

September 27, 2023

VIA EFILING ONLY

Jane N. Bowman – Chief Judge
Benjamin Dahl – Tax Court Clerk
Minnesota Tax Court
25 Rev. Dr. Martin Luther King Jr. Blvd.
245 Minnesota Judicial Center
Saint Paul, MN 55155
Monique.halet@state.mn.us;
benjamin.dahl@state.mn.us

**Re: In the Matter of the Proposed Revisions of Minnesota Rule 8610;
R-04729
OAH 82-9057-38572; Revisor R-04729**

Dear Jane Bowman:

Enclosed herewith and served upon you is the **ORDER ON REVIEW OF RULES UNDER MINN. STAT. § 14.26** in the above-entitled matter. The Administrative Law Judge has determined there are no negative findings in these rules.

The Office of Administrative Hearings has closed this file and is returning the rule record so that the Minnesota Tax Court can maintain the official rulemaking record in this matter as required by Minn. Stat. § 14.365. Please ensure that the agency's signed order adopting the rules is filed with our office. The Office of Administrative Hearings will request the finalized rules from the Revisor's office following receipt of that order. Our office will then file the adopted rules with the Secretary of State, who will forward one copy to the Revisor of Statutes, one copy to the Governor, and one to the agency for its rulemaking record. The Minnesota Tax Court will then receive from the Revisor's office three copies of the Notice of Adoption of the rules.

The Minnesota Tax Court's next step is to arrange for publication of the Notice of Adoption in the State Register. Two copies of the Notice of Adoption provided by the Revisor's office should be submitted to the State Register for publication. A permanent rule without a hearing does not become effective until five working days after a Notice of Adoption is published in the State Register in accordance with Minn. Stat. § 14.27.

Jane N. Bowman
September 27, 2023
Page 2

If you have any questions regarding this matter, please contact William Moore at (651) 361-7893, william.t.moore@state.mn.us or via facsimile at (651) 539-0310.

Sincerely,

A handwritten signature in black ink that reads "Michelle Severson". The signature is written in a cursive, flowing style.

MICHELLE SEVERSON
Legal Assistant

Enclosure

cc: Legislative Coordinating Commission
Revisor of Statutes

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Revisions of
Minnesota Rule 8610

**ORDER ON REVIEW OF
RULES UNDER
MINN. STAT. § 14.26**

The Minnesota Tax Court (Court) is seeking review and approval of the above-entitled rules, which were adopted by the agency pursuant to Minn. Stat. § 14.26 (2022). On September 15, 2023, the Office of Administrative Hearings (OAH) received the documents that must be filed by the Court under Minn. Stat. § 14.26 and Minn. R. 1400.2310 (2023). Based upon a review of the written submissions and filings, Minnesota Statutes, Minnesota Rules, and for the reasons in the Memorandum that follows,

IT IS HEREBY DETERMINED:

1. The Court has the statutory authority to adopt the rules.
2. The rules were adopted in compliance with the procedural requirements of Minnesota Statutes, Chapter 14 (2022), and Minnesota Rules, Chapter 1400 (2023).
3. The record demonstrates the rules are needed and reasonable.
4. The Court should consider making the technical changes set forth in the attached memorandum.

IT IS HEREBY ORDERED THAT:

The rules are **APPROVED**.

Dated: September 27, 2023



BARBARA J. CASE
Administrative Law Judge

MEMORANDUM

The Court has submitted these rules to the Administrative Law Judge for review under Minn. Stat. § 14.26, which requires that the Administrative Law Judge must approve or disapprove the rules as to their legality and form. In conducting the review, the Administrative Law Judge must consider the issue of whether the agency has the authority to adopt the rules; whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rules; and whether the rules as modified are substantially different from the rules as originally proposed.

Based on a review of the written submissions and filings, the Administrative Law Judge concludes that the proposed rules comply with the applicable legal requirements.

The Administrative Law Judge, however, recommends that the Court make a language change to proposed rule 8610.0070, subpart 11, which as proposed, reads:

Subp. 11. Telephone and remote hearings. ~~If a motion is authorized by the tax court to be heard by telephone conference call, the moving party shall either initiate the conference call or comply with the court's instructions on initiation of the conference call. Dispositive motions must be recorded. Nondispositive motions may be recorded at the request of either party or on motion of the tax court. "Recorded" for this purpose means by tape recording or by a court reporter, as determined by the tax court.~~ If a motion is authorized by the tax court to be heard by remote technology or telephone conference call, the parties must comply with the court's instructions for joining a remote or telephonic proceeding. Dispositive motions must be transcribed. Nondispositive motions may be transcribed at the request of either party or the tax court.

As 8610.0070, subpart 5, requires motions be brought in writing, presumably what is meant in the proposed rule at subpart 11, is that the motion hearing must be transcribed. To make this clear, it is recommended that the last two sentences of the proposed rule be modified to clarify that dispositive motion hearings *must* be transcribed and nondispositive motion hearings *may* be transcribed. The suggested change is not required but merely suggested to add precision.

B. J. C.