforcement of *Minnesota Statutes*, sections 297A.01 to 297A.44 not inconsistent with its provisions.

The State Department of Revenue requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Stephen E. Krenkel
Department of Revenue
Appeals and Legal Services Division
10 River Park Plaza
Mail Station 2220
St. Paul, MN 55146-2220

Oral statements will be received during regular business hours over the telephone at (612) 296-1022 and in person at the above address.

All statements of information and opinions shall be accepted until June 30, 1989. Any written material received by the state Department of Revenue shall become part of the rulemaking record to be submitted to the Attorney General or Administrative Law judge in the event the rule is adopted.

Dated: 8 June 1989

Stephen E. Krenkel
Attorney

Department of Revenue

Appeals and Legal Services Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Sales and Use Taxation: Advertising Agencies

NOTICE IS HEREBY GIVEN that the State Department of Revenue is seeking information or opinions from sources outside the

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING.

Department of Revenue

In the Matter of the proposed Adoption of Rules of the Minnesota Department of Revenue Governing the Administration of the Sales and Use Tax and Payments, Returns, Assessments, and Collections	NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

(1) Notice is hereby given that the Minnesota Department of Revenue intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. Rules 8130.2400, 8130.2800, 8130.4100, 8130.8200 are proposed to be repealed in their entirety. The statutory authority to adopt these rules are Minnesota Statutes sections 297A.25, subd. 20; 297A.27; and 297A.29.

(2) All persons have 30 days in which to submit comment in support of or in opposition to these proposed rules or any part or subpart of the rules. Comment is encouraged (3) Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on these rules within the 30-day comment period. (4) If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. (6) Any person requesting a public hearing should state his or her name and

address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. (7) If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

(5) Comments or written requests for a public hearing must be submitted to:

Terese Koenig Smith, Attorney
Business Tax Unit
Appeals and Legal Services Division
10 River Park Plaza
Mail Station 2220
St. Paul, MN 55146-2220
(612) 296-3438

(8) The proposed rules may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rules as noticed. (11) See attached pages for an informative statement describing the nature and effect of the proposed rules. A free copy of these rules is available upon request from Terese Koenig Smith.

(12) A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Terese Koenig Smith upon request.

(9) If no hearing is required, upon adoption of these rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rules, must submit the written request to:

Terese Koenig Smith.
Business Tax Unit
Appeals and Legal Services Division
10 River Park Plaza
Mail Station 2220
St. Paul, MN 55146-2220
(612) 296-3438

May 17, 1990
Date

John P. James
Commissioner of Revenue
of the State of Minnesota

TKS:cak:strulesnotices:intsale:05/17/90

STATEMENT DESCRIBING NATURE AND EFFECT OF PROPOSED RULES

The rules proposed for adoption relate to the administration of the sales and use tax, and sales and use tax payments, returns, assessments and collections. These rules address the methods by which a person making taxable retail sales must obtain a permit, collect the tax, and remit it to the state. They cover how returns are to be filed, when assessment and collection of the tax will be made, and other various issues regarding the administration of Minnesota Sales and Use Tax. The rules describe the method by which the tax is computed and the use of permits and exemption certificates. The rules deal with the retention of records by taxpayers, claims for refund, penalties and interest, and disclosure of tax information to third parties. Attached is a copy of the titles of the rules being amended.

These rules were last amended in 1978. Since that time, the Minnesota Legislature has amended Minnesota Statutes chapter 297A significantly. It is necessary to amend these rules so that they comply with the changes made in the law.

Some of the changes are substantive. Some of the substantive changes involve updating the rules to conform to current statutory requirements. The majority of the changes being proposed for this set of rules, however, involve repeal of outdated information, examples, and duplicative statutory language; grammatical changes; and some form clarifications involving nonsubstantive changes. Form changes were changes in writing style which clarified, modernized, or simplified the meaning of a rule but did not make a material change

to the rules' substance or effect. Where possible, examples have been repealed because they were outdated, and because the legal effect of examples is not always clear. If necessary, the examples were replaced with text covering the same materials as were in the example.

ADMINISTRATION OF THE SALES TAX

8130.2300	IMPOSITION OF SALES TAX.
8130.2350*	COMPUTATION OF SALES TAX.
8130.2400**	CLAIM THAT ADVERTISING TAX WILL BE ABSORBED; MISDEMEANOR.
8130.2500	APPLICATION FOR PERMIT TO MAKE RETAIL SALES.
8130.2600	PERMIT WHEN VALID AND HOW DISPLAYED
8130.2700**	REVOCATION OF PERMITS.
8130.2800**	RETAIL SALES WITHOUT PERMIT; VIOLATION.
8130.2900	PRESUMPTION THAT TAX MUST BE PAID.
8130.3000**	GOOD FAITH ACCEPTANCE OF EXEMPTION CERTIFICATES.
8130.3100**	CONTENT AND FORM OF EXEMPTION CERTIFICATE.
8130.3200	NONEXEMPT USE OF PURCHASE OBTAINED WITH EXEMPTION CERTIFICATE.
8130.3300**	FUNGIBLE GOODS FOR WHICH EXEMPTION CERTIFICATE GIVEN.
8130.3400	DIRECT PAY PERMIT PROCEDURE.

ADMINISTRATION OF THE USE TAX

8130.3800	IMPOSITION OF USE TAX.
8130.3850*	COMPUTATION OF USE TAX.
8130.3900	LIABILITY FOR PAYMENT OF USE TAX.
8130.4000	COLLECTION OF TAX AT TIME OF SALE.
8130.4100**	UNLAWFUL TO ADVERTISE THAT USE TAX WILL BE ABSORBED.
8130.4200**	REGISTRATION.
8130.4300	PROPERTY BROUGHT INTO MINNESOTA.
8130.4400	CREDIT AGAINST USE TAX.

PAYMENTS, RETURNS, ASSESSMENTS, AND COLLECTIONS

8130.7300	WHEN TAX IS DUE.
8130.7400	UNCOLLECTIBLE DEBT DEDUCTION.
8130.7500	RETURNS AND RECORDS.
8130.7600**	COMMISSIONER MAY REQUIRE SECURITY.
8130.7700**	EXTENSION OF TIME TO FILE RETURN AND REMIT TAX.
8130.7900	FAILURE TO FILE A RETURN.
8130.8000**	TIME LIMITATION ON ASSESSMENT AND COLLECTION.
8130.8100**	CLAIM FOR REFUND.
8130.8200**	APPEAL FROM DENIAL OF CLAIM FOR REFUND.
8130.8300**	PENALTIES AND INTEREST.
8130.8400	LIMITATIONS ON DISCLOSURE OF SALES AND USE TAX INFORMATION.

* = New Rule
** = Rule, or part of the rule, is repealed

TKS:cak:gc\ruleprop