

Dept. _____ Exh. No. 8
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STATE OF MINNESOTA
DEPARTMENT OF REVENUE
INCOME TAX DIVISION

RECEIVED
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ADMINISTRATIVE
HEARINGS

IN THE MATTER OF THE PROPOSED
ADOPTION OF A NEW RULE OF THE
DEPARTMENT OF REVENUE GOVERNING
FILING AND PAYMENT OF WITHHOLDING
TAX. (13 MCAR SECTION 1.6301)

STATEMENT OF NEED
AND REASONABLENESS

This document has been prepared as a verbatim affirmative presentation of the facts necessary to establish the statutory authority, need for and reasonableness of the proposed new rule. It is submitted pursuant to 9 MCAR Section 2.104 requiring a Statement of Need and Reasonableness.

Authority to Adopt the Rule

Minn. Stat. Section 290.52 gives the Commissioner authority to "administer and enforce the assessment and collection of the taxes imposed by this chapter. He may, from time to time, make, publish, and distribute rules and regulations in enforcing its provisions." The withholding taxes assessed under the provisions of Section 290.92 are a tax imposed by Chapter 290. The Commissioner is given the authority in numerous places in Section 290.92 to administer and enforce the assessment and collection of the withholding taxes. Under Section 290.52 he, therefore, has the authority to make rules governing the withholding tax law.

Purpose of the Rule

The purpose of the rule is to clarify when a withholding tax return, whether it be eighth monthly, monthly, or quarterly, must be received by the Department of Revenue in order to be considered timely. Historically, the Department has said that these returns must be received by

the Department by the due date in order to be considered timely. This rule will put that administrative practice into effect.

History

In order to better understand the administrative policy and the reasons behind this rule, it is important to explore the history of the withholding tax and especially the due dates. The withholding tax law first came into existence for Minnesota purposes in Laws 1961, Chapter 213, Article I, Section 1. Subdivision 6 of this section is the beginning of Minn. Stat. Section 290.92, subd. 6. Basically, this law stated that withholding would start on January 1, 1962. The quarterly return for the period January 1, 1962 to March 31, 1962 would need to be filed "with the Commissioner of Taxation, on or before April 30, 1962." (Emphasis added.) The law went on to specify that for other quarters beginning after April 1, 1962 the return would have to be made and filed with the Commissioner "on or before the last day of the month following the close of each quarterly period." (Emphasis added.) The law also provided that a monthly return would be due from an employer if the amount of the withholding tax which was accumulated at the end of that calendar month exceeded \$25. The law required that the employer "shall deposit such aggregate amount within 15 days after the close of such calendar month with the Commissioner of Taxation." It is important to note that from the very beginning the law has always stated that the returns are due to be filed and paid with the Commissioner on or before the due date.

In a special session of the legislature in 1961 the beginning of the withholding tax was moved up to begin on October 1, 1961 instead of January 1, 1962. (See Extra Session Laws 1961, Chapter 91, Article II, Section 3.) This law also made some technical changes and made it

clear that the general provisions of the law applying to withholding tax payments would also apply to withholding tax deposits.

The Commissioner of Taxation provided withholding tax instructions to employers effective October 1, 1961. These instructions were contained in Circular MW-B. (See Appendix A.) It should be noted on page 4 of these instructions the Commissioner provided the due dates of the returns. Basically, it was a copying of the law as it existed at that time. If a monthly return was due, the instructions said that it needs to be filed on or before the 15th day of the month. If quarterly returns were due, they were due to be filed on or before the end of the appropriate month. The same statements are also contained on page 6 of these instructions, and on the top of page 9.

The withholding tax rules that were adopted as part of the income tax rules in 1963 do not specifically define the due dates for withholding tax quarterly or monthly returns in any more specifics. (See Income Tax Regulation 2092(6)).

Ignoring the addition of clause (12) to Section 290.92, subd. 6 and ignoring the changes that were made to that clause, the next important change to this section of the law was made in Laws 1969, Chapter 326. This law eliminated the requirement that the Revenue Department give an employer receipts for the monthly deposits that were made and also eliminated the requirement that the employer attach the receipts to the quarterly return.

Laws 1971, Chapter 514 increased the amount of withholding taxes that need to be accumulated before a monthly deposit was required from \$25 to \$100. Some obsolete language was also deleted.

Laws 1973, Chapter 73 corrected a statutory cross-reference and also eliminated the necessity of the Commissioner prescribing forms by

regulation only and in making other adjustments by regulation.

Laws 1975, Chapter 349, Section 21 granted authority to the Commissioner to prescribe other reporting periods other than quarterly. The law did allow the Commissioner to classify employers according to the amount of their tax liability. However, the law provided that the reporting period could not be longer than one year or less than one month and that certain small employers would not be required to report more than quarterly. Basically, this paragraph of the law was never used by the Department.

The most important changes since the beginning of the withholding tax law were made in Laws 1981, Chapter 13. In Section 1 of this law the provision concerning the requirement for quarterly returns was rewritten. The law requires that the quarterly return must be filed with the Commissioner "on or before the last day of the month following the close of each quarterly period." This language is identical with the previously existing language. However, the law goes on to give the Commissioner broader discretion than that which existed in prior law. The law states that this is the due date for the quarterly return "unless otherwise prescribed by the Commissioner." The law has given the Commissioner broad authority to prescribe the due date of the quarterly returns. Clause (b)(i) of this law describes the monthly deposits that are to be made. The aggregate amount of the tax withheld which requires a monthly return was increased from \$100 to \$200 effective on April 1, 1981. Beginning with January 1, 1982, the monthly amount will be increased to \$500. Again, the law states that the employer must "deposit the aggregate amount with the Commissioner within 15 days after the close of the calendar month." This is almost identical with the prior law. In clause (b)(ii) the new eighth monthly reporting periods were

provided. Basically, the months were divided up into eight parts. If after the end of any one of these eighth monthly periods an employer had more than \$3,000 of undeposited Minnesota withholding tax, a deposit was required. The law prescribes that "the employer shall deposit the undeposited taxes with the Commissioner within three banking days after the close of the eighth monthly period." The whole purpose of this law was to conform Minnesota withholding tax deposits and law more closely with the federal provisions which have also required an eighth monthly report from employers having more than \$3,000 of undeposited federal withholding tax and social security tax at the end of any eighth monthly period. Another purpose of the law was to speed up the collection by the state of the withholding taxes that are withheld from the employee's check by the employer. In clause (c) of this law the Commissioner is given broad authority. The law says, "The Commissioner shall have the power by rule to prescribe other return periods or deposit requirements." The legislature was giving the Commissioner broad authority to prescribe the provisions relating to the deposit and collection of the withholding tax.

Temporary Rule

Laws 1981, Chapter 13, Section 2 granted the Commissioner the authority to establish temporary rules to implement the provisions of that law. Any temporary rule adopted under the provisions of Chapter 13 was to remain in effect until April 1, 1982 or until permanent rules were adopted, whichever came first. The legislature attached special importance to these temporary rules that would be adopted by the Commissioner and made them effective for up to one year. The Commissioner did exercise his discretion and did propose a temporary rule which is almost identical with the proposed rule here being considered. This temporary

rule was published in the State Register on Monday, May 11, 1981 at 5 State Register 1820. This temporary rule applies only to the new eighth monthly reporting periods, whereas this permanent rule applies not only to the eighth monthly deposits but also to the monthly deposits and the quarterly returns. This temporary rule was approved by Jerry Anderson of the Attorney General's Staff on June 3, 1981 and became effective at that time. The temporary rule was filed with the Secretary of State on June 5, 1981 and a notice of this was published in the State Register for Monday, June 22, 1981, at 5 State Register 2060.

Several conclusions can be drawn from this history of the law and the promulgation of the temporary rule: (1) The legislature by law in Laws 1981, Chapter 13, Section 2 attached much significance to the proper implementation of the withholding tax provisions. The Commissioner was granted longer authority than normal to have temporary rules. (2) The Commissioner has recognized the importance of the rapid collection of revenue as provided in the law and has adopted a temporary rule to insure that the deposits would be made on time. (3) It is easy to see the legislative intention from reading Laws 1981, Chapter 13, that the purpose of the law was to insure a more rapid receipt by the state of the withholding tax payments. That is the whole purpose of the new eighth monthly deposits. (4) The Commissioner was given broad discretion in the 1981 law to prescribe other return periods or deposit requirements. The legislature knew that the law might not be precise enough and that the Commissioner would need additional authority and flexibility to make sure that the revenues were properly received. (5) The due dates have always said that the quarterly returns were due on or before the last day of the month, the monthly deposits were due within 15 days after the close of the calendar month, and the new law provides that the eighth

monthly deposits must be deposited with the Commissioner within three banking days.

Federal Law

The proposed rule is closely copied from federal law. The federal law that was used is Section 7502(e) of the Internal Revenue Code (Title 26 United States Code). This is the law that has been used for federal purposes to determine the timeliness of their withholding tax returns and deposits. (See Regulation Section 31.6302(c)-1(a)(3)(iii)). This regulation says, "The timeliness of the deposit will be determined by the date the deposit is received (or is deemed received under Section 7502(e)) by a federal reserve bank or by the authorized commercial bank, whichever is earlier." The Department realizes that there are some differences between federal and state in that the federal law allows the use of bank depositories when there is no provision in the state law for that; however, the principle remains the same. The bank depository must have received the payment of the withholding tax by the due date or the return and the payment must have been mailed at least two days before the due date in order for that payment to be timely. The principle is the same in the application to the receipt of these payments by the Department of Revenue. The Commissioner is not proposing anything that has not already been imposed under federal law. Revenue Ruling 75-331 provides some explanation as to the application by the Internal Revenue Service of these due date provisions. The summary of the Revenue Ruling says, "Section 7503 doesn't extend [the] mailing date for tax deposits required under Section 31.6302(c)-1(a) and [because of this,] withheld employment taxes due to be deposited within three days with [the] third day falling on [a] Saturday [, the deposits] that are mailed on [the] following Monday and delivered on Tuesday aren't timely deposited." The

Revenue Ruling goes on to conclude that these deposits which are due on a Monday must have been mailed on the Saturday in order to be timely under the provisions of Section 7503. This proposed rule would adopt the same interpretation that the Internal Revenue Service has provided in this Revenue Ruling. Section 7503 of the Internal Revenue Code provides that when the last day prescribed for performing an act falls on a Saturday, Sunday, or a legal holiday, the act is considered timely if it is performed on the next succeeding day which is not a Saturday, Sunday, or legal holiday. Minnesota has adopted this provision and would follow the same provisions provided in that federal code section. The authority for this is contained in Section 290.42, clause (5) and Section 270.27.

Enforcement

Beginning with the 1977 tax year, the Department began enforcing the monthly deposit requirements. Taxpayers had been previously notified by general mailing of these deposit requirements. The 25 percent willful neglect penalty was now assessed against taxpayers for failure to make the monthly deposits during 1977. This led to three Tax Court decisions in which the main issue was what penalty should be assessed--the willful neglect 25 percent penalty, the failure to file 10 percent penalty, or no penalty at all. These cases are North Star Distributors, Inc. v. The Commissioner of Revenue, Tax Court Docket No. 2613, February 7, 1979, Moorman Manufacturing Company v. The Commissioner of Revenue, Tax Court Docket No. 2957, May 12, 1981, and Combustion Engineering, Inc. v. The Commissioner of Revenue, Tax Court Docket No. 2991, May 12, 1981. These cases are the only withholding tax decisions that exist at this time. Unfortunately, they deal with the issue of which penalty should be assessed and do not address the due date concern which is addressed

by this rule.

Income Tax Due Dates

It is important to note the distinction that the law draws between the depositing and payment of the withholding tax amounts and the filing and payment of normal income tax returns. The withholding tax payments are in the nature of a trust fund which is held by the employer in trust for the Department of Revenue. These funds have already been collected by the employer from the employee's paycheck, and the employer is merely holding them until they need to be turned over to the Commissioner. The income tax return payments are a tax assessed on the employer and is to be paid by him. Section 290.42, clauses (1) and (2) provide that the income tax returns shall be filed on the 15th day of April for individual income tax returns and on the 15th day of March for corporation income tax returns. Clause (2) deals with fiscal year income tax returns. Section 290.43 states that these returns shall be filed with the Commissioner. Section 290.45, subd. 1 says that the tax shall be paid to the Commissioner at the same time a return is filed, with some exceptions not here at issue. The withholding tax law is structured differently. As was previously pointed out, it says that the quarterly return must be filed and paid on or before the last day of the month. The monthly return is due to be filed and paid within 15 days after the close of the month. The eighth monthly return is to be paid to the Commissioner within three banking days.

Need For the Rule

The rule is needed for one basic reason. It is needed to make sure that the withholding tax revenues are received promptly and as quickly as the law prescribes. The rule is needed to give the full effect to the purpose of Laws 1981, Chapter 13. This law provided for the more

rapid collection of the withholding tax receipts. The rule and, as previously adopted, the temporary rule make clear that the law is to be enforced to provide for the proper receipt of the withholding tax trust fund dollars.

Attached as Appendix B is a letter to the Commissioner from Gerry Benting, Assistant Commissioner of Finance, prescribing the normal rules for governmental accounting. The letter states that in order for revenue funds to be accounted for under a modified accrual basis of accounting, the revenues must be measurable and must be available. As stated at the second to the last paragraph of this memo, it says, "This means that sales tax money due on June 25, 1981, but not received until July 1, 1981, could not be accrued to F.Y. 81, because the amount cannot be measured at June 30." In order to apply this to the withholding tax provisions here at issue, this means that the Finance Department is saying that withholding tax money collected under the eighth monthly deposit system which is due on June 30 but not received until July 1 cannot be accounted for as a receipt in fiscal year 1981. The significance of this memo and the significance of this rule is to make sure that the withholding tax deposits and receipts are received as promptly as possible to be properly accounted for in the fiscal year and are available to finance state government operations.

Reasonableness of the Rule

The rule is reasonable and should be adopted as presented for several reasons. First, the rule does not break new ground; the rule is patterned after and closely parallels the federal law. The rule will make the Minnesota provisions the same as the federal provisions concerning the mailing and receipt of the withholding tax. Secondly, the rule is in conformance with the law. The law states that the quar-

terly returns are to be filed and paid on or before the last day of the month. The law does not state that it is o.k. if the return is mailed to the Commissioner on the last day of the month. The law states that the monthly deposits are to be made with the Commissioner within 15 days after the close of the month. The law is clear on its face when read. The law does not state that it is o.k. for an employer to mail the deposit to the Commissioner on the 15th day after the end of the calendar month. The law on the eighth monthly deposit is even tighter. The law states that the employer is to deposit these taxes with the Commissioner within three banking days after the close of the eighth monthly period. The law does not allow an employer to meet this requirement by simply mailing the deposit to the Commissioner on the third banking day. The law states that the money must be on deposit with the Commissioner at the end of that third banking day. In fact, this rule and the previous temporary rule give the employer some assurance as to the timeliness of the deposit. An employer who mailed his eighth monthly deposit to the Commissioner on the same day as the end of the eighth monthly period could not even be sure that the deposit would still be timely. The law requires that the deposit be received by the Commissioner within three banking days. This rule adopts some discretion and gives the employer the Department's assurance that the deposit will be considered to be timely if the employer mails the deposit to the Commissioner at least two days before the third banking day. Third, this proposed rule will treat all withholding tax returns and deposits the same. The temporary rule applied only to eighth monthly deposits. This permanent rule will treat the quarterly return, the monthly deposit, and the eighth monthly deposit in the same manner. In this way, the rule will be more fair because it will treat all employers the same. It is especially important

to note that those employers who have variable payrolls and so can be on an eighth monthly reporting system one month, a monthly reporting system the next month, and perhaps only a quarterly reporting system the following quarter would be treated the same regardless of what reporting method they are required to use to pay their withholding taxes to the Commissioner. This would eliminate some confusion that employers have. Now they will all know that they are required to have the deposit in the Commissioner's hands on the due date or be mailed on or before the second day before the due date. Fourth, the law grants the Commissioner authority to prescribe other return periods or deposit requirements. The plain language of the law needs to be given effect. This language is contained in clause (c) of part 1 of subdivision 6. The Commissioner was given this discretion to assure that the withholding tax trust fund receipts from the employers would be received by the state in the proper time. The Commissioner was given the discretion to make the law administratable for both the Department and the employers. Under this proposed rule the Commissioner is adopting the federal requirements that already exist and already apply to all employers. Fifth, the rule does not require that the payments actually be received by the Department on the due date. The rule does not make the employer the insurer of the mail system. The rule gives the employer the discretion of mailing the payment on or before the second day prior to the due date. Proof of when this payment or return was mailed would be up to the employer. The employer could, of course, use certified mail and in that way have a receipt showing when the form was mailed. The employer could also demonstrate as part of his normal business practice when the return was mailed. If the envelope is retrievable, the Department can, of course, examine it and determine when the envelope was postmarked by the U.S. Postal Service.

Conclusion

The rule is needed to effect the obvious intention of the legislature to make sure that the revenues are reported on time. The rule is reasonable because it conforms with federal law, it gives the employers assurance that they will not be penalized if the payment is mailed on or before the second day prior to the due date, and it conforms with the law and the Commissioner's discretion to provide for reporting periods under the law.

Appendix A

~~*[Handwritten signature]*~~



STATE OF MINNESOTA

INCOME TAX

WITHHOLDING

INSTRUCTIONS FOR EMPLOYERS

AND

TAX TABLES

EFFECTIVE OCTOBER 1, 1961

CIRCULAR MW-B

DEPARTMENT OF TAXATION

Centennial Office Building

St. Paul 1, Minnesota

TABLE OF CONTENTS

SECTION	PAGE	SECTION	PAGE
A – General Information	2	I – Withholding Statement (MW-2) ..	10
B – Definitions	3	J – End of Year Reconciliation (MW-3)	12
C – Calendar of Employers’ Duties	4	K – Information Return (M-9)	13
D – Forms, State and Federal	5	L – Annual Information Return (Summary) (M-10)	14
E – Registration Form (MW-A) ..	5	M – Penalties	15
F – Exemption Certificate (MW-4)	5	N – Withholding Tables	16-24
G – Employers’ Quarterly Report (MW-1)	6	O – Alternate Methods of Withholding	25-26
H – Withholding Deposit Receipt (MW-5)	8	P – Supplemental Wage Payments	26
		Q – Notice for Employees	27

A – GENERAL INFORMATION

The Minnesota Legislature at its 1961 session amended the Minnesota Income Tax Act to provide for employers to withhold Minnesota Income Taxes from the wages of their employees paid on or after October 1, 1961.

Although the withholding provision is commonly referred to as a “withholding tax,” it is not, in fact, a tax at all. It is a method of collecting taxes.

Many of the features of the Federal Withholding Law are embodied in the Minnesota Withholding Law. The due dates for filing reports and remitting the tax collected coincide with Federal due dates; and definitions of many of the terms used conform to the Federal Law. In general, the rules and policies established for Federal withholding will be followed where practical. However, the Minnesota and Federal Withholding Laws differ in some respects. Such differences may create problems unless the regulations and instructions provided are specifically followed.

This booklet is designed to help you determine if you are required to withhold Minnesota State Income Taxes and to guide you in the proper use of the forms and the withholding tax tables.

Every employer subject to the provisions of the Minnesota Withholding Law is assigned a Minnesota Department of Taxation identification number. All new employers should apply for their number at the beginning of their operations by filing the Minnesota Department of Taxation registration form (MW-A), (See Section E). The identification number assigned is a permanent number and will appear on all monthly, quarterly, and end-of-year report forms sent by the Department of Taxation to the employer. It must be shown on all Minnesota withholding statements prepared by the employer and should be used in all correspondence pertaining to Minnesota income tax withholding. If the employer goes out of business or if there is any change in business name, address, or ownership, our office should be immediately notified so that proper adjustment may be made in our records. It is extremely important that employers do not use any report forms that bear a number different from their Department of Taxation identification number. If an employer receives a form with a different number from the one assigned to him, he should notify the Department of Taxation immediately to prevent improper crediting of his withholding payments.

All questions concerning withholding should be addressed to Department of Taxation, Withholding Unit, Centennial Office Building, Saint Paul 1, Minnesota.



B – DEFINITIONS

EMPLOYER DEFINED – An employer is any person (including individuals, fiduciaries, estates, trusts, partnerships and corporations), transacting business in or deriving any income from sources within the State of Minnesota who controls the payment of wages to an individual who performs any service as an employee. The term includes organizations which may themselves be exempt from Minnesota income tax, such as religious, educational, and governmental organizations.

EMPLOYEE DEFINED – An employee is any resident individual performing services subject to the will and control of an employer, regardless of where the services are performed, and *every nonresident individual performing services within the State of Minnesota*. (For further detail, see Minnesota Income Tax Regulation 2092 (1)-3 and 2092 (4a)). This includes an officer of a corporation and an officer, employee or elected official of any political subdivision.

WAGES DEFINED – The term “wages” means all remuneration, whether in cash, or other medium, for services performed by an employee for his employer, but does not include:

1. Fees paid to public officials;
2. Payment for active service as a member of the Armed Forces of the U. S.;
3. Payment for agriculture labor (as defined in Section 3121(g), Internal Revenue Code of 1954);
4. Payment for domestic service in private home, college club, fraternity or sorority;
5. Payment for casual labor, not in the course of the employer's trade or business, if less than \$50 for a calendar quarter;
6. Payment for service performed by a duly ordained minister of a church or a member of a religious order performing duties required by such church or order;
7. Wages of newspaper carriers under the age of 18 delivering to consumers;
8. Wages of newspaper and magazine vendors selling to consumers at a fixed price, their compensation being based on the excess of the fixed price over the price charged to them.

SICK PAY – (Wage Continuation Plan) An employer is not required to withhold income tax from excludable sick pay provided his records: (1) separately show the amount of each such payment and the excludable portion thereof, and (2) contain either a written statement from the employee specifying whether his absence from work during the period for which the payment was made was due to a personal injury or due to sickness and, if the latter, whether he was hospitalized for at least one day during this period; or any other information which the employer reasonably believes establishes the employee's entitlement to the exclusion.

All such payments must be included in the amount shown as total wages on Form MW-2. However, an employer who maintains the records specified above may also show excludable sick pay on Form MW-2 as a separate item regardless of whether or not income tax was withheld from such amounts.

For additional information on wages subject to withholding, contact the Department of Taxation.

C – CALENDAR OF EMPLOYERS' DUTIES

Before October 1, 1961: Or for new employers, before first wage payment subject to Minnesota withholding

File Department of Taxation Registration Form MW-A. (See page 5.)

Before October 1, 1961: Or on hiring new employees

Secure a Minnesota Withholding Exemption Certificate (Form MW-4) from each employee who desires to claim a different number of exemptions for Minnesota withholding from that claimed for Federal purposes. (See page 5.)

On each payment of wages to an employee on or after October 1, 1961

Withhold Minnesota income tax from each wage payment in accordance with the employee's withholding exemption certificate and the applicable withholding table or formula. (See pages 16-26.)

On or before the 15th day of February, March, May, June, August, September, November, and December

After each of the first two months of each quarter, deposit the Minnesota income tax withheld, if the total is more than \$25, with the Commissioner of Taxation. (Form MW-5) (See page 8.)

On or before each April 30, July 31, October 31 and January 31

File a Quarterly Return (Form MW-1) with the Department of Taxation and pay the full amount (less deposits made on Form MW-5 during the quarter) of Minnesota income tax withheld from wages during the previous quarter. (For 1961 only, the first return is due January 31, 1962.) (See page 6.)

On or before January 31, or within thirty days after termination of employment

Give each employee a withholding statement in duplicate (Form MW-2) showing (1) the total wages, and (2) the amount of Minnesota income tax withheld. (See Section I.) (See page 10.)

On or before January 31 of each year or within thirty days after termination of business

File Form MW-3, Reconciliation of Minnesota Income Tax Withheld From Wages, together with State Copy (A) of all withholding statements furnished employees on Form MW-2 for the preceding year. (See page 12.)

D – FORMS – STATE AND FEDERAL

The Minnesota Income Tax Forms described in this booklet and their Federal counterparts are listed below.

FORM NUMBER	FORM TITLE	FEDERAL COUNTERPART
MW-A	Minnesota Department of Taxation-Registration Form	SS-4
MW-1	Employer's Quarterly Return of Minnesota Income Tax Withheld	941
MW-2	Minnesota Withholding Tax Statement	W-2
MW-3	End of Year Reconciliation of Minnesota Income Tax Withheld	W-3
MW-4	Employees Minnesota Withholding Exemption Certificate	W-4 <i>Each employer should have</i>
MW-5	Deposit Receipt of Minnesota Income Tax Withheld	450
M-9	Minnesota Information Return	1099
M-10	Minnesota Annual Information Return (Summary)	1096
<i>MW 1040ES Estimated forms</i>		

E – MINNESOTA DEPARTMENT OF TAXATION – REGISTRATION FORM (MW-A)

Registration—Before making his first wage payment subject to Minnesota withholding, an employer should file a Registration Form (MW-A) with the Department of Taxation, Withholding Unit, Centennial Office Building, Saint Paul 1, Minnesota.

Every employer who is required to withhold Minnesota income taxes will be identified by a Minnesota Department of Taxation identification number. This number is *different from the Federal identification number* assigned by the District Director of Internal Revenue.

The identification number will be permanently assigned to an employer when he files the Registration Form (Form MW-A) and will appear on all report forms sent by the Department of Taxation to employers. Each employer should make a permanent record of his Minnesota identification number.

All the necessary forms and instructions for Minnesota withholding will be mailed to the employer after his registration form has been received by the Department of Taxation.

Registration Forms (MW-A) are available upon request from the Department of Taxation.

F – EMPLOYEE'S MINNESOTA WITHHOLDING EXEMPTION CERTIFICATE (MW-4)

WITHHOLDING EXEMPTIONS—Every employee shall on or before October 1, 1961, or thereafter on commencement of employment, furnish his employer with a signed exemption certificate showing the number of withholding exemptions he claims, which shall not exceed the number to which he is entitled under Minnesota law. *The federal exemption certificate Form W-4 already on file for the employee may be used as the basis for Minnesota withholding provided the number of exemptions claimed by the employee does not exceed the number to which he is entitled under Minnesota law.*

Any employee who desires to claim a different number of exemptions for state withholding purposes from those he is presently claiming for federal purposes, must file a Minnesota exemption certificate Form MW-4.

Once filed, a certificate remains in effect until an amended certificate is furnished. If an employee has no federal certificate already on file and fails to file a Minnesota exemption certificate, the employer is required to withhold the tax as if the employee had claimed no withholding exemptions.

The "Withholding Exemptions" in general correspond with the credits to be allowed the employee in computing his annual Minnesota tax. Where an employee does not expect that his income tax withheld will equal his final tax liability, he should be informed that he may claim fewer exemptions (than those to which he is entitled) or he may enter into an agreement with his employer whereby a greater amount of tax will be withheld—use line 6 of Form MW-4 to indicate the added amount to be withheld.

FORM MW-4
State of Minnesota
Department of Taxation

EMPLOYEE'S MINNESOTA WITHHOLDING EXEMPTION CERTIFICATE

Print full name DONALD BRIAN SMITH Social Security Account Number 000-00-000

Print home address 432 CAPITOL PLACE City ANNYTRAM Zone 11 State MINNESOTA

EMPLOYEE:
File this form if you wish to claim a different number of exemptions than you are claiming for federal withholding purposes.

EMPLOYER:
Keep this certificate with your records. If the employee is believed to have claimed too many exemptions, the Commissioner of Taxation should be so advised.

HOW TO CLAIM YOUR MINNESOTA WITHHOLDING EXEMPTIONS

- If SINGLE, and you claim an exemption, write the figure "1"
- If MARRIED, one exemption each for husband and wife if not claimed on another certificate.
 - (a) If you claim both of these exemptions, write the figure "2" 2
 - (b) If you claim one of these exemptions, write the figure "1"
 - (c) If you claim neither of these exemptions, write "0"
- Exemptions for age and blindness (applicable only to you and your wife but not to dependents):
 - (a) If you or your wife will be 65 years of age or older at the end of the year, and you claim this exemption, write "1"; if both will be 65 or older, and you claim both of these exemptions, write "2"
 - (b) If you or your wife are blind, and you claim this exemption, write the figure "1"; if both are blind, and you claim both of these exemptions, write the figure "2"
- If you claim exemptions for one or more dependents, write the number of such exemptions. (Do not claim exemption for a dependent unless you are qualified under instruction 4 on other side.) 2
- Add the number of exemptions which you have claimed above and write the total 4
- Additional withholding per pay period under agreement with employer. See Instruction 1 \$

I CERTIFY that the number of withholding exemptions claimed on this certificate does not exceed the number to which I am entitled under Minnesota law.

(Date) October 6, 1961 (Signed) Ronald B. Smith

Sample of Form MW-4 (showing how it should be completed)

An employee may file a new certificate at any time if the number of withholding exemptions to which he is entitled increases. However, an employee must file a new certificate within ten days if the number of withholding exemptions previously claimed decreases.

The employer may make the amended certificate effective with the next payment of wages, but he is permitted by law to postpone the effective date until the first status determination date (that is, January 1st or July 1st), which occurs at least 30 days after the date on which the certificate is filed with the employer.

Minnesota withholding exemption certificates Form MW-4, for those employees desiring to claim a different number of exemptions for Minnesota than for Federal purposes, may be obtained by writing to the Department of Taxation, Withholding Unit, Centennial Office Building, St. Paul 1, Minnesota.

G – EMPLOYER'S QUARTERLY REPORT (FORM MW-1)

Every employer required to withhold Minnesota income taxes from wages or salaries must file a quarterly return on Form MW-1.

The calendar quarter to be covered by these returns, and the dates on which the returns and tax payments are due, are as follows:

<u>QUARTERS</u>	<u>QUARTER ENDING</u>	<u>DUE DATE</u>
January-February-March	March 31st	April 30th
April-May-June	June 30th	July 31st
July-August-September	September 30th	October 31st
October-November-December	December 31st	January 31st

An employer who withholds more than \$25 of Minnesota income tax during either of the first two months of a quarter must deposit such amounts monthly with the Commissioner of Taxation on Form MW-5. (See Section H.)

Under no circumstances may a return be filed for more than one calendar quarter. Pre-numbered forms mailed to employers should be used in filing returns. If the pre-numbered form is lost, a new one should be requested if sufficient time remains before the filing date. If it is necessary to make a payment of Minnesota taxes without a pre-numbered form, care should be exercised to show the employer's name and Minnesota identification number exactly as they appeared on previous returns, and to identify the purpose of the payment.

FORM MW-1
DEPT. OF TAXATION

STATE OF MINNESOTA - DEPARTMENT OF TAXATION - MW-1
EMPLOYERS QUARTERLY MINNESOTA TAX RETURN

COMPLETE THIS FORM ACCORDING TO THE INSTRUCTIONS ON THE REVERSE. BE SURE TO ENCLOSE THE CORRECT AMOUNT OF REMITTANCE AND ALL DEPOSIT RECEIPT STUBS (FORM MW-5) IF ANY, WITH THIS RETURN

EMPLOYER'S NAME AND ADDRESS XYZ COMPANY 2729 CENTENNIAL RD. ANYTOWN, MINNESOTA	IDENTIFICATION NUMBER 123456	QUARTER ENDING A. 12-31-61 B. 1-31-62 C.	DATE DUE (SEE INSTRUCTIONS)	WRITE "FINAL" IF FINAL RETURN
	THIS IS YOUR PERMANENT MINNESOTA IDENTIFICATION NUMBER. PLEASE REFER TO THIS NUMBER IN ANY CORRESPONDENCE.	TOTAL MINNESOTA INCOME TAX	1. WITHHELD THIS QUARTER	\$ 90.44
		2. ADJUSTMENTS FOR PRECEDING QUARTER(S) (THIS CALENDAR YEAR)		\$ 1
		3. TOTAL MINNESOTA TAX DUE THIS QUARTER		\$ 90.44
		4. LESS: TOTAL OF ENCLOSED DEPOSIT RECEIPTS (FROM SCHEDULE B OR REVERSE)		\$ 61.02
	5. BALANCE DUE (ITEM 3 MINUS ITEM 4)	PAY THIS →	\$ 29.42	

MAKE CHECK OR MONEY ORDER PAYABLE TO "COMMISSIONER OF TAXATION"
MAIL THIS FORM, MW-5 RECEIPT STUBS AND REMITTANCE TO: MINNESOTA DEPARTMENT OF TAXATION
WITHHOLDING UNIT
CENTENNIAL OFFICE BUILDING
ST. PAUL 1, MINNESOTA

DO NOT SEND CASH BY MAIL

I HEREBY DECLARE UNDER THE PENALTIES OF CRIMINAL LIABILITY FOR WILLFULLY MAKING A FALSE RETURN, THAT THIS RETURN HAS BEEN EXAMINED BY ME AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IT IS TRUE AND COMPLETE FOR THE CALENDAR QUARTER STATED.

SIGNED John L. Doe TITLE Treasurer DATE 1-29-62

Sample of Form MW-1 (showing how it should be completed)

(1) These spaces are for your name, address, Minnesota identification number, the ending date of the quarter covered by the return and the date the return is due. (For due date exceptions, see Section H) Be sure to write this information on your copy of the return. If this information is incorrect, or if your address changes, draw a line through the error and type or print in the necessary correction.

(2) Enter "final" here if you have ended your business operations or otherwise ceased paying wages. An employer who has only temporarily ceased to pay wages, including an employer engaged in seasonal activities, shall continue to file returns but shall enter "none" in the spaces on the front of the return until such time as he resumes paying wages and withholding Minnesota income tax.

(3) Enter the total Minnesota income tax withheld from all your employees for the quarter.

(4) If more or less than the correct amount of tax is paid to the Commissioner of Taxation during a quarter, proper adjustment may be made on the first quarterly return filed after the error is discovered. Any such adjustment should be entered here. However, if a mistake in income tax withholding cannot be adjusted in the return of a subsequent quarter in the same calendar year, the Commissioner of Taxation should be consulted as to the proper method of correction. Every return on which an adjustment is reported must have an accompanying statement showing the return period to which the adjustment relates and the reason the adjustment is necessary.

(5) Enter the total taxes deposited during the quarter on Form MW-5 (from Schedule B on back of card).

(6) Enter the balance of Minnesota income taxes due and to be paid with Form MW-1 (Item 3 less Item 4).

(7) Sign, date and show your title.

INSTRUCTIONS:

EMPLOYER'S QUARTERLY RETURN FORM MW-1 MUST BE FILED BY THE LAST DAY OF THE MONTH FOLLOWING EACH CALENDAR QUARTER. DO NOT USE ANY FORM NOT NUMBERED WITH YOUR PERMANENT MINNESOTA DEPARTMENT OF TAXATION IDENTIFICATION NUMBER.

- A. THIS IS THE LAST DAY OF THE QUARTER FOR WHICH THIS RETURN IS DUE.
 - B. THIS IS THE DATE THIS RETURN IS DUE (FOR EXCEPTIONS, SEE YOUR MINNESOTA EMPLOYERS INSTRUCTION BOOKLET, CIRCULAR MW-8).
 - C. IF FOR ANY REASON SUCH AS QUITTING BUSINESS, ETC., YOU WILL NOT BE REQUIRED TO WITHHOLD MINNESOTA INCOME TAXES DURING SUCCEEDING QUARTERS, WRITE "FINAL" IN THE SPACE PROVIDED AND ENCLOSE A SIGNED EXPLANATION.
1. ENTER THE TOTAL MINNESOTA INCOME TAXES YOU HAVE WITHHELD DURING THE CALENDAR QUARTER.
 2. ENTER ANY ADJUSTMENTS FOR PRECEDING QUARTERS OF THIS CALENDAR YEAR. ENCLOSE A STATEMENT EXPLAINING ANY SUCH ADJUSTMENTS.
 3. ITEM 1 PLUS OR MINUS ADJUSTMENTS IF ANY.
 4. SEE SCHEDULE B BELOW.
 5. BALANCE DUE, ITEM 3 MINUS ITEM 4.

SCHEDULE B—DEPOSIT RECEIPT RECORD

SCHEDULE B MUST BE USED BY THOSE EMPLOYERS WHO MAKE DEPOSITS OF MINNESOTA STATE INCOME TAXES WITHHELD. EVERY EMPLOYER WHO IS LIABLE FOR MORE THAN \$25 OF THESE TAXES DURING A MONTH IS REQUIRED TO DEPOSIT SUCH TAXES MONTHLY WITH THE COMMISSIONER OF TAXATION. SUCH DEPOSITS FOR THE THIRD MONTH OF ANY QUARTER, AND DEPOSITS OF \$25 OR LESS, ARE PERMISSIBLE BUT NOT REQUIRED. EACH DEPOSIT MUST BE ACCOMPANIED BY A MINNESOTA RECEIPT FORM MW-5, WHICH WILL BE VALIDATED BY THE DEPARTMENT OF TAXATION AND RETURNED TO THE EMPLOYER. THE VALIDATED RECEIPTS SHOULD BE LISTED IN SCHEDULE B AND THE SMALL PORTIONS ENCLOSED WITH THIS RETURN. A PENALTY IS PROVIDED BY LAW FOR FAILURE TO MAKE SUCH DEPOSITS. SEE YOUR MINNESOTA EMPLOYER'S INSTRUCTIONS, BOOKLET MW-8.

SERIAL NUMBER OF FORM MW-5	DATE OF DEPOSIT (LIST IN DATE ORDER)	AMOUNT
2345678	Nov. 13, 1961	33.21
2345679	Dec. 11, 1961	27.81
TOTAL OF ALL ENCLOSED DEPOSIT RECEIPTS (ENTER IN ITEM 4 ON OTHER SIDE)		61.02

Sample of Schedule B of Form MW-1 (showing how it should be completed)

(1) Enter in the spaces provided, all deposits made on Form MW-5 during the quarter. List in the order of date paid, the serial number of the deposit receipts, the date of the deposits, and the amount of the deposits. Enter the total on line 4 on the front of the return.

Deposit receipts must be submitted with the quarterly return to which they relate.

If no tax or less than the amount of the tax is deducted from any wage payment, the employer is authorized to deduct the amount of the undercollection from later payments to the employee. However, the employer is liable for any underpayment. Reimbursement is a matter for settlement between the employer and the employee.

The employer is responsible for the Minnesota income tax required to be withheld from the wages of his employees. The amount of tax withheld by him is a special fund held in trust for the state of Minnesota. He is relieved of liability to any other person for any such amount.

H — WITHHOLDING DEPOSIT RECEIPT (MW-5)

Monthly Deposits, Who Must Make Deposits—Each month the employer must compute the amount of Minnesota Income Tax Withheld during such month. If the total for any month (except the third month of a quarter) exceeds \$25, the total amount of such taxes for such month must be deposited with the Commissioner of Taxation by the 15th day of the following month.

An employer whose monthly total of Minnesota Income Tax withheld amounts to \$25 or less is not required to make monthly deposits, but may do so if he desires. Likewise, any employer who wishes to make a deposit of Minnesota Income Taxes withheld during the third month of a quarter and an employer who wishes to make more frequent deposits of Minnesota Income Taxes withheld may do so.

When To Make Deposits—Deposits covering Minnesota Income Tax withheld during the first two months of a quarter must be made within fifteen days after the close of the month during which they were collected.

For those employers desiring to make deposits of taxes withheld during the third month of a quarter; such deposits must be made on or before the last day of the month following the close of the quarter.

EXAMPLES:

<u>If During the Month of:</u>	<u>You Withheld:</u>	<u>You are Required To:</u>	<u>You May:</u>
January	\$18.00		Pay with Deposit Form MW-5 \$18.00 by February 15th.
February	\$27.00	Pay with Deposit Form MW-5, \$27.00 by March 15th.	If the \$18.00 withheld in January has not been paid, pay with Deposit Form MW-5, \$45.00 by March 15th.
March	\$22.00	File Quarterly Return Form MW-1, and pay \$40.00 by April 30th.	Pay with Deposit Form MW-5, \$22.00 by April 30th. OR: If \$18.00 withheld in January has not been paid, pay \$40.00 with Deposit Receipt Form MW-5 by April 30th. OR: File Quarterly Return Form MW-1 by April 30th, and pay any balance of tax due.

Subsequent quarters of a calendar year may be substituted above by changing the dates to correspond with the due dates for returns for such quarters.

How To Make Deposits of Minnesota Income Tax Withheld—Deposit Receipts, Form MW-5, are supplied by the Minnesota Department of Taxation. Each employer will initially receive two blank receipt forms; thereafter, you will automatically receive a blank receipt Form MW-5 when your receipted form for the previous month is returned to you by the department. An employer needing additional forms should contact the Department of Taxation stating his identification number.

FORM MW-5
DEPT. OF TAXATION

MINNESOTA DEPOSIT RECEIPT

MINNESOTA STATE INCOME TAXES WITHHELD FROM EMPLOYEES- SEE INSTRUCTIONS ON BACK.

1 CHECK HERE IF ADDRESS HAS CHANGED SINCE YOUR LAST REPORT

2 ENTER YOUR NAME AND ADDRESS ON THESE LINES

XYZ COMPANY	123456 <small>EMPLOYER'S IDENTIFICATION NUMBER</small>		123456 <small>EMPLOYEE'S IDENTIFICATION NUMBER</small>
2729 CENTENNIAL RD.			
ANYTOWN			
MINNESOTA			

WITHHOLDING RECEIPT INFORMATION ABOVE WILL BE FILLED IN BY THE DEPT. OF TAXATION

3 ENTER HERE, THE MINNESOTA TAXES WITHHELD AND PAID WITH THIS REPORT (AMOUNT SHOWN AND AMOUNT OF REMITTANCE MUST AGREE)

AMOUNT: 27.81

4 ENTER HERE, THE ENDING DATE OF THE PERIOD COVERED BY THIS REPORT

DATE: Nov. 30, 61

DO NOT SEND CASH BY MAIL

MAKE REMITTANCE PAYABLE TO: COMMISSIONER OF TAXATION
MAIL THIS FORM TOGETHER WITH YOUR REMITTANCE TO: MINNESOTA DEPARTMENT OF TAXATION, WITHHOLDING UNIT, CENTENNIAL OFFICE BUILDING, ST. PAUL 1, MINNESOTA

Sample of Form MW-5 (showing how it should be completed)

- (1) Enter your name and address (show any change in your address since your last report).
- (2) Enter the amount of Minnesota Income Taxes withheld during the period for which the deposit is made, (amount entered here and amount of remittance must agree).
- (3) Enter the ending date of the period covered by the deposit.

DO NOT WRITE IN ANY OTHER SPACES ON THE FORM.

Each Form MW-5 and a single remittance covering the amount of Minnesota income taxes to be deposited should be sent to the Department of Taxation, Withholding Unit, Centennial Office Building, St. Paul 1, Minnesota.

An employer who has not been assigned an identification number should, nevertheless, make deposits at the proper time. He should enclose a statement showing his name and address and identifying the purpose of the payment.

What To Do With Validated Receipts—The employer's depository receipts, Form MW-5, will be validated and perforated by the Department of Taxation and returned to the employer. These validated receipts should be separated at the perforation and the larger left hand portion retained for the employer's records, and the small right hand portion returned with the quarterly report for the period during which these deposits were made.

If the employer makes timely deposits sufficient to pay the total amount of Minnesota Income taxes, he is allowed ten additional days for filing his quarterly return, Form MW-1, beyond the due date for employers generally. The timeliness of the deposit will be determined by the earliest date stamped on the validated receipt by the Department of Taxation.

Inquiries concerning deposit receipts should be directed to the Department of Taxation, Withholding Unit. Such inquiries should state the employer's name, address and Minnesota identification number.

I — MINNESOTA WITHHOLDING STATEMENT (MW-2)

Receipts for Employees—Employers must furnish to each employee two copies of the withholding statement (Form MW-2) if Minnesota income tax was withheld, or would have been withheld if the employee had claimed no more than one withholding exemption. Thus, even though no Minnesota income tax was withheld, the employer must give withholding statements to each employee whose wages for any payroll period exceeded \$14.42 for a weekly payroll period, \$28.85 for a bi-weekly period, \$31.25 for a semi-monthly period, \$62.50 for a monthly period, \$187.50 for a quarterly period, or \$2.50 a day for a daily or miscellaneous period.

XYZ COMPANY #123456 2729 CENTENNIAL ROAD ANYTOWN, MINNESOTA		MINNESOTA WITHHOLDING TAX STATEMENT Taxes Withheld From Wages <i>MA for packets</i> 1961	
<small>Type or print EMPLOYER'S Minnesota identification number, name, and address above.</small>		Copy A — For Commissioner of Taxation	
INCOME TAX INFORMATION			
\$ 144.00 F.I.C.A. employee tax withheld, if any	\$ 5,200.00 Total Wages* paid in 1961	\$ 505.44 Federal Income Tax withheld, if any	\$ 23.80 Minnesota Income Tax withheld, if any
DONALD B SMITH 000-00-000 432 CAPITOL PLACE ANYTOWN, MINNESOTA		EMPLOYER: Forward This Copy Along with Your End of Year Reconciliation (Form MW-3) to the Commissioner of Taxation on or Before Jan. 31, 1962. (See Your Minnesota Employers Instruction Booklet MW-B.)	
<small>Type or print EMPLOYEE'S social security account no., name, and address above.</small>		FOR USE OF DEPARTMENT OF TAXATION	
		Employee's Copy and Employer's Copy compared.....	
<small>*Before payroll deductions or "sick pay" exclusion.</small>			

List can be furnished showing requirements

Sample of Form MW-2 (showing how it should be completed)

Appendix B

STATE OF MINNESOTA

DEPARTMENT of Finance

Office Memorandum

TO : Clyde Allen
Commissioner
Department of Revenue

DATE: November 9, 1981

FROM : Geri Benting *Geri Benting*
Assistant Commissioner

PHONE: 296-1699

SUBJECT: Accrual of Revenue

Robert Turnquist has asked for a clarification of when certain types of tax revenue may be accrued. The Department of Finance uses the 1980 edition of Governmental Accounting, Auditing, and Financial Reporting (GAAFR) as its basis for accruing revenue.

GAAFR contains the following statements on revenue accrual:

Governmental fund types are accounted for using the modified accrual basis of accounting. Under the modified accrual basis, revenues are recognized when they become susceptible to accrual - that is, when they become both "measurable" and "available to finance expenditures of the current period".

Taxpayer assessed income, gross receipts, and sales taxes are not generally considered "measurable" at the point in time when income is earned, receipts are collected, or sales are made.

This means that sales tax money due on June 25, 1981, but not received until July 1, 1981, could not be accrued to FY 81, because the amount cannot be measured at June 30.

If you have any further questions regarding revenue accrual, please feel free to call me at 296-1699.

GEB:RSM/las

cc: R. Greeman
R. Turnquist