

November 20, 2003 03 - 0456

Governor Tim Pawlenty

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Representative Bill Hilty, DFL Lead
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**Re: Annual Report on Obsolete, Unnecessary, or Duplicative Rules, as Required by
*Minnesota Statutes, Section 14.05, Subdivision 5***

Dear Governor Pawlenty, et al:

Minnesota Statutes, section 14.05, subdivision 5, states, in part: “By December 1 of each year, an agency must submit . . . a list of any rules or portions of rules that are obsolete, unnecessary, or duplicative of other state or federal statutes or rules. The list must also include an explanation of why the rule or portion of the rule is obsolete, unnecessary, or duplicative of other state or federal statutes or rules. By December 1, the agency must either report a timetable for repeal of the rule or portion of the rule, or must develop a bill for submission to the appropriate policy committee to repeal the obsolete, unnecessary, or duplicative rule. Such a bill must include proposed authorization to use the expedited procedures of section 14.389 to repeal or amend the obsolete, unnecessary, or duplicative rule. A report submitted under this subdivision must be signed by the person in the agency who is responsible for identifying and initiating repeal of obsolete rules. The report also must identify the status of any rules identified in the prior year’s report as obsolete, unnecessary, or duplicative. If none of an agency’s rules are obsolete, unnecessary, or duplicative, an agency’s December 1 report must state that conclusion. ”

The rules of the Minnesota Department of Revenue fall within Chapters 8001 through 8175 of the *Minnesota Rules*. In addition, the Department of Revenue is responsible for Chapter 1950, the Minnesota State Board of Assessors’ rules. The Department continues with an ongoing process to review all of its rules, to repeal obsolete and duplicative provisions, clarify current language and to recommend clean-up language.

Corporate Franchise Taxes:

In last year's Obsolete Rule Report we found that Parts 8007.0300, subpart 3; 8009.7100, 8009.7200, 8009.7300, and 8009.7400 should be repealed as they were based on statutes that had been repealed. These rules were repealed legislatively during the 2003 Legislative Session.

We find that the following parts are obsolete or duplicative, and will propose that they be repealed during the 2004 Legislative Session: Parts 8093.2000 and 8093.3000.

The Department also recognizes that Part 8017.6000 is obsolete because it was promulgated under statutory language that has been repealed. The Department, however, must consider whether the best course is to repeal this rule or to amend it.

Income Taxes:

The Department stated in last year's Obsolete Rule Report that we were near the end of a project on rules governing Individual Income Tax. Effective May 19, 2003, we repealed the following rules to get rid of obsolete and duplicative provisions: *Minnesota Rules*, parts 8002.0200, subparts 2 and 5; 8038.0100, subparts 1, 2, 3, 5, 7, 9, and 10; 8038.2000; 8093.0100; 8093.0300; 8093.0400, subparts 1, 2, 5, and 6; 8093.0500, subparts 1, 2, and 3; and 8093.4000.

The Department of Revenue has reviewed the Income Tax Rules and finds no rules that are obsolete, unnecessary, or duplicative of statutory provisions such that they should be repealed.

Withholding Taxes:

In last year's Obsolete Rule Report we stated that Part 8092.1000 should be repealed as obsolete with the enactment of the nonresident entertainer tax (M.S. 290.9201) in 1989. This rule was repealed legislatively during the 2003 Legislative Session.

The Department finds that the following rules should be repealed: Part 8092.0200 duplicates federal and common law; Part 8092.0300 is unnecessary and duplicative of statute; Part 8092.1200 is unnecessary as this area of law is already covered by elsewhere in Minnesota law to piggyback on the federal law; Part 8092.1300 is unnecessary as these provisions are completely covered by Minn. Stat. Chapters 289A & 270. The Department will propose that these rules be repealed as part of a project to review and either amend or repeal various Withholding Tax rules in December 2003 or early 2004, using the "good cause" exemption to the rule process.

Sales & Use Taxes:

In last year's Obsolete Rule Report we stated that we had identified parts and subparts that should be repealed as obsolete or as duplicative of statutes, and proposed that the following rules be repealed legislatively during the 2003 Legislative Session: Parts 8130.0800, subparts 5 and 12; 8130.1300; 8130.1600, subpart 5; 8130.1700, subpart 3 and 4; 8130.4800, subpart 2; 8130.7500, subpart 5; 8130.8000, and 8130.8300. These rules were repealed during the 2003 Legislative Session.

We also proposed to repeal several obsolete, duplicative, or unnecessary rules using the "good cause" exemption to the rule process, as part of a rule project that we expected to be completed sometime in 2003, as follows: Parts 8130.0110, subpart 4; 8130.0200, subparts 5 and 6; 8130.0400, subparts 6 and 9; 8130.0900, subpart 8; 8130.1200, subparts 5 and 6; 8130.5200; 8130.5600, subpart 3; 8130.7300, subpart 5. At this time we expect that the rule project will be completed early 2004.

Since the last report, however, we have determined that Part 8130.0400, subpart 6 should be amended instead of repealed, and we are discussing whether 8130.0900, subpart 8, while it has obsolete provisions, should be repealed or amended.

We will propose that the remaining subparts from the paragraph above be repealed legislatively. We have also identified additional parts and subparts that should be repealed as obsolete or as duplicative of statutes. The list of obsolete or duplicative rules which we will propose be repealed legislatively during the 2004 legislative session are as follows: Parts 8130.0110, subpart 4; 8130.0200, subparts 5 and 6; 8130.0400, subpart 9; 8130.1200, subparts 5 and 6; 8130.2900; 8130.3100, subpart 1; 8130.4000, subparts 1 and 2; 8130.4200, subpart 1; 8130.4400, Subpart 3; 8130.5200; 8130.5600, subpart 3; 8130.5800, subpart 5; 8130.7300, subpart 5; and 8130.8800, subpart 4.

Property Equalization, Ad Valorem Taxes, Utilities:

The Department of Revenue is in the early stages of reviewing Chapter 8100 as part of a rule project. As of the date of this report the Department has no rules to report that are obsolete, unnecessary, or duplicative of statutory provisions.

Ad Valorem Tax, Valuation and Assessment of Railroads:

In last year's Obsolete Rule Report we stated that the following rules were either obsolete or duplicative of statute, and that we would propose legislative repeal: Parts 8106.0100, subparts 11, 15, and 16; and 8106.0200. These rules were repealed legislatively during the 2003 Legislative Session.

The Department of Revenue is currently reviewing Chapter 8106 as part of a rule project, using the "good cause" exemption to the rule process. At this time the Department has found that Part 8106.0300, subpart 2, is obsolete, unnecessary, and duplicative of statutory provisions, and will propose its repeal. We anticipate that the project will be completed in 2004.

Certificate of Real Estate Value:

The Department of Revenue reviewed Chapter 8110 and found no rules that were obsolete, unnecessary, or duplicative of statutory provisions. We amended this chapter as part of a rulemaking project in 2003.

Cigarette and Tobacco Product Taxes:

The Department of Revenue reviewed Chapter 8120 and found no rules that were obsolete, unnecessary, or duplicative of statutory provisions.

Metropolitan Solid Waste Landfill Fee:

The Department of Revenue reviewed Chapter 8121 and found no rules that were obsolete, unnecessary, or duplicative of statutory provisions.

Lawful Gambling Tax:

The Department of Revenue reviewed Chapter 8122 and found no rules that were obsolete, unnecessary, or duplicative of statutory provisions.

Petroleum Tax:

In last year's Obsolete Rule Report we stated that the following rules were obsolete (because no longer administered by the Department): 8125.1000; 8125.1300, Subpart 1; and 8125.1400. They were repealed during the 2003 Legislative session. No other rules in this chapter are obsolete, unnecessary, or duplicative of statutory provisions.

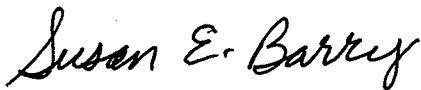
Minnesota State Board of Assessors:

As stated above, the Department of Revenue is responsible for Chapter 1950, the Minnesota State Board of Assessors' rules. A current review of Chapter 1950 finds no rules that are obsolete, unnecessary, or duplicative of statutory provisions.

Continuing process.

At this time, we have identified no other specific Department of Revenue rules that are obsolete, unnecessary, or duplicative, such that they should be repealed. We will, however, continue our process of reviewing and updating current rules, a chapter at a time. If you have any questions regarding this report, please feel free to contact me.

Sincerely,



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cc: Terese Mitchell, Director, Appeals & Legal Services, Department of Revenue
Ward Einess, Governor's Office
Scott Wiggins, Governor's Office
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