

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

In the Matter of the Proposed Adoption of
Amendments to the Sales and Use Tax Rule
Relating to Automatic Data Processing
(Minnesota Rule Part 8130.9700)

STATEMENT OF NEED
AND
REASONABLENESS

GENERAL STATEMENT

The document has been prepared as a verbatim affirmative presentation of the facts necessary to establish authority, need for and reasonableness of the proposed rule. It is submitted pursuant to Minnesota Statutes, section 14.23 (1992) and Minnesota Rules part 1400.0500 (1991) requiring a Statement of Need and Reasonableness.

A Notice of Intent to Solicit Outside Opinion regarding an amendment to the sales and use tax rule, Automatic Data Processing, was published in the State Register on October 7, 1991. The notice specifically mentioned this rule and invited interested parties to submit comments or suggestions in writing to the Department by November 8, 1991. No comments or suggestions were submitted.

The original rule was adopted in 1972. The amendments to this rule are necessary to reflect changes in the application of the rule resulting from subsequent case law and statutory amendments.

Some of the changes proposed by the rule involve the repeal of obsolete data, grammatical changes, and some form clarification involving nonsubstantive changes. Where indicated, "form" changes are changes in writing style which clarify, modernize, or simplify the meaning of a rule but do not make a material change to the rule's substance or effect.

The Legislative Commission to
Review Administrative Rules

NOV 25 1992



IMPACT ON SMALL BUSINESS

The impact of the rule on small business has been considered. The Department of Revenue believes that this rule will not have an impact on small business as contemplated by Minnesota Statutes, section 14.115 (1992).

The proposed amendments to this rule do not impose new filing, or payment requirements on small business and thus are not expected to place any additional financial or administrative burden on small businesses. Since compliance requirements are clarified by these amendments, the task of small business in collecting the sales tax on the types of sales discussed in this rule is simplified by the proposed amendments.

AUTHORITY TO ADOPT RULES

Minnesota Statutes, section 270.06, subd. 13 (1992) grants the commissioner of revenue authority to make, publish, and distribute rules for the administration and enforcement of state tax laws.

RULE ANALYSIS

A. Subpart 1. **In general.** The language added is for clarification purposes. The law (Minn. Stat., section 297A.01, subd. 8, 1992) provides that when goods and services are sold together, a deduction from sales price is permitted for services separately stated on the invoice.

B. Subp. 3. **Taxable transactions, unless otherwise exempt under Minnesota Statutes, chapter 297A.** B. The language change represents a gender neutral modification.

C. Subp. 3C. The deletion represents a change in the taxation for keypunching and keystroke verifying. It changes from a taxable to a nontaxable transaction. The change represents application of case law established by the

decisions in Fingerhut Products Company v. Commissioner of Revenue, 258 N.W. 2d 606 (1977); Standard Packaging Corporation v. Commissioner of Revenue, 288 N.W. 2d 234 (1979); and National Business Systems v. Commissioner of Revenue, District Court, Ramsey County, File No. 463417 filed May 3, 1985.

D. Subp. 3C is a clarification that when goods and services, such as training services, are sold together, the services are nontaxable if stated separately. See Minnesota Statutes, section 297A.01, subd. 8 (1992). Training materials is defined to include videos and cassettes, as well as books.

E. Subp. 3E through G are re-numbered.

F. Subp. 3F is not a substantive change. The changes involve an item re-number and removal of obsolete language. New language, "or maintained by the service bureau for the customer," is policy clarification language.

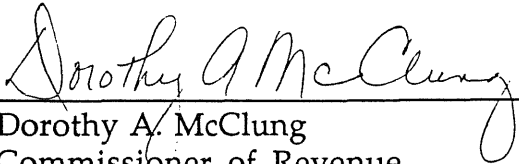
G. This is a cross reference to computer software rule.

H. Subp. 4D represents a change in the taxation for keypunching and keystroke verifying discussed previously under rule analysis, Subp. 3C.

I. Subp. 5 corrects a typographical error.

J. The repealer represents obsolete language relating to the taxation of computer software discussed in a separate computer software rule, part 8130.9910.

Dated: November 16, 1992



Dorothy A. McClung
Commissioner of Revenue
State of Minnesota



MINNESOTA Department of Revenue

**APPEALS, LEGAL SERVICES AND
CRIMINAL INVESTIGATION DIVISION**

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February 8, 1993

Ms. Maryanne V. Hruby, Director
Legislative Commission to Review
Administrative Rules
55 State Office Building
St. Paul, Minnesota 55155-1201

Re: **Automatic Data Processing Sales Tax Rule and
Computer Software Sales Tax Rule
Published in the State Register on November 30, 1992**

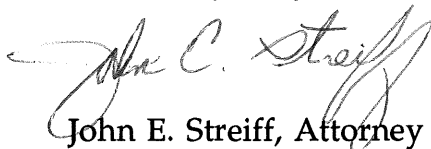
Dear Ms. Hruby:

A copy of the two rules and statements of need and reasonableness were previously furnished. Originally, this matter was proceeding on the basis of adopting rules without a hearing. However, 25 or more requests were received for a public hearing pursuant to Minnesota Statutes 1992, section 14.25.

The requested hearing will be held on March 29, 1993 at the Minnesota Department of Revenue, Skjegstad Seminar Room, 8th Floor, 10 River Park Plaza, commencing at 9:00 a.m.

A copy of the notice of hearing which will be published February 16, 1993 in the State Register is enclosed.

Yours very truly,



John E. Streiff, Attorney
Legal Services Section

JES/ml
Enclosure