

MINNESOTA REVENUE

November 24, 2004

04 - 0600

Governor Tim Pawlenty

Greg Hubinger, Director
Legislative Coordinating Commission

Michelle Timmons
Revisor of Statutes

Senator Lawrence J. Pogemiller, Chair
Senator William V. Belanger, Jr.
Ranking Republican
Senate Committee on Taxes

Senator Richard Cohen, Chair
Senator Dennis R. Frederickson
Ranking Republican
Senate Finance Committee

Senator Jane B. Ranum, Chair
Senator Thomas Neuville, Ranking Republican
State Government Budget Division—Senate Finance
Committee

Committee Administrator
House Tax Committee

Committee Administrator
House Ways & Means Committee

Committee Administrator
House State Government Finance Committee

**Re: Annual Report on Obsolete, Unnecessary, or Duplicative Rules, as Required by
Minnesota Statutes, Section 14.05, Subdivision 5**

Dear Governor Pawlenty, et al:

Minnesota Statutes, section 14.05, subdivision 5, states, in part: "By December 1 of each year, an agency must submit . . . a list of any rules or portions of rules that are obsolete, unnecessary, or duplicative of other state or federal statutes or rules. The list must also include an explanation of why the rule or portion of the rule is obsolete, unnecessary, or duplicative of other state or federal statutes or rules. By December 1, the agency must either report a timetable for repeal of the rule or portion of the rule, or must develop a bill for submission to the appropriate policy committee to repeal the obsolete, unnecessary, or duplicative rule. Such a bill must include proposed authorization to use the expedited procedures of section 14.389 to repeal or amend the obsolete, unnecessary, or duplicative rule. A report submitted under this subdivision must be signed by the person in the agency who is responsible for identifying and initiating repeal of obsolete rules. The report also must identify the status of any rules identified in the prior year's report as obsolete, unnecessary, or duplicative. If none of an agency's rules are obsolete, unnecessary, or duplicative, an agency's December 1 report must state that conclusion. "

The rules of the Minnesota Department of Revenue fall within Chapters 8001 through 8175 of the *Minnesota Rules*. In addition, the Department of Revenue is responsible for Chapter 1950, the Minnesota State Board of Assessors' rules. The Department continues with an ongoing process to review all of its rules, to repeal obsolete and duplicative provisions, clarify current language and to recommend clean-up language.

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Corporate Franchise Taxes:

In last year's Obsolete Rule Report we found that the following parts are obsolete or duplicative, and stated that we would propose that they be repealed during the 2004 Legislative Session: Parts 8093.2000 and 8093.3000. We will propose that they be repealed during the 2005 Legislative Session.

We also stated in last year's report that the Department also recognizes that Part 8017.6000 is obsolete because it was promulgated under statutory language that has been repealed. The Department is reviewing what action it should take, if any.

Income Taxes:

The Department of Revenue has reviewed the Income Tax Rules and finds no rules that are obsolete, unnecessary, or duplicative of statutory provisions such that they should be repealed.

Withholding Taxes:

In last year's Obsolete Rule Report the Department stated that it found that the following rules should be repealed: "Part 8092.0200 duplicates federal and common law; Part 8092.0300 is unnecessary and duplicative of statute; Part 8092.1200 is unnecessary as this area of law is already covered by elsewhere in Minnesota law to piggyback on the federal law; Part 8092.1300 is unnecessary as these provisions are completely covered by Minn. Stat. Chapters 289A & 270." The Department had planned to propose that these rules be repealed as part of a project to review and either amend or repeal various Withholding Tax rules in December 2003 or early 2004, using the "good cause" exemption to the rule process.

Upon further review, the Department decided that Part 8092.1200 did not warrant repeal. In August 2004, the Department adopted permanent exempt rules by amending several subparts within chapter 8092; and repealing Parts 8092.0200, 8092.0300 and 8092.1300.

The Department of Revenue has reviewed the Withholding Tax Rules and finds no rules that are obsolete, unnecessary, or duplicative of statutory provisions such that they should be repealed.

Sales & Use Taxes:

In last year's Obsolete Rule Report we stated that we had identified parts and subparts that should be repealed as obsolete or as duplicative of statutes, or unnecessary, and proposed their repeal using the "good cause" exemption to the rule process, as part of a rule project that we expected to be completed early 2004, as follows: Parts 8130.0110, subpart 4; 8130.0200, subparts 5 and 6; 8130.0400, subpart 9; 8130.0900, subpart 8; 8130.1200, subparts 5 and 6; 8130.5200; 8130.5600, and subpart 3; 8130.7300, subpart 5. Upon further review, we will add to this list parts 8130.4200; 8130.5100, and 8130.8400. At this time we expect that the rule project will be completed early 2005.

Last year we discussed whether 8130.0900, subpart 8, while it has obsolete provisions, should be repealed or amended. We decided to repeal it. Additionally, at this time we also plan to propose repeal under the same rule project of 8130.4200, subparts 1 and 3.

In last year's report, we stated that the list of obsolete or duplicative rules which we would propose be repealed legislatively during the 2004 legislative session were as follows: Parts 8130.0110, subpart 4; 8130.0200, subparts 5 and 6; 8130.0400, subpart 9; 8130.1200, subparts 5 and 6; 8130.2900; 8130.3100, subpart 1; 8130.4000, subparts 1 and 2; 8130.4200, subpart 1; 8130.4400, Subpart 3; 8130.5200; 8130.5600, subpart 3; 8130.5800, subpart 5; 8130.7300, subpart 5; and 8130.8800,

subpart 4. We proposed legislative repeal during the 2004 session and will propose the same for the 2005 session.

The Department of Revenue has reviewed the Sales and Use Tax Rules and finds no other rules that are obsolete, unnecessary, or duplicative of statutory provisions such that they should be repealed.

Property Equalization, Ad Valorem Taxes, Utilities:

The Department of Revenue is in the early stages of reviewing Chapter 8100 as part of a rule project. As of the date of this report the Department has no rules to report that are obsolete, unnecessary, or duplicative of statutory provisions.

Ad Valorem Tax, Valuation and Assessment of Railroads:

In last year's Obsolete Rule Report we stated that the Department of Revenue was reviewing Chapter 8106 as part of a rule project, using the "good cause" exemption to the rule process. At that time the Department had found Part 8106.0300, subpart 2, to be obsolete, unnecessary, and duplicative of statutory provisions. The Department subsequently found Part 8106.0100, subpart 9, to be obsolete, and also proposed its repeal as part of the same rules project. The rule project was completed in April 2004.

Certificate of Real Estate Value:

The Department of Revenue reviewed Chapter 8110 and found no rules that were obsolete, unnecessary, or duplicative of statutory provisions. We amended this chapter as part of a rulemaking project in 2003.

Cigarette and Tobacco Product Taxes:

The Department of Revenue reviewed Chapter 8120 and found no rules that were obsolete, unnecessary, or duplicative of statutory provisions.

Metropolitan Solid Waste Landfill Fee:

The Department of Revenue reviewed Chapter 8121 and found no rules that were obsolete, unnecessary, or duplicative of statutory provisions.

Lawful Gambling Tax:

The Department of Revenue reviewed Chapter 8122 and found no rules that were obsolete, unnecessary, or duplicative of statutory provisions.

Petroleum Tax:

The Department of Revenue reviewed Chapter 8125 and found no rules that were obsolete, unnecessary, or duplicative of statutory provisions.

Minnesota State Board of Assessors:

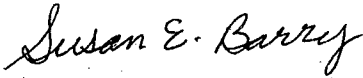
As stated above, the Department of Revenue is responsible for Chapter 1950, the Minnesota State Board of Assessors' rules. It finds that Part 1950.1060, subpart 6, as obsolete, and proposes to repeal it as part of a rule project. The Department anticipates completing the rule project early 2005.

Continuing process.

At this time, we have identified no other specific Department of Revenue rules that are obsolete, unnecessary, or duplicative, such that they should be repealed. We will, however, continue our

process of reviewing and updating current rules, a chapter at a time. If you have any questions regarding this report, please feel free to contact me.

Sincerely,



Susan E. Barry
Supervising Attorney/Rules Coordinator
Appeals & Legal Services Division
(651) 556-4062

cc: Terese Mitchell, Director, Appeals & Legal Services, Department of Revenue
Mike Roeloff, Legislative Liaison, Department of Revenue
Ward Einess, Governor's Office
Jenny Glumack, Governor's Office
Legislative Reference Library

MINNESOTA · REVENUE

November 24, 2004

Legislative Reference Library
645 State Office Building
100 Rev. Martin Luther King Jr. Blvd
St. Paul, Minnesota 55155

Re: In The Matter of the Obsolete Rule Report of the Minnesota Department of Revenue.

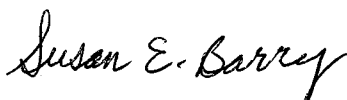
Dear Librarian:

The Minnesota Department of Revenue has prepared an Obsolete Rule Report for 2004. This report is required by section 14.05, subdivision 5, to be submitted by December 1 of each year to "the governor, the legislative coordinating commission, the policy and funding committees and divisions with jurisdiction over the agency, and the revisor of statutes."

Per Minnesota Statutes, section 3.302, the Department is sending the Library six copies of this Report.

If you have any questions, please contact me at 651-556-4062.

Yours very truly,



Susan Barry
Supervising Attorney/ Rules Coordinator
Appeals & Legal Services Division
Minnesota Department of Revenue