

Minnesota Department of Revenue

Sales and Use Tax Division

REQUEST FOR COMMENTS

Possible Amendment to Rules Governing Computer Software, *Minnesota Rules*, 8130.9910; Revisor's ID Number R-04459.

Subject of Rules. The Minnesota Department of Revenue requests comments on its possible amendment to rules governing sales and use tax as it applies to sales and purchases of computer software. The Department is considering rule amendments that would update the scope of the computer software rule to better align it with statutory changes made by the Legislature to conform with the Streamlined Sales Tax Agreement, recent court interpretation of those statutory changes, and to update the rule to address technological advancements.

Persons Affected. The amendment to the rules would likely affect retailers and computer software developers given that the rule addresses the taxation of computer software. It will also affect purchasers of computer software and business entities that provide cloud computing services.

Statutory Authority. The Department's statutory authority to adopt these rules is set forth in *Minnesota Statutes*, section 270C.03, which provides that the Commissioner of Revenue has the authority to "administer and enforce the assessment and collection of taxes," and *Minnesota Statutes*, section 270C.06, provides that "the commissioner shall from time to time, make publish, and distribute rules for the administration and enforcement of state tax laws. The rules have the force of law." Under these statutes, the Department has the necessary statutory authority to adopt the proposed amendment to rules.

Public Comment. Interested persons or groups may submit comments or information on these possible rules in writing until 4:30 p.m. on **February 26, 2018**. The Department will not publish a notice of intent to adopt the rules until more than 60 days have elapsed from the date of this request for comments.

Submit comments via the Office of Administrative Hearings Rulemaking e-comments website at <https://minnesotaoah.granicusideas.com/discussions>.

Advisory Committee. The Department plans to appoint an advisory committee of 10 - 12 persons to comment on the possible amendment of the sales and use tax computer software rule. Persons interested in serving on an advisory committee should contact the agency contact (contact information below) by **February 26, 2018**. The Commissioner of Revenue will make the final selection of advisory committee members.

Rules Drafts. The Department does not anticipate that a draft of the rules amendments will be available before the publication of the proposed rules.

Agency Contact Person. Written questions, requests to receive a draft of the rules when it has been prepared, and requests for more information on these possible rules should be directed to:

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Alternative Format. Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request, please contact the agency contact person at the address or telephone number listed above.

NOTE: Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the administrative law judge if and when a proceeding to adopt rules is started. The agency is required to submit to the judge only those written comments received in response to the rules after they are proposed. If you submitted comments during the development of the rules and you want to ensure that the Administrative Law Judge reviews the comments, you should resubmit the comments after the rules are formally proposed.

Dated: December 26, 2017

Cynthia Bauerly, Commissioner
Department of Revenue