

1.1 **Department of Revenue**

1.2 **Proposed Permanent Rules Relating to Practice before the Department of Revenue**

1.3 **8052.0300 PRACTICE OF ATTORNEYS, ACCOUNTANTS, AGENTS, AND**
1.4 **PREPARERS BEFORE DEPARTMENT OF REVENUE.**

1.5 Subpart 1. **Practice defined.** The term "practice" comprehends all matters connected
1.6 with the presentation by an attorney, accountant, agent, or preparer to the Department
1.7 of Revenue or any of its employees, ~~upon filing an executed power of attorney,~~ of a
1.8 client's rights, privileges, or liabilities under a law administered by the commissioner
1.9 as defined in Minnesota Statutes, ~~chapter 290 or 290A~~ section 270C.01, subdivision
1.10 5, and the rules thereunder. "Practice" includes the preparation and filing of necessary
1.11 documents, correspondence with and communication to the Department of Revenue,
1.12 and the representation of a client at conferences, hearings, and meetings. However, the
1.13 preparation and signing of a tax return, the appearance of an individual as a witness
1.14 for a taxpayer, and the furnishing of information at the request of the Department of
1.15 Revenue or any of its employees do not, of and by themselves, constitute practice before
1.16 the department, unless these acts are coupled with the presentation of a client's case at
1.17 conferences, hearings, or meetings. For purposes of this rule, the term "practice" is
1.18 synonymous with "representation," and the term "state tax" is synonymous with a tax or
1.19 fee imposed by a "law administered by the commissioner."

1.20 Subp. 2. **Scope of representation pursuant to power of attorney.** When authorized
1.21 by the taxpayer through a written power of attorney, an attorney, accountant, agent, or
1.22 preparer may appear as the taxpayer's representative, without the taxpayer, before an
1.23 employee of the Department of Revenue with respect to the tax liability of the taxpayer
1.24 for the type of tax and taxable year or period authorized in the power of attorney. A
1.25 written power of attorney is not required if the taxpayer is present. For purposes of this
1.26 part, "written power of attorney" means the signed original or a copy of the signed original
1.27 of any of the following:

2.1 A. the power of attorney form designed and printed by the Department of
2.2 Revenue;

2.3 B. an Internal Revenue Service power of attorney if it is modified to include
2.4 state taxes;

2.5 C. a power of attorney under Minnesota Statutes, chapter 523, if it is filled out
2.6 to include tax matters or generally to include all matters; or

2.7 D. any other document which has all the necessary legal elements for creating
2.8 a power of attorney and is broad enough to cover taxes.

2.9 For purposes of this part, a power of attorney grants authority to deal with any
2.10 ~~of the following: original or amended individual income tax returns; property tax refund~~
2.11 ~~returns; fiduciary income tax returns; partnership returns of income; corporation franchise~~
2.12 ~~tax returns, including returns of small business corporations, life insurance companies,~~
2.13 ~~banks, and savings associations; employer's income tax withholding returns or deposits;~~
2.14 ~~estate tax returns; claims for refund; and estimated tax declarations~~ return as defined in
2.15 Minnesota Statutes, section 270C.01, subdivision 8.

2.16 For taxes which are classified as private data on individuals or nonpublic data not
2.17 on individuals, a taxpayer representative may inspect only those state records, files,
2.18 or documents which are ~~either:~~ (a) specifically listed, or in; (b) directly or indirectly
2.19 connected with matters specifically listed; in; or (c) covered by the terms of, a power of
2.20 attorney. The signed power of attorney form may be transmitted to the Department of
2.21 Revenue by facsimile or by electronic transmission as an imaged attachment in a format
2.22 that cannot be altered.

2.23 If the taxpayer is not present, a person presenting a power of attorney shall present
2.24 identification satisfactory to the department employee.

2.25 Subp. 3. **Persons ineligible to practice.** A person shall be ineligible to appear as a
2.26 taxpayer representative under this part, if the person is:

- 3.1 A. barred or suspended from practice before the Department of Revenue;
- 3.2 B. an employee of the Department of Revenue;
- 3.3 C. barred or suspended from practice as an attorney, certified public accountant,
- 3.4 or licensed public accountant in the state of Minnesota; ~~or~~
- 3.5 D. barred or suspended from practice before the Internal Revenue Service; or
- 3.6 E. a former employee of the Department of Revenue, to the extent provided
- 3.7 in Minnesota Statutes, section 270C.10.

3.8 However, with regard to items C and D, a granting of reinstatement to practice as

3.9 an attorney, certified public accountant, or licensed public accountant, or a granting of

3.10 reinstatement to practice before the Internal Revenue Service shall automatically reinstate

3.11 a person's eligibility to practice before the Department of Revenue if the person is not

3.12 otherwise ineligible under item A, B, or E.

3.13 [For text of subp 4, see M.R.]

3.14 Subp. 5. **Incompetent conduct.** Incompetent conduct, for which any attorney,

3.15 accountant, agent, or preparer may be barred or suspended from practice before the

3.16 Department of Revenue, means the failure by an attorney, accountant, agent, or preparer,

3.17 after due warning has been given by the commissioner of revenue pursuant to part

3.18 8052.0400, subpart 3, to:

3.19 A. demonstrate the familiarity with the ~~income~~ state tax statutes, rules, and

3.20 forms necessary to enable the practitioner to properly apply, discuss, or complete them,

3.21 and thus to render adequate services in connection with a taxpayer's case before the

3.22 Department of Revenue; or

3.23 [For text of item B, see M.R.]

3.24 Subp. 6. **Disreputable conduct.** Disreputable conduct, for which any attorney,

3.25 accountant, agent, or preparer may be barred or suspended from practice before the

4.1 Department of Revenue, includes any conduct that violates subpart 4. In addition, the
4.2 following acts or events constitute disreputable conduct:

4.3 [For text of item A, see M.R.]

4.4 B. Preparing or filing for oneself or another a false or fraudulent ~~Minnesota~~
4.5 ~~income state~~ tax return or other statement on which ~~Minnesota income state~~ taxes or a
4.6 refund thereof may be based, knowing it is false or fraudulent.

4.7 C. Willful failure to prepare or file a ~~Minnesota income state~~ tax return for
4.8 oneself or another in violation of the applicable ~~income~~ tax statutes or rules.

4.9 D. Willful failure to prepare and file an amended ~~Minnesota income state~~ tax
4.10 return for oneself, knowing that a material error or omission was made on the original
4.11 return.

4.12 E. Willful failure to recommend to a client that an amended ~~Minnesota income~~
4.13 ~~state~~ tax return be prepared and filed, knowing that a material error or omission was
4.14 made on the original return.

4.15 F. Advising a client or a prospective client to adopt a ~~Minnesota income state~~
4.16 tax evasion plan which is not legal, knowing that the plan is not legal.

4.17 G. Giving false testimony or information in any proceeding before the
4.18 Department of Revenue, or before any tribunal authorized to pass upon ~~Minnesota income~~
4.19 ~~state~~ tax matters, knowing it is false.

4.20 [For text of item H, see M.R.]

4.21 I. Using, with intent to deceive, false representations to procure employment in
4.22 any case or proceeding before the Department of Revenue, including, but not limited to:

4.23 [For text of subitem (1), see M.R.]

5.1 (2) specific material misrepresentations regarding experience or education,
5.2 whether general or specialized, as ~~an income~~ a state tax return preparer;

5.3 [For text of subitems (3) and (4), see M.R.]

5.4 J. Approving for filing, or advising or aiding in the preparation of, a false or
5.5 fraudulent ~~Minnesota income~~ state tax return prepared by some other person, knowing
5.6 the return is false or fraudulent.

5.7 [For text of items K to P, see M.R.]

5.8 Q. For purposes of items A to P, the phrases "~~income~~ state tax" and "~~income~~
5.9 state tax return" include all matters referred to in subpart 2, second paragraph.