

November 28, 2001

Governor Jesse Ventura

Senator Don Samuelson, Chair
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 Douglas Johnson, Chair
Senator Dennis R. Frederickson
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Senate Finance Committee

Senator Richard J. Cohen, Chair
Senator David L. Krutson, Ranking Republican
State Government, Economic Development and the
Judiciary Budget Division - Senate Finance Committee

Representative Ron Abrams, Chair
Representative Irv Anderson, DFL Lead
House Tax Committee

Representative Dave Bishop, Chair
Representative Loren Solberg, DFL Lead
House Ways & Means Committee

Representative Phillip Krinkie, Chair
Representative Bill Hilty, DFL Lead
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 Ventura, 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 The list must also include an explanation of why the rule or portion of the rule is obsolete, unnecessary, or duplicative of other state or federal statutes or rules.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 has, for the past three years, been in the process of reviewing all of its rules, a chapter at a time, to repeal obsolete and duplicative provisions, clarify current language and to recommend clean-up language. In addition to the rule changes made in the Corporate Franchise Tax area, we are continuing to look at revising and/or repealing portions of the Individual Income Tax rules and the Sales Tax rules.

Corporate Franchise Taxes:

In 1998 and 1999, the Department identified and recommended for repeal *Minnesota Rules*, part 8014.0100. "Adjustments to Basis," and *Minnesota Rules*, part 8038.0100, subparts 1,2,3,5,7,9, and 10 - "Income Tax Returns for Husband and Wife." These rules and many others were addressed beginning in 1999. The repeal of *Minnesota Rules*, part 8038.0100 has not happened yet, and is being addressed in an Income Tax rule proposal (see below)

After a complete review, and following a public hearing January 2001, we repealed the following rules relating to Corporate Franchise Tax as being either obsolete, unnecessary, or duplicative: *Minnesota Rules*, parts 8001.0100, 8001.0200, 8001.0400, 8003.0100, 8009.7300, subpart 1; 8014.0100, 8019.0200, 8019.0300, subparts 1-4, 6-11; 8019.0405, subparts 12 & 14; 8021.0100, 8021.0200, 8023.0500, 8030.0100, 8031.0100, subparts 1 & 2; 8031.0300, 8035.0100, 8038.3000, 8043.0200, subpart 3; 8093.0500, subparts 4 & 5; and 8097.0300. We also amended the following rules: *Minnesota Rules*, parts 8009.7400, 8019.0100, 8019.0405, 8034.0100, 8043.0200, 8050.0100, 8052.0300, 8052.0400, and 8160.0630. Many of the amended rules contained obsolete references, terminology, and cites, but the bulk of the amendment was done for clarification. The Notice of Adoption was published in the State Register on September 24, 2001.

Income Taxes:

In October 2000, the Department requested comments on its planned amendments to rules governing Individual Income Tax. The Department of Revenue began this project because these rules are outdated. Many were first promulgated in the 1970's. The most recent ones were last modified in the early 1990's. We propose to repeal the following rules to get rid of obsolete and duplicative provisions: *Minnesota Rules*, parts 8002.0200, subparts 4 and 5; 8007.0300; 8038.0100, subparts 1, 2, 3, 5, 6, 7, 9, and 10; 8038.2000; 8050.0100, subpart 1; 093.0100; 8093.0300; 8093.0400, subparts 1, 2, 5, and 6; 8093.0500, subparts 1, 2, 3, 5, and 5; 8093, 0600, subpart 1; and 8093.4000. We are also amending some rules in part to cure obsolete statutory cites. We plan to publish the proposed rule with notice of intent to adopt within the next couple of months.

Sales & Use Taxes:

Following statutory amendments to *Minnesota Statutes*, chapter 297A, from legislative sessions in 2001 and a few years ago, several of the rules in *Minnesota Rules*, chapter 8130, have become obsolete. The Department is currently reviewing the obsolete parts in *Minnesota Rules*, chapter 8130, to determine which parts should be repealed and which amended.

To date, we have identified the following parts for repeal:

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|-----------|--|
| 8130.1400 | Temporary storage and use in Minnesota Rules |
| 8130.2100 | Waste collection and storage services |
| 8130.5000 | Property shipped out of state. |

The Department proposes to repeal them within the next two to three months using the "just cause" exemption to the rule process.

Last year the Department began drafting amendments to Sales & Use Tax rules involving obsolete definitions of drugs and of food. Although the rule change relating to drugs is currently on hold while the Department awaits final decisions from the National Sales Tax Streamlining Project, we have resumed drafting amendments to *Minnesota Rules*, parts 8130.0800 and 8130.4700, relating to the taxation on the sale of meals, drinks, and food products.

Cigarette and Tobacco Product Taxes:

The Department of Revenue submitted a bill to the House and Senate Tax Committees last session to repeal obsolete rules in the Cigarette and Tobacco Products chapter (*Minnesota Rules*, chapter 8120) which were obsolete because of the recent recodification of the Cigarette and Tobacco Products Tax statutes (*Minnesota Statutes*, chapter 297F). The provisions were successfully repealed. We have also identified other rules in this chapter which must either be amended or repealed due to obsolete provisions, and are being addressed by rulemaking which began in 2001. On November 5, 2001, a Request for Comments on this rule was published in the State Register.

Lawful Gambling Taxes:

The Department has also identified an obsolete provision in *Minnesota Rules*, part 8122.0500, relating to Lawful Gambling, due to a law change in 2001. We are amending the rule using the "just cause" exemption to rulemaking, and plan to publish the Notice of Adoption in mid-December 2001.

Minnesota State Board of Assessors:

As stated above, the Department of Revenue is responsible for Chapter 1950, the Minnesota State Board of Assessors' rules. While it is that agency's obligation to report on its obsolete rules, we note that the Board proposes to repeal *Minnesota Rules*, part 1950.1000, subparts 2

and 14 as obsolete because each of the acronyms defined in the rule refer to an organization that no longer exists. A notice of Intent to Adopt should be published within the next couple of months.

Continuing process:

At this time, we have identified no other specific Department of Revenue rules that are obsolete, unnecessary, or duplicative. 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,



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