



Obsolete, Unnecessary, or Duplicative Rules Annual Report

Reporting Period: 2021

November 30, 2021

Minnesota Department of Revenue

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November 30, 2021

The Honorable Tim Walz
Governor of Minnesota
130 State Capitol

Ryan Inman
Revisor of Statutes
700 State Office Building

The Honorable Melissa Hortman
Chair, Legislative Coordinating Commission
463 State Office Building

The Honorable Jeremy R. Miller
Vice Chair, Legislative Coordinating Commission
3113 Minnesota Senate Building

The Honorable Rena Moran
Chair, House Ways and Means Committee
449 State Office Building

The Honorable Carla J. Nelson
Chair, Senate Taxes Committee
3235 Minnesota Senate Building

The Honorable Pat Garofalo
Minority Lead, House Ways and Means Committee
295 State Office Building

The Honorable Ann H. Rest
Minority Lead, Senate Taxes Committee
2217 Minnesota Senate Building

The Honorable Michael Nelson
Chair, House State Government Finance
Committee
585 State Office Building

The Honorable Bill Weber
Chair, Senate Subcommittee on Property Taxes
2109 Minnesota Senate Building

The Honorable Jim Nash
Minority Lead, House State Government Finance
Committee
349 State Office Building

The Honorable Matt D. Klein
Minority Lead, Senate Subcommittee on Property
Taxes
2409 Minnesota Senate Building

The Honorable Paul Marquart
Chair, House Taxes Committee
597 State Office Building

The Honorable Julie A. Rosen
Chair, Senate Finance Committee
2113 Minnesota Senate Building

The Honorable Greg Davids
Minority Lead, House Taxes Committee
283 State Office Building

The Honorable John Marty
Minority Lead, Senate Finance Committee
2301 Minnesota Senate Building

The Honorable Cheryl Youakim
Chair, House Property Tax Division
591 State Office Building

The Honorable Mary Kiffmeyer
Chair, Senate State Government Finance and Policy
and Elections Committee
3103 Minnesota Senate Building

The Honorable Jerry Hertaus
Chair, House Property Tax Division
389 State Office Building

The Honorable Jim Carlson
Minority Lead, Senate State Government Finance and
Policy and Elections Committee
2207 Minnesota Senate Building

The Honorable John R. Jasinski
Chair, Senate Local Government Policy Committee
3211 Minnesota Senate Building

The Honorable Steve Cwodzinski
Minority Lead, Senate Local Government Committee
2231 Minnesota Senate Building

Dear Governor Walz, Revisor Inman, and Committee Members:

Minnesota Statutes, section 14.05, subdivision 5, directs the Department of Revenue to report to you by December 1 of each year whether any of its rules are obsolete, unnecessary, or duplicative of other state or federal statutes or rules.

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 its rules, to repeal obsolete and duplicative provisions, clarify current language and to recommend clean-up language. This report yields the following results after a diligent review of the relevant resources.

Corporate Franchise Taxes:

The Department of Revenue reviewed Chapter 8034 and found no rules in this chapter that are obsolete, unnecessary, or duplicative of statutory provisions, such that they should be repealed.

Income Taxes:

In the previous report dated December 1, 2020, the Department of Revenue reviewed Chapter 8002 and found that Part 8002.0200, subpart 4, is duplicative of statutory provisions and should be repealed. The Department accomplished this through obsolete rulemaking, and the project was completed in August 2021.

In the previous report dated December 1, 2020, the Department of Revenue reviewed Chapter 8001 and found that Part 8001.0300, subpart 3, item Q conflicts with statutory provisions, and the final sentence in subpart 3 is duplicative of statutory provisions, and both should be repealed. The

Department is continuing to consider how best to accomplish this and the time frame to accomplish this task.

The Department found that Part 8002.0300, subpart 1 partially conflicts with statute. The Department is considering how best to reflect the statutory amendments that created the conflict and does not yet have an estimate of the associated timeframe.

The Department has reviewed the remainder of the Chapters 8001, 8002, 8020, 8038, 8050, and 8093 and found no other rules in these chapters that are obsolete, unnecessary, or duplicative of statutory provisions, such that they should be repealed.

Withholding Taxes:

The Department of Revenue reviewed Chapter 8092 and found no rules in this chapter that are obsolete, unnecessary, or duplicative of statutory provisions, such that they should be repealed.

Sales & Use Taxes:

The Department of Revenue reported in 2018 that it had reviewed Chapter 8130 and found that Part 8130.9910 relating to the taxation of computer software is obsolete and should be repealed. In the previous report dated December 1, 2020, the Department concluded that the better course was to amend the rule and had started that process. The Department plans to publish its proposed rule and notice of intent to adopt in 2021.

In the previous report dated December 1, 2020, the Department of Revenue announced it reviewed Chapter 8130 and found that Part 8130.7500 relating to recordkeeping has provisions which are now obsolete, and subpart 3 discussing consolidated returns duplicates Minn. Stat. section 289A.11. The Department reported that it had begun the process of promulgating a new rule to repeal and replace Part 8130.0750, to modernize terms and clarify expectations regarding recordkeeping. The Department published proposed updated rules for public comment in 2021 and plans to promulgate final updated rules in 2022.

The Department of Revenue reviewed Chapter 8130 and found that the following rules contain references to statutory citations that were repealed due to a recodification of Minnesota Statutes chapter 297A and therefore need to be updated: Part 8130.5500, subparts 1, 2, 3a, 4a, 5a, 7, 8, 9, 12 and 13; Part 8130.8100, subparts 1, 2 and 3; Part 8130.8800, subpart 3; and Part 8130.8900, subpart 1. The Department will consider how best to update these rules to reflect the new citations.

The Department of Revenue reviewed the remainder of Chapter 8130 and found no other rules in this chapter that are obsolete, unnecessary, or duplicative of statutory provisions, such that they should be repealed.

Property Equalization, Ad Valorem Taxes, Utilities:

The Department of Revenue reviewed Chapter 8100 and found no rules in this chapter that are obsolete, unnecessary, or duplicative of statutory provisions, such that they should be repealed.

Ad Valorem Tax, Valuation and Assessment of Railroads:

In the previous report dated December 1, 2020, the Department of Revenue reviewed Chapter 8106 and found that Part 8106.0800 is obsolete and should be revised or repealed. The Department continues to consider how best to accomplish this.

The Department of Revenue reviewed the remainder of Chapter 8106 and found no other rules in this chapter that are obsolete, unnecessary, or duplicative of statutory provisions, such that they should be repealed.

Certificate of Real Estate Value:

The Department of Revenue reviewed Chapter 8110 and found no rules in this chapter that are obsolete, unnecessary, or duplicative of statutory provisions, such that they should be repealed.

Cigarette and Tobacco Product Taxes:

The Department of Revenue reviewed Chapter 8120 and found no rules in this chapter that were obsolete, unnecessary, or duplicative of statutory provisions, such that they should be repealed.

Metropolitan Solid Waste Landfill Fee:

The Department of Revenue reviewed Chapter 8121 and found no rules in this chapter that are obsolete, unnecessary, or duplicative of statutory provisions, such that they should be repealed.

Lawful Gambling Tax:

In the previous report dated December 1, 2020, the Department of Revenue announced it reviewed Chapter 8122 and determined some rules should be updated. The relevant Rule changes were adopted on December 28, 2020 and published in final form in the State Register on February 2, 2021. The amendments bring part 8122 into conformity with 2012 law changes that included, among other things: 1) legalization of electronic games (e.g., electronic pull-tabs and electronic bingo) and sports-themed tipboards; and 2) elimination of a tax on distributors of gambling equipment and imposition of tax on certain gambling net receipts and certain combined net receipts. The amendments also ensure part 8122 reflects other changes to lawful gambling statutes (e.g., a change in 2009 to the kinds of organizations that must include a certified cash count in their audit) and non-statutory changes (e.g., changes in the government agency responsible for collecting data and changes to the names of required forms).

The Department has subsequently reviewed Chapter 8120 and found no rules in this chapter that are obsolete, unnecessary, or duplicative of statutory provisions, such that they should be repealed.

Petroleum Tax:

The Department of Revenue reviewed Chapter 8125 and found no rules in this chapter that were obsolete, unnecessary, or duplicative of statutory provisions, such that they should be repealed.

Minnesota State Board of Assessors:

The Department of Revenue reviewed Chapter 1950 and found no rules in this chapter that were obsolete, unnecessary, or duplicative of statutory provisions, such that they should be repealed.

Tax Administration and Miscellaneous Provisions:

In the previous report dated December 1, 2020, the Department of Revenue reviewed Chapter 8160 and found that Part 8160.0500 needs to be updated to reflect the way that a taxpayer can qualify for innocent spouse relief under Minnesota Statutes, section 289A.31 subd. 2(a). Additionally, Part 8160.0620 subpart 1, item B is obsolete and should be repealed. The Department is considering how best to accomplish this.

The Department of Revenue reviewed Chapter 8165 and found that Part 8165.0300 subp. 3 references Minnesota Statutes, section 290.067, subdivision 2a for the definition of the word “income.” Minnesota Statutes, section 290.067, subd. 2a was repealed in 2018, and therefore the reference should be repealed. The Department is considering how best to accomplish this.

The Department of Revenue reviewed Chapter 8175 and found that Part 8175.0100 contains references to statutes whose citations have been modified and are no longer accurate. The Department will consider how best to update this rule to reflect the new citations.

The Department of Revenue reviewed the remainder of Chapters 8160, 8165, 8170, and 8175, and found they are not obsolete, unnecessary, or duplicative of statutory provisions, such that they should be repealed.

Continuing Process:

The Department of Revenue reviewed its rules and found no others became obsolete, unnecessary, or duplicative over the course of the last year.

Cost of Report:

In compliance with *Minnesota Statutes*, §3.197, the cost of preparing this report is \$550.00, which consists of staff time for the review of rules, legal research, and the time to complete this report.

Please contact Phillip or Grant if you have any questions regarding this report or if we can provide further assistance.

Sincerely,



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c: Terese Mitchell, Director

Robert A. Doty, Commissioner

Joanna Bayers, Legislative Director