

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

**In the Matter of the Proposed
Adoption Without a Public Hearing
of the Rule Governing Disclosure
of Third Party Return Information**

**STATEMENT OF NEED
AND REASONABLENESS**

This document has been prepared to establish the statutory authority, need for, and reasonableness of the proposed rule. It is submitted pursuant to Minnesota Statutes, section 14.23 and Minnesota Rules, part 2010.0700 requiring a statement of need and reasonableness.

Authority to Adopt Rules.

Minnesota Statutes, section 270B.19 provides that the Commissioner of Revenue may adopt rules necessary for the enforcement and administration of state tax data disclosure laws.

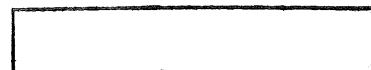
Minnesota Rules, part 8170.0100.

Minn. Stat. § 270B.06, subd. 2 governs the disclosure of third party return information. Pertinent information from another taxpayer's return can be disclosed to a taxpayer who is under tax administration investigation "if the treatment of an item reflected on the third party return is or may be related to the resolution of an issue in the investigation." The purpose of this rule is to provide two definitions which are not in the statute, and to list the types of situations in which disclosure under the statute is permitted.

The rule is necessary to resolve any potential disputes between the Department of Revenue and a taxpayer as to whether release of return information of that taxpayer to another taxpayer was prop

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Currently, Department employees have no guidelines as to when third party return information can be disclosed.

The rule is also necessary because the Department cannot assess or collect the correct tax due and owing from two or more taxpayers in a multiple taxpayer case, unless all relevant information regarding a mutual issue or issues affecting those taxpayers can be gathered, evaluated and compared. This can only be done with a free exchange of such information, unimpaired by the fear of making an unlawful disclosure.

Subpart 1 defines “investigation” and “pertinent return information of a third party”. The definition of investigation is needed to provide a time frame in which information can be disclosed under Minn. Stat. § 270B.06, subd. 2. The definition of “pertinent return information of a third party” is needed to clarify which taxpayers are affected by the statute and to what extent the statute will be applied by the Department.

Subpart 2 is a list of examples of when the need to disclose third party return information arises. The list is intended to be comprehensive, but not inclusive. Thus, if a situation not contemplated by this subpart arises, until the rule is updated the Department’s determination on whether to release third party return information is based on its interpretation of § 270B.06, subd. 2 and of subpart 1.