

1 Department of Jobs and Training

2

3 Adopted Permanent Rules Relating to Unemployment Compensation;

4 Employer Taxes

5

6 Rules as Adopted

7 3315.0100 DEFINITIONS.

8 Subpart 1. Scope. Unless the context otherwise requires,
9 terms used in this chapter shall be construed in the sense in
10 which they are defined in Minnesota Statutes, sections 268.03 to
11 268.24, or in these or other rules of the department.

12 Subp. 2. Tax. "Tax" is that part of contributions arrived
13 at by multiplying taxable wages by an assigned contribution rate.

14 Subp. 3. Tax report. "Tax report" is the combination of
15 the contribution report and the wage detail report which is due
16 on a quarterly basis from taxpaying employers.

17 WAGES

18 3315.0200 PURPOSE.

19 Subpart 1. Purpose. Parts 3315.0200 to 3315.0220 further
20 define "wages" as defined in Minnesota Statutes, section 268.04,
21 subdivision 25, and used in Minnesota Statutes, sections 268.03
22 to 268.24; this chapter; interpretations; forms; and other
23 official pronouncements issued by the department.

24 Subp. 2. to 4. [See Repealer.]

25 ~~3315.0201-DEFINITIONS-~~

26 ~~Subpart 1.--Scope.--As used in this chapter, the following~~
27 ~~terms have the meanings given them.~~

28 ~~Subp. 2.--Remuneration paid.--"Remuneration paid" means~~
29 ~~wages that have been actually or constructively delivered to or~~
30 ~~for the benefit of an employee.~~

31 ~~Subp. 3.--Remuneration payable.--"Remuneration payable"~~
32 ~~means wages that have been earned but that were not paid when~~
33 ~~due.--Wages are considered due on the established payday of an~~
34 ~~employer.--If a corporation does not have an established payday~~

1 ~~for its officers or have references to one in the corporate~~
 2 ~~minutes, the wages of its corporate officers shall be considered~~
 3 ~~due when paid, or if the corporate minutes specify an amount to~~
 4 ~~be paid each period, such as a week, month, or year, without~~
 5 ~~specifying an exact pay date, the wages for a period shall be~~
 6 ~~considered due no later than the end of the period.~~

7 3315.0202 REMUNERATION-AS BASIS OF WAGES, MODE OF PAYMENT.

8 Remuneration paid or payable for services performed is
 9 "wages."--The remuneration Wages may be based on production; a
 10 percentage of profits; time, such as hourly, daily, weekly,
 11 monthly, or annually; or any other measure of performance and
 12 may be paid in cash or any medium of exchange other than cash.

13 3315.0203 WAGES PAYABLE, CORPORATE OFFICERS.

14 If a corporation does not have a regularly scheduled pay
 15 date for its officers or have reference to one in the corporate
 16 minutes, the wages of its corporate officers shall be considered
 17 due when paid. If the corporate minutes specify an amount to be
 18 paid each period, such as a week, month, or year, without
 19 specifying an exact pay date, the wages for a period shall be
 20 considered due no later than the end of the period.

21 3315.0210 TYPES OF WAGES, GENERALLY.

22 Wages include the monetary value of:

23 A. Dwelling unit rent, utilities, meals, exchange of
 24 services, or other goods or services that are to compensate for
 25 an employee's services.

26 B. Vacation pay or payment in lieu of vacation.

27 C. Termination, severance, or dismissal payment or
 28 payment in lieu of notice whether notice is required or not.

29 D. That portion of the payment which compensates for
 30 services rendered received in the form of an award or allowance
 31 in accordance with a contractual agreement or settlement reached
 32 through any arbitrator, regulatory agency, or court.

33 E. "S" corporation profits, sometimes referred to as
 34 dividends, other than those designated as capital gain

1 distributions or return of capital, distributed or allocated to
2 officers and shareholders who perform services for the
3 corporation. The distribution or allocation of undistributed
4 profits is reportable at the time it is received by, or credited
5 to the account of, the officers and shareholders. An "S"
6 corporation is a corporation that is organized under the rules
7 of subchapter S of the Internal Revenue Code of 1986.

8 F. The value of any consideration, award, bonus, or
9 prize which accrues before separation from employment.

10 G. Payments for accrued sick leave when not related
11 to a specific absence due to sickness or injury, regardless of
12 whether or not the employer maintains a sick pay plan as defined
13 in Minnesota Statutes, section 268.04, subdivision 25.

14 H. Idle time or standby compensation paid by an
15 employer for a guaranteed minimum number of hours of employment
16 per week when employees are to be available for a specific
17 period of time and payment is made to them for idle time even if
18 they do not render services for the minimum number of hours.

19 I. Advances or draws against future earnings, when
20 paid, unless the payments are designated as a loan or return of
21 capital on the books of the employer at the time of payment.

22 J. ~~Amounts-paid~~ Payments to corporate shareholders or
23 officers, who perform services for the corporation for wages
24 below that which would approximate reasonable compensation for
25 services, although designated as loans, where-repayments-are-not
26 made-pursuant-to-a-payoff-schedule, lack-business-purpose, and
27 fail-to-provide-for-the-payment-of-reasonable-interest, if-the
28 shareholders-or-officers-perform-services-for-the-corporation
29 for-remuneration-below-that-which-would-approximate-reasonable
30 compensation-for-services unless the loan is evidenced by a note
31 or other legal document, the loan is for business purposes,
32 repayments are made pursuant to a payoff schedule, and the
33 agreement provides for the payment of reasonable interest.

34 K. Payments made directly or indirectly to an
35 individual to perform or assist in performing the work of any
36 employee of the employer provided that the employer had actual

1 or constructive knowledge that the work was being performed.

2 L. Payments made for services as a caretaker. Unless
3 there is a contract or other proof to the contrary, remuneration
4 shall be considered as being equally received by a married
5 couple where the employer makes payment to only one spouse, or
6 by all tenants of a household who perform services where two or
7 more individuals share the same dwelling and the employer makes
8 payment to only one individual.

9 M. Payments made for services by a migrant family.
10 Where services are performed by a married couple or a family and
11 an employer makes payment to only one individual each worker
12 shall be considered as having received an equal share of the
13 remuneration unless there is a contract or other proof to the
14 contrary.

15 N. An employer's vehicle furnished to an employee to
16 the extent the vehicle is used for personal purposes. If the
17 employee has use of the vehicle without charge, the amount
18 deemed to be wages shall be \$200 per month or, if for less than
19 a calendar month, \$7 for each day that the employee has use of
20 the vehicle for personal purposes. If the employee reimburses
21 the employer for the use of the vehicle, the amount deemed to be
22 wages shall be determined as follows:

23 (1) if the employee reimburses the employer at an
24 established rate of less than 20 cents per mile for each mile of
25 personal use, the amount deemed to be wages shall be the
26 difference, if any, between the amount reimbursed and 20 cents
27 per mile; or

28 (2) if the employee reimburses the employer at an
29 established daily, weekly, or monthly rate, the amount deemed to
30 be wages shall be the difference, if any, between the amount
31 reimbursed and \$200 per month or, if for less than a month, \$7
32 for each day that the employee has use of the vehicle for
33 personal purposes.

34 O. Payments made for an unexpired portion of an
35 employment contract.

1 3315.0300 TIPS AND GRATUITIES AS WAGES.

2 Subpart 1. Accounted for to the employer. Tips and
3 gratuities are accounted for to the employer in various manners
4 or forms including when they are:

5 A. to C. [Unchanged.]

6 D. reported to the employer in compliance with the
7 Internal Revenue Code of 1986.

8 Subp. 2. [Unchanged.]

9 3315.0400 NONCASH REMUNERATION WAGES.

10 Except as may otherwise be provided in this chapter, the
11 cash value of ~~remuneration-for-personal-services~~ wages payable
12 in any medium other than cash shall be:

13 A. ~~to-C~~ and B. [Unchanged.]

14 C. the fair market value, determined when received,
15 of any other ~~remuneration~~ payment for services unless a higher
16 value is agreed upon between the employer and the employee.

17 If the commissioner determines that the reasonable fair
18 market value is other than as determined by the employer the
19 commissioner shall, after affording the employer reasonable
20 opportunity for the submission of relevant information,
21 determine the reasonable cash value of board, rent, housing,
22 meals, or similar advantage.

23 3315.0500 EMPLOYEE EQUIPMENT AND VEHICLES.

24 Subpart 1. Trucks, bulldozers, tractors. The remuneration
25 of the operator and supplier of a bulldozer, tractor, or similar
26 equipment, and trucks other than truck owner-operators excluded
27 under part 3315.0525, whose remuneration includes wages for
28 personal services as well as the cost of operating and hiring
29 the equipment are wages unless the amount attributable to wages
30 is separately identified either by making separate payments; or,
31 if both wages and equipment hire are combined in a single
32 payment, by a prearranged written agreement or by specifically
33 indicating the separate amounts at the time of each payment.

34 Subp. 2. and 3. [Unchanged.]

35 CONTRIBUTING-RATES-AND-RATIOS

1 3315.0600 EXEMPT WAGES.

2 Except as provided under Minnesota Statutes, section
3 268.04, subdivision 25, paragraph (k), the term "wages" shall
4 not include:

5 A. the value of any special discount or markdown
6 allowed to an employee in goods purchased from or services
7 supplied by the employer where the purchases are optional and do
8 not constitute regular or systematic ~~remuneration~~ payment for
9 services rendered;

10 ~~A--and~~ B. [Unchanged.]

11 C. money allowed to employees for reimbursement of
12 meal expenses when employees are required to perform work after
13 their regular hours;

14 D. payment into a trust or plan for purposes of
15 providing legal or dental services if provided for all employees
16 generally or for a class or classes of employees;

17 E. the value of parking facilities provided or paid
18 for by an employer, in whole or in part, if provided for all
19 employees generally or for a class or classes of employees;

20 F. compensation, reimbursement, fees, meals, or other
21 ~~remuneration~~ payments paid or provided through a court to an
22 individual for services performed as a juror;

23 ~~F G.~~ to I. [Unchanged.]

24 J. any payment to or on behalf of an employee under a
25 plan or system established by an employer, which makes
26 provisions for employees generally or for a class or classes of
27 employees for the supplementation of unemployment benefits under
28 the written terms of an agreement, contract, trust arrangement,
29 or other instrument if the plan or system provides benefits
30 which are only supplemental to, and does not replace or
31 duplicate any state or federal unemployment compensation. The
32 plan or system must provide that funds are to be used solely for
33 the supplementation of state unemployment benefits. Potential
34 recipients of the plan or system must be required to file for
35 unemployment benefits in accordance with state law. The plan or

1 system shall not allow the assignment of benefits or the payment
2 of any consideration in lieu of any benefit upon the employee's
3 withdrawal from the plan or system, or termination of employment
4 or the termination of the plan or system. The plan or system
5 must not be designed for the purpose of avoiding the payment of
6 unemployment taxes on money disbursed from its plan or system.

7 3315.0810 UNMANUFACTURED STATE.

8 Minnesota Statutes, section 268.04, subdivision 12, clause
9 (15), (a), (4), requires that the services described in that
10 clause be in connection with commodities that are in their
11 unmanufactured state. A commodity that loses its original
12 identity is considered in a manufactured state and services
13 relating to the manufactured product are not agricultural. The
14 following products are considered as being in a manufactured
15 state: cheese; butter; yogurt; ice cream; dried or powdered
16 milk; dried fruits or vegetables; juices, oils, and syrups
17 derived from fruits and vegetables; and dried or powdered eggs.

18 3315.0915 NONDOMESTIC SERVICE IN HOME.

19 If service performed by an employee in or around the
20 private home of an employing unit is not domestic service within
21 the meaning of parts 3315.0901 to 3315.0920, it is subject to
22 the other provisions of Minnesota Statutes, section 268.04,
23 subdivision 12.

24 3315.1000 EVIDENCE OF CONTROL.

25 Subpart 1. **Evidence** Determination of control. Subparts 2
26 to 14 describe criteria for determining if the employing unit
27 has control over the method of performing or executing
28 services. The total circumstances must be considered to
29 determine if control is present.

30 Subp. 2. to 7. [Unchanged.]

31 Subp. 8. **Right to discharge.** The right to discharge is a
32 very important factor indicating that the right to control
33 exists particularly if the individual may be terminated with
34 little notice, without cause, or for failure to follow specified

1 rules or methods. An independent worker generally cannot be
 2 terminated without the firm being liable for damages if he or
 3 she is producing according to his or her contract
 4 specifications. Contracts which provide for termination upon
 5 notice or for specified acts of nonperformance or default are
 6 not solely determinative of the right to control. That a right
 7 to discharge is restricted because of a contract with a labor
 8 union or with other entities does not mean there is no control.

9 Subp. 9. to 14. [Unchanged.]

10 3315.1100 INDEPENDENT CONTRACTOR OR EMPLOYEE, FACTORS TO
 11 CONSIDER.

12 Subpart 1. [See Repealer.]

13 Subp. 2. Additional factors considered. Additional
 14 factors to be considered are those listed in subparts 2a to 9.

15 Subp. 2a. Availability to public. That an individual
 16 makes services available to the general public on a continuing
 17 basis is usually indicative of independent status. An
 18 individual may offer services to the public in a number of ways
 19 including having an office and assistants, displaying a sign in
 20 front of the home or office, holding a business license, having
 21 a listing in a business directory or a business listing in a
 22 telephone directory, or advertising in a newspaper, trade
 23 journal, or magazine.

24 Subp. 3. to 9. [Unchanged.]

25 3315.1200 DETERMINING WORKER STATUS.

26 When determining if whether an individual is in-employment
 27 an employee or is an independent contractor the, five essential
 28 factors must be considered must-be and weighed to-make-a
 29 determination-of-the-relationship-under-the-facts-of-the
 30 particular-case within a particular set of circumstances. There
 31 are Of the five essential factors to be considered, the two
 32 most important are those:

33 A. and-B- [Unchanged.]

34 B. to discharge the worker without incurring
 35 liability. The Other essential factors to be considered and

1 weighed within the overall relationship are: the mode of
 2 payment; furnishing of materials and tools; and control over the
 3 premises where the ~~work-is~~ services are performed.

4 Other factors, including some not specifically identified
 5 in this part, may be considered if a determination is
 6 inconclusive when applying the essential factors, and the degree
 7 of their importance may vary depending upon the occupation or
 8 work situation being considered and why the factor is present in
 9 the particular situation.

10 CONTRIBUTION RATES AND RATIOS

11 3315.1301 DEFINITIONS.

12 Subpart 1. **Scope.** For the purpose of Minnesota Statutes,
 13 section 268.06 and parts ~~3315.1305~~ 3315.1301 to 3315.1315, the
 14 following terms have the meanings given them.

15 Subp. 2. **Chargeable.** "Chargeable" means the potential of
 16 benefit charges to an employer's experience rating account and
 17 is not contingent upon benefits actually claimed or paid.

18 Subp. 3. **Experience.** "Experience" means the factors
 19 within an experience rating account that are used in the
 20 computation of an experience ratio and rate.

21 Subp. 4. **Factors.** "Factors" means the benefits charged
 22 and the taxable wages credited to an employer's experience
 23 rating account during the experience rate period.

24 Subp. 5. **Experience rating account.** "Experience rating
 25 account" is the record maintained for each employer of the
 26 factors used for the computation of an experience ratio and rate.

27 Subp. 6. **Experience rate period.** "Experience rate period"
 28 is the period that is used for the computation of experience
 29 ratios and rates when employers have been subject to the law for
 30 the required period of time.

31 3315.1310 CORRECTION OF DEPARTMENT ERRORS.

32 Minnesota Statutes, section 268.06, subdivision 20,
 33 provides the commissioner with the authority to rectify
 34 department errors that result in erroneous charges against an
 35 employer's account or that result in the incorrect computation

1 of the employer's contribution rate. This includes errors
2 occurring in the:

3 A. use of wages, benefit charges, taxes, and
4 voluntary contributions in the computation of ratios and rates
5 as well as errors that occur in the computation of ratios and
6 rates;

7 B. transfer of experience rating accounts; and

8 C. department's failure to take appropriate action on
9 a timely raised issue or a timely filed protest.

10 3315.1315 EXPERIENCE RATES.

11 Subpart 1. When chargeability begins. For the purpose of
12 Minnesota Statutes, section 268.06, subdivision 6, and this
13 part, an employer's experience rating account first becomes
14 chargeable with benefits on the first day services were
15 performed in covered employment.

16 Subp. 2. Effect of unpaid taxes on experience rates. An
17 employer's experience rate shall not be reduced below the
18 applicable benefit cost rate if no taxes were paid before
19 November 1 of the year preceding the effective year of the
20 experience rate on payroll attributable to the calendar quarters
21 within the experience rate period.

22 Subp. 3. Effect of partial payment of taxes on experience
23 rates. The amount of payroll on which taxes are paid and not
24 the actual payroll shall be used in the computation of the
25 employer's experience rate. Part 3315.1650, subpart 5,
26 determines the calendar quarter in which the partial payment is
27 applied. The proportionate amount of payroll used in the
28 computation is determined by dividing the amount of tax paid by
29 the assigned experience rate.

30 Subp. 4. Previously liable employing unit. An employing
31 unit that ceases to be a liable employer as a result of its
32 business being transferred or discontinued or as a result of the
33 business entity being granted termination of coverage under
34 Minnesota Statutes, section 268.11, shall regain its previous
35 experience rating account if it should once again become subject

1 to the law and if:

2 A. the account contains taxable payroll in the
3 experience rate period applicable at the time it again becomes
4 subject to the law;

5 B. during the period that the employing unit was not
6 subject to the law, it had not paid wages for employment that
7 would have been covered employment except for the fact that the
8 employing unit was not a liable employer at the time the wages
9 were paid; and

10 C. all of the experience had not been transferred to
11 a successor.

12 3315.1400 IN EMPLOYMENT BY FEDERAL LAW.

13 An individual is in employment if he or she performs
14 services which are subject to section 3300 of the Internal
15 Revenue Code of 1986 (Federal Unemployment Tax Act) or performs
16 services which are required by federal law to be covered
17 employment by state law.

18 3315.1500 EMPLOYMENT, GENERAL INCLUSIONS.

19 The services described in items A to C are considered to be
20 in employment:

21 A. and B. [Unchanged.]

22 C. Services performed by factory demonstrators who
23 are placed by a manufacturer or distributor in stores and other
24 locations to aid in the sale of products, who are hired by, who
25 are paid directly or indirectly by, and who work under the
26 direction of the manufacturer or distributor, although this
27 direction may be delegated to the retailer, are in the
28 employment of the manufacturer or distributor making the
29 placement. If the retailer, not acting as an agent for the
30 manufacturer or distributor, hires, directs, and pays the
31 demonstrator directly, the retailer is the employer. If the
32 wages are paid in part by the manufacturer or distributor, and
33 in part by the retailer, the demonstrator is in the employment
34 of both. Each is required to pay contributions on the part of
35 the remuneration which it pays, provided that it is an employer

1 under Minnesota Statutes, sections 268.03 to 268.24. If the
 2 demonstrator is referred to the job through a placement agency
 3 that is in the business of providing demonstrators to clients,
 4 the placement agency is the employer unless the placement agency
 5 neither pays nor receives, directly or through an agent, the
 6 salary or wages of the demonstrator, but is compensated on a fee
 7 basis by the demonstrator or the client for whom the service is
 8 performed.

9 3315.1600 CASUAL LABOR NOT IN THE COURSE OF EMPLOYING UNIT'S
 10 TRADE OR BUSINESS.

11 Subpart 1. Considered employment. Casual labor not in the
 12 course of the employing unit's trade or business, although
 13 excluded from the term employment by Minnesota Statutes, section
 14 268.04, subdivision 12, clause (15)(b), is conditionally
 15 included as employment under the provisions of chapter 23,
 16 section 3300 of the Internal Revenue Code of 1986 (federal
 17 Unemployment Tax Act). Minnesota Statutes, section 268.04,
 18 subdivision 12, clause (6) provides that the term employment
 19 shall include any service which is deemed to be employment under
 20 the Federal Unemployment Tax Act; therefore, casual labor is
 21 considered employment unless it meets the exclusionary
 22 provisions of that act. The exclusionary provisions of that act
 23 are in subpart 2.

24 Subp. 2. [Unchanged.]

25 PAYMENTS

26 3315.1650 CONTRIBUTIONS, TAXPAYING ACCOUNTS.

27 Subpart 1. Tax payments, general. Taxes with respect to
 28 wages paid or payable, as defined in ~~part-3315-0201~~ Minnesota
 29 Statutes, section 268.04, subdivision 25a, shall accrue on a
 30 calendar quarter basis and shall become due and be paid on or
 31 before the last day of the month immediately following the
 32 calendar quarter in which they accrue as illustrated in items A
 33 to D.

34 A. The first calendar quarter is due and payable on
 35 or before April 30.

1 B. The second calendar quarter is due and payable on
2 or before July 31.

3 C. The third calendar quarter is due and payable on
4 or before October 31.

5 D. The fourth calendar quarter is due and payable on
6 or before January 31 of the following calendar year.

7 If the due date falls on a Saturday, Sunday, or legal holiday,
8 the payment is due on the next department business day. Failure
9 to receive forms from the department is not a valid reason for
10 not paying the tax on or before the due date. Each check or
11 other order for the payment of money tendered to the department
12 that is dishonored shall not constitute payment until the funds
13 are paid to the department.

14 Subp. 2. **New employers.** The first tax payment of any
15 employing unit that becomes an employer at any time during a
16 calendar year shall become due on and shall be paid on or before
17 the normal due date of the quarter in which the employing unit
18 becomes an employer. The first payment shall include taxes
19 accrued for the entire period beginning January 1 of the
20 calendar year up to and including the calendar quarter in which
21 the employing unit becomes an employer.

22 Subp. 3. **Employing units electing coverage.** The first tax
23 payment with respect to services not previously covered by the
24 law for an employing unit or employer that has the approval of
25 the commissioner to voluntarily elect coverage for nonsubject
26 services shall be paid on or before the last day of the month
27 immediately following the calendar quarter in which the election
28 became effective or was approved, whichever is later. The
29 payment shall include taxes with respect to all wages for
30 services covered by the election that were paid on or after the
31 effective date of the election through the close of the last
32 completed calendar quarter preceding the due date for the tax.

33 Subp. 4. **Due date upon demand.** If the commissioner
34 believes that the collection of any tax under the law will be
35 jeopardized by delay, the commissioner shall, notwithstanding
36 the due date established in subparts 1 and 2, immediately assess

1 the tax that shall become immediately due and payable and make
2 immediate notice and demand for payment. Interest and penalties
3 will be assessed if the tax is not paid upon demand.

4 Subp. 5. Late payments. Except for an indebtedness that
5 has been reduced to judgment, payments received from an employer
6 who is indebted to the department shall be applied to the
7 indebtedness pertaining to the oldest calendar quarter unless
8 the payment is clearly intended to be applied to a specific tax
9 report or indebtedness.

10 3315.1700 MULTISTATE EMPLOYMENT.

11 If an employee works in more than one state, it is
12 necessary to determine if the employment is localized in and
13 reportable to Minnesota. In making this determination, only the
14 employee's regular services are to be considered. "Regular"
15 services refers to the primary duties of the employee. For
16 example, a salesperson's regular duties are limited to services
17 directly involved in selling, so a salesperson's regular duties
18 do not include commuting. An employee's services are considered
19 localized in Minnesota in any calendar quarter in which 80
20 percent or more of his or her regular services are performed in
21 Minnesota.

22 Regular services include those services performed in an
23 office located in the home of the employee if all of the
24 following conditions are met: the employer does not provide
25 other facilities; the office meets the requirements of the
26 Internal Revenue Code of 1986 for the deduction of business
27 related expenses; and the services performed are an integral
28 part of the employee's regular duties.

29 Nonregular services include:

30 A. attending periodic meetings or returning to one's
31 residence which is located outside his or her area or territory,
32 by salespersons or others who normally perform services within a
33 given area or territory; and

34 B. any other services which are apart from or not a
35 permanent part of an employee's regular duties, are temporary or

1 transitory in nature, or are incidental to an employee's regular
2 duties.

3 3315.1800 MULTISTATE EMPLOYMENT.

4 Subpart 1. [Unchanged.]

5 Subp. 2. Base of operations. If an individual's services
6 are not localized in any state and some services, other than
7 those determined to be nonregular, are performed in Minnesota
8 and the base of operations is in Minnesota, the employee's
9 entire services are reportable to Minnesota. "Base of
10 operations" means the place, usually permanent in nature, from
11 which the employee starts his or her work, to which he or she
12 customarily returns, and to which the employer may direct
13 instructions to the employee. A branch office of the employer
14 or the place of residence of the employee could be a base of
15 operations.

16 Subp. 3. Direction and control. If an individual's
17 services are not localized in any state and the base of
18 operations test does not apply, all of the services are
19 reportable to Minnesota if Minnesota is the state from which the
20 employer exercises general direction and control over the
21 employee, and if some services, other than those determined to
22 be nonregular, are performed in Minnesota.

23 Subp. 4. Residence. If an individual's services are not
24 localized within any state and the base of operations and the
25 direction and control tests do not apply, the individual's
26 entire services are reportable to Minnesota if the individual's
27 residence is located in Minnesota and some services, other than
28 those determined to be nonregular are performed in Minnesota.

29 Subp. 5. [Unchanged.]

30 3315.1900 EMPLOYMENT PARTIALLY EXCLUDED WITHIN A PAY PERIOD; 50
31 PERCENT RULE.

32 Minnesota Statutes, section 268.04, subdivision 12, clause
33 (15)(p) does not apply to an individual who performs services as
34 an independent contractor and in employment within the same pay
35 period, but does apply to all employment defined in Minnesota

1 Statutes, section 268.04, subdivision 12, except clauses (10)(a)
2 and (b), relating to certain employees of religious
3 organizations.

4 If an individual's services within the pay period consist
5 of more than 50 percent of excluded employment none of that
6 individual's services for that pay period are taken into account
7 nor does any of that individual's remuneration for that pay
8 period constitute wages. If 50 percent or more of the
9 individual's services within the pay period are not excluded,
10 all of the services are covered employment and all of the
11 individual's remuneration for that pay period are wages.

12 Although not applicable to services by an individual
13 referred to in Minnesota Statutes, section 268.04, subdivision
14 12, clauses (10)(a) and (b), other services performed by the
15 same individual are subject to all other provisions of Minnesota
16 Statutes, sections 268.03 to 268.24.

17 3315.2010 ADJUSTMENTS AND REFUNDS, TAXPAYING ACCOUNTS.

18 Subpart 1. **Overpayments.** Tax reports, other than those
19 lacking proper signature, will not be returned to employers for
20 correction. Whenever an erroneous report is submitted that
21 results in a tax overpayment, the employer may obtain a credit
22 allowance or refund if the payment was made within the current
23 or preceding four calendar years. A request for adjustment must
24 show the total wages, excess wages, taxable wages, and tax as
25 previously reported and as corrected for the period involved.
26 If the adjustment changes the total wages reported, the request
27 must also include the social security number, name, wages, and
28 weeks worked as previously reported and as corrected for each
29 individual whose wages were changed. The department's form,
30 Employer's Application for Wage Adjustment, may be used for this
31 purpose. The credit allowance or refund shall be reduced by any
32 indebtedness due the department by the employer and by the
33 amount of benefits paid to a claimant as a direct result of the
34 employer's erroneous report. This subpart does not apply to
35 overpayments of voluntary contributions.

1 The commissioner may, upon request of the employer or
2 employing unit or upon the commissioner's own initiative, issue
3 a refund covering the overpayment. Lacking specific
4 instructions from the employer, the commissioner shall issue a
5 credit statement and mail it to the employer at the employer's
6 last known address. If the employer fails to use the credit,
7 the commissioner may cancel it and issue a refund covering the
8 overpayment.

9 Subp. 2. **Underpayments.** If the tax report first submitted
10 by an employer understates the amount of taxable wages resulting
11 in an understatement of the tax due and owing for a given
12 period, the employer shall file the department's form,
13 Employer's Application for Wage Adjustment, and make remittance
14 covering the additional tax due. The information provided to
15 the department shall include the total wages, excess wages,
16 taxable wages, and tax as previously reported and as corrected
17 for the period involved. If the adjustment changes the total
18 wages reported, the request must also include the social
19 security number, name, wages, and weeks worked as previously
20 reported and as corrected for each individual whose wages were
21 changed.

22 Subp. 3. **Wages reported to another state in error.** Wages
23 for services determined to be reportable to Minnesota but
24 reported to another state in error shall be reported and the tax
25 paid to Minnesota. This does not apply to wages paid more than
26 four calendar years before the year of the determination or paid
27 beyond the refunding state's statute of limitations, whichever
28 is less.

29 3315.2100 EMPLOYMENT, GENERAL EXCLUSIONS.

30 Subpart 1. **Work relief and work training programs.**
31 Minnesota Statutes, section 268.04, subdivision 12, clause
32 (10)(d) excludes services which are performed as part of a
33 program designed to relieve unemployment, if the specific
34 program, and not just the employing unit, is assisted or
35 financed by any federal agency or an agency of a state or

1 political subdivision thereof. "Assistance" may be in the form
2 of supervision, advice in organizing and operating the program,
3 but it must be substantial and continuing. Occasional,
4 intermittent, or incidental services would not be sufficient to
5 invoke the exclusion. Where other than incidental physical
6 facilities or material are furnished the program by a federal
7 agency, the state or any of its political subdivisions, the
8 program has been "assisted or financed."

9 Subp. 2. **Ministers and members of religious orders.**

10 Minnesota Statutes, section 268.04, subdivision 12, clause (10),
11 paragraph (b), excludes from employment the service of a
12 minister in the exercise of his or her ministry and services
13 performed by members of religious orders when the services are
14 required by their order. The term "exercise of his or her
15 ministry" includes:

16 A. the conduct of religious worship and the
17 ministration of sacerdotal functions;

18 B. services performed in the control, conduct, and
19 maintenance of:

20 (1) a religious organization under the authority
21 of a religious body constituting a church or church
22 denomination; or

23 (2) an organization operated as an integral
24 agency of a religious organization or of a church or church
25 denomination;

26 C. services performed for an organization described
27 in Minnesota Statutes, section 268.04, subdivision 12, clauses
28 (7), (8), and (9), under an assignment or designation by a
29 church. This does not include cases in which a church merely
30 helps a minister by recommending the minister for a position
31 involving nonministerial services for an organization not
32 connected with the church; and

33 D. missionary service or administrative work in the
34 employ of a missionary organization.

35 As used in item B, "control, conduct, and maintenance" of
36 an organization does not include services such as operating an

1 elevator, or being a janitor, but includes services performed in
2 the directing, management, or promotion of the activities of the
3 organization. Accordingly, service of a clergyman as a chaplain
4 and the services of members of a teaching or nursing order who
5 are engaged in teaching or nursing are excluded. In the case of
6 a member of a religious order, the criterion to determine if the
7 employment is excluded is whether the order requires the
8 performance of the services.

9 Subp. 3. **Convention or association of churches.** Minnesota
10 Statutes, section 268.04, subdivision 12, clause (10), provides
11 that service performed in the employ of a church or convention
12 or association of churches is excluded from employment.
13 "Convention or association of churches" means a formal or
14 informal group of churches whose purpose is concerned with
15 religious and denominational matters of the group represented.

16 Subp. 4. **Policy-making or advisory positions with the**
17 **state of Minnesota, its instrumentalities, and political**
18 **subdivisions.** Minnesota Statutes, section 268.04, subdivision
19 12, clause 10, (f), (v)(a), (b), and (c), excludes from
20 employment services performed for the state of Minnesota, its
21 instrumentalities, and political subdivisions if performed by an
22 individual in a policy-making position that ordinarily does not
23 require more than eight hours per week in the performance of the
24 duties; or in a major nontenured policy-making or advisory
25 position and that, if performed for the state of Minnesota, is
26 in the unclassified service. The word "major" in the phrase
27 "major nontenured policy-making or advisory position" refers to
28 high level governmental positions usually filled by appointment
29 by the chief executive or the executive's designee. An
30 individual in a policy-making position is one who determines the
31 direction, emphasis, and scope of action in the development and
32 the administration of governmental programs. An individual in
33 an advisory position is one who advises governmental agencies
34 and officers with respect to policy, program, and administration
35 without having authority to implement its recommendations. For
36 the state of Minnesota and political subdivisions that do not

1 have authority to enact ordinances without recourse to the state
2 legislature, the position must be designated as policy-making or
3 advisory by state law or local ordinance enacted under state
4 law. Political subdivisions may enact an ordinance creating or
5 designating one of its positions as policy-making or advisory,
6 provided the ordinance is under authority of the laws of the
7 state. If a law or ordinance does not clearly and specifically
8 so label a position, other pertinent factors used in determining
9 whether a position is advisory or policy-making include:

- 10 A. job descriptions;
- 11 B. qualifications required of individuals for the
12 position; and
- 13 C. responsibilities involved.

14 The most important factor in the application of Minnesota
15 Statutes, section 268.04, subdivision 12, clauses (10), (f),
16 (v)(a) and (c), is whether a particular position is designated
17 as a major nontenured policy-making or advisory position under
18 state law. If an agency or department is covered by a merit
19 system, the provisions of this exclusion apply only to
20 individuals that are nontenured. "Nontenured" means that the
21 position is not covered by a merit system or civil service law
22 or rules with respect to duration of service or appointment.

23 Subp. 5. **Temporary employees hired for emergencies.**
24 Minnesota Statutes, section 268.04, subdivision 12, clause (10),
25 (f), (iv), applies to employees who are pressed into service
26 during an existing or imminent emergency. The exclusion does
27 not apply to any services performed in the prevention or
28 detection of a disaster nor to permanent employees, such as
29 volunteer firefighters whose usual responsibilities include
30 emergency situations.

31 Subp. 6. **Students employed by school, college, or**
32 **university.** Minnesota Statutes, section 268.04, subdivision 12,
33 clause (15), (g), (2), excludes from employment the services of
34 students in the employ of a school, college, or university if
35 the student is enrolled and is regularly attending classes at
36 the school, college, or university. "Regularly attending

1 classes" means meeting the minimum attendance required for a
2 student's course of study in pursuit of a degree and that the
3 course of study is not by correspondence, part of an extension
4 course, or a continuing education course required by an employer
5 as a condition to employment.

6 3315.2200 EMPLOYMENT, SPECIAL EXCLUSION.

7 In the trucking industry, an owner-operator of a vehicle
8 which is licensed and registered as a truck, tractor, or
9 truck-tractor by a governmental motor vehicle regulatory agency
10 is an independent contractor, not an employee, while performing
11 services in the operation of his or her truck, if each of the
12 following factors is substantially present:

13 A. the individual owns the equipment or holds it
14 under a bona fide lease arrangement;

15 B. the individual is responsible for the maintenance
16 of the equipment;

17 C. the individual bears the principal burdens of the
18 operating costs, including fuel, repairs, supplies, vehicle
19 insurance, and personal expenses while on the road;

20 D. the individual is responsible for supplying the
21 necessary personal services to operate the equipment;

22 E. the individual's compensation is based on factors
23 related to the work performed including a percentage of any
24 schedule of rates or lawfully published tariff and not on the
25 basis of the hours or time expended;

26 F. the individual generally determines the details
27 and means of performing the services, in conformance with
28 regulatory requirements, operating procedures of the carrier,
29 and specifications of the shipper; and

30 G. the individual ~~is-a-party-to~~ enters into a written
31 contract that specifies the relationship to be that of an
32 independent contractor and not that of an employee.

33 3315.2410 VOLUNTARY CONTRIBUTIONS.

34 Subpart 1. Purpose and scope. Subparts 2 to 6 further
35 explain the requirements for making a voluntary contribution to

1 obtain a reduced experience ratio and rate as permitted under
2 Minnesota Statutes, section 268.06, subdivision 24.

3 Subp. 2. **Time limit.** A voluntary contribution made after
4 the expiration of the first 120 days of the calendar year in
5 which the subject rate is effective shall not be used in the
6 computation of a new experience ratio if the employer had been
7 subject to the law for the entire 120-day period. When an
8 employer becomes subject to the law after January 1, the 120-day
9 period shall commence with the day the employer has its first
10 covered employment.

11 Subp. 3. **Partial voluntary contribution.** A partial
12 voluntary contribution is first applied to the most recent
13 benefit charges in the experience period. A partial voluntary
14 contribution is not used to reduce any specific claimant's
15 charges. If any benefit charges are subsequently removed from
16 an employer's experience rating account the department shall not
17 credit the employer's account or issue a refund for any portion
18 of a voluntary contribution unless the removal of the charges
19 creates a negative balance in the account, in which case the
20 credit or refund shall be limited to the amount necessary to
21 eliminate the negative balance.

22 Subp. 4. **Payment of surcharge required.** Except as
23 provided in subpart 5, the surcharge of 25 percent of benefit
24 charges required by Minnesota Statutes, section 268.06,
25 subdivision 6, to be added to an employer's experience rating
26 account, must be proportionately included with a voluntary
27 contribution. Eighty percent of a voluntary contribution will
28 be used to remove benefit charges and the remaining 20 percent
29 will be applied to the corresponding surcharge.

30 Subp. 5. **Surcharge cancellation.** The law provides for the
31 cancellation of a surcharge that is attributable to benefit
32 charges that are the result of unemployment caused by damages to
33 an employer's business by fire, flood, wind, or other act of God
34 if a voluntary contribution is made to remove the corresponding
35 benefit charges. Notwithstanding subpart 3, a partial voluntary
36 contribution will be first used to reduce charges attributable

1 to the unemployment caused by the damages. Surcharge
 2 attributable to benefit charges not removed by voluntary
 3 contribution will remain in the employer's experience rating
 4 account for ratio and rate computation.

5 Subp. 6. Status of benefit charges not reimbursed.

6 Benefit charges not removed by a voluntary contribution will
 7 remain a factor in ratio and rate computation for as long as
 8 they are in the experience period.

9 3315.2610 NONPROFIT ORGANIZATIONS.

10 Subpart 1. Proof of exemption. A nonprofit organization
 11 described in section 501(c)(3) of the Internal Revenue Code and
 12 exempt from federal unemployment tax under section 3306(c)(8) of
 13 the code, must provide the department with a copy of the exempt
 14 determination if Minnesota Statutes, sections 268.04,
 15 subdivision 12, clause (10), and 268.06, subdivision 28, are to
 16 be applicable to the organization.

17 Subp. 2. Timely election to reimburse in lieu of paying
 18 tax. Nonprofit organizations meeting the provisions of subpart
 19 1 will be installed as taxpaying accounts unless they elect the
 20 reimbursement method. Notice of election to change the method
 21 of payment not filed within the time limits specified in
 22 Minnesota Statutes, section 268.06, subdivision 28, shall be
 23 considered for approval in a subsequent year, unless rescinded
 24 by the employer before its implementation.

25 3315.2700 CROP PURCHASE AGREEMENTS.

26 Subpart 1. and 2. [Unchanged.]

27 **Records-and-Reports**

28 3315.2750 GOVERNMENT ACCOUNTS.

29 The state of Minnesota, its wholly owned instrumentalities,
 30 political subdivisions, and its instrumentalities must be
 31 installed as reimbursing accounts unless they elect the
 32 taxpaying method. An election to be taxpaying in lieu of
 33 reimbursing must be made in writing and filed with the
 34 commissioner within 30 days immediately following the first day

1 of the year in which the election is to be effective.

2 3315.2810 REIMBURSING ACCOUNTS.

3 Subpart 1. **Eligibility.** Reimbursement of benefits in lieu
4 of paying tax is an option available to the state of Minnesota
5 and its wholly owned instrumentalities; political subdivisions
6 and their instrumentalities; and nonprofit organizations
7 referred to in part 3315.2610. All other employers are required
8 to be taxpaying.

9 Subp. 2. **Change in method of payment.** An employer that
10 changes from reimbursing to taxpaying shall continue to be
11 liable to reimburse the fund for benefits that are paid based on
12 wages paid during the effective period of the employer's
13 election to make payments in lieu of taxes. All benefit charges
14 based on wages paid after the effective date of the approval of
15 the change to taxpaying shall be charged to the employer's
16 experience rating account. When an employer changes from
17 taxpaying to reimbursing, benefit charges in the employer's
18 experience rating account shall be used in future rate
19 computations if the employer reverts back to taxpaying and the
20 benefit charges are within the experience rate computation
21 period in effect at the time of the change.

22 Subp. 3. **Payment due date.** Employers who reimburse the
23 fund in lieu of paying taxes shall submit full payment as
24 indicated on the notice of benefits charged. Payment is due on
25 or before the last day of the month following the month in which
26 the notice of benefits charged is mailed to the employer. If
27 the due date falls on a Saturday, Sunday, or legal holiday, the
28 payment shall be due on the next department business day.

29 Subp. 4. **Application of partial payments.** Except for an
30 indebtedness that has been reduced to judgment, payments
31 received without specific instructions and which are not clearly
32 intended for a specific benefit charge or indebtedness shall be
33 applied to remove all benefit charges and interest beginning
34 with the oldest calendar quarter.

35 EMPLOYER COVERAGE AND TERMINATION OF COVERAGE

1 3315.3210 DEFINITIONS.

2 Subpart 1. **Scope.** For the purpose of parts 3315.3210 to
3 3315.3220 and Minnesota Statutes, sections 268.04 and 268.11,
4 the following terms have the meanings given them.

5 Subp. 2. **Assets.** "Assets" means tangible and intangible
6 business resources, except real estate, including but not
7 limited to accounts and notes receivable, good will, licenses,
8 lease agreements, trademarks, copyrights, and contracts.

9 Subp. 3. **Business.** "Business" refers to the distribution
10 or production of products or services on the supply side of the
11 market.

12 Subp. 4. **Organization.** "Organization" refers to the
13 structural outline that defines the relationship,
14 communications, and lines of authority of a business or trade.

15 Subp. 5. **Substantially all of the assets.** "Substantially
16 all of the assets" means at least 70 percent of the market value
17 of the assets defined in subpart 2.

18 Subp. 6. **Trade.** "Trade" means the clientele of a business.

19 3315.3220 ACQUISITIONS.

20 Subpart 1. **Scope.** Subparts 2 to 4 clarify Minnesota
21 Statutes, section 268.04, subdivision 10, clause (2), relative
22 to the effect that an acquisition has on the liability status of
23 a successor who acquired substantially all of the assets or any
24 part of the organization, trade, or business of an employing
25 unit that is an employer subject to the law at the time of the
26 acquisition.

27 Subp. 2. **Types of acquisitions.** An acquisition can occur
28 through licensing, leasing, franchising (including dealerships),
29 forfeiture, foreclosure, or by court order. An acquisition can
30 also occur when:

31 A. there is an outright sale or transfer between
32 individuals or other legal entities;

33 B. individuals form partnerships or corporations;

34 C. individuals acquire the organization, trade, or
35 business from a corporation or partnership; or

1 D. there is a merger, consolidation, or other form of
2 reorganization that results in the change of a legal entity.

3 Subp. 3. Employers of domestic employees. In the event of
4 the death of a married employer of domestic employees, the
5 account shall be changed to the name of the surviving spouse and
6 shall not be treated as a change in legal entity.

7 Subp. 4. Liability of successor, special situation.

8 Notwithstanding any other provision of this part, a successor
9 shall not be held immediately subject to the law due to an
10 acquisition if:

11 A. the predecessor is eligible for termination of
12 coverage under Minnesota Statutes, section 268.11, subdivision
13 2; or

14 B. the combined employment of the predecessor and
15 successor, when treated as a single account, satisfies the
16 requirements of Minnesota Statutes, section 268.11, subdivision
17 2.

18 RECORDS AND REPORTS

19 3315.3600 SCOPE.

20 Parts ~~3315.3600 to 3315.4100~~ 3315.1001 to 3315.1020 clarify
21 an employing unit's duty with regard to records and reports as
22 required under Minnesota Statutes, chapter 268.

23 3315.3700 NOTIFICATION.

24 Subpart 1. Establishment of new business or change in
25 existing business. Each employing unit shall notify the
26 department within 30 days of a change in legal entity, or the
27 start, transfer, sale, acquisition, or termination of a business
28 conducted in Minnesota, in whole or in part, insofar as the
29 transaction results in the creation of a new or different
30 employing unit or affects the establishment of employer
31 accounts, the assignment of rates, or the transfer of experience
32 records as provided in Minnesota Statutes, section 268.06. If
33 the information as submitted is incomplete, subsequent requests
34 for additional information required in determining liability,
35 modifying an existing account, and assigning or transferring of

1 experience rates must be completed, signed, and returned to the
2 department in accordance with the instructions on the form or
3 accompanying correspondence. When the forms require the address
4 of business establishments, the employing unit must furnish a
5 complete street and city address if one exists. Post office box
6 numbers or similar addresses that do not show the actual
7 location of the business will not be acceptable except as a
8 mailing address.

9 Subp. 2. and 3. [Unchanged.]

10 3315.3800 RECORDS.

11 Each employing unit shall establish, maintain, and preserve
12 records with respect to individuals performing personal services
13 for it, including individuals who perform or assist in
14 performing the work of any employee of the employer if the
15 employer had actual or constructive knowledge that the work was
16 being performed. The records shall be preserved for a period of
17 not less than eight years after the calendar year in which the
18 remuneration for the services was paid or payable, and shall
19 show for each individual the following:

20 A. name;

21 B. social security number;

22 C. days in which the individual performed personal
23 services;

24 D. location where services were performed;

25 E. wages paid and wages due but not paid for personal
26 services, showing separately:

27 (1) money wages, excluding special payments;

28 (2) wages paid and wages due but not paid, in any
29 medium other than money, excluding special payments;

30 (3) special payments such as bonuses, gifts, and
31 prizes, showing separately money payments, other special
32 payments, and the character of the payments; and

33 (4) tips and gratuities paid to an employee by a
34 customer and accounted for by the employee to the employer as
35 defined in part 3315.0300, subparts 1 and 2;

1 F. rate and base unit of pay;

2 G. amounts paid as allowances or reimbursement for
3 travel or other activity pertaining to the furtherance of the
4 employing unit's business which were not included as wages. The
5 account shall show each item of expense incurred during each pay
6 period or calendar month;

7 H. the date of separation and the reason, in detail,
8 for the termination;

9 I. the complete resident address of the employee;

10 J. for each pay period:

11 (1) the beginning and ending dates of the period;

12 (2) the total amount of wages paid and wages due
13 but not paid for personal services performed; and

14 (3) the date of payment; and

15 K. for each calendar month or, if less, the
16 established pay period of the employer, the hours spent
17 performing services in employment and the hours spent performing
18 excluded services, by each employee for which the provisions of
19 part 3315.0535 apply.

20 3315.4100 REPORTS.

21 Subpart 1. Tax report filing requirements. An employer's
22 tax report must be filed on a form prescribed by the department,
23 or a reasonable facsimile of the form on or before the last day
24 of the month immediately following the end of the calendar
25 quarter. If the due date falls on a Saturday, Sunday, or legal
26 holiday, the report is due on the next department business day.
27 A tax report must be filed even though no wages were paid or no
28 tax is due for the quarter. Failure to receive forms from the
29 department shall not constitute a valid reason for not filing
30 reports on or before the due date. Each tax report must include
31 only the wages paid, as the term is defined in Minnesota
32 Statutes, section 268.04, subdivision 25a, for the quarter being
33 reported. Corrections of errors made on previously submitted
34 reports must be submitted separately.

35 Subp. 2. Signature requirements on contribution reports.

1 Contribution reports must be signed by the owner, partner,
2 corporate officer, or a designated representative of the
3 employer. If the employer appoints a designated representative
4 who is not an employee, a power of attorney authorizing the
5 designated representative to sign the reports must be filed with
6 the department. Unsigned or improperly signed reports that are
7 returned to the employer for proper signature will not be
8 considered valid or filed until they are properly signed and
9 returned to the department.

10 Subp. 3. Employer responsible for reporting wages. Each
11 employer must report the wages paid to its own employees
12 regardless of who actually makes the payment to the employee
13 unless the wages are properly reported by a common paymaster in
14 accordance with the consolidated reporting provisions of part
15 3315.1020.

16 Subp. 4. Wage detail reporting requirements. Employers
17 who have to report 250 or more employees in any calendar quarter
18 must file their quarterly wage detail report on magnetic media
19 using a format prescribed by the department. A magnetic media
20 report may contain information from more than one employer.
21 Employers with less than 250 employees to report in a calendar
22 quarter may elect to use magnetic reporting. Absent such an
23 election, the employer must strictly adhere to the department's
24 prescribed format for reporting the information on paper.
25 Reports that contain extraneous information, are incomplete, or
26 are otherwise prepared improperly are not acceptable and will be
27 returned and subject to the penalties prescribed in Minnesota
28 Statutes, section 268.16, subdivision 2, paragraph (c).

29 3315.5100 JOINT ACCOUNT.

30 A joint account application shall be on forms prescribed by
31 the department. A joint account shall be maintained as a
32 separate unit of the employer account of the common paymaster
33 until that account is terminated or notification is received
34 regarding a change of the common paymaster. A joint account
35 generally will not be made retroactive prior to January 1 of the

1 year preceding the year in which the application is received.
2 However, the commissioner may for good cause extend the
3 retroactive period when it is in the best interest of the
4 department to do so.

5 3315.6100 INTEREST.

6 Subpart 1. **Scope.** This part governs the Department of
7 Jobs and Training in its administration of Minnesota Statutes,
8 section 268.16, subdivision 1.

9 Subp. 2. **Waiver.** The commissioner shall waive all or the
10 appropriate part of the interest charges on contributions or
11 reimbursements that are not paid by the due date if the late
12 payment was caused by unreasonable delay attributable to the
13 department, its agents, or the postal service, or if the
14 contributions were timely paid to another state unemployment
15 fund in error.

16 Subp. 3. **Delays attributable to the department or its**
17 **agents.** If the department does not respond within 30 days of
18 the receipt of information from the employer, the delay in
19 excess of the first 30 days shall be considered unreasonable.
20 For the purpose of this part, "respond" means notifying an
21 employer of its liability status or the status of a specific
22 class or classes of workers, the assignment of experience rates,
23 or requesting additional information when the information
24 received is incomplete or incorrect. This subpart does not
25 apply to delays attributable to the department's hearing process.

26 Subp. 4. **Application.** Each application for waiver of
27 interest under this part must be made in writing by the employer
28 or his authorized representative, except that the commissioner
29 may on his own motion waive interest if in the best interest of
30 the state of Minnesota.

31 Subp. 5. **Substantiation required.** If the employer alleges
32 that any of the extenuating circumstances listed in subpart 2
33 are directly responsible for the untimely payment of
34 contributions or reimbursements, the particulars must be
35 submitted for review by the commissioner. If the commissioner

1 determines that the employer's allegations are substantiated,
 2 the commissioner shall waive the portion of the interest
 3 attributable to the delay. The portion of the interest charges
 4 not attributable to these extenuating circumstances shall remain
 5 payable by the employer.

6

7 REVISOR'S INSTRUCTION. Renumber the part numbers in Column
 8 A with the part numbers in column B. Correct internal
 9 references in existing and proposed rules in accordance with the
 10 following renumbering instruction.

11

12	Column A	Column B
13	3315.0300	3315.0211
14	3315.0400	3315.0213
15	3315.0500	3315.0212
16	3315.0600	3315.0220
17	3315.0700	3315.0501
18	3315.0800	3315.0555, subpart 5
19	3315.0900	3315.0555, subpart 4
20	3315.1000, subpart 1	3315.0555, subpart 3
21	3315.1000, subpart 2	3315.0555, subpart 3, item A
22	3315.1000, subpart 3	3315.0555, subpart 3, item B
23	3315.1000, subpart 4	3315.0555, subpart 3, item C
24	3315.1000, subpart 5	3315.0555, subpart 3, item D
25	3315.1000, subpart 6	3315.0555, subpart 3, item E
26	3315.1000, subpart 7	3315.0555, subpart 3, item F
27	3315.1000, subpart 8	3315.0555, subpart 3, item G
28	3315.1000, subpart 9	3315.0555, subpart 3, item H
29	3315.1000, subpart 10	3315.0555, subpart 3, item I
30	3315.1000, subpart 11	3315.0555, subpart 3, item J
31	3315.1000, subpart 12	3315.0555, subpart 3, item K
32	3315.1000, subpart 13	3315.0555, subpart 3, item L
33	3315.1000, subpart 14	3315.0555, subpart 3, item M
34	3315.1100, subpart 2	3315.0555, subpart 2
35	3315.1100, subpart 2a	3315.0555, subpart 2, item A
36	3315.1100, subpart 3	3315.0555, subpart 2, item B

1	3315.1100, subpart 4	3315.0555, subpart 2, item C
2	3315.1100, subpart 5	3315.0555, subpart 2, item D
3	3315.1100, subpart 6	3315.0555, subpart 2, item E
4	3315.1100, subpart 7	3315.0555, subpart 2, item F
5	3315.1100, subpart 8	3315.0555, subpart 2, item G
6	3315.1100, subpart 9	3315.0555, subpart 2, item H
7	3315.1200	3315.0555, subpart 1
8	3315.1300	3315.0515
9	3315.1400	3315.0510
10	3315.1500	3315.0520
11	3315.1600	3315.0545
12	3315.1700	3315.0550, subpart 1
13	3315.1800, subpart 1	3315.0550, subpart 2
14	3315.1800, subpart 2	3315.0550, subpart 3
15	3315.1800, subpart 3	3315.0550, subpart 4
16	3315.1800, subpart 4	3315.0550, subpart 5
17	3315.1800, subpart 5	3315.0550, subpart 6
18	3315.1900	3315.0535
19	3315.2000	3315.0540
20	3315.2100	3315.0530
21	3315.2200	3315.0525
22	3315.2300	3315.0801
23	3315.2400	3315.0805
24	3315.2500	3315.0820
25	3315.2600	3315.0815
26	3315.2700	3315.0845
27	3315.2800	3315.0825
28	3315.2900	3315.0830
29	3315.3000	3315.0835
30	3315.3100	3315.0840
31	3315.3200	3315.0901
32	3315.3300	3315.0905
33	3315.3400, subpart 2	3315.0910, subpart 1
34	3315.3400, subpart 3	3315.0910, subpart 2
35	3315.3400, subpart 4	3315.0910, subpart 3
36	3315.3400, subpart 5	3315.0910, subpart 4

1	3315.3400, subpart 6	3315.0910, subpart 5
2	3315.3400, subpart 7	3315.0910, subpart 6
3	3315.3400, subpart 8	3315.0910, subpart 7
4	3315.3400, subpart 9	3315.0910, subpart 8
5	3315.3400, subpart 10	3315.0910, subpart 9
6	3315.3500	3315.0920
7	3315.3600	3315.1001
8	3315.3700	3315.1005
9	3315.3800	3315.1010, subpart 1
10	3315.3900	3315.1010, subpart 2
11	3315.4000	3315.1010, subpart 3
12	3315.4100	3315.1015
13	3315.4200	3315.1020, subpart 1
14	3315.4300	3315.1020, subpart 2
15	3315.4300, subpart 2,	3315.1020, subpart 2, item A,
16	item A	subitem (1)
17	3315.4300, subpart 2,	3315.1020, subpart 2, item A,
18	item B	subitem (2)
19	3315.4300, subpart 2,	3315.1020, subpart 2, item A,
20	item C	subitem (3)
21	3315.4300, subpart 2,	3315.1020, subpart 2, item A,
22	item D	subitem (4)
23	3315.4300, subpart 3	3315.1020, subpart 2, item B
24	3315.4300, subpart 4	3315.1020, subpart 2, item C
25	3315.4300, subpart 5	3315.1020, subpart 2, item D
26	3315.4400	3315.1020, subpart 3
27	3315.4500	3315.1020, subpart 4
28	3315.4600	3315.1020, subpart 5
29	3315.4700	3315.1020, subpart 6
30	3315.4800	3315.1020, subpart 7
31	3315.4900	3315.1020, subpart 8
32	3315.5000	3315.1020, subpart 9
33	3315.5100	3315.1020, subpart 10
34	3315.5200	3315.1020, subpart 11
35	3315.5300	3315.1020, subpart 12
36	3315.5400	3315.1020, subpart 13

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1	3315.5500	3315.1020, subpart 14
2	3315.5600	3315.1020, subpart 15
3	3315.5700	3315.1020, subpart 16
4	3315.5800	3315.1020, subpart 17
5	3315.5900	3315.1020, subpart 18
6	3315.6000	3315.1020, subpart 19
7	3315.6100	3315.2210
8	3315.6200, subpart 1	3315.1305
9		
10	REPEALER. Minnesota Rules, parts 3310.0400; 3310.0500;	
11	3315.0200, subparts 2, 3, and 4; 3315.1100, subpart 1;	
12	3315.3400, subpart 1; and 3315.6200, subpart 2, are repealed.	