

**8052.0400 PROCEDURES TO BAR OR SUSPEND.**

Subpart 1. **Commissioner's power to suspend or bar.** Pursuant to Minnesota Statutes, section 270C.44, the commissioner of revenue, after due notice and opportunity for hearing, may suspend or bar from further practice before the Department of Revenue any attorney, accountant, agent, or preparer who is incompetent or disreputable, refuses to comply with the provisions of this rule, or in any manner willfully and knowingly defrauds, deceives, or misleads any taxpayer with respect to a claim or prospective claim involving the Department of Revenue.

Subp. 2. **Reasons to suspend or bar from practice.** Any attorney, accountant, agent, or preparer may be barred or suspended from practice before the Department of Revenue for violation of any of the provisions contained in part 8052.0300.

Subp. 3. **Warning.** Whenever the commissioner of revenue has sufficient grounds to believe that any attorney, accountant, agent, or preparer has violated a provision of part 8052.0300, subpart 5 or 6, the commissioner shall notify the practitioner in writing of the specific violation which has been committed. The notification must contain a warning to the practitioner that if the violation continues, or if any other violations are committed, the commissioner shall commence a proceeding to bar or suspend the practitioner.

Subp. 4. **Proceeding.** Whenever the commissioner of revenue has sufficient grounds to believe that any attorney, accountant, agent, or preparer has failed to comply with a warning by continuing to violate any provision of part 8052.0300, the commissioner shall commence a proceeding to bar or suspend the attorney, accountant, agent, or preparer. The commissioner's notice of and order for hearing must set forth the specific violations which the practitioner has committed, both prior and subsequent to the commissioner's warning, and must make a recommendation as to the specific disciplinary action to be taken against the practitioner. The entire proceeding is governed by the procedure for contested case proceedings as provided in parts 1400.5010 to 1400.8400 and Minnesota Statutes, sections 14.02 and 14.57 to 14.69.

Subp. 5. **Consent to suspension.** An attorney, accountant, agent, or preparer, in order to avoid the commencement or conclusion of a disciplinary proceeding, may, by agreement with the commissioner of revenue, consent to suspension from practice before the Department of Revenue. The commissioner of revenue shall then suspend the practitioner in accordance with the disciplinary guideline set forth in subpart 6.

Subp. 6. **Disciplinary actions.** Upon completion of the hearing in a contested case proceeding for disciplinary action brought by the commissioner of revenue against an attorney, accountant, agent, or preparer, if the administrative law judge finds that the

practitioner has committed the violations specified in the commissioner's notice of and order for hearing, and that disciplinary action is appropriate, the commissioner shall:

A. suspend the practitioner from practicing before the Department of Revenue for a period of up to one year, if the proceeding brought against the practitioner is the first proceeding in which disciplinable misconduct has been found;

B. suspend the practitioner for a period of up to five years if the proceeding brought against the practitioner is the second proceeding in which the disciplinable misconduct has been found; or

C. bar the practitioner from practicing before the Department of Revenue if the proceeding brought against the practitioner is at least the third proceeding in which disciplinable misconduct has been found.

For purposes of items A to C, a voluntary suspension pursuant to subpart 5 is a proceeding in which disciplinable misconduct has been found. The commissioner shall base a decision as to disciplinary action on all the facts, along with any extenuating circumstances the commissioner deems relevant.

**Subp. 7. Effects of being barred or suspended.** If the commissioner's order against an attorney, accountant, agent, or preparer bars the practitioner, the practitioner shall not thereafter be permitted to practice before the Department of Revenue, except to represent himself or herself. Similarly, if the commissioner's order against an attorney, accountant, agent, or preparer suspends the practitioner, the practitioner shall not thereafter be permitted to practice before the Department of Revenue during the period of suspension, except to represent himself or herself. Barring or suspending an individual, who is employed by a firm or organization at the time a violation of this part occurred, does not affect the right of other members of the firm or organization to practice before the department.

**Subp. 8. Petition for reinstatement.** A suspended or barred attorney, accountant, agent, or preparer may petition, in writing, the commissioner of revenue for reinstatement to practice before the Department of Revenue if there has been a material change in circumstances after the practitioner has been suspended or barred. The petition must be supported with documentation or testimony from a responsible third party as to the fitness, character, and ability of the practitioner to resume practice. The commissioner shall review the petition and make a determination within 30 days as to whether the practitioner shall be reinstated. If the petition is granted by the commissioner, the practitioner may resume practice. If the petition is denied by the commissioner, no further petitions may be brought by the practitioner during the remainder of the suspension period, or for a period of five years if the practitioner has been barred.

**Statutory Authority:** *MS s 270.06; 270C.06; 290.52*

**History:** *L 1984 c 640 s 32; L 1987 c 384 art 2 s 1; 17 SR 1279; 26 SR 435; 26 SR 391; L 2005 c 151 art 1 s 114,116*

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