STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

ESTATE AND FIDUCIARY TAX GROUP

IN THE MATTER OF THE PROPOSED
ADOPTION OF A NEW RULE AND                    STATEMENT OF NEED
REPEAL OF A RULE RELATING TO                  AND REASONABLENESS
ESTATE TAX

This document has been prepared as a verbatim presentation of the facts necessary to establish the statutory authority, need for and reasonableness of the proposed new rule.  It is submitted pursuant to 9 MCAR Section 2.104 requiring a Statement of Need and Reasonableness.

## Authority to Adopt the Rule

Minn. Stat. Section 291.31, Subd. 2, grants the Commissioner statutory authority to establish rules concerning the estate and inheritance taxes.

## Statement of Need

The 1979 legislature assed the Omnibus Tax bill which included a repeal of the existing inheritance tax law replacing it with the Minnesota estate tax provisions.  The bill was approved by the Governor on June 1, 1979, and became known as Laws 1979, Chapter 303.  The estate tax provisions are contained in Article III of Chapter 303 and are effective for estates of decedents dying after December 31, 1979.

The Department has previously repealed rules no longer necessary based upon the legislative changes made in 1979.

Inh Tax 219 was not repealed at that time because the portion of it relating to safe deposit box inventories was still necessary.

## Inh Tax 219:    Release of Inheritance Tax Liens

The lien provisions of Minn. Stat. § 291.14 were repealed for deaths after December 31, 1979.  This portion of the rule is obsolete for deaths after that date.  The existing portion of the rule relating to inventories of safe deposit boxes has now been incorporated into the proposed new rule.

New Rule:  13 MCAR § 1.2220

Under the existing rule, Inh Tax 219, it was required that
every safe deposit box be inventoried if a contracting party died.
There was only one exception which is also included in clause 30 of
this new rule.  The inventory was performed by the county treasurer
or a person designated by the treasurer.  The inventory when
forwarded to the commissioner was a valuable audit tool.  It
was used to verify that all assets were reported when a return was
filed.

While still helpful, the procedures have been re-examined in
light of the following changes.

1.    Under current law, there is an unlimited marital
exemption.  All assets passing to a surviving spouse are exempt
from federal and state estate taxes.

2.    The minimum filing requirement for 1983 is $275,000 and
increases to $600,000 in 1987.  Fewer estates will be required to
file a Minesota return and still fewer will be subject to a tax
liability.

3.    The fiscal crunch has caused cutback in county offices and
the availability of personnel to perform the inventories has been
curtailed.  This has caused delays in responding to requests for
performing inventories.

Our proposed rule allows access, without an inventory, to a
surviving spouse if the surviving spouse is the personal representative
of the decedent's estate or the surviving spouse had a contractural
right to enter the safe deposit box prior to decedent's death.

The rule also removes the inventory requirement in the case
of the death of a deputy who has been appointed by the tenant of the
safe deposit box.  A deputy so appointed serves at the pleasure of
the tenant.  There is no need to bar the tenant from access
to the tenant's box until there is an inventory when that deputy
dies.

It is important to note that the general rule still applies--
an inventory is required in all cases which are not covered by
clauses B, C or D.  In those instances not involving a surviving
spouse, the audit potential of the inventory is greater.  It is
necessary and reasonable to continue the inventory requirements.
The volume of inventories will be reduced significantly (how
significantly it is impossible to pinpoint) and the remaining
requirements will be less of a strain on county personnel.