

STATE OF MINNESOTA  
DEPARTMENT OF REVENUE

In the Matter of the Proposed Adoption of  
Permanent Rules for the Sales and Use Taxation  
of Computer Software  
(Minnesota Rule Part 8130.9910)

STATEMENT OF NEED  
AND  
REASONABLENESS

GENERAL STATEMENT

The document has been prepared as a verbatim affirmative presentation of the facts necessary to establish authority, need for and reasonableness of the proposed rule. It is submitted pursuant to Minnesota Statutes, section 14.23 and Minnesota Rules part 1400.0500 requiring a Statement of Need and Reasonableness.

A Notice of Intent to Solicit Outside Opinion regarding a sales and use tax rule, Computer Software, was published in the State Register on October 7, 1991. The notice specifically mentioned this rule and invited interested parties to submit comments or suggestions in writing to the Department by November 8, 1991. No comments or suggestions were submitted.

This rule is necessary to state the guidelines applicable to the sales and use taxation of computer software resulting from the interpretation of various statutory amendments which occurred in recent years. This rule will also assist the taxpayer in complying with existing tax obligations.

IMPACT ON SMALL BUSINESS

The impact of the rule on small business has been considered. This rule will not have an impact on small business as contemplated by Minnesota Statutes, section 14.115.

The Legislative Commission to  
Review Administrative Rules

NOV 25 1992



The proposed rule, Computer Software, does not impose new filing, or payment requirements on small business and thus is not expected to place any additional financial or administrative burden on small businesses. Since compliance requirements are clarified by the rule, the task of small business in collecting the sales tax on the types of sales discussed in this rule is simplified.

#### AUTHORITY TO ADOPT RULES

Minnesota Statutes, section 270.06, subd. 13 grants the commissioner of revenue authority to make, publish, and distribute rules for the administration and enforcement of state tax laws.

#### RULE ANALYSIS

##### Subpart 1. Definitions.

- A. Defines the terms "sale" and "purchase;"
- B. Defines the term "computer program;"
- C. Defines the term "custom computer program;"
- D. Defines the term "canned computer program" and provides guidelines for distinguishing between "canned" programs and "custom" programs;
- E. Defines the term "computer;"
- F. Defines the term "maintenance agreements;"
- G. Defines the term "computer programs;" and
- H. Defines the term "storage media."

##### Subpart 2. Tax applications.

- A. Reviews the tax consequences for the sale, lease, or license of "canned" programs.
- B. Reviews the tax consequence on the sale, lease, or license of a "custom" program.

C. Reviews the tax consequences on maintenance charges furnished for a "canned" computer program and a "custom program." It discusses various types of services covered in maintenance contracts. The tax consequences for both nonoptional and optional maintenance contracts are covered.

D. Reviews tax consequences of separately stated charges for instructions.

E. Reviews the tax consequences when a computer and "canned" computer program are purchased together.

F. Reviews the tax consequences when a computer and a "custom" program are purchased together.

G. Reviews the tax consequences when a master computer program is purchased and used to make copies for sale or lease.

H. Reviews the tax consequences when modification charges occur to "canned" and "custom" software.

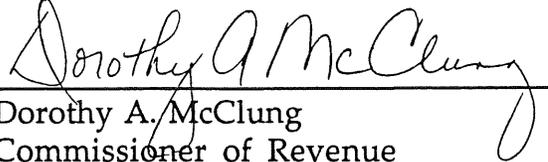
I. Reviews the tax consequences when canned or prewritten programs are transferred to the customer.

J. Reviews the tax consequences of temporary transfer of canned software.

K. Reviews the tax consequences for programming changes to canned or prewritten computer program.

L. Reviews the tax consequences for canned or prewritten computer programs provided when automatic processing equipment is purchased or leased.

Dated: November 16, 1992

  
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Dorothy A. McClung  
Commissioner of Revenue  
State of Minnesota

