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Statement of Position Reporting of Criminal Forfeitures

Property used in the commission of a crime may be seized by law enforcement. The types of property subject to forfeiture under Minnesota law include cash, vehicles, firearms, drugs and precious stones. If the seized property itself is not harmful or is not required to be destroyed, law enforcement may decide to sell it or use it for law enforcement purposes.¹

Forfeiture Incident Reporting

Property seized subject to forfeiture must be reported to the Office of the State Auditor (OSA).² The OSA then reports annually to the legislature on the nature and extent of forfeitures.

Each entity that uses the forfeiture provisions must provide a written record of each forfeiture incident to the OSA on a “monthly basis.”³ In addition, all instances in which property seized for forfeiture was returned to its owner must be identified. “Forfeiture incidents” that must be reported include administrative, judicial and summary forfeitures.

To comply with the reporting statutes, the following steps should be taken:

- 1) Maintain a record for each forfeiture incident, including:
 - date seized;
 - the type of property seized;
 - a brief description of the circumstances;
 - the statutory authority for the forfeiture;
 - the basis for disposition;
 - whether the forfeiture was contested;
 - whether the forfeiture was initiated as an administrative or judicial forfeiture (for controlled substance and driving while

¹ See, e.g., Minn. Stat. § 609.5315, subd. 1.

² See, e.g., Minn. Stat. §§ 84.7741, subd. 13; 97A.221, subd. 5; 97A.223, subd. 6; 97A.225, subd. 10; 169A.63, subd. 12; 609.5315, subd. 6; 609.762, subd. 6; and 609.905, subd. 3.

³ Minn. Stat. § 609.5315, subd. 6(b) and (c).

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This Statement of Position is not legal advice and is subject to revision.

- impaired forfeitures only);
- the estimated value (if not cash or sold);
- the gross amount received, the total expenses deducted, and the net amount for distribution;
- the year and model of any vehicles;
- the number of firearms forfeited;
- the make, model and serial number of any firearm forfeited;
- how the property was or is to be disposed of; and
- the date of disposition of the property.

2) Report forfeiture incidents to the OSA:

- a) Report forfeitures through the OSA's SAFES system within 30 days of the final disposition of the property;
- or**
- b) Report “no forfeitures” through the OSA's SAFES system after January 1 if no forfeitures occurred during the previous year.

For purposes of the reporting requirement, forfeitures are considered “complete” in the month in which a final disposition or decision is made on the seized property, regardless of the date the property is initially seized. The final disposition date for forfeited property to be sold at an auction, for example, is the date on which the property is sold.

The report must be filed by the entity with the statutory authority to seize and forfeit the property. Multijurisdictional law enforcement entities whose activities result in forfeiture must report monthly to the state auditor on their own behalf.⁴ Because multijurisdictional entities often have no staff of their own, they may designate who among their members will make the monthly reports to the OSA on behalf of the multijurisdictional entity.

Instructions on reporting forfeitures is available on the OSA website at:

<http://www.auditor.state.mn.us/forms/gid/instructionsforSAFESandforfeitureform.pdf>.

Remitting Proceeds to the State

Proceeds that are required to be remitted to the State should be sent directly the Treasury Division of Minnesota Management and Budget.⁵ A remittance form is available at: <http://www.auditor.state.mn.us/default.aspx?page=20031119.001>. Please contact the Treasury Division at (651) 201-8092 with any further questions on how to submit your proceeds to the State.

⁴ Minn. Stat. § 609.5315, subd. 6(d).

⁵ See, e.g., Minn. Stat. § 609.5315, subd. 5.