

**Minnesota Department of Revenue**

**NOTICE OF SUBMISSION OF RULES PROPOSED FOR ADOPTION WITHOUT A  
PUBLIC HEARING TO THE OFFICE OF ADMINISTRATIVE HEARINGS**

**Amendments to Rules for Domicile Considerations, part 8001.0300;  
Revisor's ID Number R-04772.**

TO: ALL INTERESTED PERSONS

In accordance with Minnesota Statutes, section 14.388, subdivision 2, this Notice is being sent to all persons who have registered their name with the agency under Minnesota Statutes, section 14.14, subdivision 1a. This notice is also posted on the website of the Department of Revenue.

The Department is using the good cause exemption process under Minnesota Statutes, section 14.388, subdivision 1, clauses (3) and (4), as authority for proposing the rule amendments cited above.

PLEASE TAKE NOTICE that the above-cited proposed rule amendments will be submitted to the Office of Administrative Hearings on the date of this notice, February 13, 2023. A copy of the proposed rule changes is attached to this notice.

Also attached is the "Findings & Statement of Supporting Reasons," which explain why the rule amendments qualify for the good cause exemption from rulemaking. The same "Findings & Statement of Support Reasons" was incorporated by reference into the Commissioner's proposed order adopting the rule, which was submitted to the Office of Administrative Hearings.

All interested persons have five business days after the date of this notice to submit comments to the Office of Administrative Hearings via its eComments website at <https://minnesotaoah.granicusideas.com/discussions> or via its mailing address at 600 N. Robert Street, P.O. Box 64620, St. Paul, MN 55164-64620. To be considered, comments must be received by OAH no later than 4:30 p.m. on November 19, 2019.

The agency contact person is Erik Zercher, Department of Revenue, 600 N. Robert St., St. Paul, MN 55146-2220, (651) 556-4084, [Erik.Zercher@state.mn.us](mailto:Erik.Zercher@state.mn.us). Please contact this agency contact person with questions about this proposed rulemaking or for a special accommodation.

Signed by: Erik Zercher, Attorney, Appeals, Legal Services, and Disclosure Division  
February 3, 2023

## **PROPOSED ORDER ADOPTING AMENDMENT OF RULES**

Adoption of Permanent Exempt Rule Governing Tax Definitions: Amending Minnesota Rules, parts 8001.0300, subpart 3.

### **WHEREAS:**

1. The rulemaking provisions of Minnesota Statutes, Chapter 14, are unnecessary when, as in this case, amendments are made to a rule that: a) incorporate specific changes set forth in applicable statutes when no interpretation of law is required; or b) make changes that do not alter the sense, meaning or effect of a rule. Minnesota Statutes, section 14.388.
2. The attached Findings & Statement of Supporting Reasons justifies the good cause exemption from rulemaking provided by Minnesota Statutes, section 14.388, and is hereby incorporated by reference.
3. This rulemaking complies with all applicable law, including the procedural requirements in Minnesota Statutes, section 14.388 and Minnesota Rules, part 1400.2400.
4. The attached certified copy of the rule demonstrates that the Office of the Revisor has approved its form, as required by Minnesota Statutes, section 14.386, paragraph (a)(1), and Minnesota Rules, part 1400.2400.

IT IS ORDERED that the above-captioned rule, in the form certified as approved by the Office of the Revisor, is adopted pursuant to authority vested in me by Minnesota Statutes, SECTION 270C.06, WHICH PROVIDES THAT the Commissioner of Revenue shall “make, publish, and distribute rules for the administration and enforcement of...state tax laws.” Under these statutes, the Commissioner of Revenue has authority to amend this rule.

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Date

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Paul Marquart, Commissioner  
Department of Revenue

## **FINDINGS & STATEMENT OF SUPPORTING REASONS**

Adoption of Permanent Exempt Rule Governing Tax Definitions: Amending Minnesota Rules, part 8001.0300, subpart 3.

### **FINDINGS**

Under Minnesota Statutes, section 290.01, subdivision 7, paragraph (a), definition of resident, a resident generally is any individual domiciled in Minnesota. The Commissioner of the Department of Revenue promulgated Minnesota Rules, part 8001.0300, subpart 3 providing factors for consideration in domicile determinations.

In Minnesota Rules, part 8001.0300, subpart 3, item Q, the “location of any bank accounts, especially the location of the most active checking account” will be considered in the determination of a person’s domicile. In 2017, Minnesota Statutes, section 290.01, subdivision 7, paragraph (c) was amended, in relevant part, as provided by Laws of Minnesota 2017, 1st Spec. Sess. chapter 1, article 1, section 5 to bar the commissioner and court from considering the “place of business of a financial institution at which the individual applies for any new type of credit or at which the individual opens or maintains any type of account” when determining a taxpayer’s domicile. Because the taxpayer’s bank account location is explicitly barred from consideration under subdivision 7, Minnesota Rules, part 8001.0300, subpart 3, item Q no longer has any effect. This part of the rule is now inconsistent with statute and should be removed from Minnesota Rules, part 8001.0300.

In Minnesota Rules, part 8001.0300, subpart 3, not under any item label, is the provision “[c]haritable contributions made by a person will not be considered in determining whether that person is domiciled in Minnesota.” Minnesota Statutes, section 290.01, subdivision 7, paragraph (c), clause (1), bars the consideration of charitable contributions, whether made in or out of the state, in the determination of a person’s domicile. This language has been included in Minnesota Rules, part 8001.0300, subpart 3, since 1989. Minnesota Statutes, section 290.01, subdivision 7, paragraph (c), clause (1), was enacted into law during the 1999 Regular Session (Laws of Minnesota 1999, chapter 243, article 2, section 2). As this part of the rule has been codified into statute, it is duplicative of the statute and is unnecessary to also be included in Minnesota Rules, part 8001.0300, subpart 3.

The proposed amendments to Minnesota Rules, part 8001.0300 incorporate specific changes set forth in Minnesota Statutes, section 290.01, subdivision 7. Additionally, these changes do not alter the sense, meaning, or effect of Minnesota Rules, part 8001.0300.

### **STATEMENT OF SUPPORTING REASONS**

An amendment must meet one of the criteria of Minnesota Statutes, section 14.388, to be adopted under good cause exemption procedures. The third clause, “to incorporate specific changes set forth in applicable statutes when no interpretation of law is required,” applies in this instance. The fourth clause – “make[s] changes that do not alter the sense, meaning, or effect of

a rule” – also applies.