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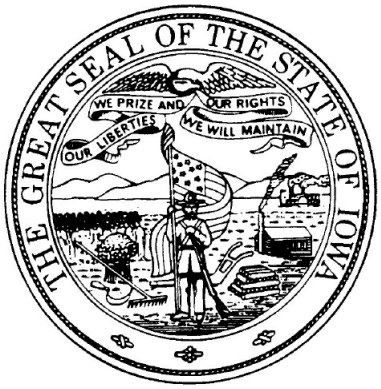

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The Iowa Administrative Code (IAC) Supplement is published biweekly pursuant to Iowa Code sections 2B.5A and 17A.6. The Supplement is a compilation of updated Iowa Administrative Code chapters that reflect rule changes which have been adopted by agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17, 17A.4, and 17A.5 and published in the Iowa Administrative Bulletin bearing the same publication date as the one for this Supplement. To determine the specific changes to the rules, refer to the Iowa Administrative Bulletin. To maintain a loose-leaf set of the IAC, insert the chapters according to the instructions included in the Supplement.

In addition to the rule changes adopted by agencies, the chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay or suspension imposed by the ARRC pursuant to section 17A.8(9) or 17A.8(10); rescission of a rule by the Governor pursuant to section 17A.4(8); nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa; other action relating to rules enacted by the General Assembly; updated chapters for the Uniform Rules on Agency Procedure; or an editorial change to a rule by the Administrative Code Editor pursuant to Iowa Code section 2B.13(2).

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone 515.281.3355 or 515.242.6873

Economic Development Authority[261]

Replace Analysis
Replace Chapter 43
Replace Chapters 47 and 48
Replace Chapter 81
Replace Chapter 116

Management Department[541]

Replace Analysis
Replace Chapter 1
Replace Chapters 5 to 8
Replace Chapters 11 to 13
Remove Reserved Chapters 14 and 15 and Chapter 16
Insert Reserved Chapters 14 to 16

Revenue Department[701]

Replace Analysis
Replace Chapters 301 and 302
Replace Chapter 307

ECONOMIC DEVELOPMENT AUTHORITY[261]

[Created by 1986 Iowa Acts, chapter 1245]
[Prior to 1/14/87, see Iowa Development Commission[520] and Planning and Programming[630]]
[Prior to 9/7/11, see Economic Development, Iowa Department of[261];
renamed Economic Development Authority by 2011 Iowa Acts, House File 590]

PART I
DEPARTMENT STRUCTURE

PART II
WORKFORCE DEVELOPMENT COORDINATION

PART III
COMMUNITY DEVELOPMENT DIVISION

CHAPTER 31
ECONOMIC DEVELOPMENT REGION INITIATIVES

DIVISION I
ECONOMIC DEVELOPMENT REGION INITIATIVE—FINANCIAL ASSISTANCE

DIVISION II
ECONOMIC ENTERPRISE AREAS

DIVISION III
BUSINESS ACCELERATORS

CHAPTERS 32 to 35
Reserved

CHAPTER 36
DOWNTOWN LOAN GUARANTEE PROGRAM

CHAPTER 37
Reserved

CHAPTER 38
REGIONAL SPORTS AUTHORITY DISTRICTS

CHAPTER 39
MAIN STREET IOWA PROGRAM

CHAPTERS 40 and 41
Reserved

CHAPTER 42
IOWA TOURISM GRANT PROGRAM

CHAPTER 43
HOOVER PRESIDENTIAL LIBRARY TAX CREDIT

CHAPTER 44
COG ASSISTANCE

CHAPTER 45
COMMUNITY CATALYST BUILDING REMEDIATION PROGRAM

PART IV
BUSINESS DEVELOPMENT DIVISION

CHAPTER 50
DIVISION RESPONSIBILITIES

CHAPTER 51
BUTCHERY INNOVATION AND REVITALIZATION PROGRAM

CHAPTER 52
IOWA TARGETED SMALL BUSINESS CERTIFICATION PROGRAM

CHAPTER 53
Reserved

CHAPTER 54
IOWA TARGETED SMALL BUSINESS PROCUREMENT PROGRAM

CHAPTER 55
TARGETED SMALL BUSINESS FINANCIAL ASSISTANCE PROGRAM

CHAPTER 56
EMPLOYEE STOCK OWNERSHIP PLAN (ESOP) FORMATION ASSISTANCE

CHAPTER 57
EMPLOYER CHILD CARE TAX CREDIT

CHAPTER 58
Reserved

CHAPTER 59
ENTERPRISE ZONE (EZ) PROGRAM

CHAPTER 60
ENTREPRENEURIAL VENTURES
ASSISTANCE (EVA) PROGRAM

CHAPTERS 61 to 64
Reserved

CHAPTER 65
BROWNFIELD AND GRAYFIELD REDEVELOPMENT

CHAPTER 66
ASSISTIVE DEVICE TAX CREDIT

CHAPTER 67
Reserved

CHAPTER 68
HIGH QUALITY JOBS PROGRAM (HQJP)

CHAPTERS 69 and 70
Reserved

CHAPTER 71
TARGETED JOBS WITHHOLDING TAX CREDIT PROGRAM

DIVISION III
CONSULTATION

CHAPTERS 78 to 80
Reserved

CHAPTER 81
RENEWABLE CHEMICAL PRODUCTION TAX CREDIT PROGRAM

CHAPTERS 82 to 100
Reserved

PART V
INNOVATION AND COMMERCIALIZATION ACTIVITIES

CHAPTER 101
MISSION AND RESPONSIBILITIES

CHAPTER 102
ENTREPRENEUR INVESTMENT AWARDS PROGRAM

CHAPTERS 103 and 104
Reserved

CHAPTER 105
DEMONSTRATION FUND

CHAPTER 106
SMALL BUSINESS INNOVATION RESEARCH AND TECHNOLOGY TRANSFER OUTREACH PROGRAM

CHAPTER 107
Reserved

CHAPTER 108
ACCELERATION AND DEVELOPMENT OF INNOVATIVE IDEAS AND BUSINESSES

CHAPTERS 109 to 111
Reserved

CHAPTER 112
STATE SMALL BUSINESS CREDIT INITIATIVE (SSBCI)

CHAPTER 113
Reserved

CHAPTER 114
IOWA INNOVATION COUNCIL

CHAPTER 115
TAX CREDITS FOR INVESTMENTS IN QUALIFYING BUSINESSES

CHAPTER 116
TAX CREDITS FOR INVESTMENTS IN CERTIFIED INNOVATION FUNDS

CHAPTER 117
SSBCI DEMONSTRATION FUND

CHAPTER 118
STRATEGIC INFRASTRUCTURE PROGRAM

CHAPTER 119
MANUFACTURING 4.0 TECHNOLOGY INVESTMENT PROGRAM

CHAPTERS 120 to 162
Reserved

PART VI
ADMINISTRATION DIVISION

CHAPTER 163
DIVISION RESPONSIBILITIES

CHAPTER 164
Reserved

CHAPTER 165
ALLOCATION OF GROW IOWA VALUES FUND

CHAPTERS 166 to 170
Reserved

PART VII
ADDITIONAL APPLICATION REQUIREMENTS AND PROCEDURES

CHAPTER 171
SUPPLEMENTAL CREDIT OR POINTS

CHAPTER 172
ENVIRONMENTAL LAW COMPLIANCE; VIOLATIONS OF LAW

CHAPTER 173
STANDARD DEFINITIONS

CHAPTER 174
WAGE, BENEFIT, AND INVESTMENT REQUIREMENTS

CHAPTER 175
APPLICATION REVIEW AND APPROVAL PROCEDURES

CHAPTERS 176 to 186
Reserved

PART VIII
LEGAL AND COMPLIANCE

CHAPTER 187
CONTRACTING

CHAPTER 188
CONTRACT COMPLIANCE AND JOB COUNTING

CHAPTER 189
ANNUAL REPORTING

CHAPTERS 190 to 194
Reserved

PART IX
UNIFORM PROCEDURES: RECORDS, RULE MAKING, DECLARATORY ORDERS, RULE WAIVERS

CHAPTER 195
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

CHAPTER 196
DEPARTMENT PROCEDURE FOR RULE MAKING

CHAPTER 197
PETITION FOR RULE MAKING

CHAPTER 198
PETITION FOR DECLARATORY ORDER

CHAPTER 199
UNIFORM WAIVER RULES

PART X
COMMUNITY ATTRACTION AND INVESTMENT PROGRAMS

CHAPTER 200
REINVESTMENT DISTRICTS PROGRAM

CHAPTERS 201 to 210
Reserved

CHAPTER 211
COMMUNITY ATTRACTION AND TOURISM (CAT) PROGRAMS

DIVISION I
GENERAL PROVISIONS

DIVISION II
COMMUNITY ATTRACTION AND TOURISM (CAT) FUND

DIVISION III
RIVER ENHANCEMENT COMMUNITY ATTRACTION AND TOURISM (RECAT) FUND

CHAPTER 212
VISION IOWA PROGRAM

CHAPTER 213
ENHANCE IOWA BOARD: UNIFORM WAIVER RULES

CHAPTER 214
ENHANCE IOWA BOARD

CHAPTER 215
SPORTS TOURISM PROGRAM: MARKETING FUND

CHAPTER 216
SPORTS TOURISM PROGRAM: INFRASTRUCTURE FUND

CHAPTERS 217 to 299
Reserved

PART XI
Reserved

CHAPTER 300
Reserved

PART XI
ARTS AND CULTURE

CHAPTER 301
IOWA COMMUNITY CULTURAL GRANTS (ICCG) PROGRAM

CHAPTER 302
CULTURAL LEADERSHIP PARTNERS (CLP) PROGRAM

CHAPTER 43
HOOVER PRESIDENTIAL LIBRARY TAX CREDIT

261—43.1(15E) Purpose. The purpose of the Hoover presidential library tax credit is to encourage donations to the Hoover presidential foundation for the Hoover presidential library and museum renovation project.
[**ARC 6087C**, IAB 12/15/21, effective 11/19/21]

261—43.2(15E) Definitions.

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Department" means the Iowa department of revenue.

"Donor" means a person who makes an unconditional charitable donation to the Hoover presidential foundation for the Hoover presidential library and museum renovation project fund.

"Tax credit" means the amount a taxpayer may claim against the taxes imposed in Iowa Code chapter 422, subchapters II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329.
[**ARC 6087C**, IAB 12/15/21, effective 11/19/21]

261—43.3(15E) Authorization of tax credits.

43.3(1) For tax years beginning on or after January 1, 2021, but before January 1, 2025, a tax credit shall be allowed against the taxes imposed in Iowa Code chapter 422, subchapters II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329, equal to 25 percent of a donor's charitable donation made on or after July 1, 2021, to the Hoover presidential foundation for the Hoover presidential library and museum renovation project fund.

43.3(2) A donor shall not claim a tax credit for a donation made during a tax year beginning before January 1, 2021, or after December 31, 2024.

43.3(3) To receive the tax credit, a donor shall file a claim with the department in accordance with any applicable administrative rules adopted by the department.
[**ARC 6087C**, IAB 12/15/21, effective 11/19/21; **ARC 7492C**, IAB 1/10/24, effective 2/14/24]

261—43.4(15E) Tax credit limitations.

43.4(1) The aggregate amount of tax credits authorized for the program shall not exceed a total of $5 million.

43.4(2) The maximum amount of tax credits granted to any one person shall not exceed $250,000.

43.4(3) Ten percent of the aggregate amount of tax credits authorized, or $500,000, shall be reserved for those donations in amounts of $30,000 or less. If any portion of the reserved tax credits has not been distributed by September 1, 2023, the remaining reserved tax credits shall be available after September 1, 2023, to any other eligible person.
[**ARC 6087C**, IAB 12/15/21, effective 11/19/21]

261—43.5(15E) Distribution process and review criteria.

43.5(1) The authority shall develop and make available a standardized application pertaining to the authorization and distribution of tax credits. The application shall request information to document that a qualified donation has been made, and any other information required by the authority. Qualifying donors shall be issued a tax credit certificate to be included with the donor's Iowa tax return.

43.5(2) Applications will be accepted and awarded on an ongoing basis.

43.5(3) If, before September 1, 2023, the authority receives tax credit applications in excess of $4.5 million for donations greater than $30,000, the authority shall establish a waitlist to receive any portion of the reserved tax credits that are not distributed by September 1, 2023. Applications on the waitlist shall be prioritized by the date the authority received the applications. If any portion of the reserved tax credits under subrule 43.4(3) becomes available after September 1, 2023, the authority shall approve the waitlisted applications and issue tax credit certificates in the order they are listed on the waitlist, up to the amount of the remaining reserved tax credits. Placement on a waitlist does not constitute a promise binding the state that persons placed on the waitlist will actually receive a tax credit in a future year. The

availability of a tax credit and approval of a tax credit application in a future year is contingent upon the availability of tax credits in that particular year.
[**ARC 6087C**, IAB 12/15/21, effective 11/19/21]

These rules are intended to implement Iowa Code section 15E.364.

[Filed Emergency After Notice ARC 6087C (Notice ARC 5908C, IAB 9/22/21), IAB 12/15/21, effective 11/19/21]

[Filed ARC 7492C (Notice ARC 7106C, IAB 11/1/23), IAB 1/10/24, effective 2/14/24]

CHAPTER 47
ENDOW IOWA TAX CREDITS

261—47.1(15E) Purpose. The purpose of endow Iowa tax credits is to encourage individuals, businesses, and organizations to invest in community foundations and to enhance the quality of life for citizens of this state through increased philanthropic activity.
[**ARC 8474B**, IAB 1/13/10, effective 2/17/10; **ARC 0008C**, IAB 2/8/12, effective 3/14/12]

261—47.2(15E) Definitions.

"Authority" means the economic development authority.

"Community affiliate organization" means a group of five or more community leaders or advocates organized for the purpose of increasing philanthropic activity in an identified community or geographic area in the state with the intention of establishing a community affiliate endowment fund.

"Endow Iowa qualified community foundation" means a community foundation organized or operating in this state that substantially complies with the national standards for U.S. community foundations established by the National Council on Foundations as determined by the authority in collaboration with the Iowa Council of Foundations.

"Endowment gift" means an irrevocable contribution to a permanent endowment held by an endow Iowa qualified community foundation.

"Permanent endowment fund" means a fund held in an endow Iowa qualifying community foundation to provide benefit to charitable causes in the state of Iowa. Endowed funds are intended to exist in perpetuity, and to implement an annual spend rate not to exceed 5 percent.

"Tax credit" means the amount a taxpayer may claim against the taxes imposed in Iowa Code chapter 422, subchapters II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329.
[**ARC 8474B**, IAB 1/13/10, effective 2/17/10; **ARC 0008C**, IAB 2/8/12, effective 3/14/12; **ARC 6793C**, IAB 1/11/23, effective 2/15/23]

261—47.3(15E) Authorization of tax credits to taxpayers. The authority shall authorize tax credits to qualified taxpayers who provide an endowment gift to an endow Iowa qualified community foundation or a community affiliate organization affiliated with an endow Iowa qualified community foundation for a permanent endowment fund within the state of Iowa in accordance with the following provisions:

47.3(1) Approved tax credits shall be allowed against taxes imposed in Iowa Code chapter 422, subchapters II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329.

47.3(2) Tax credits will be equal to 25 percent of a taxpayer's gift to a permanent endowment held in an endow Iowa qualified community foundation. The amount of the endowment gift for which the endow Iowa tax credit is claimed shall not be deductible in determining taxable income for state income tax purposes.

47.3(3) If the authority receives applications for tax credits in excess of the amount available, the applications shall be prioritized by the date the authority received the applications. Applications received on or before June 30, 2023, will be placed on a waitlist for a subsequent year's allocation of tax credits if the number of applications exceeds the amount of annual tax credits available. Applications placed on the waitlist shall first be funded in the order listed on the waitlist. Applications received on or after July 1, 2023, in excess of the amount of tax credits available will not be placed on the waitlist and will be denied by the authority. For endowment gifts made on or after June 30, 2023, a taxpayer shall submit an application to the authority for the tax credit no later than 12 months from the date of the donation which qualifies the taxpayer for the tax credit.

47.3(4) To receive the tax credit, a donor shall file a claim with the department of revenue in accordance with any applicable administrative rules adopted by the department.
[**ARC 8474B**, IAB 1/13/10, effective 2/17/10; **ARC 0008C**, IAB 2/8/12, effective 3/14/12; **ARC 0613C**, IAB 2/20/13, effective 3/27/13; **ARC 6793C**, IAB 1/11/23, effective 2/15/23; **ARC 7492C**, IAB 1/10/24, effective 2/14/24]

261—47.4(15E) Distribution process and review criteria. The authority shall develop and make available a standardized application pertaining to the allocation of endow Iowa tax credits.

47.4(1) Twenty-five percent of the annual amount available for tax credits shall be reserved for those permanent endowment gifts made to community affiliate organizations. If by September 1 of any year the entire 25 percent reserved for permanent endowment gifts corresponding to community affiliate organizations is not allocated, the amount remaining shall be available for other applicants.

47.4(2) Ten percent of the annual amount available for tax credits shall be reserved for those permanent endowment gifts totaling $30,000 or less. If by September 1 of any year the entire 10 percent reserved for permanent endowment gifts totaling $30,000 or less is not allocated, the amount remaining shall be available for other applicants.

47.4(3) Applications will be accepted and awarded on an ongoing basis. The authority will make public by June 1 and December 1 of each calendar year the total number of requests for tax credits and the total amount of requested tax credits that have been submitted and awarded.

[**ARC 8474B**, IAB 1/13/10, effective 2/17/10; **ARC 0008C**, IAB 2/8/12, effective 3/14/12]

261—47.5 Rescinded **ARC 6973C**, IAB 1/11/23, effective 2/15/23

[**ARC 8474B**, IAB 1/13/10, effective 2/17/10; **ARC 0008C**, IAB 2/8/12, effective 3/14/12]

These rules are intended to implement Iowa Code sections 15E.301 to 15E.303 and 15E.305 as amended by 2022 Iowa Acts, House File 2317.

[Filed 11/20/03, Notice 10/1/03—published 12/24/03, effective 1/28/04]
[Filed 10/21/05, Notice 8/3/05—published 11/9/05, effective 12/14/05]
[Filed ARC 8474B (Notice ARC 8228B, IAB 10/7/09), IAB 1/13/10, effective 2/17/10]
[Filed ARC 0008C (Notice ARC 9748B, IAB 9/7/11), IAB 2/8/12, effective 3/14/12]
[Filed ARC 0613C (Notice ARC 0344C, IAB 10/3/12), IAB 2/20/13, effective 3/27/13]
[Filed ARC 6793C (Notice ARC 6592C, IAB 10/19/22), IAB 1/11/23, effective 2/15/23]
[Filed ARC 7492C (Notice ARC 7106C, IAB 11/1/23), IAB 1/10/24, effective 2/14/24]

CHAPTER 48
WORKFORCE HOUSING TAX INCENTIVES PROGRAM

261—48.1(15) Authority and purpose. The workforce housing tax incentives program is administered pursuant to Iowa Code sections 15.351 through 15.356 and 2022 Iowa Acts, Senate File 2325, sections 7 through 13. The purpose of the program is to assist the development of workforce housing in Iowa communities by providing incentives for housing projects that are targeted at middle-income households and that focus on the redevelopment or repurposing of existing structures.
[**ARC 1801C**, IAB 12/24/14, effective 1/28/15; **ARC 6467C**, IAB 8/24/22, effective 9/28/22]

261—48.2(15) Definitions. As used in this chapter, unless the context otherwise requires:

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Average dwelling unit cost" means the costs directly related to the housing project divided by the total number of dwelling units in the housing project.

"Board" means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

"Brownfield site" means an abandoned, idled, or underutilized property where expansion or redevelopment is complicated by real or perceived environmental contamination. A brownfield site includes property contiguous with the site on which the property is located. A brownfield site does not include property which has been placed, or is proposed for placement, on the national priorities list established pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 et seq. In order to administer similar programs in a similar manner, the authority will attempt to apply this definition in substantially the same way as similar definitions are applied by the brownfield advisory council established in Iowa Code section 15.294 and may consult members of the council or other staff as necessary.

"Community" means a city or county.

"Costs directly related" means expenditures that are incurred for construction of a housing project to the extent that they are attributable directly to the improvement of the property or its structures. "Costs directly related" includes expenditures for site preparation work, surveying, construction materials, construction labor, architectural services, and engineering services. "Costs directly related" does not include expenditures for property acquisition, building permits, building inspection fees, furnishings, appliances, accounting services, legal services, loan origination and other financing costs including interest on construction loans, syndication fees and related costs, developer fees, or the costs associated with selling or renting the dwelling units whether incurred before or after completion of the housing project.

"Disaster recovery housing project" means a qualified housing project located in a county that has been declared a major disaster by the President of the United States on or after March 12, 2019, and that is also a county in which individuals are eligible for federal individual assistance.

"Grayfield site" means a property meeting all of the following requirements:

(1) The property has been developed and has infrastructure in place but the property's current use is outdated or prevents a better or more efficient use of the property. Such property includes vacant, blighted, obsolete, or otherwise underutilized property.

(2) The property's improvements and infrastructure are at least 25 years old and one or more of the following conditions exists:

1. Thirty percent or more of a building located on the property that is available for occupancy has been vacant or unoccupied for a period of 12 months or more.
2. The assessed value of the improvements on the property has decreased by 25 percent or more.
3. The property is currently being used as a parking lot.
4. The improvements on the property no longer exist.

In administering the program, the authority will attempt to apply this definition in substantially the same manner as similar definitions are applied by the brownfield advisory council established in Iowa Code section 15.294.

"Greenfield site" means a site that does not meet the definition of a brownfield site or grayfield site. A project proposed at a site located on previously undeveloped or agricultural land shall be presumed to be a greenfield site.

"Housing business" means a business that is a housing developer, housing contractor, or nonprofit organization that completes a housing project in the state.

"Housing project" means a project located in this state meeting the requirements of rule 261—48.4(15).

"Laborshed area" means the same as defined in 261—Chapter 173.

"Laborshed wage" means the same as defined in 261—Chapter 173.

"Multi-use building" means a building whose street-level ground story is used for a purpose that is other than residential, and whose upper story or stories are currently used primarily for a residential purpose, or will be used primarily for a residential purpose after completion of the housing project associated with the building.

"New dwelling units" means dwelling units that are made available for occupancy in a community as a result of a housing project and that were not available for occupancy as residential housing in the community for a period of at least six months prior to the date on which application is made to the authority under the program. If a dwelling unit has served as residential housing and been occupied during the six months preceding the date on which application is made to the authority under the program, then the dwelling unit shall be presumed not to be a new dwelling unit.

"Program" means the workforce housing tax incentives program administered under this chapter.

"Project completion" means the same as defined in Iowa Code section 15.355(2).

"Qualifying new investment" means costs that are directly related to the acquisition, repair, rehabilitation, or redevelopment of a housing project in this state. For purposes of this rule, "costs directly related to acquisition" includes the costs associated with the purchase of real property or other structures.

(1) The amount of costs that may be used to compute "qualifying new investment" shall not exceed the costs used for the first $150,000 of value for each dwelling unit that is part of a housing project.

(2) "Qualifying new investment" does not include the following:

1. The portion of the total cost of a housing project that is financed by federal, state, or local government tax credits, grants, forgivable loans, or other forms of financial assistance that do not require repayment, excluding the tax incentives provided under this program.

2. If a housing project includes the rehabilitation, repair, or redevelopment of an existing multi-use building, the portion of the total acquisition costs of the multi-use building, including a proportionate share of the total acquisition costs of the land upon which the multi-use building is situated, that are attributable to the street-level ground story that is used for a purpose that is other than residential.

3. Any costs, including acquisition costs, incurred before the housing project is approved by the authority.

"Refund notice" means a notice provided by the authority of the amount that an eligible housing business may claim as a refund of the sales and use tax under Iowa Code section 15.355(2).

"Rehabilitation, repair, or redevelopment" means construction or development activities associated with a housing project that are undertaken for the purpose of reusing or repurposing existing buildings or structures as new dwelling units. Rehabilitation, repair, or redevelopment does not include new construction of dwelling units at a greenfield site. Rehabilitation, repair, or redevelopment includes new structures at a qualified grayfield site.

"Small city" means a city that meets the applicable criteria in rule 261—48.3(15).

"Tax credit certificate" means a certificate issued by the authority stating the amount of workforce housing investment tax credits under Iowa Code section 15.355(3) that an eligible housing business may claim.

"Urban area" means any city or township, except for a small city, that is wholly located within one or more of the 11 most populous counties in the state, as determined by either the most recent population

estimate produced by the United States Bureau of the Census or the most recent decennial census released by the United States Bureau of the Census.
[**ARC 1801C**, IAB 12/24/14, effective 1/28/15; **ARC 3581C**, IAB 1/17/18, effective 2/21/18; **ARC 4724C**, IAB 10/23/19, effective 10/3/19; **ARC 6086C**, IAB 12/15/21, effective 1/19/22; **ARC 6467C**, IAB 8/24/22, effective 9/28/22]

261—48.3(15) Small cities. For the purposes of this chapter, the following subrules will determine which cities and townships will be considered small cities.

48.3(1) For projects that received a refund notice or tax credit certificate on or before June 30, 2021, a small city is any city or township located in this state, except those located wholly within one or more of the 11 most populous counties in the state, as determined by the most recent population estimates issued by the United States Bureau of the Census.

48.3(2) For projects that received a refund notice or tax credit certificate on or after July 1, 2021, a small city is any city or township located in this state, except those located wholly within one or more of the 11 most populous counties in the state, as determined by either the most recent population estimate produced by the United States Bureau of the Census or the most recent decennial census released by the United States Bureau of the Census.

48.3(3) On or after July 1, 2021, any city or township located wholly within one or more of the 11 most populous counties in the state, as determined pursuant to subrule 48.3(2), may be considered a small city if the city meets all of the following requirements:

a. The city or township has a population less than or equal to 2,500 as determined by either the most recent population estimate produced by the United States Bureau of the Census or the most recent decennial census released by the United States Bureau of the Census.

b. The city or township had population growth of less than 30 percent as calculated by comparing the population in the most recent decennial census released by the United States Bureau of the Census to the population in the decennial census released ten years prior.
[**ARC 6467C**, IAB 8/24/22, effective 9/28/22]

261—48.4(15) Housing project requirements.

48.4(1) *Eligible project types.*

a. To receive workforce housing tax incentives pursuant to the program, a proposed housing project shall meet all of the requirements of Iowa Code section 15.353. Projects located in a 100-year floodplain are not eligible.

b. The authority will determine whether a dwelling unit should be classified as a single-family dwelling unit for the purposes of this subrule. The authority may consider factors such as:

(1) Whether a unit is separated from other units by a ground-to-roof wall;

(2) Whether the unit has a separate heating system;

(3) Whether the unit has an individual meter for public utilities; and

(4) Whether the unit has other units above or below.

48.4(2) *Maximum cost.* Except as provided in subrules 48.4(3) and 48.4(4) below, the average dwelling unit cost does not exceed the maximum amount established by the board for each fiscal year for the applicable project type and project location. The board shall establish the maximum average dwelling unit cost for the project types set forth in paragraphs 48.4(2)*"a"* through *"d."* In establishing each maximum average dwelling unit cost, the board shall primarily consider the most recent annual United States Bureau of the Census building permits survey and historical program data.

a. Single-family dwelling units located in a small city.

b. Single-family dwelling units located in an urban area.

c. Multiple dwelling unit buildings located in a small city.

d. Multiple dwelling unit buildings located in an urban area.

48.4(3) *Maximum cost for historic projects.* If the project is a qualified rehabilitation project, as that term is defined in Iowa Code section 404A.1(8)*"a,"* the average dwelling unit cost shall not exceed 125 percent of the maximum average dwelling unit cost established by the board for the applicable project type and project location as provided in subrule 48.4(2).

48.4(4) *Maximum cost on or before June 30, 2021.* For projects that received a refund notice or tax credit certificate on or before June 30, 2021, the average dwelling unit cost shall not exceed $200,000 per dwelling unit. If the project involves the rehabilitation, repair, redevelopment, or preservation of eligible property, as that term is defined in Iowa Code section 404A.1(8)*"a,"* the average dwelling unit cost does not exceed $250,000 per dwelling unit.

[**ARC 1801C**, IAB 12/24/14, effective 1/28/15; **ARC 3581C**, IAB 1/17/18, effective 2/21/18; **ARC 5139C**, IAB 8/12/20, effective 9/16/20; **ARC 6467C**, IAB 8/24/22, effective 9/28/22; **ARC 7492C**, IAB 1/10/24, effective 2/14/24]

261—48.5(15) Housing project application and agreement.

48.5(1) *Application.*

a. A housing business seeking workforce housing tax incentives provided in rule 261—48.6(15) shall make application to the authority in the manner prescribed in this rule.

b. The application required in paragraph 48.5(1)*"a"* shall include all of the following:

(1) The following information establishing local participation for the housing project:

1. A resolution in support of the housing project by the community where the housing project will be located.

2. Documentation of local matching funds pledged for the housing project in an amount equal to at least $1,000 per dwelling unit, including but not limited to a funding agreement between the housing business and the community where the housing project will be located. For purposes of this paragraph, local matching funds shall be in the form of cash or cash equivalents or in the form of a local property tax exemption, rebate, refund, or reimbursement.

(2) A report that meets the requirements and conditions of Iowa Code section 15.330(9) if required.

(3) Information showing the total costs and funding sources of the housing project sufficient to allow the authority to adequately determine the financing that will be utilized for the housing project, the actual cost of the dwelling units, and the amount of qualifying new investment.

(4) Any other information deemed necessary by the authority to evaluate the eligibility and financial need of the housing project under the program.

48.5(2) *Application review—tax incentive award.*

a. All completed applications shall be reviewed and scored on a competitive basis by the authority pursuant to these rules. Review criteria include but are not limited to project need, project readiness, financial capacity, and project impact.

b. Upon review and scoring of all applications received during an application period, the authority may make a tax incentive award to a housing project. The tax incentive award shall represent the maximum amount of tax incentives the housing project may qualify for under the program. In determining a tax incentive award, the authority shall not use an amount of project costs that exceeds the amount included in the application from the housing business. Tax incentive awards shall be approved by the director of the authority.

c. After making a tax incentive award, the authority shall notify the housing business of its tax incentive award. The notification shall include the amount of tax incentives under rule 261—48.6(15) for which the housing business has received an award and a statement that the housing business has no right to receive a tax incentive certificate or claim a tax incentive until all requirements of the program, including all requirements imposed by the agreement entered into pursuant to paragraph 48.5(3)*"a,"* are satisfied. The amount of tax credits included on a tax credit certificate issued pursuant to this chapter, or a claim for refund of sales and use taxes, shall be contingent upon completion of the requirements in subrule 48.5(3).

d. An applicant that does not receive a tax incentive award during an application period may make additional applications during subsequent application periods. Such applicant shall be required to submit a new application, which shall be competitively reviewed and scored in the same manner as other applications in that application period.

48.5(3) *Agreement and fees.*

a. Upon receiving a tax incentive award for a housing project, the housing business shall enter into an agreement with the authority for the successful completion of all requirements of the program. The

agreement shall identify the tax incentive amount, the tax incentive award date, the project completion deadline and the total costs of the housing project.

b. The compliance cost fees imposed in Iowa Code section 15.330(12) shall apply to all agreements entered into under this program and shall be collected by the authority in the same manner and to the same extent as described in that provision.

c. Housing project completion deadline.

(1) Except as provided in subparagraph 48.5(3)*"c"*(2), a housing business shall complete its housing project within three years from the date the housing project is registered by the authority.

(2) The authority may for good cause within the discretion of the authority extend a housing project's completion deadline by up to 12 months upon application by the housing business, which application shall be made prior to the expiration of the three-year completion deadline in subparagraph 48.5(3)*"c"*(1) in the manner and form prescribed by the authority. The authority may approve a second extension of up to 12 months if prior to the expiration of the first 12-month extension the housing business applies and substantiates to the satisfaction of the authority that the second extension is warranted due to extenuating circumstances outside the control of the housing business. An application by a housing business shall be made in the manner and form prescribed by the authority.

d. Upon completion of a housing project, a housing business shall submit all of the following to the authority:

(1) An examination of the project in accordance with the American Institute of Certified Public Accountants' statements on standards for attestation engagements, completed by a certified public accountant (CPA) authorized to practice in this state. The attestation applicable to this examination is SSAE No. 10 (as amended by SSAE Nos. 11, 12, 14), AT section 101 and AT section 601. The procedures used by the CPA to conduct the examination should allow the CPA to conclude that, in the CPA's professional judgment, the expenditures claimed are eligible pursuant to the agreement; Iowa Code chapter 15, subchapter II, part 17; and all rules adopted pursuant to Iowa Code chapter 15, subchapter II, part 17, in all material respects. Within ten business days of a request by the authority, the housing business shall make available to the authority the documents reviewed by the CPA unless good cause is shown.

(2) A statement of the final amount of qualifying new investment for the housing project.

(3) Any information the authority deems necessary to ensure compliance with the agreement signed by the housing business pursuant to paragraph 48.5(3)*"a"*; the requirements of Iowa Code chapter 15, subchapter II, part 17; and these rules and rules adopted by the department of revenue pursuant to Iowa Code section 15.356.

e. Upon review of the examination, verification of the amount of the qualifying new investment, and review of any other information submitted pursuant to subparagraph 48.5(3)*"d"*(3), the authority may notify the housing business of the amount that the housing business may claim as a refund of the sales and use taxes under subrule 48.6(2) and may issue a tax credit certificate to the housing business stating the amount of workforce housing investment tax credits under rule 261—48.6(15) that the eligible housing business may claim. The sum of the amount that the housing business may claim as a refund of the sales and use tax and the amount of the tax credit certificate shall not exceed the amount of the tax incentive award.

f. If, upon review of the examination in paragraph 48.5(3)*"d,"* the authority determines that a housing project has incurred project costs in excess of the amount submitted in the application and identified in the agreement, the authority shall do one of the following for projects that received a refund notice or tax credit certificate on or after July 1, 2021:

(1) If the project costs do not cause the housing project's average dwelling unit cost to exceed the applicable maximum amount authorized in rule 261—48.4(15), the authority may consider the agreement fulfilled and may issue a tax credit certificate.

(2) If the project costs cause the housing project's average dwelling cost to exceed the applicable maximum amount authorized in rule 261—48.4(15) but do not cause the average dwelling unit cost to exceed 150 percent of such applicable amount, the authority shall reduce the tax incentive award and the corresponding amount of tax incentives the eligible project may claim under rule 261—48.6(15) by

the same percentage that the housing project's average dwelling cost exceeds the applicable maximum amount under rule 261—48.4(15), and such tax incentive reduction shall be reflected on the tax credit certificate. If the authority issues a certificate pursuant to this subrule, the department of revenue shall accept the certificate notwithstanding that the housing project's average dwelling unit cost exceeds the maximum amount specified in rule 261—48.4(15).

(3) If the project costs cause the housing project's average dwelling unit cost to exceed 150 percent of the applicable maximum amount authorized in rule 261—48.4(15), the authority shall determine the eligible housing business to be in default under the agreement, shall revoke the tax incentive award and shall not issue a tax credit certificate. The housing business shall not be allowed a refund of sales and use tax under rule 261—48.6(15).

48.5(4) *Maximum incentives amount.*

a. The maximum aggregate amount of tax incentives that may be awarded under rule 261—48.6(15) to a housing business for a housing project shall not exceed $1 million.

b. If a housing business qualifies for a higher amount of tax incentives under rule 261—48.6(15) than is allowed by the limitation imposed in paragraph 48.5(4)*"a,"* the authority and the housing business may negotiate an apportionment of the reduction in tax incentives between the sales tax refund provided in subrule 48.6(2) and the workforce housing investment tax credits provided in subrule 48.6(3) provided the total aggregate amount of tax incentives after the apportioned reduction does not exceed the amount in paragraph 48.5(4)*"a."*

c. The authority shall issue tax incentives under the program on a first-come, first-served basis until the maximum amount of tax incentives allocated pursuant to Iowa Code section 15.119(2) is reached. The authority shall maintain a list of registered housing projects under the program so that if the maximum aggregate amount of tax incentives is reached in a given fiscal year, registered housing projects that were completed but for which tax incentives were not issued shall be placed on a wait list in the order the registered housing projects were registered and shall be given priority for receiving tax incentives in succeeding fiscal years.

48.5(5) *Termination and repayment.* The failure by a housing business in completing a housing project to comply with any requirement of this program or any of the terms and obligations of an agreement entered into pursuant to this rule may result in the reduction, termination, or rescission of the approved tax incentives and may subject the housing business to the repayment or recapture of tax incentives claimed under rule 261—48.6(15). The repayment or recapture of tax incentives pursuant to this rule shall be accomplished in the same manner as provided in Iowa Code section 15.330(2).

[**ARC 1801C**, IAB 12/24/14, effective 1/28/15; **ARC 3581C**, IAB 1/17/18, effective 2/21/18; **ARC 4510C**, IAB 6/19/19, effective 7/24/19; **ARC 5139C**, IAB 8/12/20, effective 9/16/20; **ARC 6086C**, IAB 12/15/21, effective 1/19/22; **ARC 6467C**, IAB 8/24/22, effective 9/28/22]

261—48.6(15) Workforce housing tax incentives.

48.6(1) *Eligibility.* A housing business that has entered into an agreement pursuant to rule 261—48.5(15) is eligible to receive the tax incentives described in subrules 48.6(2) and 48.6(3).

48.6(2) *Sales tax refunds.* A housing business may claim a refund of the sales and use taxes paid under Iowa Code chapter 423 that are directly related to a housing project and specified in the agreement. The refund available pursuant to this subrule shall be as provided in Iowa Code section 15.331A to the extent applicable for purposes of this program.

48.6(3) *Income tax credits.*

a. A housing business may claim a tax credit in an amount not to exceed the following:

(1) For a housing project not located in a small city, 10 percent of the qualifying new investment of a housing project specified in the agreement.

(2) For a housing project located in a small city, 20 percent of the qualifying new investment of a housing project specified in the agreement.

b. The tax credit shall be allowed against the taxes imposed in Iowa Code chapter 422, subchapters II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329.

c. To claim a tax credit under this subrule, a taxpayer shall file a claim with the department of revenue pursuant to the department's applicable rules.

d. Tax credit certificates issued under an agreement entered into pursuant to subrule 48.5(3) may be transferred to any person pursuant to the department's applicable rules. However, tax credit certificate amounts of less than $1,000 shall not be transferable.

[**ARC 1801C**, IAB 12/24/14, effective 1/28/15; **ARC 3581C**, IAB 1/17/18, effective 2/21/18; **ARC 5139C**, IAB 8/12/20, effective 9/16/20; **ARC 6086C**, IAB 12/15/21, effective 1/19/22]

261—48.7(15) Annual program funding allocation, reallocation, and management of excess demand.

48.7(1) Each year the authority will allocate to the program a portion of the maximum aggregate tax credit cap described in Iowa Code section 15.119.

48.7(2) If, during a fiscal year, the authority determines that program demand is less than the amount initially allocated, the authority may reallocate unused amounts to other programs under Iowa Code section 15.119.

[**ARC 1801C**, IAB 12/24/14, effective 1/28/15; see Delay note at end of chapter; **ARC 5139C**, IAB 8/12/20, effective 9/16/20]

261—48.8(15) Application submittal and review process.

48.8(1) The authority will develop a standardized application and make the application available to eligible housing businesses and to communities. To apply for assistance under the program, an interested person shall submit an application to the authority. Applications must be submitted online at www.iowagrants.gov. Instructions for application submission may be obtained at www.iowagrants.gov or by contacting the Community Development Division, Economic Development Authority, 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50315.

48.8(2) The authority has final decision-making authority on requests for financial assistance for this program. Applications will be reviewed and scored by the staff of the authority. The director or the director's designee will make final funding decisions after considering the recommendations of staff. The director may approve, defer or deny an application.

[**ARC 1801C**, IAB 12/24/14, effective 1/28/15; **ARC 6086C**, IAB 12/15/21, effective 1/19/22]

DISASTER RECOVERY HOUSING PROGRAM

261—48.9(15) Housing project minimum requirements. To receive disaster recovery housing tax incentives pursuant to the program, a proposed disaster recovery housing project shall meet all of the following requirements:

48.9(1) The project includes at least one of the following:

a. Four or more single-family dwelling units, except for a project located in a small city, then two or more single-family dwelling units.

b. One or more multiple dwelling unit buildings each containing three or more individual dwelling units.

c. Two or more dwelling units located in the upper story of an existing multi-use building.

48.9(2) The project consists of any of the following:

a. Rehabilitation, repair, or redevelopment at a brownfield site or grayfield site that results in new dwelling units. Redevelopment at a brownfield site or grayfield site includes construction of new buildings.

b. The rehabilitation, repair, or redevelopment of dilapidated dwelling units.

c. The rehabilitation, repair, or redevelopment of dwelling units located in the upper story of an existing multi-use building.

d. For a project located in a small city that meets the minimum housing project requirements under this subrule, development at a greenfield site.

e. For a disaster recovery housing project, development at a greenfield site.

48.9(3) The average dwelling unit cost does not exceed the applicable maximum amount established by the board pursuant to rule 261—48.4(15).

48.9(4) The dwelling units, when completed and made available for occupancy, meet the U.S. Department of Housing and Urban Development's housing quality standards and all applicable local safety standards.

48.9(5) The project is not located in a 100-year floodplain.

[**ARC 4724C**, IAB 10/23/19, effective 10/3/19; **ARC 6467C**, IAB 8/24/22, effective 9/28/22]

261—48.10(15) Housing project application and agreement.

48.10(1) *Application.*

a. A housing business seeking disaster recovery housing tax incentives pursuant to rule 261—48.11(15) shall make application to the authority in the manner prescribed in this rule. The authority may establish a disaster recovery application period following the declaration of a major disaster by the President of the United States for a county in Iowa. The authority will acknowledge receipt of the application and review applications in a timely manner. The authority will notify applicants in writing of a tax incentive award for a disaster recovery housing project.

b. The application for disaster recovery housing tax incentives described in paragraph 48.10(1)*"a"* shall include all of the following:

(1) The following information establishing local participation for the housing project:

1. A resolution in support of the housing project by the community where the housing project will be located.

2. Documentation of local matching funds pledged for the housing project in an amount equal to at least $1,000 per dwelling unit, including but not limited to a funding agreement between the housing business and the community where the housing project will be located. For purposes of this paragraph, local matching funds shall be in the form of cash or cash equivalents or in the form of a local property tax exemption, rebate, refund, or reimbursement.

(2) A report that meets the requirements and conditions of Iowa Code section 15.330(9).

(3) Information showing the total costs and funding sources of the housing project sufficient to allow the authority to adequately determine the financing that will be utilized for the housing project, the actual cost of the dwelling units, and the amount of qualifying new investment.

(4) A certification that the applicant's housing project is located in a county that has been declared a major disaster by the President of the United States on or after March 12, 2019, and is also located in a county in which individuals are eligible for federal individual assistance.

(5) Documentation that provides evidence that the housing project is needed due to impact of the disaster that is the subject of the presidential major disaster declaration.

(6) Information showing that the housing project is located outside of a 100-year floodplain.

(7) Any other information deemed necessary by the authority to evaluate the eligibility and financial need of the housing project under the disaster recovery housing program.

48.10(2) *Application review—tax incentive award.*

a. Upon review and scoring of all applications received during a disaster recovery application period, the authority may make a tax incentive award to a disaster recovery housing project under the disaster recovery housing program. The tax incentive award shall represent the maximum amount of tax incentives that the disaster recovery housing project may qualify for under the program. In determining a tax incentive award, the authority shall not use an amount of project costs that exceeds the amount included in the application of the housing business. Tax incentive awards shall be approved by the director of the authority.

b. After making a tax incentive award, the authority shall notify the housing business of its tax incentive award under the program. The notification shall include the amount of tax incentives under rule 261—48.11(15) for which the housing business has received an award and a statement that a housing business has no right to receive a tax incentive certificate or claim a tax incentive until all requirements of the program, including all requirements imposed by the agreement entered into pursuant to subrule 48.10(3), are satisfied. The amount of tax credits included on a tax credit certificate issued pursuant

to this chapter, or a claim for refund of sales and use taxes, shall be contingent upon completion of all requirements in subrule 48.10(3).

48.10(3) *Agreement and fees.*

a. Upon receipt of a tax incentive award to the disaster recovery housing project, the housing business shall enter into an agreement with the authority for the successful completion of all requirements of the disaster recovery housing program. The agreement shall identify the tax incentive award amount, the tax incentive award date, the project completion deadline, and the total costs of the disaster recovery housing project.

b. The compliance cost fees imposed in Iowa Code section 15.330(12) shall apply to all agreements entered into under the program and shall be collected by the authority in the same manner and to the same extent as described in Iowa Code section 15.330(12).

c. A housing business shall complete its disaster recovery housing project within three years from the date incentives are awarded by the authority to the disaster recovery housing project. The authority may extend a housing project's completion deadline as described in subparagraph 48.5(3)*"c"*(2).

d. Upon completion of a disaster recovery housing project, a housing business shall submit all of the following to the authority:

(1) An examination of the project in accordance with the American Institute of Certified Public Accountants' statements on standards for attestation engagements, completed by a certified public accountant (CPA) authorized to practice in this state. The attestation applicable to this examination is SSAE No. 10 (as amended by SSAE Nos. 11, 12, 14), AT section 101 and AT section 601. The procedures used by the CPA to conduct the examination should allow the CPA to conclude that, in the CPA's professional judgment, the expenditures claimed are eligible pursuant to the agreement; Iowa Code chapter 15, subchapter II, part 17; and all rules adopted pursuant to Iowa Code chapter 15, subchapter II, part 17, in all material respects. Within ten business days of a request by the authority, the housing business shall make available to the authority the documents reviewed by the CPA unless good cause is shown.

(2) A statement of the final amount of qualifying new investment for the housing project.

(3) Any information the authority deems necessary to ensure compliance with the agreement signed by the housing business pursuant to paragraph 48.10(3)*"a"*; the requirements of Iowa Code chapter 15, subchapter II, part 17; and these rules and rules adopted by the department of revenue pursuant to Iowa Code section 15.356.

e. Upon review of the examination as described in paragraph 48.10(3)*"d,"* verification of the amount of the qualifying new investment, and review of any other information submitted pursuant to subparagraph 48.10(3)*"d"*(3), the authority may notify the housing business of the amount that the housing business may claim as a refund of the sales and use tax under Iowa Code section 15.355(2), and may issue a tax credit certificate to the housing business stating the amount of disaster recovery housing investment tax credits under rule 261—48.11(15) that the eligible housing business may claim. The sum of the amount that the housing business may claim as a refund of the sales and use tax and the amount of the tax credit certificate shall not exceed the amount of the tax incentive award.

f. If, upon review of the examination in paragraph 48.10(3)*"d,"* the authority determines that a housing project has incurred project costs in excess of the amount submitted in the application and identified in the agreement, the authority shall proceed as described in paragraph 48.5(4)*"f."*

48.10(4) *Maximum tax incentives amount.*

a. The maximum amount of tax incentives that may be awarded under rule 261—48.11(15) to a housing business for a disaster recovery housing project shall not exceed $1 million.

b. If a housing business qualifies for a higher amount of tax incentives under rule 261—48.11(15) than is allowed by the limitation imposed in paragraph 48.10(4)*"a,"* the authority and the housing business may negotiate an apportionment of the reduction in tax incentives between the sales and use tax refund provided in subrule 48.11(2) and the disaster recovery housing investment income tax credits

provided in subrule 48.11(3) provided the total aggregate amount of tax incentives after the apportioned reduction does not exceed the amount in paragraph 48.10(4)*"a."*

48.10(5) *Termination and repayment.* The failure by a housing business in completing a disaster recovery housing project to comply with any requirement of the disaster recovery housing program or any of the terms and obligations of an agreement entered into pursuant to this rule may result in the revocation, reduction, termination, or rescission of the tax incentive award or the approved tax incentives and may subject the housing business to the repayment or recapture of tax incentives claimed under rule 261—48.11(15). The repayment or recapture of tax incentives pursuant to this rule shall be accomplished in the same manner as provided in Iowa Code section 15.330(2).

[**ARC 4724C**, IAB 10/23/19, effective 10/3/19; **ARC 6086C**, IAB 12/15/21, effective 1/19/22; **ARC 6467C**, IAB 8/24/22, effective 9/28/22]

261—48.11(15) Disaster recovery housing tax incentives.

48.11(1) *Eligibility.* A housing business that has entered into an agreement with the authority for the successful completion of program requirements pursuant to rule 261—48.10(15) is eligible to receive the tax incentives described in subrules 48.11(2) and 48.11(3).

48.11(2) *Sales tax refunds.* A housing business may claim a refund of the sales and use taxes paid under Iowa Code chapter 423 that are directly related to a disaster recovery housing project. The refund available pursuant to this subrule shall be as provided in Iowa Code section 15.331A to the extent applicable for purposes of the disaster recovery housing program.

48.11(3) *Income tax credits.*

a. For a disaster recovery housing project, a housing business may claim a tax credit in an amount not to exceed 20 percent of the qualifying new investment of a disaster recovery housing project.

b. The tax credit shall be allowed against the taxes imposed in Iowa Code chapter 422, subchapters II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329.

c. To claim a tax credit under this subrule, a taxpayer shall file a claim with the department of revenue pursuant to the department's applicable rules.

d. A tax credit certificate issued under an agreement entered into pursuant to subrule 48.10(3) may be transferred to any person pursuant to the department's applicable rules. However, tax credit certificate amounts of less than $1,000 shall not be transferable.

[**ARC 4724C**, IAB 10/23/19, effective 10/3/19; **ARC 6086C**, IAB 12/15/21, effective 1/19/22]

261—48.12(15) Program funding allocation and management of excess demand. The authority shall allocate $10 million to disaster recovery housing tax incentives pursuant to rules 261—48.9(15) to 261—48.13(15). In allocating tax credits pursuant to Iowa Code section 15.119(5) for the period beginning July 1, 2019, and ending June 30, 2024, the authority shall not allocate more than $10 million for purposes of Iowa Code section 15.119(5).

[**ARC 4724C**, IAB 10/23/19, effective 10/3/19; **ARC 6086C**, IAB 12/15/21, effective 1/19/22]

261—48.13(15) Application submittal and review process.

48.13(1) The authority will develop a standardized application and make the application available to eligible housing businesses and to communities. To apply for assistance under the disaster recovery housing program, an interested person shall submit an application to the authority. Applications must be submitted online at www.iowagrants.gov. Instructions for application submission may be obtained at www.iowagrants.gov or by contacting the Community Development Division, Economic Development Authority, 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50315.

48.13(2) The authority has final decision-making authority on requests for financial assistance for the disaster recovery housing program. Applications will be reviewed and scored by the staff of the authority. The director or the director's designee will make final funding decisions after considering the recommendations of staff. The director may approve, defer or deny an application.

[**ARC 4724C**, IAB 10/23/19, effective 10/3/19; **ARC 6086C**, IAB 12/15/21, effective 1/19/22]

These rules are intended to implement Iowa Code sections 15.351 through 15.356 and 2022 Iowa Acts, Senate File 2325, sections 7 through 13.

[Filed ARC 1801C (Notice ARC 1628C, IAB 9/17/14), IAB 12/24/14, effective 1/28/15][1]
[Filed ARC 3581C (Notice ARC 3377C, IAB 10/11/17), IAB 1/17/18, effective 2/21/18]
[Filed ARC 4510C (Notice ARC 4353C, IAB 3/27/19), IAB 6/19/19, effective 7/24/19]
[Filed Emergency ARC 4724C, IAB 10/23/19, effective 10/3/19]
[Filed ARC 5139C (Notice ARC 4967C, IAB 3/11/20), IAB 8/12/20, effective 9/16/20]
[Filed ARC 6086C (Notice ARC 5909C, IAB 9/22/21), IAB 12/15/21, effective 1/19/22]
[Filed ARC 6467C (Notice ARC 6359C, IAB 6/15/22), IAB 8/24/22, effective 9/28/22]
[Filed ARC 7492C (Notice ARC 7106C, IAB 11/1/23), IAB 1/10/24, effective 2/14/24]

[1] January 28, 2015, effective date of 48.7(2) [ARC 1801C] delayed until the adjournment of the 2015 General Assembly by the Administrative Rules Review Committee at its meeting held January 6, 2015.

CHAPTER 81
RENEWABLE CHEMICAL PRODUCTION TAX CREDIT PROGRAM

261—81.1(15) Purpose. The purpose of this chapter is to encourage development of the renewable chemicals industry and stimulate job growth using the renewable chemical production tax credit program to incentivize new and existing businesses to produce high-value renewable chemicals in Iowa from biomass feedstock.
[**ARC 7493C**, IAB 1/10/24, effective 2/14/24]

261—81.2(15) Definitions. As used in this chapter, unless the context otherwise requires:

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Authority's website" means the information and related content found at www.iowaeda.com and may include integrated content at affiliate sites.

"Biomass feedstock" means the same as defined in Iowa Code section 15.316(2).

"Board" means the members of the economic development authority board appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

"Building block chemical" means the same as defined in Iowa Code section 15.316(3) as amended by 2023 Iowa Acts, Senate File 575, and also includes benzene, toluene, xylene, ethylbenzene, butanoic acid, hexanoic acid, octanoic acid, pentanoic acid, heptanoic acid, ethylene glycol, and 1,4 butanediol, or such additional molecules as may be included by the authority following the procedure in rule 261—81.8(15).

"Director" means the director of the authority.

"Eligible business" means the same as defined in Iowa Code section 15.316(5).

"Pre-eligibility production threshold" means the same as defined in Iowa Code section 15.316(8).

"Production year" means any calendar year after the year in which the eligible business's pre-eligibility production threshold was established and in which the eligible business produces renewable chemicals.

"Program" means the renewable chemical production tax credit program administered pursuant to Iowa Code sections 15.315 through 15.322 and this chapter.

"Renewable chemical" means the same as defined in Iowa Code section 15.316(10).
[**ARC 7493C**, IAB 1/10/24, effective 2/14/24]

261—81.3(15) Eligibility requirements. To be eligible to receive the renewable chemical production tax credit pursuant to the program, a business shall meet all of the eligibility requirements in Iowa Code section 15.317.
[**ARC 7493C**, IAB 1/10/24, effective 2/14/24]

261—81.4(15) Application process and review.

81.4(1) Applications for tax credits may be submitted to the authority electronically by eligible businesses from February 15 to March 15 of each calendar year. The authority may adjust the annual filing window dates under extenuating circumstances and will provide notice of adjustments on the authority's website.

81.4(2) The application shall include all information required by Iowa Code section 15.318(1)*"e"* and all of the following information:

a. The name of the qualifying building block chemical produced by the eligible business for which the business is claiming a tax credit.

b. The amount of renewable chemicals produced in the state from biomass feedstock by the eligible business during the calendar year prior to the year in which the business first qualified as an eligible business under the program.

c. The city or county where the plant producing renewable chemicals is located.

d. The type of feedstock used to produce the renewable chemicals.

e. The date on which the eligible business organized, expanded or located in the state.

f. Any other information reasonably required by the authority in order to establish and verify the amount of the tax credit under the program.

81.4(3) Applications will be reviewed and scored on a competitive basis by a review committee established by the authority with relevant expertise and experience. If the authority deems that additional information is needed before reviewing and scoring can be completed, and the authority makes a written request for additional information from the applicant, the applicant must provide the requested information within 30 days of the date that the written request from the authority was made. If an applicant does not provide the requested information within 30 days, the application may be rejected by the authority.

81.4(4) Applications determined by the authority to be complete and eligible will be reviewed and scored using criteria established by the authority to evaluate the economic impact of an eligible business's production of renewable chemicals.

81.4(5) The authority will notify an applicant when the applicant has been approved by the director to receive a tax credit.

[**ARC 7493C**, IAB 1/10/24, effective 2/14/24]

261—81.5(15) Agreement and fees. An eligible business approved to receive a tax credit shall enter into an agreement and pay applicable fees pursuant to Iowa Code section 15.318(2) as amended by 2023 Iowa Acts, Senate File 575. Eligible businesses must sign the agreement within 60 days of being notified of approval for the tax credit. Upon request by an eligible business, the authority may extend the time period for signing the agreement by an additional 30 days.

[**ARC 7493C**, IAB 1/10/24, effective 2/14/24]

261—81.6(15) Renewable chemical production tax credit.

81.6(1) *Calculation of tax credit amount.*

a. An eligible business that has entered into an agreement pursuant to rule 261—81.5(15) may be issued a tax credit certificate in an amount calculated as described in Iowa Code section 15.319(1). For example, if an eligible business produced three million pounds of renewable chemicals during calendar year 2016 and first became an eligible business under this chapter in calendar year 2017, the pre-eligibility production threshold for the business is three million pounds. If the same eligible business produced ten million pounds of renewable chemicals during calendar year 2017, the eligible business could receive a tax credit for the amount produced over the pre-eligibility production threshold, which in this example equals seven million pounds.

b. If a business has facilities located in more than one state, only those renewable chemicals produced at facilities physically located in the state of Iowa may be counted for the purpose of calculating the tax credit.

c. If the same eligible business has an ownership or equity interest in multiple facilities at which renewable chemicals are produced, the facilities under common ownership will be considered a single eligible business for purposes of calculating the maximum tax credit amount. In calculating the maximum tax credit amount, only the pro rata share of each eligible business's ownership in a facility will be attributed to that eligible business.

d. The maximum amount of tax credit that may be issued under the program to an eligible business for the production of renewable chemicals in a calendar year shall not exceed the amount authorized by Iowa Code section 15.318(3)*"a"* as amended by 2023 Iowa Acts, Senate File 575.

81.6(2) *Eligible business only.* An eligible business shall not receive a tax credit for renewable chemicals produced before the date the business first qualified as an eligible business pursuant to rule 261—81.3(15).

81.6(3) *Maximum number of credits.* An eligible business shall not receive more tax credit certificates under the program than specified in Iowa Code section 15.318(3)*"d"* as amended by 2023 Iowa Acts, Senate File 575. Each tax credit must be applied for separately, and each application will be reviewed independently of past tax credits. Receipt of a tax credit in one year does not guarantee receipt of a tax credit in a subsequent year.

81.6(4) *Termination and repayment.* Tax credits may be reduced, terminated, or rescinded pursuant to Iowa Code section 15.318(4).
[**ARC 7493C**, IAB 1/10/24, effective 2/14/24]

261—81.7(15) Claiming the tax credit.

81.7(1) *Maximum tax credit claimed.* An eligible business that has entered into an agreement pursuant to rule 261—81.5(15) and been issued a tax credit certificate pursuant to subrule 81.6(1) may claim a tax credit as described in Iowa Code section 15.319(1) as amended by 2023 Iowa Acts, Senate File 575.

81.7(2) *Claiming the credit.* To receive the tax credit, an eligible business shall file a claim in accordance with any applicable administrative rules adopted by the department of revenue.
[**ARC 7493C**, IAB 1/10/24, effective 2/14/24]

261—81.8(15) Process to add building block chemicals.

81.8(1) *General process.* The authority may add additional molecules to the definition of "building block chemical" in rule 261—81.2(15) pursuant to Iowa Code section 15.316(3) as amended by 2023 Iowa Acts, Senate File 575. The authority may initiate the administrative rulemaking process for the addition of such molecules to this chapter.

81.8(2) *Request to include additional molecules.* Any individual or business may request that an additional molecule be added to the definition of "building block chemical" by submitting a written request to the authority. Such requests shall be made in the form prescribed by the authority and may be submitted to the authority between April 1 and May 1 of each calendar year and October 1 and November 1 of each calendar year. The authority may adjust these dates under extenuating circumstances and will provide notice of adjustments on the authority's website.

81.8(3) *Consultation with experts.* Prior to initiating a rulemaking to add molecules to the definition of "building block chemical" in rule 261—81.2(15), the authority shall consult with appropriate experts from Iowa state university, including but not limited to the Iowa state university center for biorenewable chemicals. The authority shall conduct an initial staff review of any requests received by the authority pursuant to subrule 81.8(2). Following the initial staff review, the authority shall consult with the experts at Iowa state university regarding the molecules that the authority believes are consistent with the definitions under this chapter. The experts at Iowa state university shall provide a written recommendation to the authority indicating which chemicals, in the experts' opinion, meet the definition of "building block chemical" consistent with this chapter.

81.8(4) *Initiation of rulemaking proceedings.* Following the consultation and review process set forth in subrule 81.8(3), the authority may initiate the administrative rulemaking process to amend the definition of "building block chemical" to add molecules that the authority, in the authority's sole discretion, finds to be consistent with the definitions in this chapter.
[**ARC 7493C**, IAB 1/10/24, effective 2/14/24]

261—81.9(15) Additional information. The authority may at any time request additional information and documentation from an eligible business regarding the operations, job creation, and economic impact of the eligible business, and the authority may use the information in preparing and publishing any reports to be provided to the governor and the general assembly to the extent consistent with Iowa Code section 15.318(5).
[**ARC 7493C**, IAB 1/10/24, effective 2/14/24]

These rules are intended to implement Iowa Code sections 15.315 through 15.322 as amended by 2023 Iowa Acts, Senate File 575.

[Filed ARC 3004C (Notice ARC 2867C, IAB 12/21/16), IAB 3/29/17, effective 5/3/17]
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CHAPTER 116
TAX CREDITS FOR INVESTMENTS IN CERTIFIED INNOVATION FUNDS

261—116.1(15E) Tax credit for investments in certified innovation funds.

116.1(1) *Tax credit allowed.* For tax years beginning on or after January 1, 2011, a taxpayer may claim a tax credit for a portion of the taxpayer's equity investment in a certified innovation fund. The tax credit may be claimed against the taxpayer's tax liability for any of the following taxes:

a. The personal net income tax imposed under Iowa Code chapter 422, division II.

b. The business tax on corporations imposed under Iowa Code chapter 422, division III.

c. The franchise tax on financial institutions imposed under Iowa Code chapter 422, division V.

d. The tax on the gross premiums of insurance companies imposed under Iowa Code chapter 432.

e. The tax on moneys and credits imposed under Iowa Code section 533.329.

116.1(2) *Treatment of pass-through entities.* If the taxpayer that is entitled to an investment tax credit for an investment in an innovation fund is a pass-through entity electing to have its income taxed directly to its individual owners, such as a partnership, limited liability company, S corporation, estate or trust, the pass-through entity shall allocate the allowable credit to each of the individual owners of the entity on the basis of each owner's pro-rata share of the earnings of the entity, and the individual owners may claim their respective credits on their individual income tax returns.

116.1(3) *Credits for certain investments disallowed.* A taxpayer shall not claim an investment tax credit for an investment in an innovation fund if the taxpayer is a venture capital investment fund allocation manager for the Iowa fund of funds described in Iowa Code section 15E.65, an investor that receives a tax credit for the same investment in a community-based seed capital fund as described in Iowa Code section 15E.45, or an investor that receives a tax credit for the same investment in a qualifying business as described in Iowa Code section 15E.44.

116.1(4) *Cash investments required.* The taxpayer's equity investment must be made in the form of cash to purchase equity in an innovation fund.

116.1(5) *Amount of credit.* For tax years beginning and investments made on or after January 1, 2011, and before January 1, 2013, the taxpayer may claim a tax credit in an amount equal to 20 percent of the taxpayer's equity investment in a certified innovation fund. For tax years beginning and investments made on or after January 1, 2013, the taxpayer may claim a tax credit in an amount equal to 25 percent of the taxpayer's equity investment in a certified innovation fund.

[**ARC 0009C**, IAB 2/8/12, effective 3/14/12; **ARC 1098C**, IAB 10/16/13, effective 10/1/13]

261—116.2(15E) Definitions. For purposes of this chapter, unless the context otherwise requires:

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Board" means the same as defined in Iowa Code section 15.102.

"Equity" means common or preferred corporate stock or warrants to acquire such stock, membership interests in limited liability companies, partnership interests in partnerships, or near equity. Equity shall be limited to securities or interests acquired only for cash and shall not include securities or interests acquired at any time for services, contributions of property other than cash, or any other non-cash consideration.

"Innovation fund" means a private, early-stage capital fund that has been certified by the board.

"Innovative business" means a business applying novel or original methods to the manufacture of a product or the delivery of a service. "Innovative business" includes but is not limited to a business engaged in advanced manufacturing, biosciences, or information technology.

[**ARC 0009C**, IAB 2/8/12, effective 3/14/12; **ARC 1098C**, IAB 10/16/13, effective 10/1/13]

261—116.3(15E) Certification of innovation funds.

116.3(1) An innovation fund shall provide to the authority information as a prerequisite to the issuance of any investment tax credits to investors in such innovation funds. The innovation fund must provide this information within 120 days from the first date on which the equity investments qualifying for the investment tax credit have been made (or, for investments made during the 2011 calendar year, by the later of 120 days from the first date on which the investments have been made or March 31, 2012).

116.3(2) Application forms setting forth the information required to certify the eligibility of an innovation fund may be obtained by contacting the Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309. The telephone number is (515)725-3000. Applications shall be submitted to the authority at the address identified above.

116.3(3) The authority will not issue a tax credit certificate until the board has certified that a fund meets all of the following criteria:

a. The innovation fund has submitted a copy of the innovation fund's certificate of limited partnership, limited partnership agreement, articles of organization or operating agreement certified by the chief executive officer of the innovation fund.

b. The innovation fund has submitted a signed statement, from an officer, director, manager, member or general partner of the fund, stating the following:

(1) That the innovation fund will make investments in promising early-stage companies which have a principal place of business in the state. For purposes of rule 261—116.3(15E), "having a principal place of business in the state" means (1) that the business has at least 50 percent of all of its employees in the state, (2) that the business pays at least 50 percent of the business's total payroll to employees residing in the state, or (3) that the headquarters of the business (defined as the home office for a substantial amount of executive employees) is in the state.

(2) That the innovation fund proposes to make investments in innovative businesses which have a principal place of business in the state.

(3) That the innovation fund seeks to secure private funding sources for investment in such businesses.

(4) That the innovation fund proposes to provide multiple rounds of funding and early-stage private sector funding to innovative businesses with a high growth potential, and proposes to focus such funding on innovative businesses that show a potential to produce commercially viable products or services within a reasonable period of time. In order to establish that this criterion is met, the innovation fund shall provide a detailed description of the framework the innovation fund will use to evaluate a business's growth potential and its ability to produce commercially viable products or services within a reasonable period of time. The description shall list and discuss the criteria and the attendant process that the innovation fund will use to evaluate businesses. The authority will consider requests submitted under Iowa Code section 15.118 or 22.7 to treat the evaluation framework as confidential.

(5) That the innovation fund proposes to evaluate all prospective innovative businesses using a rigorous approach and proposes to collaborate and coordinate with the authority and other state and local entities in an effort to achieve policy consistency. In order to establish that this criterion is met, an innovation fund shall provide a detailed description of the methods by which each business will be evaluated. An innovation fund shall also submit a plan describing the actions it will take in order to collaborate and coordinate with other state and local entities and the ways in which the innovation fund intends to ensure consistency with the policy goals of this chapter. Such a plan shall propose to create relationships that can be substantiated in writing, which may include, without limitation, contracts, memoranda of understanding, letters of support, affidavits, or joint press releases from or with the entities that will be involved in the collaborative and coordinating efforts or through a list and summary description of the dates and locations for meetings held between the innovation fund and the other entities which allowed for collaboration and coordination between the innovation fund and those entities in an effort to achieve policy consistency.

(6) That the innovation fund proposes to collaborate with the regents institutions of this state and to leverage relationships with such institutions in order to potentially commercialize research developed at those institutions. In order to establish that this criterion is met, an innovation fund shall provide written confirmation of such relationships which may include, without limitation, contracts, memoranda of understanding, letters of support, affidavits, or joint press releases from or with the regents institutions of this state or a list and summary description of the dates and locations for meetings held between the innovation fund and the regents institutions, the names of representatives of regents institutions with whom the innovation fund has met, and a brief summary of the discussions at those meetings.

(7) That the innovation fund proposes to obtain at least $15 million in binding investment commitments and to invest a minimum of $15 million in companies that have a principal place of business in the state. In order to establish that this criterion is met, an innovation fund shall include provisions in the fund's governing documents that provide for the continued operations of the fund only if this minimum level of investment commitment is reached.

116.3(4) Upon the authority's receipt of the information and documentation necessary to demonstrate satisfaction of the criteria set forth herein, the authority shall, within a reasonable period of time, determine whether to certify the innovation fund. If the authority certifies the innovation fund, the authority shall register the fund on a registry that shall be maintained by the authority. The authority shall use the registry to authorize the issuance of further investment tax credits to taxpayers who make equity investments in the innovation funds registered with the authority. The authority shall issue written notification to the innovation fund that the fund has been registered as an innovation fund with the authority for the purpose of issuing investment tax credits. This written notification shall contain the following statement:

> The Authority shall not be liable either for an innovation fund's failure to maintain compliance with the certification requirements nor for an investor's loss of tax credit certificates resulting from either a failure to maintain compliance or from a revocation.

116.3(5) On May 24, 2013, significant changes to the innovation fund tax credit program were enacted. (See 2013 Iowa Acts, House File 615.) The legislation includes changes to the criteria required for certification and also changes to the tax credits available to investors in certified funds. An innovation fund certified before May 24, 2013, that wishes to take advantage of the changes in 2013 Iowa Acts, House File 615, must resubmit an application to the board and demonstrate that the innovation fund meets all new requirements for certification as described in subrule 116.3(3).

[**ARC 0009C**, IAB 2/8/12, effective 3/14/12; **ARC 1098C**, IAB 10/16/13, effective 10/1/13; **ARC 4512C**, IAB 6/19/19, effective 7/24/19; **ARC 7492C**, IAB 1/10/24, effective 2/14/24]

261—116.4(15E) Maintenance, reporting, and revocation of certification.

116.4(1) In order to maintain certification, an innovation fund must demonstrate compliance with the eligibility criteria set forth in subrule 116.3(3) at all times during participation in the program. A failure to comply with the eligibility criteria on an ongoing basis may result in revocation of certification. The authority will notify an innovation fund if the authority finds that the fund is not in compliance and will allow the innovation fund a period of not more than 120 days in which to address such noncompliance. If after 120 days the innovation fund remains in noncompliance, the board may revoke the fund's certification. The authority will not issue tax credit certificates to investors in an innovation fund if such equity investments are made at any point after the innovation fund has been found to be in noncompliance or if the innovation fund's certification has been revoked.

116.4(2) On or before December 31 of each year, each certified innovation fund shall collect and provide to the board, in the manner and form prescribed by the authority, the following information:

a. The amount of equity investments made in the innovation fund, both on an annual and a cumulative basis.

b. For each investment by an innovation fund in a business:

(1) The amount and date of the investment.

(2) The name and industry of the business.

(3) The location or locations from which the business operates.

(4) The number of employees of the business located in Iowa and the number of employees of the business located outside Iowa on the date of the initial investment by the innovation fund in the business.

(5) The number of employees of the business located in Iowa and the number of employees of the business located outside Iowa at the close of the fiscal year which is the subject of the report.

c. In order to establish that an innovation fund has met the criterion found in subparagraph 116.3(3)*"b"*(5), the innovation fund shall provide documentation and information in the manner and form required by the authority. Such documentation and information may include, without limitation, contracts, memoranda of understanding, letters of support, affidavits, joint press releases, or a list and

summary description of the dates and locations for meetings held between the innovation fund and the other entities which allowed for collaboration and coordination between the innovation fund and those entities in an effort to achieve policy consistency.

d. In order to establish that an innovation fund has met the criterion found in subparagraph 116.3(3)*"b"*(6), the innovation fund shall provide documentation and information in the manner and form required by the authority. Such documentation and information may include, without limitation, contracts, memoranda of understanding, letters of support, affidavits, joint press releases, or a list and summary description of the dates and locations for meetings held between the innovation fund and regents institutions, the names of representatives of regents institutions with whom the innovation fund has met, and a brief summary of the discussions at those meetings. The innovation fund shall also indicate if any business in which it has invested is commercializing research developed at one of the regents institutions.

116.4(3) Upon obtaining the required minimum threshold of $15 million in binding investment commitments, an innovation fund shall submit a statement containing the names, addresses, equity interests issued and consideration paid for the interests of all limited partners or members who may initially qualify for the tax credits. An innovation fund shall submit an amended statement as may be necessary from time to time to reflect new equity interests or transfers in equity among current equity holders or as any other information on the list may change. The authority will consider requests submitted under Iowa Code section 15.118 to treat investor names and amounts as confidential.

116.4(4) The board may revoke an innovation fund's certification if any of the following events occur:

a. An innovation fund fails to secure the required $15 million in initial binding investment commitments within one year of the date of certification by the board or fails at any point thereafter to secure investment from its investors of at least $15 million. If an investor in an innovation fund fails to make a capital call by the innovation fund and that failure would cause the innovation fund to fail to secure the required minimum $15 million in investment, then the authority will provide the innovation fund a period of not more than 120 days after receiving notice of the failed capital call to secure additional investment commitments sufficient to meet the required minimum investment.

b. An innovation fund fails to timely submit the report required in subrule 116.4(2).

c. An innovation fund fails to maintain the eligibility criteria as set forth in subrule 116.3(3).

The board may forbear revocation under this subrule for good cause shown or for demonstration of extenuating circumstances. Such forbearance shall be at the board's discretion and for the period of time determined by the board to be in the best interest of the program and the state of Iowa.

116.4(5) If the board finds that a fund is in noncompliance or revokes an innovation fund's certification, the board will not issue tax credit certificates to investors in the innovation fund until the innovation fund manager demonstrates to the board that the innovation fund again meets the eligibility criteria set forth in rule 261—116.3(15E). If an investor makes an equity investment prior to a notice of noncompliance and a revocation of an innovation fund's certification, the board will issue the tax credit certificate as set forth in rule 261—116.6(15E). If an investor is issued a tax credit certificate prior to a revocation of certification, the investor shall have all the rights described in Iowa Code section 15E.52(5).

[**ARC 1098C**, IAB 10/16/13, effective 10/1/13]

261—116.5(15E) Application for the investment tax credit certificate. Upon certification and registration by the authority of an innovation fund, a taxpayer may make equity investments in the fund and may apply for an investment tax credit certificate for each equity investment made in a certified innovation fund by submitting an application to the authority for approval by the board and providing such other information and documentation as may be requested by the authority. Application forms for the investment tax credit certificate may be obtained by contacting the Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309. Applications shall be submitted to the authority at the address identified above. Each application shall be date- and time-stamped by the authority in the order in which such applications are received. Applications for the investment tax credit

shall be accepted by the authority until March 31 of the year following the calendar year in which the taxpayer's equity investment is made.
[**ARC 0009C**, IAB 2/8/12, effective 3/14/12; **ARC 1098C**, IAB 10/16/13, effective 10/1/13]

261—116.6(15E) Approval, issuance and distribution of investment tax credits.

116.6(1) *Approval.* Upon certification and registration by the authority of an innovation fund and approval of the taxpayer's application, the board will approve the issuance of a tax credit certificate to the applicant.

116.6(2) *Preparation of the certificate.* The tax credit certificate shall be in a form approved by the authority and shall contain the taxpayer's name, address, and tax identification number; the amount of credit; the name of the innovation fund; the year in which the investment was made and any other information that may be required by the department of revenue. In addition, the tax credit certificate shall contain the following statement:

> Neither the authority nor the board has recommended or approved this investment or passed on the merits or risks of such investment. Investors should rely solely on their own investigation and analysis and seek investment, financial, legal and tax advice before making their own decision regarding investment in this fund.

[**ARC 7492C**, IAB 1/10/24, effective 2/14/24]

261—116.7(15E) Transferability of the tax credit.

116.7(1) *Transfer.* Tax credit certificates issued pursuant to this rule may be transferred, in whole or in part, to any person or entity. Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number, and address, the denomination that each replacement tax credit certificate is to carry, and any other information required by the department of revenue.

116.7(2) *Only one transfer allowed.* A tax credit certificate shall only be transferred once.

116.7(3) *Replacement certificate.* Within 30 days of receiving the transferred tax credit certificate and the transferee's statement, the Iowa department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate. A replacement tax credit certificate may designate a different tax than the tax designated on the original tax credit certificate.

116.7(4) *Claiming a transferred tax credit.* A tax credit shall not be claimed by a transferee until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under Iowa Code chapter 422, divisions II, III, and V. Any consideration paid for the transfer of the tax credit shall not be deducted from income under Iowa Code chapter 422, divisions II, III, and V. For more information on claiming transferred tax credits, see department of revenue rule 701—42.22(15E,422).
[**ARC 1098C**, IAB 10/16/13, effective 10/1/13]

261—116.8(15E) Vested right in the tax credit. A certificate and related tax credit issued pursuant to Iowa Code section 15E.52 shall be deemed a vested right of the original holder or any transferee thereof, and the state shall not cause either to be redeemed in such a way that amends or rescinds the certificate or that curtails, limits, or withdraws the related tax credit, except as otherwise provided in rules 261—116.6(15E) and 261—116.7(15E) or upon consent of the proper holder. A certificate issued pursuant to this rule cannot pledge the credit of the state, and any such certificate so pledged to secure the debt of the original holder or a transferee shall not constitute a contract binding the state. A taxpayer does not obtain a vested right in such a tax credit until a certificate has been issued by the authority.
[**ARC 1098C**, IAB 10/16/13, effective 10/1/13]

261—116.9(15E) Claiming the tax credits. To claim a tax credit under this chapter, a taxpayer must attach to that taxpayer's tax return a certificate issued pursuant to this chapter when the return is filed with the department of revenue. A tax credit may be claimed in the first year that a certificate is issued. Any tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit. For more information on claiming tax credits, see department of revenue rule 701—42.22(15E,422).
[**ARC 0009C**, IAB 2/8/12, effective 3/14/12; **ARC 1098C**, IAB 10/16/13, effective 10/1/13]

261—116.10(15E) Notification to the department of revenue. Upon the issuance and distribution of investment tax credits for a tax year, the authority shall promptly notify the department of revenue by providing copies of the tax credit certificates issued for such tax year to the department of revenue. Such notification shall also include, but not be limited to, the aggregate number and amount of tax credits issued for the tax year.
[**ARC 0009C**, IAB 2/8/12, effective 3/14/12; **ARC 1098C**, IAB 10/16/13, effective 10/1/13]

261—116.11(15E) Additional information. The authority may at any time request additional information and documentation from an innovation fund regarding the operations, job creation and economic impact of the fund, and the authority may use such information in preparing and publishing any reports to be provided to the governor and the general assembly.
[**ARC 0009C**, IAB 2/8/12, effective 3/14/12; **ARC 1098C**, IAB 10/16/13, effective 10/1/13]

These rules are intended to implement Iowa Code section 15E.52.

[Filed ARC 0009C (Notice ARC 9845B, IAB 11/16/11), IAB 2/8/12, effective 3/14/12]
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MANAGEMENT DEPARTMENT[541]

[Created by 1986 Iowa Acts, chapter 1245, section 103]
Divisions under this "umbrella" include: Appeal Board, State[543], City Finance Committee[545], and County Finance Committee[547].

CHAPTER 1
ORGANIZATION AND OPERATION

541—1.1(8) Purpose. This chapter describes the organization and operation of the department of management (department), including the coordination of policy planning, management of interagency programs, economic reports and program development.
[**ARC 7494C**, IAB 1/10/24, effective 2/14/24]

541—1.2(8) Scope of the rules. The rules for the department are promulgated under Iowa Code chapter 8 and apply to all matters before the department. No rule, in any way, relieves a person affected by or subject to these rules, or any person affected by or subject to the rules promulgated by the various divisions of the department, from any duty under the laws of this state.
[**ARC 7494C**, IAB 1/10/24, effective 2/14/24]

541—1.3(8) Waiver. The purpose of these rules is to facilitate the business before the department and to promote a just resolution of controversies. Consistent with this purpose, the application of any of these rules, unless otherwise provided for by law, may be waived by the department to prevent undue hardship to a party, to a departmental proceeding, or to a person transacting business with the department. The reasons for granting a waiver of an administrative rule stated in writing will be a part of the record of the proceeding or a part of the departmental file in other matters.
[**ARC 7494C**, IAB 1/10/24, effective 2/14/24]

541—1.4(8) Duties of the department. The department plans, develops, and recommends policy decisions for management of state government; administers local budget laws (cities, counties, and schools); oversees and ensures compliance with affirmative action; implements policies through coordination and budget processes; and monitors and evaluates the consistent, efficient, and effective operation of state government. The department consists of budgeting, planning, and early childhood operations and the following agencies or boards: state appeal board, city finance committee, county finance committee, and early childhood Iowa state board.
[**ARC 7494C**, IAB 1/10/24, effective 2/14/24]

541—1.5(8) Definitions.

"City budget" means the budget adopted by city officials that incorporates specified requirements as stated in Iowa Code section 384.16.

"Contract compliance director" means the individual designated to oversee and impose sanctions in connection with state programs emphasizing equal opportunity through affirmative action, contract compliance, policies, and procurement set-aside requirements.

"County budget" means the budget adopted by the board of supervisors pursuant to Iowa Code chapter 331.

"Department" means the department of management.

"Director" means the director of the department of management as appointed by the governor and subject to senate confirmation.

1.5(1) *State appeal board—fees.* The state appeal board considers the protests of local government budgets, as well as all general and tort claims against the state, as interpreted by the three members: treasurer of state, auditor of state and director of the department of management. Department of management staff implement proper procedures as directed by the state appeal board as assigned by Iowa Code chapter 24. The processing fee for filing a general claim with the state appeal board is $5, which is billed and paid quarterly by the state agency that incurred the liability of the claim. This fee is not reimbursable from the vendor to the state agency.

1.5(2) *City finance committee.* The city finance committee promulgates rules relating to city budget amendments, establishes guidelines for the capital improvement program, reviews and comments on city budgets and conducts studies of municipal revenues and expenditures as specified in Iowa Code section 384.13.

1.5(3) *County finance committee.* The county finance committee establishes guidelines for program budgeting and accounting, reviews and comments on county budgets, and conducts studies of county revenues and expenditures. In addition, the committee performs other duties as assigned by law pursuant to Iowa Code section 333A.4.
[**ARC 7494C**, IAB 1/10/24, effective 2/14/24]

541—1.6(8) Central office and communications. Correspondence and communications with the department, state board of appeals, county finance committee, or city finance committee are to be addressed or directed to the department's office located at Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015; telephone 515.281.3322.
[**ARC 7494C**, IAB 1/10/24, effective 2/14/24]

These rules are intended to implement Iowa Code sections 8.6 and 25.1.

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[Filed ARC 7494C (Notice ARC 7113C, IAB 11/15/23), IAB 1/10/24, effective 2/14/24]

CHAPTER 5
PETITIONS FOR RULEMAKING

The department of management hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to petitions for rulemaking, which are published on the Iowa general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf.
[**ARC 7495C**, IAB 1/10/24, effective 2/14/24]

541—5.1(17A) Petition for rulemaking. In lieu of "(designate office)", insert "State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015". In lieu of "(AGENCY NAME)", the heading on the petition form should read:

BEFORE THE DEPARTMENT OF MANAGEMENT
[**ARC 7495C**, IAB 1/10/24, effective 2/14/24]

541—5.3(17A) Inquiries. In lieu of "(designate official by full title and address)", insert "Director, Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015".
[**ARC 7495C**, IAB 1/10/24, effective 2/14/24]

These rules are intended to implement Iowa Code section 8.6 and chapter 17A.

[Filed 10/1/87, Notice 5/20/87—published 10/21/87, effective 11/25/87]
[Filed ARC 1371C (Notice ARC 1124C, IAB 10/16/13), IAB 3/19/14, effective 4/23/14]
[Filed ARC 7495C (Notice ARC 7114C, IAB 11/15/23), IAB 1/10/24, effective 2/14/24]

CHAPTER 6
DECLARATORY ORDERS

The department of management hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to declaratory orders, which are published on the Iowa general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf.
[**ARC 7496C**, IAB 1/10/24, effective 2/14/24]

541—6.1(17A) Petition for declaratory order. In lieu of "(designate agency)", insert "department". In lieu of "(designate office)", insert "the Director's Office, Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015". In lieu of "(AGENCY NAME)", the heading on the petition form should read:

BEFORE THE DEPARTMENT OF MANAGEMENT
[**ARC 7496C**, IAB 1/10/24, effective 2/14/24]

541—6.2(17A) Notice of petition. In lieu of "___ days (15 or less)", insert "15 days". In lieu of "(designate agency)", insert "the department".
[**ARC 7496C**, IAB 1/10/24, effective 2/14/24]

541—6.3(17A) Intervention.

6.3(1) In lieu of "within ___ days", insert "within 15 days". Strike "(after time for notice under X.2(17A)". In lieu of "X.8(17A))", insert "6.8(17A)".

6.3(2) In lieu of "(designate agency)", insert "the department".

6.3(3) In lieu of "(designate office)", insert "the Director's Office, Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015". In lieu of "(designate agency)", insert "department". In lieu of "(AGENCY NAME)", the heading on the petition form should read:

BEFORE THE DEPARTMENT OF MANAGEMENT
[**ARC 7496C**, IAB 1/10/24, effective 2/14/24]

541—6.4(17A) Briefs. In lieu of "(designate agency)", insert "department".
[**ARC 7496C**, IAB 1/10/24, effective 2/14/24]

541—6.5(17A) Inquiries. In lieu of "(designate official by full title and address)", insert "the Director, Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015".
[**ARC 7496C**, IAB 1/10/24, effective 2/14/24]

541—6.6(17A) Service and filing of petitions and other papers.

6.6(2) In lieu of "(specify office and address)", insert "the Director's Office, Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015". In lieu of "(agency name)", insert "department".

6.6(3) In lieu of "(uniform rule on contested cases X.12(17A))", insert "rule 481—10.12(17A)".
[**ARC 7496C**, IAB 1/10/24, effective 2/14/24]

541—6.7(17A) Consideration. In lieu of "(designate agency)", insert "department".
[**ARC 7496C**, IAB 1/10/24, effective 2/14/24]

541—6.8(17A) Action on petition.

6.8(1) In lieu of "(designate agency head)", insert "director".

6.8(2) In lieu of "(contested case uniform rule X.2(17A))", insert "rule 481—10.1(10A)".
[**ARC 7496C**, IAB 1/10/24, effective 2/14/24]

541—6.9(17A) Refusal to issue order.

6.9(1) In lieu of "(designate agency)", insert "department".
[**ARC 7496C**, IAB 1/10/24, effective 2/14/24]

541—6.12(17A) Effect of a declaratory order. In lieu of "(designate agency)", insert "department".
[**ARC 7496C**, IAB 1/10/24, effective 2/14/24]

These rules are intended to implement Iowa Code section 17A.9.

[Filed 10/1/87, Notice 5/20/87—published 10/21/87, effective 11/25/87]
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[Filed ARC 7496C (Notice ARC 7115C, IAB 11/15/23), IAB 1/10/24, effective 2/14/24]

CHAPTER 7
AGENCY PROCEDURE FOR RULEMAKING

The department of management hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to agency procedure for rulemaking, which are published on the Iowa general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf.
[**ARC 7497C**, IAB 1/10/24, effective 2/14/24]

541—7.5(17A) Public participation.

7.5(1) *Written comments.* In lieu of the words "(identify office and address)", insert "Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015".

7.5(5) *Accessibility.* In lieu of the words "(designate office and telephone number)", insert "the department of management at 515.281.3322".
[**ARC 7497C**, IAB 1/10/24, effective 2/14/24]

541—7.6(17A) Regulatory analysis.

7.6(2) *Mailing list.* In lieu of the words "(designate office)", insert "Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015".
[**ARC 7497C**, IAB 1/10/24, effective 2/14/24]

541—7.10(17A) Exemptions from public rulemaking procedures.

7.10(1) *Omission of notice and comment.* The department may adopt a rule without publishing advance Notice of Intended Action in the Iowa Administrative Bulletin and without providing for written or oral public submissions prior to its adoption pursuant to Iowa Code section 17A.4(3)*"a"* when the statute so provides or with the approval of the administrative rules review committee.

7.10(2) *Public proceedings on rules adopted without them.* The department may, at any time, commence a standard rulemaking proceeding for the adoption of a rule that is identical or similar to a rule it adopts in reliance upon subrule 7.10(1). After a standard rulemaking proceeding commenced pursuant to this subrule, the department may either readopt the rule it adopted without benefit of all usual procedures on the basis of subrule 7.10(1), or may take any other lawful action, including the amendment or repeal of the rule in question, with whatever further proceedings are appropriate.
[**ARC 7497C**, IAB 1/10/24, effective 2/14/24]

541—7.11(17A) Concise statement of reasons.

7.11(1) *General.* In lieu of the words "(specify office and address)", insert "Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015".
[**ARC 7497C**, IAB 1/10/24, effective 2/14/24]

These rules are intended to implement Iowa Code chapter 17A and section 25B.6.

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[Filed ARC 7497C (Notice ARC 7116C, IAB 11/15/23), IAB 1/10/24, effective 2/14/24]

CHAPTER 8
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The department of management hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to public records and fair information practices, which are published on the Iowa general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf.
[**ARC 7498C**, IAB 1/10/24, effective 2/14/24]

541—8.1(17A,22) Definitions. As used in this chapter:

"Agency." In lieu of "(official or body issuing these rules)", insert "department of management".

"Nonincidental retrieval or supervisory service" means services provided to persons requesting access to public documents by the department's staff (or staff from the department of administrative services), and where such retrieval or supervisory services exceed 20 hours of total staff time.

"Nonproprietary records" means those records that are in the possession of the department but that are generated for the purposes of other units of government.

"Public record" means a record as defined in Iowa Code section 22.1. A public record includes both confidential and open records.
[**ARC 7498C**, IAB 1/10/24, effective 2/14/24]

541—8.2(17A,22) Public record retention and access.

8.2(1) *Record policy.* The department of management is committed to ensuring that the workings of the department are open to public inspection. To that end, a public record in the custody of the department will be maintained and archived through a standard record retention policy, with public access to be given in full compliance with applicable provisions of law.

The record retention program will provide economy and efficiency in the creation, organization, administrative use, maintenance, security, availability, and disposition of public records to ensure that a needless record will not be created or retained, and a valuable record will be preserved, as provided under Iowa law. The department will preserve the integrity of public records, and reply to all open records requests in a timely, responsive, and efficient manner in full compliance with applicable provisions of law.

8.2(2) *Record retention requirements.* Every record made or received under the authority of, or coming into the custody, control, or possession of, department of management personnel, in connection with the transaction of official business of state government, and that has sufficient legal, fiscal, administrative, or historical value will be retained in accordance with Iowa law. The director of the department of management will designate a records retention officer to oversee the department's record retention program and to serve as the primary point of contact with the state archives.

The department will follow the records retention protocol that is established by the Iowa records retention commission. The department of management records retention officer will select retention mechanisms that are designed to implement the commission protocol and arrange for training for the department's personnel on each selected mechanism.

8.2(3) *Confidential records.* Confidential records may be withheld, and confidential information within an otherwise open record may be redacted, prior to a record's release for public examination and copying. If a confidential record is withheld from examination and copying, or confidential information within an otherwise open record is redacted, the department of management will identify the document(s) and cite the applicable provision of law that supports the decision to withhold the confidential information from public examination.
[**ARC 7498C**, IAB 1/10/24, effective 2/14/24]

541—8.3(17A,22) Requests for access to records.

8.3(1) *Open records.* Open records will be available to the public during customary office hours, which are 8 a.m. to 4:30 p.m., Monday through Friday (except holidays). Immediate access to records

may be affected by a good-faith effort to verify the scope of the records requested and to determine whether any of the records or information contained therein is confidential in nature.

In the event circumstances prolong a timely response, the department will notify the requester at once and attempt an alternate arrangement to provide the response in a manner satisfactory to the requester. For nonproprietary records, the department is only a repository and is not the "lawful custodian" of the records under the meaning of Iowa Code chapter 22. Nonproprietary records will be provided only to the unit of state government that is the lawful custodian of such records under Iowa Code chapter 22.

8.3(2) *Requesting records.* Requests for access to a public record may be made by mail, electronically, by telephone or in person. A request for access to a public record should be made to the director, who will be responsible for implementing the requirements of public records laws inside the department.

a. A person who submits a request for public records will provide the person's name, address, and telephone number in order to facilitate effective communication with the department regarding the request.

b. Mail requests will be addressed to: Director, Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015.

c. Electronic requests will include the term "Public Records Request" in the subject field and should be sent to the director's email address as found on the department's website at dom.iowa.gov.

d. Telephone requests should be made to 515.281.3322.

e. A person who submits a request orally will receive a verification letter or electronic communication, whichever is preferred by the requester, from the department verifying the specific scope of the search requested. The verification letter or electronic communication will be transmitted before the request for documents is processed.

In the event that a request cannot be fulfilled within a reasonable time, the requester will be so notified and an estimated completion date will be provided.

8.3(3) *Record identification.* Requests for access to a public record will identify the particular public record to which access is requested by name or description in order to identify efficiently the desired record.

a. The requester's description should specify:

(1) The particular type of record sought.

(2) The particular time period to be searched by start and end date.

(3) The author or recipient, or both, of the record requested, to the extent possible.

(4) To the extent possible, the particular records medium to be searched (e.g., letters, memoranda, reports, recordings).

(5) Any other pertinent information that will assist the department in locating the record requested.

b. The requester will specify if the request applies to a record stored in an electronic form and shall list the search terms to be used.

8.3(4) *Record search.* Department of management personnel should direct public records requests to the director for docketing and processing. Before a search is conducted, the director may contact the requester if there are questions concerning the scope of the record request. The department of management will employ a staff member who is proficient in conducting electronic records searches within the department. This individual will be responsible for conducting all searches for electronic records that are accessible inside the department of management.

a. Upon receipt of a request for access to a public record, the department will promptly take all reasonable steps to preserve a public record while the request is pending.

b. Every public record that is gathered pursuant to a records request will be examined to determine whether the record is confidential and for completeness in response to the request.

c. Every record that is presented to the public for review will be attached to a transmittal letter that specifies the manner in which the records search was performed.

d. Questions by the public regarding the scope of a records search or requests for an expanded search should be submitted to the director in writing.

8.3(5) *Fees.* A fee for time spent retrieving an open record or supervising the public examination of an open record, or both, may be charged to the requester of the record in an amount equal to the actual cost of time spent providing nonincidental retrieval or supervisory services, or both, as provided under applicable law. Whenever possible, an estimate of fees will be provided to the requester before a search is initiated.

a. The actual cost for nonincidental retrieval or supervisory services, or both, may vary according to the nature of the search that is specified by the requester. However, the fees for nonincidental retrieval or supervisory services, or both, performed by department of management staff pursuant to a request for records that are accessible inside the department of management will ordinarily be set at $15 per hour. The fees for department of management records that are accessible only with the assistance of department of administrative services or state archives personnel will be based on the fee structure that is established by those agencies. Requesters are generally billed for fees after their request has been processed. However, if total fees are expected to exceed $250, the department of management may need payment in advance of processing.

b. Photocopies of open records located in the department office will be provided at no charge for the first 25 pages, and 20 cents per page for each additional page.

[**ARC 7498C**, IAB 1/10/24, effective 2/14/24]

541—8.9(17A,22) Disclosures without the consent of the subject.

8.9(1) Open records are routinely disclosed without the consent of the subject.

8.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 541—8.10(17A,22) or in any notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.

e. To the legislative services agency under Iowa Code section 2A.3.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

[**ARC 7498C**, IAB 1/10/24, effective 2/14/24]

541—8.10(17A,22) Routine use.

8.10(1) "Routine use" means the disclosure of a record without the consent of the subject or subjects, for a purpose that is compatible with the purpose for which the record was collected. It includes disclosures obligated to be made by statute other than the public records law, Iowa Code chapter 22.

8.10(2) To the extent allowed by law, the following uses are considered routine uses of all agency records:

a. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

d. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

[**ARC 7498C**, IAB 1/10/24, effective 2/14/24]

541—8.11(17A,22) Consensual disclosure of confidential records.

8.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 541—8.7(17A,22).

8.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official who seeks the official's intervention on behalf of the subject in a matter that involves the agency may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

[**ARC 7498C**, IAB 1/10/24, effective 2/14/24]

541—8.12(17A,22) Release to subject.

8.12(1) The agency need not release records to the subject in the following circumstances:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as mandated by the Iowa Code. (More information can be found in Iowa Code section 22.7(5).)

d. As otherwise authorized by law.

8.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

[**ARC 7498C**, IAB 1/10/24, effective 2/14/24]

541—8.13(17A,22) Availability of records.

8.13(1) *Open records.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

8.13(2) *Confidential records.* The department of management may withhold information reflecting departmental budget recommendations for the following fiscal year until the information is made public by the governor.

8.13(3) *Authority to release confidential records.* The agency may have discretion to disclose some confidential records that are exempt from disclosure under Iowa Code section 22.7 or other law.

[**ARC 7498C**, IAB 1/10/24, effective 2/14/24]

541—8.14 Reserved.

541—8.15(17A,22) Other records. The agency maintains a variety of records that do not generally contain information pertaining to named individuals. The agency maintains the following records, not heretofore listed, which do not generally contain personally identifiable or confidential information: annual reports; press releases; budget information (following presentation by the governor); receipt statements; revenue information; newsletters; public meeting agendas and minutes; budget information relating to cities, counties or school districts; state revenue forecasts; policy information as recommended to the governor; progress review materials and targeted small business compliance reports.

[**ARC 7498C**, IAB 1/10/24, effective 2/14/24]

541—8.16(17A,22) Applicability. This chapter does not:

1. Mandate the agency to index or retrieve records that contain information about individuals by that person's name or other personal identifier.

2. Make available to the general public records that would otherwise not be available under the public records law, Iowa Code chapter 22.

3. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency that are governed by the rules of another agency.

4. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.

5. Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings will be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the agency.

[**ARC 7498C**, IAB 1/10/24, effective 2/14/24]

These rules are intended to implement Iowa Code section 22.11.

[Filed emergency 8/19/88 after Notice 6/15/88—published 9/7/88, effective 8/19/88]
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[Filed ARC 7498C (Notice ARC 7117C, IAB 11/15/23), IAB 1/10/24, effective 2/14/24]

CHAPTER 11
GRANTS ENTERPRISE MANAGEMENT SYSTEM

541—11.1(8) Purpose. These rules are designed to establish a grants enterprise management system (GEMS) under Iowa Code sections 8.9 and 8.10. The primary goals of GEMS include:

1. Securing additional nonstate funding;
2. Fostering cooperation and coordination between state agencies;
3. Discouraging duplication of competitive grant application efforts;
4. Providing a mechanism for the timely exchange of information among state agencies on proposals potentially affecting the agencies; and
5. Providing policy makers, legislators and the citizens of Iowa with information on grant funds received and state agencies' competitive grant applications.

[**ARC 7499C**, IAB 1/10/24, effective 2/14/24]

541—11.2(8) Definitions. As used in this chapter:

"Applicant agency" means the agency intending to apply for, or applying for, a competitive grant.

"Competitive grant application" means a grant application that is in competition with other applications for limited funds.

"Federal Executive Order 12372" means the federal executive order that provides for the establishment of a process for the coordination and review of proposed federal financial assistance. In the order, states are encouraged to develop their own processes, and federal agencies, to the extent permitted by law, utilize the state process.

"GEMS coordinator" means the person appointed by the director of the department of management to coordinate GEMS.

"I/3 grant tracking module" means Integrated Information for Iowa (I/3) and the portion of the I/3 cost accounting module designed to collect data on all nonstate funds received by state government agencies.

"Single point of contact" means the GEMS coordinator.

"State agency" means any department or agency of state government except the board of regents.

[**ARC 7499C**, IAB 1/10/24, effective 2/14/24]

541—11.3(8) GEMS coordinator. The GEMS facilitator will coordinate all aspects of GEMS under Iowa Code sections 8.9 and 8.10. The GEMS coordinator will:

1. Identify and execute strategies to secure nonstate funds;
2. Ensure that all agencies utilize the Iowa grants database to track all competitive grant applications;
3. Ensure that all agencies utilize the I/3 grant tracking module for all grants received;
4. Operate as the state's single point of contact, pursuant to Federal Executive Order 12372;
5. Establish a grants network, representing all state agencies, to operate in an advisory capacity;
6. Assign a state application identifier (SAI) number at each stage of the application process: notification of intent, application submitted, and final status;
7. Review competitive grant applications of special significance, at the coordinator's discretion;
8. Serve as liaison with the state single point of contact in contiguous states;
9. In cooperation with other state agencies, monitor and refine the GEMS competitive grants review procedures;
10. Maintain a list of state agency grants coordinators;
11. Ensure, to the greatest degree practicable, that all GEMS competitive grants reviews are conducted in accordance with these rules;
12. Provide training and policy guidance; and
13. Provide status and results reports to appropriate contacts on an as-needed basis.

[**ARC 7499C**, IAB 1/10/24, effective 2/14/24]

541—11.4(8) Grants network. The grants network includes representation from all state agencies. Agency representatives will serve as agency grants coordinators. All agency grants coordinators will work with the GEMS coordinator to implement Iowa Code section 8.10 and do the following:

1. Communicate relevant information to the GEMS coordinator;
2. Utilize the Iowa grants database to track all competitive grant applications;
3. Utilize the I/3 grant tracking module for all grants received;
4. Inform the Iowa office for state-federal relations of initiatives for which the agency is seeking federal funds; and
5. Participate in issue-specific federal legislation work groups.

[**ARC 7499C**, IAB 1/10/24, effective 2/14/24]

541—11.5(8) GEMS competitive grants review system. The purpose of the GEMS competitive grants review system is to allow state government coordination and review of all competitive grant applications in order to avoid duplication and conflicts.

11.5(1) *Agency competitive grants review coordinator.* Agency grants coordinators will:

a. Serve as the agency's competitive grants review coordinator and as liaison between the agency and the GEMS coordinator for the GEMS competitive grants review process.

b. Assist in the evaluation of the GEMS competitive grants review process.

11.5(2) *GEMS competitive grants review process.* The following is a generalized summary of the GEMS competitive grants review process that will be followed by state agencies with respect to review of applications for competitive grants.

a. Step 1—intent to apply.

(1) The applicant agency will complete the intent to apply section of the Iowa grants database when the applicant agency identifies a competitive grant opportunity.

(2) Upon submission of the intent to apply, a notification will be sent to all state agencies.

(3) Any state agency, or the GEMS coordinator, may request a GEMS competitive grants review meeting to explore the project in greater detail, identify opportunities for collaboration and resolve possible conflicts.

(4) The applicant agency and the GEMS office will receive the agency request for a GEMS competitive grants review meeting within two working days of submission of the intent to apply notification.

(5) The GEMS review meeting will be held within 12 working days of submission of the intent to apply notification. The applicant agency will work with the GEMS office to schedule the meeting.

b. Step 2—application submitted.

(1) Upon completion of the GEMS competitive grants review process, but prior to submission of the grant application, the applicant agency will enter the grant application information in the application section of the Iowa grants database.

(2) When all necessary fields are completed, the Iowa grants database will automatically generate written confirmation of completion of the GEMS competitive grants review to the applicant agency.

(3) The applicant agency will keep a file copy of the confirmation. The applicant agency will include the written confirmation with all federal competitive grant applications pursuant to Federal Executive Order 12372.

c. Step 3—status.

(1) The applicant agency will enter the grant's status in the Iowa competitive grants database upon withdrawal of the application or notification of the receipt or denial of the grant.

(2) The GEMS office and the legislative services agency will be notified of the final grant status.

[**ARC 7499C**, IAB 1/10/24, effective 2/14/24]

These rules are intended to implement Iowa Code sections 8.9 and 8.10.

[Filed emergency 6/18/03—published 7/9/03, effective 7/1/03]

[Filed ARC 7499C (Notice ARC 7118C, IAB 11/15/23), IAB 1/10/24, effective 2/14/24]

CHAPTER 12
DAS CUSTOMER COUNCIL

541—12.1(8) Definitions.

"DAS" means the department of administrative services created by Iowa Code chapter 8A.

"DAS customer council" means a group responsible for overseeing operations with regard to a service funded by fees paid by a governmental entity or subdivision receiving the service when the department and DAS have determined that DAS will be the sole provider of that service.

"Department" or *"DOM"* means the department of management created by Iowa Code chapter 8.

"Economies of scale" means mass purchasing of goods or services, which results in lower average costs.

"Leadership function" means a service provided by the department and funded by a general appropriation. Leadership functions typically relate to development of policy and standards and are appropriate when standardization is necessary and the ultimate customer is the taxpayer.

"Marketplace service" means a service that the department is authorized to provide but that governmental entities may provide on their own or obtain from another provider of the service.

"Quorum" means the presence of no less than a simple majority (50 percent plus 1) of the members eligible to vote.

"Utility service" means a service funded by fees paid by the governmental entity receiving the service and for which DAS is the sole provider of the service.

[**ARC 7500C**, IAB 1/10/24, effective 2/14/24]

541—12.2(8) Purpose. The purpose of this chapter is the same as Iowa Code section 8.6(15)*"c."*

[**ARC 7500C**, IAB 1/10/24, effective 2/14/24]

541—12.3(8) Utility determination. Services for which the department has determined that DAS will be the sole provider are designated "utilities" in Iowa state government. Customers may choose the amount of service they purchase, but should buy from the single source. Utilities are those services for which a monopoly structure makes sense due to economies of scale. The process for determining whether DAS will be the sole provider of a service will include consideration of economic factors, input from the DAS customer council and input from upper levels of the executive branch.

[**ARC 7500C**, IAB 1/10/24, effective 2/14/24]

541—12.4(8) DAS customer council established. In order to ensure that DAS utilities provide effective, efficient, and high-quality services that benefit governmental entities and the citizens they serve, this chapter establishes a DAS customer council for services identified as utilities.

[**ARC 7500C**, IAB 1/10/24, effective 2/14/24]

541—12.5(8) DAS customer council membership. DAS customer council membership will consist of the chairperson and vice chairperson, the Governor's cabinet state agency directors, a judicial branch representative overseeing DAS services provided to the judicial branch, and two legislative branch representatives overseeing DAS services provided to the legislative branch.

12.5(1) *Executive branch agency representation.* The DAS customer council will include directors from the governor's cabinet-level agencies and two noncabinet-level agencies.

12.5(2) *Legislative and judicial branch representation.* If the service to be provided may also be provided to the judicial branch and legislative branch, the provisions of Iowa Code section 8.6(15)*"c"*(2) apply.

[**ARC 7500C**, IAB 1/10/24, effective 2/14/24]

541—12.6(8) Organization of DAS customer council. The operations of the DAS customer council will be governed by a set of bylaws as adopted by the DAS customer council. Bylaws will address the following issues:

12.6(1) *Member participation.* Each member is expected to attend and actively participate in meetings. Participation will include requesting input and support from the group each member represents.

a. Substitutes for members and alternates absent from meetings will be allowed; however, members may attend by telephone or other electronic means approved by the DAS customer council.

b. Upon the approval of the DAS customer council, an alternate member may be selected by an agency or group that provides a representative to the DAS customer council to participate in DAS customer council meetings and vote in place of the representative when the representative is unable to participate.

12.6(2) *Voting.* A quorum is necessary for a DAS customer council vote.

a. Eligible members may vote on all issues brought before the group for a vote. Members may be present to vote during a meeting in person, by telephone or other electronic means approved by the DAS customer council.

b. Each member, other than the chairperson, vice chairperson and ex officio members, has one vote. Designated alternates may only vote in the absence of the representative from the same organization. A simple majority of the members voting will determine the outcome of the issue being voted upon.

c. DAS customer council bylaws may be amended by a simple majority vote of all members.

12.6(3) *Officers.* The officers of the DAS customer council will be the chairperson and vice chairperson. The director of the department of management will serve as chairperson, and the director of the department of administrative services will serve as vice chairperson. The chairperson and vice chairperson cannot be voting members.

12.6(4) *Duties of officers.*

a. The chairperson will preside at all meetings of the DAS customer council.

b. The vice chairperson will assist the chairperson in the discharge of the chairperson's duties as requested and, in the absence or inability of the chairperson to act, will perform the chairperson's duties.

12.6(5) *Committees.*

a. The chairperson may authorize or dissolve committees as necessary to meet the needs of the DAS customer council.

b. Members of the DAS customer council and individuals who are not members of the DAS customer council may be appointed by the chairperson to serve on committees.

c. Committees will provide feedback to the chairperson and the DAS customer council at the council's request.

d. Committees will meet, discuss, study and resolve assigned issues as needed.

12.6(6) *Administration.* DAS will assist the department by providing staff support to assist the chairperson with the following administrative functions:

a. Keeping the official current and complete books and records of the decisions, members, actions and obligations of the DAS customer council;

b. Coordinating meeting notices and locations and keeping a record of names and addresses, including email addresses, of the members of the DAS customer council; and

c. Taking notes at the meetings and producing minutes that will be distributed to all members.

12.6(7) *Open records.* DAS customer council books and records are subject to the open records law as specified in Iowa Code chapter 22.

12.6(8) *Meetings.* DAS customer council meetings are subject to the open meetings law as specified in Iowa Code chapter 21. The DAS customer council is responsible for the following:

a. Determining the frequency and time of council meetings.

b. Soliciting agenda items from the members in advance of an upcoming meeting.

c. Sending electronic notice of meetings, including date, time and location of the meeting, at least one week prior to the meeting date.

d. Providing an agenda, including those items requiring action, at least two days prior to the meeting. The agenda should also include any information necessary for discussion at the upcoming meeting.

e. Conducting meetings using the most recent version of Robert's Rules of Order, Revised.
[**ARC 7500C**, IAB 1/10/24, effective 2/14/24]

541—12.7(8) Powers and duties of DAS customer council.

12.7(1) *Approval of business plans.* The DAS customer council, in accordance with Iowa Code section 8.6(15)*"c"*(1)(b)(i), reviews and recommends business plans. Business plans will include levels of service, service options, investment plans, and other information.

12.7(2) *Complaint resolution.* The DAS customer council will approve the internal procedure for resolution of complaints in accordance with Iowa Code section 8.6(15)*"c"*(1)(b)(ii). The procedure will include, at a minimum, the following provisions:

a. A definition of "complaint," which will convey that this resolution process does not take the place of any other formal complaint, grievance or appeal process necessary by statute or rule.

b. Receipt of complaints.

c. Standards for prompt complaint resolution.

d. Provisions to aggregate, analyze and communicate issues and outcomes in a manner that contributes to overall organizational improvement.

e. Identification of the chairperson and vice chairperson's decision as the final step in the process.

12.7(3) *Rate setting.* A majority of all voting council members will approve the rate methodology and the resulting rates for the services that the DAS customer council oversees. Rates will be established no later than September 1 of the year preceding the rate change. Established rates may be amended after September 1 upon recommendation by the department in consultation with DAS and upon affirmative vote by the DAS customer council.

12.7(4) *Biennial review.* Every two years, the DAS customer council will review the decision made by the department that DAS be the sole provider of a service and make recommendations regarding that decision.
[**ARC 7500C**, IAB 1/10/24, effective 2/14/24]

541—12.8(8) Customer input. The department will establish procedures to provide for the acceptance of input from affected governmental entities. Input may take various forms, such as unsolicited comments, response to structured surveys, or an annual report on service requirements.
[**ARC 7500C**, IAB 1/10/24, effective 2/14/24]

541—12.9(8) Annual service listing. DAS will annually prepare a listing separately identifying services determined by the department and DAS to be leadership functions, marketplace services, and utilities. The listing will be completed no later than September 1 of the fiscal year preceding the proposed effective date of the change.
[**ARC 7500C**, IAB 1/10/24, effective 2/14/24]

These rules are intended to implement Iowa Code section 8.6.

[Filed 10/16/08, Notice 7/30/08—published 11/5/08, effective 12/10/08]
[Filed ARC 7500C (Notice ARC 7119C, IAB 11/15/23), IAB 1/10/24, effective 2/14/24]

CHAPTER 13
SUSPENSION AND REINSTATEMENT OF STATE FUNDS

541—13.1(27A) Definitions. For purposes of this chapter:

"City" means a municipal corporation but does not include a county, township, school district, or any special-purpose district or authority.

"County" means an administrative subdivision in the state governed by a locally elected board of supervisors and may be comprised of subdivisions, including cities, townships, school districts, or any special-purpose district or authority.

"Declaratory judgment" means a judgment issued by a district court declaring a local entity is in full compliance with Iowa Code chapter 27A or 27B.

"Department" means the Iowa department of management pursuant to Iowa Code chapter 8.

"Final judicial determination" means a district court ruling on a civil action brought by the state attorney general's office finding a local entity to have violated the provisions of Iowa Code chapter 27A or 27B.

"Fiscal year" means the time period beginning on July 1 and ending the following June 30 as defined in Iowa Code section 8.36.

"Governing body" means the mayor and city council of a city or the board of supervisors of a county.

"Local entity" means the same as defined in Iowa Code section 27A.1(4) or 27B.1(1).

"State agencies" means any boards, commissions, or departments, as defined by Iowa Code section 7E.4, or other administrative offices or units of the executive branch of the state.

"State funds" means those funds held by the state that originate from revenues, fees or receipts collected by the state and distributed to local entities. Funds held by the state that are not defined as state funds include:

1. Federal funds (unless provided to the state and awarded as a grant by the state).
2. Funds paid out per gubernatorial or presidential emergency proclamation.
3. Any revenue collected and administered by the state on behalf of a local entity due to a locally imposed tax, fee or fine.
4. Any state funds for the provision of wearable body protective gear used for law enforcement purposes.
5. Payment for public protection, utilities, or goods and services.
6. Payment of settlements.
7. Setoffs as defined by Iowa Code section 8A.504.

[**ARC 7501C**, IAB 1/10/24, effective 2/14/24]

541—13.2(27A) Denial of state funds. State funds are denied to a local entity in circumstances authorized by Iowa Code section 27A.9(2) or 27B.5(2).

13.2(1) The department will send written notification to each state agency to deny state funds. Payments will continue to be made to the local entity until the beginning of the state fiscal year that begins after the date on which a final judicial determination is made, at which time payments will be denied.

13.2(2) If the local entity receives state funds through the county, the department will notify the county so that any needed changes may be made to apportionment systems for property tax credits, exemptions and replacements.

13.2(3) State agencies will contact federal granting agencies in writing to determine how to administer federal funds when state match funds are denied. State agencies may be obligated to discontinue drawing federal funds or issue repayments as instructed by federal granting agencies.

13.2(4) Funds will continue to be denied until the court issues a declaratory judgment declaring that the local entity is in full compliance with Iowa Code chapter 27A or 27B.

[**ARC 7501C**, IAB 1/10/24, effective 2/14/24]

541—13.3(27A) Reinstatement of eligibility to receive state funds. In circumstances authorized by Iowa Code section 27A.10(3) or 27B.6(3), the local entity's eligibility to receive state funds is reinstated.

13.3(1) The department will send written notification to each state agency to reinstate state funds. Payments will be reinstated to the local entity beginning on the first day of the month following the date on which the declaratory judgment is issued.

13.3(2) State agencies will contact federal partners in writing to determine how to reinstate the drawdown of federal funds when state match funds are reinstated.

[**ARC 7501C**, IAB 1/10/24, effective 2/14/24]

These rules are intended to implement Iowa Code chapters 27A and 27B.

[Filed ARC 4141C (Notice ARC 4008C, IAB 9/26/18), IAB 11/21/18, effective 12/26/18]

[Filed ARC 7501C (Notice ARC 7120C, IAB 11/15/23), IAB 1/10/24, effective 2/14/24]

CHAPTER 14
Reserved

CHAPTER 15
CALCULATING NET GENERAL FUND REVENUES
Rescinded **ARC 6186C**, IAB 2/9/22, effective 3/16/22

CHAPTER 16
SUSPENSION AND REINSTATEMENT OF STATE FUNDS
Rescinded **ARC 7501C**, IAB 1/10/24, effective 2/14/24

REVENUE DEPARTMENT[701]

Created by 1986 Iowa Acts, chapter 1245.

TITLE I
ADMINISTRATION

CHAPTER 1
CONVERSION CHART

CHAPTERS 2 to 4
Reserved

CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

CHAPTER 6
ORGANIZATION

CHAPTER 7
APPEALS, TAXPAYER REPRESENTATION, AND OTHER ADMINISTRATIVE PROCEDURES

10.10 to 10.19	Reserved
	RETAIL SALES
10.20 to 10.29	Reserved
	USE
10.30 to 10.39	Reserved
	INDIVIDUAL INCOME
10.40 to 10.49	Reserved
	WITHHOLDING
10.50 to 10.55	Reserved
	CORPORATE
10.56 to 10.65	Reserved
	FINANCIAL INSTITUTIONS
10.66 to 10.70	Reserved
	MOTOR FUEL
10.71(452A)	Penalty and enforcement provisions
10.72(452A)	Interest
10.73 to 10.75	Reserved
	CIGARETTES AND TOBACCO
10.76(453A)	Penalties
10.77(453A)	Interest
10.78	Reserved
10.79(453A)	Request for statutory exception to penalty
10.80 to 10.84	Reserved
	INHERITANCE
10.85 to 10.89	Reserved
	IOWA ESTATE
10.90 to 10.95	Reserved
	GENERATION SKIPPING
10.96 to 10.100	Reserved
	FIDUCIARY INCOME
10.101 to 10.109	Reserved
	HOTEL AND MOTEL
10.110 to 10.114	Reserved
	ALL TAXES
10.115(421)	Application of payments to penalty, interest, and then tax due for payments made on or after January 1, 1995, unless otherwise designated by the taxpayer
	JEOPARDY ASSESSMENTS
10.116(422,453B)	Jeopardy assessments
10.117(422,453B)	Procedure for posting bond
10.118(422,453B)	Time limits
10.119(422,453B)	Amount of bond
10.120(422,453B)	Posting of bond
10.121(422,453B)	Order
10.122(422,453B)	Director’s order
10.123(422,453B)	Type of bond
10.124(422,453B)	Form of surety bond

CHAPTER 22
COLLECTION OF DEBTS OWED THE STATE
OF IOWA OR A STATE AGENCY

CHAPTER 23
DEBT COLLECTION AND SELLING OF PROPERTY
TO COLLECT DELINQUENT DEBTS

CHAPTER 24
LICENSE SANCTIONS FOR COLLECTION OF DEBTS OWED THE STATE OF IOWA OR
A STATE AGENCY

CHAPTER 25
CHALLENGES TO ADMINISTRATIVE LEVIES AND
PUBLICATION OF NAMES OF DEBTORS

CHAPTER 26
SETOFF OF QUALIFYING DEBTS OWED TO PUBLIC AGENCIES

CHAPTERS 27 to 99
Reserved

TITLE II
PROPERTY TAX

CHAPTER 100
COLLECTION OF PROPERTY TAX

CHAPTER 101
REPLACEMENT TAX AND STATEWIDE PROPERTY TAX

DIVISION I
REPLACEMENT TAX

DIVISION II
STATEWIDE PROPERTY TAX

CHAPTER 102
ASSESSMENT PRACTICES AND EQUALIZATION

CHAPTER 103
EXAMINATION AND CERTIFICATION OF ASSESSORS AND DEPUTY ASSESSORS

CHAPTER 104
PROPERTY TAX CREDIT AND RENT REIMBURSEMENT

CHAPTER 105
MOBILE, MODULAR, AND MANUFACTURED HOME TAX

CHAPTER 106
DETERMINATION OF VALUE OF RAILROAD COMPANIES

CHAPTER 107
DETERMINATION OF VALUE OF UTILITY COMPANIES

CHAPTER 108
REPLACEMENT TAX AND STATEWIDE PROPERTY
TAX ON RATE-REGULATED WATER UTILITIES

REPLACEMENT TAX

STATEWIDE PROPERTY TAX

CHAPTER 109
REAL ESTATE TRANSFER TAX AND DECLARATIONS OF VALUE

CHAPTER 110
PROPERTY TAX CREDITS AND EXEMPTIONS

CHAPTER 116
REASSESSMENT EXPENSE FUND

CHAPTERS 117 to 199
Reserved

TITLE III
SALES, USE, AND EXCISE TAX

CHAPTER 200
DEFINITIONS

CHAPTER 201
SALES AND USE TAX PERMITS

CHAPTER 202
FILING RETURNS AND PAYMENT OF TAX

CHAPTER 203
ELEMENTS INCLUDED IN AND EXCLUDED
FROM A TAXABLE SALE AND SALES PRICE

CHAPTER 204
RULES NECESSARY TO IMPLEMENT THE STREAMLINED SALES
AND USE TAX AGREEMENT

CHAPTER 205
SOURCING OF TAXABLE SERVICES, TANGIBLE PERSONAL PROPERTY, AND SPECIFIED
DIGITAL PRODUCTS

CHAPTER 206
BUNDLED TRANSACTIONS

CHAPTER 207
REMOTE SALES AND MARKETPLACE SALES

211.12(423)	Bank and financial institution service charges
211.13(423)	Barber and beauty
211.14(423)	Photography and retouching
211.15(423)	Household appliance, television, and radio repair
211.16(423)	Jewelry and watch repair
211.17(423)	Machine operators
211.18(423)	Machine repair of all kinds
211.19(423)	Motor repair
211.20(423)	Oilers and lubricators
211.21(423)	Office and business machine repair
211.22(423)	Parking facilities
211.23(423)	Private employment agency, executive search agency
211.24(423)	Storage of household goods and mini-storage
211.25(423)	Telephone answering service
211.26(423)	Test laboratories
211.27(423)	Termite, bug, roach, and pest eradicators
211.28(423)	Tin and sheet metal repair
211.29(423)	Turkish baths, massage, and reducing salons
211.30(423)	Weighing
211.31(423)	Welding
211.32(423)	Wrapping, packing, and packaging of merchandise other than processed meat, fish, fowl, and vegetables
211.33(423)	Wrecking service
211.34(423)	Cable and pay television
211.35(423)	Camera repair
211.36(423)	Gun repair
211.37(423)	Janitorial and building maintenance or cleaning
211.38(423)	Lawn care, landscaping, and tree trimming and removal
211.39(423)	Pet grooming
211.40(423)	Reflexology
211.41(423)	Tanning beds and tanning salons
211.42(423)	Water conditioning and softening
211.43(423)	Security and detective services
211.44(423)	Solid waste collection and disposal services
211.45(423)	Sewage services
211.46(423)	Aircraft rental
211.47(423)	Sign construction and installation
211.48(423)	Swimming pool cleaning and maintenance
211.49(423)	Taxidermy
211.50(423)	Dating services
211.51(423)	Personal transportation service
211.52(423)	Information services
211.53(423)	Software as a service
211.54(423)	Video game services and tournaments
211.55(423)	Services related to specified digital products or software sold as tangible personal property
211.56(423)	Storage of tangible or electronic files, documents, or other records

CHAPTER 212
GOVERNMENTS AND NONPROFITS

212.1(423)	Sales to certain corporations organized under federal statutes

CHAPTER 213
MISCELLANEOUS TAXABLE SALES

213.1 and 213.2	Reserved
213.3(423)	Conditional sales contracts
213.4(423)	The sales price of sales of butane, propane and other like gases in cylinder drums, etc.
213.5(423)	Antiques, curios, old coins, collector's postage stamps, and currency exchanged for greater than face value
213.6	Reserved
213.7(423)	Consignment sales
213.8(423)	Electrotypes, types, zinc etchings, halftones, stereotypes, color process plates, wood mounts and art productions
213.9	Reserved
213.10(423)	Sales on layaway
213.11(423)	Memorial stones
213.12(423)	Creditors and trustees
213.13(423)	Sale of pets
213.14(423)	Redemption of meal tickets, coupon books and merchandise cards as a taxable sale
213.15(423)	Rental of personal property in connection with the operation of amusements
213.16(423)	Repossessed goods
213.17	Reserved
213.18(423)	Tangible personal property made to order
213.19(423)	Used or secondhand tangible personal property
213.20(423)	Carpeting and other floor coverings
213.21(423)	Goods damaged in transit
213.22(423)	Snowmobiles, motorboats, and certain other vehicles
213.23(423)	Photographers and photostaters
213.24	Reserved
213.25(423)	Urban transit systems
213.26(423)	Sales of prepaid telephone cards or calling services
213.27(423)	Webinars

CHAPTER 214
AGRICULTURAL RULES

214.1(423)	Sale or rental of farm machinery and equipment and items used in agricultural production that are attached to a self-propelled implement of husbandry
214.2(423)	Packaging material used in agricultural production
214.3(423)	Irrigation equipment used in agricultural production
214.4(423)	Sale of a draft horse
214.5(423)	Veterinary services
214.6(423)	Commercial fertilizer and agricultural limestone
214.7(423)	Sales of breeding livestock
214.8(423)	Domesticated fowl
214.9(423)	Agricultural health promotion items
214.10(423)	Drainage tile
214.11(423)	Materials used for seed inoculations
214.12(423)	Fuel used in agricultural production
214.13(423)	Water used in agricultural production

CHAPTER 215
EXEMPTIONS PRIMARILY BENEFITING MANUFACTURERS AND OTHER PERSONS ENGAGED IN PROCESSING

CHAPTER 216
EVENTS, AMUSEMENTS, AND OTHER RELATED ACTIVITIES

CHAPTER 217
TELECOMMUNICATION SERVICES

CHAPTER 218
SERVICES RELATED TO VEHICLES

CHAPTER 219
SALES AND USE TAX ON CONSTRUCTION ACTIVITIES

CHAPTER 220
EXEMPTIONS PRIMARILY OF BENEFIT TO CONSUMERS

CHAPTER 221
MISCELLANEOUS NONTAXABLE TRANSACTIONS

CHAPTERS 222 to 224
Reserved

CHAPTER 225
RESALE AND PROCESSING EXEMPTIONS PRIMARILY OF BENEFIT TO RETAILERS

CHAPTERS 226 to 249
Reserved

CHAPTER 250
VEHICLES SUBJECT TO REGISTRATION

CHAPTER 251
AUTOMOBILE RENTAL EXCISE TAX

CHAPTER 252
STATE-IMPOSED WATER SERVICE EXCISE TAX

CHAPTER 253
STATE-IMPOSED AND LOCALLY IMPOSED HOTEL AND MOTEL TAXES

CHAPTER 254
ADMINISTRATION

CHAPTER 255
CIGARETTE TAX AND REGULATION OF DELIVERY SALES OF ALTERNATIVE NICOTINE PRODUCTS OR VAPOR PRODUCTS

CHAPTER 256
TOBACCO TAX

CHAPTER 257
UNFAIR CIGARETTE SALES

CHAPTER 258
TOBACCO MASTER SETTLEMENT AGREEMENT

DIVISION I
TOBACCO MASTER SETTLEMENT AGREEMENT

DIVISION II
TOBACCO PRODUCT MANUFACTURERS' OBLIGATIONS AND PROCEDURES

CHAPTER 259
ADMINISTRATION

CHAPTER 260
MOTOR FUEL AND UNDYED SPECIAL FUEL

CHAPTER 261
LIQUEFIED PETROLEUM GAS—
COMPRESSED NATURAL GAS—LIQUEFIED NATURAL GAS

CHAPTER 262
ELECTRIC FUEL EXCISE TAX

CHAPTERS 263 to 268
Reserved

CHAPTER 269
ADMINISTRATION OF MARIJUANA AND
CONTROLLED SUBSTANCES STAMP TAX

CHAPTER 270
LOCAL OPTION SALES AND SERVICES TAX

CHAPTER 271
NEW SCHOOL INFRASTRUCTURE LOCAL OPTION SALES AND SERVICES TAX—
EFFECTIVE ON OR AFTER APRIL 1, 2003, THROUGH FISCAL YEARS
ENDING DECEMBER 31, 2022

CHAPTER 272
FLOOD MITIGATION PROGRAM

CHAPTER 285
TAXABLE AND EXEMPT SALES DETERMINED BY METHOD OF TRANSACTION OR USAGE

285.10(422,423)	Florists
285.11(422,423)	Landscaping materials
285.12(422,423)	Hatcheries
285.13(422,423)	Sales by the state of Iowa, its agencies and instrumentalities
285.14(422,423)	Sales of livestock and poultry feeds
285.15(422,423)	Student fraternities and sororities
285.16(422,423)	Photographers and photostaters
285.17(422,423)	Gravel and stone
285.18(422,423)	Sale of ice
285.19(422,423)	Antiques, curios, old coins or collector's postage stamps
285.20(422,423)	Communication services
285.21(422,423)	Morticians or funeral directors
285.22(422,423)	Physicians, dentists, surgeons, ophthalmologists, oculists, optometrists, and opticians
285.23(422)	Veterinarians
285.24(422,423)	Hospitals, infirmaries and sanitariums
285.25(422,423)	Warranties and maintenance contracts
285.26(422)	Service charge and gratuity
285.27(422)	Advertising agencies, commercial artists, and designers
285.28(422,423)	Casual sales
285.29(422,423)	Processing, a definition of the word, its beginning and completion characterized with specific examples of processing
285.30(422)	Taxation of American Indians
285.31(422,423)	Tangible personal property purchased by one who is engaged in the performance of a service
285.32	Reserved
285.33(422,423)	Printers' and publishers' supplies exemption with retroactive effective date
285.34(422,423)	Automatic data processing
285.35(422,423)	Drainage tile
285.36(422,423)	True leases and purchases of tangible personal property by lessors
285.37(422,423)	Motor fuel, special fuel, aviation fuels and gasoline
285.38(422,423)	Urban transit systems
285.39(422,423)	Sales or services rendered, furnished, or performed by a county or city
285.40(422,423)	Renting of rooms
285.41(422,423)	Envelopes for advertising
285.42(422,423)	Newspapers, free newspapers and shoppers' guides
285.43(422,423)	Written contract
285.44(422,423)	Sale or rental of farm machinery and equipment
285.45	Reserved
285.46(422,423)	Automotive fluids
285.47(422,423)	Maintenance or repair of fabric or clothing
285.48(422,423)	Sale or rental of farm machinery, equipment, replacement parts, and repairs used in livestock, dairy, or plant production
285.49(422,423)	Aircraft sales, rental, component parts, and services exemptions prior to, on, and after July 1, 1999
285.50(422,423)	Property used by a lending organization
285.51(422,423)	Sales to nonprofit legal aid organizations
285.52(422,423)	Irrigation equipment used in farming operations
285.53(422,423)	Sales to persons engaged in the consumer rental purchase business
285.54(422,423)	Sales of advertising material
285.55(422,423)	Drop shipment sales
285.56(422,423)	Wind energy conversion property

302.18(422)	Net operating loss carrybacks and carryovers
302.19(422)	Casualty losses
302.20(422)	Adjustments to prior years
302.21(422)	Additional deduction for wages paid or accrued for work done in Iowa by certain individuals
302.22(422)	Disability income exclusion
302.23(422)	Social security benefits
302.24(99E)	Lottery prizes
302.25 and 302.26	Reserved
302.27(422)	Incomes from distressed sales of qualifying taxpayers
302.28	Reserved
302.29(422)	Intangible drilling costs
302.30(422)	Percentage depletion
302.31(422)	Away-from-home expenses of state legislators
302.32(422)	Interest and dividends from regulated investment companies which are exempt from federal income tax
302.33	Reserved
302.34(422)	Exemption of restitution payments for persons of Japanese ancestry
302.35(422)	Exemption of Agent Orange settlement proceeds received by disabled veterans or beneficiaries of disabled veterans
302.36(422)	Exemption of interest earned on bonds issued to finance beginning farmer loan program
302.37(422)	Exemption of interest from bonds issued by the Iowa comprehensive petroleum underground storage tank fund board
302.38	Reserved
302.39(422)	Exemption of interest from bonds or notes issued to fund the 911 emergency telephone system
302.40(422)	Exemption of active-duty military pay of national guard personnel and armed forces reserve personnel received for services related to operation desert shield
302.41(422)	Capital gain exclusion for elected employee-owned stock in a qualified corporation
302.42(422)	Depreciation of speculative shell buildings
302.43(422)	Retroactive exemption for payments received for providing unskilled in-home health care services to a relative
302.44(422,541A)	Individual development accounts
302.45(422)	Exemption for distributions from pensions, annuities, individual retirement accounts, or deferred compensation plans received by nonresidents of Iowa
302.46(422)	Taxation of compensation of nonresident members of professional athletic teams
302.47(422)	Exclusion of pensions and other retirement benefits for disabled individuals, individuals who are 55 years of age or older, surviving spouses, and survivors
302.48(422)	Health insurance premiums deduction
302.49(422)	Employer social security credit for tips
302.50(422)	Computing state taxable amounts of pension benefits from state pension plans
302.51(422)	Exemption of active-duty military pay of national guard personnel and armed forces military reserve personnel for overseas services pursuant to military orders for peacekeeping in the Bosnia-Herzegovina area
302.52(422)	Mutual funds
302.53(422)	Deduction for contributions by taxpayers to the Iowa educational savings plan trust and addition to income for refunds of contributions previously deducted
302.54(422)	Roth individual retirement accounts
302.55(422)	Exemption of income payments for victims of the Holocaust and heirs of victims
302.56(422)	Taxation of income from the sale of obligations of the state of Iowa and its political subdivisions

CHAPTER 304
ADJUSTMENTS TO COMPUTED TAX AND TAX CREDITS

CHAPTER 308
ESTIMATED INCOME TAX FOR INDIVIDUALS

CHAPTERS 309 to 399
Reserved

TITLE V
PASS-THROUGH ENTITY INCOME TAX

CHAPTER 400
ADMINISTRATION

CHAPTER 401
PARTNERSHIPS

CHAPTER 402
S CORPORATIONS

CHAPTER 403
APPORTIONMENT OF INCOME FOR RESIDENT SHAREHOLDERS OF S CORPORATIONS

CHAPTER 404
COMPOSITE RETURNS FOR TAX YEARS BEGINNING PRIOR TO JANUARY 1, 2022

CHAPTER 405
COMPOSITE RETURNS FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2022

CHAPTERS 406 to 499
Reserved

TITLE VI
CORPORATION INCOME TAX

CHAPTER 500
ADMINISTRATION

CHAPTER 501
FILING RETURNS, PAYMENT OF TAX,
PENALTY AND INTEREST, AND TAX CREDITS

CHAPTER 502
DETERMINATION OF NET INCOME

TITLE VII
FRANCHISE TAX

CHAPTER 600
ADMINISTRATION

CHAPTER 601
FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST, AND TAX CREDITS

CHAPTER 602
DETERMINATION OF NET INCOME

TITLE VIII
FIDUCIARY INCOME TAX

CHAPTER 700
FIDUCIARY INCOME TAX

CHAPTERS 701 to 799
Reserved

TITLE IX
TAX CREDITS

CHAPTER 800
TAX CREDITS

CHAPTERS 801 to 899
Reserved

TITLE X
INHERITANCE TAX

CHAPTER 900
INHERITANCE TAX

CHAPTER 901
IOWA ESTATE TAX

CHAPTER 902
GENERATION SKIPPING TRANSFER TAX

CHAPTER 301
FILING RETURN AND PAYMENT OF TAX

[Prior to 12/17/86, Revenue Department[730]]
[Prior to 11/2/22, see Revenue Department[701] Ch 39]

701—301.1(422) Who must file.

301.1(1) *Residents of Iowa.*

a. Residents under 65 years of age. For each taxable year, every resident of Iowa, except any resident claimed as a dependent on another person's return, whose net income is greater than $13,500 in the case of married persons, heads of household, and surviving spouses or greater than $9,000 in the case of single persons or married persons filing separately must make, sign, and file a return. In the case of married persons filing separately, if the combined net income of both spouses exceeds $13,500, both spouses must make, sign, and file a return even if one of the spouse's net income is $9,000 or less. Each resident who is claimed as a dependent on another person's return and whose net income is $5,000 or more must make, sign, and file a return. For purposes of this subrule, the portion of a lump-sum distribution subject to separate federal tax, the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover are included in net income to determine if a person must file a return.

b. Residents 65 years of age or older. For each taxable year, every resident of Iowa, except any resident claimed as a dependent on another person's return, who is at least 65 years of age or older on December 31 of the tax year, whose net income is greater than $32,000 in the case of married persons, heads of household, and surviving spouses or greater than $24,000 in the case of single persons or married persons filing separately must make, sign, and file a return. In the case of married persons filing separately, if the combined net income of both spouses exceeds $32,000, both spouses must make, sign, and file a return even if one of the spouse's net income is $24,000 or less. For married persons, for purposes of this paragraph, only one spouse is required to be at least 65 years of age or older on December 31 of the tax year. Each resident who is claimed as a dependent on another person's return and whose net income is $5,000 or more must make, sign, and file a return.

For purposes of this subrule, the portion of a lump-sum distribution subject to separate federal tax, the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover taken for federal purposes are included in net income to determine if a person must file a return.

301.1(2) *Nonresidents of Iowa.*

a. Nonresidents under 65 years of age. For each taxable year, every nonresident of Iowa must make, sign, and file an Iowa return if the nonresident has a net income of $1,000 or more from Iowa sources and meets one or more of the following conditions: (1) has a net income from all sources that is greater than $13,500 in the case of married persons, heads of household, and surviving spouses, (2) has a net income from all sources greater than $9,000 in the case of single persons, (3) has a net income from all sources greater than $9,000 in the case of married persons filing separately; however, if the combined net income of both spouses exceeds $13,500, both spouses must make, sign, and file a return even if one of the spouse's net income is $9,000 or less, or (4) is claimed as a dependent on another person's return and has a net income from all sources of at least $5,000. For purposes of this paragraph, the portion of a lump-sum distribution subject to separate federal tax that is allocable to Iowa is included in net income to determine if the nonresident has sufficient net income from Iowa sources to make and file a return. In determining net income from all sources, the portion of a lump-sum distribution subject to separate federal tax, the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover are included in net income to determine if a person must file a return.

b. Nonresidents 65 years of age or older. For these taxable years, every nonresident of Iowa must make, sign, and file an Iowa return if the nonresident has a net income of $1,000 or more from Iowa sources and meets one or more of the following conditions: (1) has a net income from all sources that is greater than $32,000 in the case of married persons, heads of household, and surviving spouses, (2) has a net income from all sources greater than $24,000 in the case of single persons, (3) has a net income from all sources greater than $24,000 in the case of married persons filing separately; however, if the combined net income of both spouses exceeds $32,000, both spouses must make, sign, and file a return even if one of the spouse's net income is $24,000 or less, or (4) is claimed as a dependent on another person's return and has a net income from all sources of at least $5,000. For married persons, for the purposes of this paragraph, only one spouse is required to be 65 years of age or older on December 31 of the tax year. For purposes of this subrule, the portion of a lump-sum distribution subject to separate federal tax that is allocable to Iowa is included in net income to determine if the nonresident has sufficient net income from Iowa sources to make and file a return. In determining net income from all sources, the portion of a lump-sum distribution subject to separate federal tax, the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover are included in net income to determine if a person must file a return.

301.1(3) *Part-year residents of Iowa.*

a. Part-year residents under 65 years of age. For each taxable year, every part-year resident of Iowa must make, sign, and file a return if the individual has a net income of $1,000 or more from Iowa sources and meets one or more of the following conditions: (1) has a net income from all sources that is greater than $13,500 in the case of married persons, heads of household, and surviving spouses, (2) has a net income from all sources that is greater than $9,000 in the case of a single person, (3) has a net income from all sources greater than $9,000 in the case of married persons filing separately; however, if the combined net income of both spouses exceeds $13,500, both spouses must make, sign, and file a return even if one of the spouse's net income is $9,000 or less, or (4) is claimed as a dependent on another person's return and had a net income from all sources of $5,000 or more. For purposes of this paragraph, the portion of a lump-sum distribution that is allocable to Iowa is included in net income to determine if the person has sufficient net income from Iowa sources to make and file a return. In determining net income from all sources, the portion of a lump-sum distribution subject to separate federal tax, the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover are included in net income to determine if a person must file a return.

b. Part-year residents 65 years of age or older. For these taxable years, every part-year resident of Iowa must make, sign, and file an Iowa return if the part-year resident has a net income of $1,000 or more from Iowa sources and meets one or more of the following conditions: (1) has a net income from all sources that is greater than $32,000 in the case of married persons, heads of household, and surviving spouses, (2) has a net income from all sources greater than $24,000 in the case of single persons, (3) has a net income from all sources greater than $24,000 in the case of married persons filing separately; however, if the combined net income of both spouses exceeds $32,000, both spouses must make, sign, and file a return even if one of the spouse's net income is $24,000 or less, or (4) is claimed as a dependent on another person's return and has a net income from all sources of at least $5,000. For married persons, for the purposes of this paragraph, only one spouse is required to be 65 years of age or older on December 31 of the tax year. For purposes of this subrule, the portion of a lump-sum distribution subject to separate federal tax that is allocable to Iowa is included in net income to determine if the part-year resident has sufficient net income from Iowa sources to make and file a return. In determining net income from all sources, the portion of a lump-sum distribution subject to separate federal tax, the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for

federal purposes, and any net operating loss carryover are included in net income to determine if a person must file a return.

301.1(4) *Incapacity to file a return.* If a taxpayer is physically or mentally unable to make a return, the return shall be made by a duly authorized agent, guardian or other person charged with the care of the person or property of such taxpayer. A power of attorney must accompany a return made by an agent or guardian.

301.1(5) *Minimum income requirement.* See rules 701—302.1(422) to 701—302.52(422) and any subsequent rules in 701—Chapter 302 for the computation of net income to determine if a taxpayer meets the minimum filing requirements described in subrules 301.1(1), 301.1(2), and 301.1(3).

301.1(6) *Final return.* If a taxpayer has died during the year, see paragraph 301.4(2)*"d."*

301.1(7) *Returns filed for refund.* A taxpayer whose Iowa source net income or all source net income is less than the amount for which the filing of an Iowa individual income tax return is required must file a return to receive a refund of Iowa income tax withheld or Iowa estimated tax paid in the tax year or to receive a refund from an Iowa refundable tax credit.

This rule is intended to implement Iowa Code sections 422.5 and 422.13.

[**ARC 1303C**, IAB 2/5/14, effective 3/12/14; **ARC 3085C**, IAB 5/24/17, effective 6/28/17; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23; **ARC 7502C**, IAB 1/10/24, effective 2/14/24]

701—301.2(422) Time and place for filing.

301.2(1) *Returns of individuals.* A return of income must be filed on or before the due date. The due date is the last day of the fourth month following the close of the taxpayer's taxable year, whether the return be made on the basis of the calendar year or for a fiscal year, or the last day of the period covered by an extension of time granted by the department. When the due date falls on Saturday, Sunday, or a holiday, the return will be due the following day that is not a Saturday, Sunday, or holiday. Iowa Code section 421.9A contains additional information on due dates that fall on a Saturday, Sunday, or holiday. If a return is placed in the mail, properly addressed and postage paid, in ample time to reach the department on or before the due date for filing, no penalty will attach should the return not be received until after that date. Mailed returns should be addressed to Income Tax Return Processing, Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319.

Farmers and fishermen have the same filing due date as other individual taxpayers; however, those farmers and fishermen who have elected not to file a declaration of estimated tax shall file their returns and pay the tax due, on or before March 1, to avoid penalty for underpayment of estimated tax.

301.2(2) and **301.2(3)** Reserved.

301.2(4) *Extension of time for returns for tax years beginning on or after January 1, 1991.* The taxpayer is required to file the taxpayer's individual income tax return on or before the due date of the return with payment in full of the amount required to be shown due with the return. However, in any instance where the taxpayer is unable to file the return by the due date because of illness or death in the taxpayer's immediate family, unavoidable absence of the taxpayer, or other legitimate reason, the director may grant a six-month extension of time to file the return.

If the taxpayer has paid at least 90 percent of the tax required to be shown due by the due date and has not filed a return by the due date, the director will consider that the taxpayer has requested an extension of time to file the return and will automatically grant an extension of up to six months to file the return. The taxpayer does not have to file an application for extension form with the department to get the automatic extension to file the return within the six-month period after the due date and not be subject to penalty. However, if the taxpayer wants to make a tax payment to ensure that at least 90 percent of the tax has been paid on or before the due date, the payment should be made with the Iowa tax voucher form. This form can be requested from the Taxpayer Services Section, P.O. Box 10457, Des Moines, Iowa 50306, or by telephone at (515)281-3114.

To determine whether or not at least 90 percent of the tax was "paid" on or before the due date, the aggregate amount of tax credits applicable on the return plus the tax payments made on or before the due date are divided by the tax required to be shown due on the return. The tax required to be shown on the return is the sum of the income tax, lump-sum tax, minimum tax, school district income surtax, and

the emergency medical services income surtax. The tax credits applicable are the credits set out in Iowa Code chapter 422, division II, and section 422.111. The tax payments to be considered for purposes of determining if 90 percent of the tax was paid are the withholding tax payments, estimate payments, and the payments made with the Iowa income tax voucher form to ensure that 90 percent of the tax was paid timely.

If the aggregate of the tax credits and the tax payments are equal to or greater than 90 percent of the tax required to be shown due, the taxpayer will have met the "90 percent" test and no penalty will be assessed. However, the taxpayer will still be subject to statutory interest on any tax due when the return is filed.

Any tax elections, such as the election to carry forward a net operating loss occurring in the tax year, will be considered to be valid in instances when the return is filed within the six-month extended period after the due date. The fact that the taxpayer has paid less than 90 percent of the tax required to be shown due will not invalidate any tax elections made on the return, if the return is filed within the six-month extended period.

a. Extensions for taxpayers with tax homes outside the United States and Puerto Rico. Taxpayers with tax homes outside the United States and Puerto Rico may, in some situations, be granted additional time to file their federal income tax returns beyond the six-month period after the federal due date. In some cases, this additional time is needed to meet residency time requirements in a foreign country so the taxpayer will be eligible for the foreign income exclusion which is also applicable to filing Iowa income tax returns. In cases where the taxpayer's tax home is outside the United States and the taxpayer has been granted additional time to file the federal income tax return which is greater than six months from the due date, the taxpayer will be deemed to have the same additional time to file the Iowa return and not be subject to penalty for late filing if 90 percent of the tax required to be shown due on the return was paid by the due date. Taxpayers with tax elections filing returns under these circumstances will be considered to have made these elections timely. However, the taxpayers should attach to their Iowa return documentation showing they were granted additional time after the six-month period from the due date to file their federal returns.

b. Payment of interest on refunds from income tax returns filed in the six-month period after the due date. The following information applies only to Iowa individual income tax returns that are filed for tax years beginning on or after January 1, 1999. In the case of Iowa returns that have overpayments of income tax that are filed in the six-month period after the due date and where at least 90 percent of the tax shown due was paid by the due date, interest at the statutory rate will be paid on the overpayments determined on the returns, starting on the first day of the second month after the end of the six-month extended period and ending in the month in which the refund is issued.

For taxpayers filing Iowa individual income tax returns for calendar-year tax years, the six-month extended period starts May 1 of the year following the end of the tax year and ends on October 31 of the year following the end of the tax year. However, if April 30 falls on a Sunday as it does in the year 2000 for 1999 Iowa individual returns filed in that year, the due date is moved to Monday, May 1. The extended period in this instance starts on Tuesday, May 2, 2000, and ends on October 31, 2000.

EXAMPLE. A husband and wife file their 1999 Iowa return on September 15, 2000. This return has an overpayment of tax of $200. Because the return is filed in the six-month period after the May 1, 2000, due date, and because the refund is issued in January 2001, interest accrues on the overpayment for the months of December 2000 and January 2001.

This rule is intended to implement Iowa Code sections 422.21 and 422.25.

[**ARC 6551C**, IAB 10/5/22, effective 11/9/22; Editorial change: IAC Supplement 11/2/22]

701—301.3(422) Form for filing.

301.3(1) *Use of and completeness of prescribed forms.* Returns shall, in all cases, be made by residents and nonresidents on forms supplied by the department of revenue. Taxpayers not supplied with the proper forms shall make application for the forms to the department, in ample time to have their returns made, verified and filed on or before the due date. Each taxpayer shall carefully prepare a return so as to fully and clearly set forth the data required. For lack of a prescribed form, a statement

made by a taxpayer disclosing gross income and the deductions from gross income may be accepted as a tentative return, and if verified and filed within the prescribed time, will relieve the taxpayer from liability to penalties, provided that without unnecessary delay a tentative return is replaced by a return made on the proper form. Each question shall be answered and each direction complied with in the same manner as if the forms and instructions were embodied in these regulations. Individual resident taxpayers shall enter the name of the school district of residence on the return. If the school district is not supplied, the return shall be deemed incomplete.

A return not signed by the taxpayer or the taxpayer's agent or guardian, shall not be deemed completely executed and filed as required by law.

Failure to receive the proper form does not relieve the taxpayer from the obligation of making any return required by statute.

301.3(2) *Optional method of filing.* The front and back page of the Iowa individual income tax return, if properly completed, may be filed as an optional return, if a complete facsimile or photocopy of the federal return and supporting schedules are attached.

301.3(3) *Copy of federal income tax return to be filed by nonresident.* A nonresident taxpayer must file a copy of their federal income tax return for the current tax year with their Iowa income tax return. The copy shall include full and complete copies of all farm, business, capital gains and other schedules that were filed with the federal return.

301.3(4) *Amended returns.* If it becomes known to the taxpayer that the amount of income reported to be federal net income or Iowa taxable income was erroneously stated on the Iowa return, or changed by an Internal Revenue Service audit, or otherwise, the taxpayer shall file an amended Iowa return along with supporting schedules, to include the amended federal return if applicable. A copy of the federal revenue agent's report and notification of final federal adjustments provided by the taxpayer will be acceptable in lieu of an amended return. The assessment or refund of tax shall be dependent on the statute of limitations as set forth in 701—subrule 300.2(1) and rule 701—305.3(422).

301.3(5) *Voter's registration forms in income tax booklets and income tax return instructions.* Effective for tax years beginning on or after January 1, 1989, income tax return booklets and income tax return instructions shall include two voter registration forms. The voter registration forms to be inserted into the income tax return instruction forms and booklets are to be designed by the voter registration commission. However, effective July 1, 1992, the voter registration forms are to be inserted in the income tax return booklets and income tax return instructions only for odd-numbered tax years. Thus, the voter registration forms will not be included in the income tax return booklets for the 1992 tax year but are to be included in the booklets for 1993.

Effective July 1, 2004, the requirement that voter registration forms be included in the income tax booklets and income tax instructions has been eliminated. The official website of the department includes the official electronic state of Iowa voter registration form and a link to the Iowa secretary of state's official website.

This rule is intended to implement Iowa Code sections 422.13, 422.21 and 422.22 and Iowa Code sections 48A.24 and 421.17 as amended by 2004 Iowa Acts, Senate File 2296.

[Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—301.4(422) Filing status.

301.4(1) *Single taxpayers.* The term "single person" includes, for income tax purposes, an unmarried person, a person legally separated under a decree of divorce or separate maintenance or any other person not properly classified under subrules 301.4(2) through 301.4(8).

301.4(2) *Married taxpayers.* A taxpayer is considered married for the entire year if on the last day of the tax year the taxpayer is *(a)* married and living together with the taxpayer's spouse, *(b)* married and living apart from the spouse, but not legally separated under a decree of divorce or separate maintenance, *(c)* living together with the spouse in a common law marriage that is recognized by the state where the common law marriage exists or *(d)* widowed but the spouse died during the year.

301.4(3) *Common law marriage.* A common law marriage is a social relationship between a man and a woman that meets all the necessary requisites of a marriage except that it was not solemnized,

performed or witnessed by an official authorized by law to perform marriages. The necessary elements of a common law marriage are: *(a)* a present intent of both parties freely given to become married, *(b)* a public declaration by the parties or a holding out to the public that they are husband and wife, *(c)* continuous cohabitation together as husband and wife (this means consummation of the marriage), and *(d)* both parties must be capable of entering into the marriage relationship. No special time limit is necessary to establish a common law marriage. Iowa recognizes, for income tax purposes, all valid common law marriages.

301.4(4) *Married filing jointly.* Married taxpayers who file a joint return with the Internal Revenue Service may file a joint return with the Iowa department of revenue.

301.4(5) *Married filing separately on the same form.* Married taxpayers may file separately on the same form. This return is also known as the combined return. If a married taxpayer files a combined return with his or her spouse, any refund will be issued in both names.

301.4(6) *Married filing separately.* Married taxpayers, each having income in his or her own right, may file separate returns if they do not wish to file separately on the same form.

301.4(7) *Head of household.* The term "head of household" shall have the same meaning as defined in the Internal Revenue Code. An individual who is claiming "surviving spouse" status for federal income tax purposes may not claim "head of household" on the Iowa individual income tax return.

301.4(8) *Surviving spouse.* The term "surviving spouse" shall have the same meaning as defined in the Internal Revenue Code. Individuals who qualify and file as a qualifying widow(er) with a dependent child on the federal return may file using the same filing status on the Iowa return.

This rule is intended to implement Iowa Code section 422.12.

[Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—301.5(422) Payment of tax.

301.5(1) *Payment of tax for wage earners.* Withholding of tax on wage earners is required under Iowa Code section 422.16. See 701—Chapter 307.

301.5(2) *Payment of tax on income not subject to withholding.* Those taxpayers with income not subject to withholding which will produce a tax liability of $200 or more shall file and pay a declaration of estimated tax. See 701—Chapter 308.

301.5(3) *Full estimated payment on original due date.* When an extension is requested as provided by Iowa Code section 422.21, the total amount of estimated tax must be paid on or before the due date for filing the return.

301.5(4) *Balance of tax due.* If the computation on the tax return shows additional tax due, it shall be paid in full with the filing of the return.

301.5(5) *Payment of tax by uncertified checks.* The department will accept uncertified checks in payment of income taxes, provided the checks are collectible for their full amount without any deduction for exchange or other charges. The date on which the department receives the check will be considered the date of payment, so far as the taxpayer is concerned, unless the check is returned dishonored. If one check is remitted to cover two or more individuals' taxes, the remittance must be accompanied by a letter of transmittal stating: *(a)* the name of the drawer of the check; *(b)* the amount of the check; *(c)* the amount of any cash, money order or other instrument included in the same remittance; *(d)* the name of each individual whose tax is to be paid by the remittance; and *(e)* the amount of payment on account of each individual.

301.5(6) *Procedure with respect to dishonored checks.* If any check is returned unpaid, all expenses incidental to the collection thereof will be charged to the taxpayer. If any taxpayer whose check has been returned by the depository bank uncollected should fail at once to make that check good, the director will proceed to collect the tax as though no check has been given. A taxpayer who tenders a certified check in payment for taxes is not relieved from obligation until the check has been paid.

301.5(7) *Penalty and interest.* In computing penalty and interest for failing to file a timely return or to pay the tax, refer to 701—Chapter 306.

301.5(8) and **301.5(9)** Reserved.

301.5(10) *Thirteen thousand five hundred dollar exemption.* All taxpayers, except single taxpayers or taxpayers filing married filing separately, whose net income as computed under Iowa Code section 422.7, plus the amount of a lump-sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes, the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover is $13,500 or less are exempt from paying Iowa individual income tax subject to the following conditions:

a. In the case of married taxpayers, the incomes of both spouses are considered in order to determine if the taxpayers qualify for exemption from tax. However, in the case of married taxpayers where one spouse has a net operating loss and the taxpayers file separate Iowa returns, the taxpayers cannot receive the benefit of the exemption from tax if the spouse with the loss elects to carry back or carry forward that loss.

b. An individual claimed as a dependent on another person's return with an income of at least $5,000 but not more than $13,500 will be exempt from Iowa tax if:

(1) The person on whose return the dependent is claimed is filing as a single individual and has a net income of $9,000 or less, or

(2) The person on whose return the dependent is claimed and the person's spouse have a combined net income of $13,500 or less.

(3) The person on whose return the dependent is claimed is filing as a head of household or as a surviving spouse and has a net income of $13,500 or less.

c. If the payment of tax would reduce the net income to less than $13,500, the tax shall be reduced to an amount which would allow the taxpayer to retain a net income of $13,500. Example: If a taxpayer's net income was $13,600 and the computed tax after personal exemptions and other credits was $300, the payment of $300 would reduce the income below $13,500; therefore, the amount of tax is reduced to $100 so the taxpayer can retain a net income of $13,500.

301.5(11) *Nine thousand dollar exemption.* Single taxpayers and taxpayers filing married filing separately whose net income as computed under Iowa Code section 422.7, plus the amount of a lump-sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes, the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover is $9,000 or less are exempt from paying Iowa individual income tax subject to the following conditions:

a. An individual claimed as a dependent on another person's return with an income of at least $5,000 but not more than $9,000 will be exempt from tax if:

(1) The person on whose return the dependent is claimed has a net income of $9,000 or less, or

(2) The person on whose return the dependent is claimed and the person's spouse have a combined net income of $13,500 or less.

(3) The person on whose return the dependent is claimed is filing as a head of household or as a surviving spouse and has a net income of $13,500 or less.

b. If the payment of tax would reduce the net income to less than $9,000, the tax is reduced to an amount which will allow the taxpayer to retain a net income of $9,000.

c. For taxpayers that file married filing separately, the combined net income of both spouses must be less than $13,500 for either of them to qualify for this exemption.

301.5(13) *Exemptions for taxpayers 65 years of age or older.*

a. All taxpayers except single taxpayers or taxpayers filing married filing separately who are at least 65 years of age or older on December 31 of the tax year and whose net income as computed under Iowa Code section 422.7, plus the amount of a lump-sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes, the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net

operating loss carryover is $32,000 or less are exempt from paying Iowa individual income tax subject to the conditions set forth below:

(1) In the case of married taxpayers, the incomes of both spouses are considered in order to determine if the taxpayers qualify for exemption from tax. For purposes of this subrule, only one spouse is required to be 65 years of age or older by December 31 of the tax year. However, in the case of married taxpayers when one spouse has a net operating loss and the taxpayers file separate Iowa returns, the taxpayers cannot receive the benefit of the exemption from tax if the spouse with the loss elects to carry back or carry forward that loss.

(2) An individual claimed as a dependent on another person's return with an income of at least $5,000, but not more than $32,000, will be exempt from Iowa tax if:

1. The person on whose return the dependent is claimed is filing as a single individual and has a net income of $9,000 or less ($24,000 or less if the person is 65 years of age or older); or

2. The person on whose return the dependent is claimed and the person's spouse have a combined net income of $13,500 or less ($32,000 or less of the combined income of the person and the person's spouse if at least one spouse is 65 years of age or older); or

3. The person on whose return the dependent is claimed is filing as a head of household or as a surviving spouse and has a net income of $13,500 or less ($32,000 or less if the person is 65 years of age or older).

(3) If the payment of tax would reduce the net income to less than $32,000, the tax shall be reduced to an amount which would allow the taxpayer to retain a net income of $32,000.

EXAMPLE: If a taxpayer's net income was $32,100 and the computed tax after personal exemptions and other credits was $300, the payment of $300 would reduce the income below $32,000; therefore, the amount of tax is reduced to $100 in order for the taxpayer to retain a net income of $32,000.

b. Single taxpayers or taxpayers filing married filing separately whose net income, as computed under Iowa Code section 422.7, plus the amount of a lump-sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes, the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover is $24,000 or less are exempt from paying Iowa individual income tax subject to the conditions set forth in paragraphs *"c," "d,"* and *"e"* below:

c. An individual claimed as a dependent on another person's return with an income of at least $5,000, but not more than $24,000, will be exempt from tax if:

(1) The person on whose return the dependent is claimed has a net income of $9,000 or less ($24,000 or less if the person is 65 years of age or older); or

(2) The person on whose return the dependent is claimed and the person's spouse have a combined net income of $13,500 or less ($32,000 or less of the combined income of the person and the person's spouse if at least one spouse is 65 years of age or older); or

(3) The person on whose return the dependent is claimed is filing as a head of household or as a surviving spouse and has a net income of $13,500 or less ($32,000 or less if the person is 65 years of age or older).

d. If the payment of tax would reduce the net income to less than $24,000, the tax is reduced to an amount which will allow the taxpayer to retain a net income of $24,000.

e. For taxpayers that file married filing separately, the combined net income of both spouses must be less than $32,000 for either of them to qualify for this exemption.

This rule is intended to implement Iowa Code section 422.5 as amended by 2006 Iowa Acts, Senate File 2408, and sections 422.16, 422.17, 422.21, 422.24, and 422.25.

[**ARC 1303C**, IAB 2/5/14, effective 3/12/14; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23; **ARC 7502C**, IAB 1/10/24, effective 2/14/24]

701—301.6(422) Minimum tax.

301.6(1) and **301.6(2)** Reserved.

301.6(3) *Minimum tax for tax years beginning on or after January 1, 1987.*

a. Method for computation of the minimum tax. For tax years beginning on or after January 1, 1987, the minimum tax is imposed only to the extent that the minimum tax exceeds the taxpayer's regular income tax liability. The minimum tax rate is 75 percent of the maximum regular tax rate for individual income tax. For tax years beginning on or after January 1, 1987, through December 31, 1997, the tax rate is 7.5 percent of the taxpayer's minimum taxable income. For tax years beginning on or after January 1, 1998, the tax rate is 6.7 percent of the taxpayer's minimum taxable income. Minimum taxable income is computed as follows:

	Iowa Taxable Income
Plus:	*Applicable Adjustments and **Tax Preference Items (from Form IA 6251)
	Subtotal
Less:	***Applicable Exemption Amount
	Minimum Taxable Income

(1) *The federal adjustments that are also applicable in computing state minimum taxable income are:

1. Depreciation of property placed in service after 1986.
2. Circulation and research and experimental expenditures paid or incurred after 1986.
3. Mining, exploration, and development costs paid or incurred after 1986.
4. Long-term contracts entered into after 2-28-86.
5. Pollution control facilities placed in service after 1986.
6. Installment sales of certain property.
7. Basis adjustment.
8. Certain loss limitations.
9. Tax shelter farm loss.
10. Passive activity loss.
11. Adjustments related to beneficiaries of estates and trusts.

(2) **The federal tax preference items which are also applicable in computing state minimum taxable income are:

1. Accelerated depreciation of real property placed in service before 1987.
2. Accelerated depreciation on leased personal property placed in service before 1987.
3. Amortization of certified pollution control facilities placed in service before 1987.
4. Appreciated property charitable deduction.
5. Incentive stock options.
6. Reserves for losses on bad debts of financial institutions.

For tax periods ending on or after September 10, 2001, any federal adjustments or tax preference items that are determined based on a percentage of taxpayer's federal adjusted gross income may have to be adjusted for Iowa alternative minimum tax purposes. These adjustments and preferences for Iowa alternative minimum tax purposes are based on federal adjusted gross income as adjusted by the disallowance of the additional first-year depreciation allowance authorized in Section 168(k) of the Internal Revenue Code as described in rule 701—302.60(422).

(3) ***Exemption amounts are: $17,500 for a married person filing a separate return or separately on the combined return form or for an estate or trust; $26,000 for a single person or a head of household or qualifying widow(er); $35,000 for a married couple filing a joint return. However, the applicable exemption amounts will be reduced, but not below zero, by 25 percent of the amount by which the minimum taxable income of the taxpayer determined without the exemption amount exceeds the following amounts: $75,000 for a married taxpayer filing separate returns or separately on the combined return or for an estate or a trust; $112,500 for a single person, a head of household, or a surviving spouse (qualifying widow(er)); $150,000 for a married couple that files a joint state return.

The following two examples illustrate how the minimum tax is computed for tax years beginning on or after January 1, 1987:

EXAMPLE 1. Taxpayers A had an Iowa income tax liability of $9,375 from a taxable income of $100,000 in 1987. The A's were filing a joint return and had tax preferences of $60,000 from an appreciated property charitable deduction. The A's minimum tax liability is shown below:

	Iowa Taxable Income	$100,000
Plus:	Tax Preference Items and Adjustments	60,000
	Subtotal	160,000
Less:	Exemption Amount	35,000
	Minimum Taxable Income	$125,000
		× .075
	Computed Minimum Tax	$ 9,375
Less:	Regular Tax	8,648
	Minimum Tax Liability	$ 727

Since the A's minimum tax liability exceeded their regular tax by $727, they had a minimum tax liability of $727 in 1987.

EXAMPLE 2. Ms. B was a single taxpayer in 1987. She had a regular income tax liability of $9,375 on taxable income of $100,000. She had an adjustment of $50,000 from a passive activity loss. Ms. B's minimum tax liability is shown below:

	Iowa Taxable Income	$100,000
Plus:	Tax Preference Items and Adjustments	50,000
	Subtotal	$150,000
Less:	Exemption Amount	35,000
	Subtotal	$115,000
Plus:	Reduction in Exemption Amount	9,375
	(25% of $37,500)	
	Minimum Taxable Income	$124,375
		× .075
	Computed Minimum Tax	$ 9,328
Less:	Regular Tax	8,648
	Minimum Tax Liability	$ 680

Ms. B had a minimum tax liability of $680 in 1987 because the minimum tax exceeded the regular tax for 1987 by $680.

b. Net operating loss computed for a year beginning after 1982 which is carried back or carried forward to the current taxable year. In the case of a net operating loss computed for a tax year beginning after December 31, 1982, which is carried back or carried forward to the current tax year, the net operating loss shall be reduced by the amount of tax preferences and adjustments arising in the current tax year.

c. Net operating loss deduction for tax years beginning after December 31, 1986. The deduction for a net operating loss for a tax year beginning after December 31, 1986, which is carried back or carried forward to another tax year shall not exceed 90 percent of the minimum taxable income computed for the tax year without the net operating loss. The computation of minimum taxable income is described in paragraph *"a"* of this subrule.

d. Apportionment of minimum tax for nonresidents and part-year residents and nonresident and part-year resident estates or trusts. In the case of resident taxpayers, including estates or trusts domiciled in Iowa for the entire tax year, the taxpayers are subject to 100 percent of the minimum tax computed as described in paragraph *"a"* of this subrule. In the case of nonresidents of Iowa including nonresident estates and trusts and individuals, including estates and trusts domiciled in Iowa for less than the entire tax year, the minimum tax computed according to paragraph *"a"* of this subrule less applicable credits against tax is allocated to Iowa as shown below:

$$\text{State Minimum Tax Less Credits} \times \frac{\text{Iowa Source Net Income Plus Tax Preferences, Adjustments and Losses Attributable to Iowa}}{\text{Total Net Income Plus All Tax Preferences, Adjustments and Losses}}$$

For purposes of this computation, only those adjustments, tax preferences, and losses shown on Form IA 6251 are applicable for determining which items shall be included in the numerator and the denominator.

e. Allocation of the state minimum tax between married couples filing separate returns or separately on the combined return form. Married taxpayers electing to file separate returns or separately on the combined return form must allocate the minimum tax between them in the proportion that each spouse's respective preference items, adjustments, and losses relate to the preference items, adjustments and losses of both spouses.

This rule is intended to implement Iowa Code section 422.5 as amended by 2003 Iowa Acts, Senate File 442.

[Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—301.7(422) Tax on lump-sum distributions. For tax years beginning on or after January 1, 1982, Iowa Code section 422.5 provides that in addition to the tax computed on the taxable income, a tax shall also be imposed on the amount of a lump-sum distribution for which the taxpayer has elected under Section 402(e) of the Internal Revenue Code to be separately taxed for federal income tax purposes for the tax year. The rate of this tax is 25 percent of the separate federal tax imposed on the amount of the lump-sum distribution.

301.7(1) *Exemption amounts.*

a. An exemption of $9,000 for single taxpayers and an exemption of $13,500 for all other taxpayers. To be eligible for the $9,000 or less exemption for single taxpayers and the $13,500 or less exemption for all other taxpayers as provided in Iowa Code section 422.5, subsection 3, the total amount of a lump-sum distribution subject to the separate federal tax must be included in the net income. If this net income (including the lump-sum distribution income) is less than $9,000 for single taxpayers and less than $13,500 for all other taxpayers, then no tax (other than Iowa minimum tax) is due. The Iowa tax on lump-sum distributions and the computed tax may be limited to the amount of income tax that exceeds $9,000 for single taxpayers and $13,500 for all other taxpayers (including the lump-sum distribution income).

EXAMPLE: If the net income of a single taxpayer including a lump-sum distribution was $9,030 and the computed tax and lump-sum tax was $50 after personal exemptions and out-of-state credit, the payment of $50 tax would reduce the income below $9,000; therefore, the amount of tax due is reduced to $30 in order for the taxpayer to retain a net income of $9,000.

b. An exemption of $18,000 for single taxpayers and an exemption of $24,000 for other taxpayers who are 65 years of age or older. These exemption amounts apply for tax years beginning on or after January 1, 2007, but before January 1, 2009. To be eligible for the $18,000 or less exemption for single taxpayers and the $24,000 or less exemption for all other taxpayers as provided in 2007 Iowa Code section 422.5, subsection 3A, the total amount of a lump-sum distribution subject to the separate federal tax must be included in the net income. If this net income (including the lump-sum distribution income) is less than $18,000 for single taxpayers and less than $24,000 for all other taxpayers, then no tax (other than Iowa minimum tax) is due. The Iowa tax on lump-sum distributions and the computed tax may be limited to the amount of income tax that exceeds $18,000 for single taxpayers and $24,000 for all other taxpayers (including the lump-sum distribution income).

EXAMPLE: If the net income of a single taxpayer including a lump-sum distribution was $18,200 and the computed tax and lump-sum tax was $300 after personal exemptions and out-of-state credit, the payment of $300 tax would reduce the income below $18,000; therefore, the amount of tax due is reduced to $200 in order for the taxpayer to retain a net income of $18,000.

For married persons filing jointly, filing separately on a combined return or filing separate returns, only one spouse is required to be 65 years of age or older on December 31 of the tax year.

c. An exemption of $24,000 for single taxpayers and an exemption of $32,000 for all other taxpayers who are 65 years of age or older. These exemption amounts apply for tax years beginning on or after January 1, 2009. To be eligible for the $24,000 or less exemption for single taxpayers and the $32,000 or less exemption for all other taxpayers as provided in Iowa Code section 422.5, subsection 3B, the total amount of a lump-sum distribution subject to the separate federal tax must be included in the net income. If this net income (including the lump-sum distribution income) is less than $24,000 for single taxpayers and less than $32,000 for all other taxpayers, then no tax (other than Iowa minimum tax) is due. The Iowa tax on lump-sum distributions and the computed tax may be limited to the amount of income tax that exceeds $24,000 for single taxpayers and $32,000 for all other taxpayers (including the lump-sum distribution income).

EXAMPLE: If the net income of a single taxpayer including a lump-sum distribution was $24,300 and the computed tax and lump-sum tax was $500 after personal exemptions and out-of-state credit, the payment of $500 tax would reduce the income below $24,000; therefore, the amount of tax due is reduced to $300 in order for the taxpayer to retain a net income of $24,000.

For married persons filing jointly, filing separately on a combined return or filing separate returns, only one spouse is required to be 65 years of age or older on December 31 of the tax year.

301.7(2) *Nonresidents.* A nonresident is liable for tax on a lump-sum distribution or a portion of a lump-sum distribution attributable to services performed within Iowa. If a distribution to a nonresident is attributable to services performed both within and outside Iowa, the tax must be allocated in the ratio of the income from services performed within Iowa to the total income from all services performed relating to the lump-sum distribution unless it can be shown that another method of proration would result in a more equitable amount of tax on the distribution.

301.7(3) *Penalty and interest.* In computing penalty and interest for failing to file a timely return or to pay the lump-sum tax, refer to 701—Chapter 306.

301.7(4) *Personal exemption credits.* Personal and dependent exemption credits may be applied against the separate lump-sum tax to the extent that the credits are not fully applied against the computed tax on income reported under Iowa Code section 422.7.

301.7(5) *Out-of-state tax credit.* When computing an out-of-state tax credit for a year in which tax on a lump-sum distribution has been computed separately, the amount of the lump-sum distribution on which the separate tax has been computed must be included on the Iowa gross income.

This rule is intended to implement Iowa Code section 422.5 as amended by 2006 Iowa Acts, Senate File 2408.

[**ARC 1303C**, IAB 2/5/14, effective 3/12/14; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—301.8(422) State income tax limited to taxpayer's net worth immediately before the distressed sale. Taxpayers whose net incomes include gains or losses from distressed sales may limit their state income tax liabilities for the tax years in which the distress sales occurred to their net worths immediately before the distressed sales. The state income tax liability of a taxpayer is the aggregate of the taxpayer's income tax plus the taxpayer's minimum tax plus the taxpayer's lump-sum tax. For purposes of this provision, a distressed sale is the forfeiture of an installment real estate contract, the transfer of real or personal property securing a debt to a creditor in cancellation of that debt, or from the sale or exchange of property as a result of actual notice of foreclosure. Proof of forfeiture of the installment real estate contract, proof of transfer of property to a creditor in cancellation of a debt, or a copy of the notice of foreclosure will constitute documentation of the distressed sale and must be made a part of the return. A copy of the balance sheet showing the taxpayer's net worth immediately before the distressed sale must also be provided with the return.

The balance sheet supporting the taxpayer's net worth must include the taxpayer's personal assets and liabilities as well as the assets of the taxpayer's farm or other business. In the case of married taxpayers, except in the case of a husband and wife who lived apart at all times during the tax year,

the assets and liabilities of both spouses must be considered in determining the taxpayers' net worth immediately before the distressed sale.

This rule is intended to implement Iowa Code section 422.5.
[Editorial change: IAC Supplement 11/2/22]

701—301.9(422) Special tax computation for all low-income taxpayers except single taxpayers. For tax years beginning on or after January 1, 1987, a special tax computation is available for determining the state income tax liability for all low-income taxpayers except single taxpayers described in subrule 301.4(1). Under this provision, the taxpayer multiplies the net income for the tax year in excess of $13,500 for tax years beginning on or after January 1, 1993, by the maximum individual income tax rate. The tax amount computed by this procedure is then compared to the tax amount on the individual's taxable income from the tax tables or the tax-rate schedule. The taxpayer is subject to the lesser of the two tax amounts. In the case of married taxpayers electing to file separate returns or separately on the combined return form, the incomes of both spouses must be considered for purposes of determining the tax liability from the special tax computation. For purposes of this rule, the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422) and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) must be included in the net income amounts when determining the tax liability from the special tax computation. The tax liability calculated from the special tax computation is allocated between the spouses in the ratio of each spouse's net income to the combined net income of both spouses. In determining the special tax computation for taxpayers who are 65 years of age or older for tax years beginning on or after January 1, 2007, see rule 701—301.15(422).

For example, a married couple's net income in 1987 was $8,200. The taxpayers elected to file separately on the combined return form for 1987. One spouse had a net income of $6,000, the second spouse had a net income of $2,200. There was no federal income tax withheld on the wages earned by either of the taxpayers. The spouse with the net income of $6,000 had a regular income tax liability of $105. The spouse with the net income of $2,200 had a regular income tax liability of $4. The special tax computation of these taxpayers is shown below:

	Taxpayers' combined net income ($6,000 + $2,200)	$8,200
Less:	Income not subject to special tax	7,500
	Income subject to special tax	700
		× 9.98%
	Special tax liability for 1987	$ 70

The taxpayers' special tax liability for 1987 was $70. The special tax is imposed since it is less than the taxpayers' regular tax liability of $109. This special tax liability is allocated to each spouse on the following basis:

Spouse 1

$$\frac{\$6{,}000}{\$8{,}200} \times 70 = \$51$$

Spouse 2

$$\frac{\$2{,}200}{\$8{,}200} \times 70 = \$19$$

The special tax computation for low-income taxpayers is not available to married taxpayers filing separate state returns or to married taxpayers filing separately on the combined return form in instances where one of the spouses has a net operating loss described in Iowa Code section 422.9, subsection 3, and the spouse elects to carry back or carry forward the net operating loss. Also, the special tax computation for low-income taxpayers is not available if the taxpayer is required to annualize the taxpayer's income as described in rule 701—303.9(422).

This rule is intended to implement Iowa Code section 422.5.
[Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—301.10(422) Election to report excess income from sale or exchange of livestock due to drought in the next tax year. For tax years beginning on or after January 1, 1990, a taxpayer may elect to report excess income from the sale or exchange of livestock due to drought on the Iowa return for the next tax year if the taxpayer qualified for similar treatment of the excess income under Section 451(e) of the Internal Revenue Code. This election is available only to a taxpayer on the cash receipts and disbursements method of accounting whose principal trade or business is farming as described in Section 6420(c)(3) of the Internal Revenue Code. For purposes of this rule the election applies to all livestock held for sale or exchange, whether raised or purchased for resale. This election also applies to livestock used for draft, breeding, dairy, or sporting purposes which were held less than two years in the case of cattle and horses and less than one year in the case of other livestock. For purposes of this election, livestock does not include poultry.

The area in which the livestock was sold or exchanged must have been declared a disaster area due to drought. However, the sale or exchange can take place before or after the area is declared a disaster area as long as the same disaster (the drought) caused the livestock sale. In order for the election to report excess income in the following tax year to be valid, the election must be made by the due date of the return, including extensions. Additional information about computing the excess income as well as information needed on the statement for making the election is described in Treasury Regulation §1.451-7.

This rule is intended to implement Iowa Code section 422.5.
[Editorial change: IAC Supplement 11/2/22]

701—301.11(422) Forgiveness of tax for an individual whose federal income tax was forgiven because the individual was killed outside the United States due to military or terroristic action. For tax years ending on or after August 2, 1990, an individual's Iowa income tax is forgiven if the person's federal income tax was forgiven because the individual was killed in a combat zone, the individual was missing in action and presumed dead, or the individual was killed outside the United States due to terrorist or military action while the person was a military or civilian employee of the United States. The Iowa income tax is forgiven on the return for the tax year in which the individual was killed or was missing and was presumed dead, and is forgiven on the return for the tax year prior to the year of death. In a situation where the person that was killed was married at the time of death, no tax will be due on the return filed for the year of death if a joint state return or a married filing separately on the combined state return is filed for that tax year. In the case of the return for the tax year prior to the year of death for the person killed in military or terrorist action, all the tax will be forgiven on the return if the person was married at the time of death and a joint state return or a married filing separate state return was filed for this prior year. However, if the person that was killed had filed a return using the married filing separately on the combined return form status, only the state income tax attributable to the person that was killed will be forgiven. The department will not honor an amended return for the prior year to change the filing status from separately on the combined return form to joint return so all the state income tax for both spouses will be forgiven.

When a state income tax return or claim for refund is filed for forgiveness of tax for an individual who was killed in military or terrorist action, a notation should be entered at the top of the return "Forgiveness of Tax—Killed in Military Action" or "Forgiveness of Tax—Killed in Terrorist Action" depending on how the individual was killed. In addition, a copy of the death certificate, or other evidence of the person's death or evidence establishing that the individual is missing in action and presumed dead, should be attached to the claim for refund or the tax return. A refund claim for forgiveness of tax will be honored only if the claim is made within the statute of limitations for refund provided in Iowa Code subsection 422.73(2).

This rule is intended to implement Iowa Code sections 422.5 and 422.73.
[Editorial change: IAC Supplement 11/2/22]

701—301.12(422) Tax benefits for persons in the armed forces deployed outside the United States and for certain other persons serving in support of those forces.

301.12(1) *Extension of deadlines.*

a. Extension of certain deadlines for certain military personnel.

(1) For tax years ending after August 2, 1990, the time period to file state income tax returns and to perform certain other acts related to the department ("certain other acts related to the department" is defined in paragraph 301.12(1)*"e"* below) is extended for persons in the armed forces:

1. Who serve in an area designated by the President or the Congress as a combat zone.

2. Who serve in an area designated by the President or the Congress as a qualified hazardous duty area.

3. Who were deployed outside the United States in an operation designated by the Secretary of Defense as a contingency operation as defined in 10 U.S.C. § 101(a)(13), or which became a contingency operation by the operation of law. Persons who were deployed in a contingency operation who ceased to participate in such operation on or after May 21, 2003, are considered to be eligible individuals for purposes of being granted additional time to perform certain acts with the department to the extent the period for performing an act did not expire prior to May 21, 2003, or a later date if the person ceased to participate in the contingency operation on a date after May 21, 2003.

(2) For tax years beginning on or after January 1, 2008, the additional time to file returns and perform other acts related to the department described in this subrule is available to all active duty military service members in the armed forces, all armed forces military reservists, and all national guard personnel who are deployed outside the United States. These armed forces, armed forces reserve and national guard personnel are not required to be deployed outside the United States in a combat zone, qualified hazardous duty area, or contingency operation to be allowed the additional time to file Iowa returns and perform other acts related to the department.

b. Extension applicable to certain civilians. Those persons who were serving in support of armed forces personnel in a combat zone or those persons who were serving in support of armed forces personnel in a qualified hazardous duty area are also eligible for the extension of the time period to file state income tax returns and to perform certain other acts related to the department. Persons eligible under this provision include certain civilians who were working in a combat zone and directly supporting military operations. Iowa allows this extension for those civilians who qualify for a federal extension under Section 7508(a) of the Internal Revenue Code. Examples of civilians who may be eligible are members of the Red Cross and contractors or civilian employees who worked in a combat zone.

c. Extension applicable to spouses of eligible individuals. The additional time period for filing returns and performing other acts applies to the spouse of the person who was in the combat zone or the qualified hazardous duty area or the spouse of a person who was serving in support of persons in the combat zone or the hazardous duty area to the extent the spouse files jointly or separately on the combined return with the person who was in the combat zone or the hazardous duty area, or when the spouse is a party with the person who was serving in support of persons in the combat zone or hazardous duty area to any tax matter with the department for which the additional time period is allowed.

d. Length of the extension period. Eligible individuals are given the same additional time period to file state income tax returns and perform other acts related to the department as would constitute timely filing of returns or timely performance of other acts as described in Section 7508(a) of the Internal Revenue Code. The additional time period for filing state returns and performing other acts is 180 days after the person leaves the combat zone or hazardous duty area or ceases to participate in the contingency operation. However, a person who was hospitalized because of illness or injury in the combat zone or the hazardous duty area has up to five years to file returns or perform certain acts with this department after leaving the combat zone or hazardous duty area.

e. Other acts related to the department defined. "Other acts related to the department" includes filing claims for refund for any type of tax administered by the department, making tax payments other than withholding payments, filing appeals on tax matters, filing returns for taxes other than income tax, and performing other acts such as making timely contributions to individual retirement accounts.

301.12(2) *Application for the extension.* In order to claim the extension described in 301.12(1), eligible taxpayers should notify the department of their eligibility by sending the information listed below to the email address or other address listed on the department's website.

a. Contents of the notification. The notification sent to the department should include:

(1) The taxpayer's name, and spouse's name, if applicable.
(2) The taxpayer's stateside address, and spouse's address, if applicable.
(3) The taxpayer's date of birth, and spouse's date of birth, if applicable.
(4) The date the taxpayer was deployed to the combat zone or other qualifying area.
(5) For military personnel, an official document that indicates the taxpayer's area of operation.
(6) For qualifying civilians, a letter of authorization or similar letter from the taxpayer's employer, or a letter from the military stating that the taxpayer served in a "tax-free zone" or "Combat Zone Tax Exclusion Area (CZTE)."

b. Who may submit the notification of eligibility for the extension. The notification of eligibility to the department may be submitted by the taxpayer, the taxpayer's spouse, or an authorized agent or representative of the taxpayer.

This rule is intended to implement Iowa Code sections 422.3 and 422.21.
[**ARC 8589B**, IAB 3/10/10, effective 4/14/10; **ARC 3218C**, IAB 7/19/17, effective 8/23/17; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—301.13 Reserved.

701—301.14(422) Tax benefits for persons serving in support of the Bosnia-Herzegovina hazardous duty area. For tax years beginning on or after January 1, 1995, a number of state tax benefits are authorized for individuals serving in a location designated by the President and Congress as a qualified hazardous duty area or other persons serving in support of the individuals in the hazardous duty area. Public Law No. 104-117 was enacted by Congress on March 20, 1996, and designated Bosnia, Herzegovina, Croatia, and Macedonia as a qualified hazardous duty area so that troops performing peacekeeping duties in the area would be eligible for tax benefits for federal income tax purposes on the same basis they would have been eligible for the same benefits if they had served in a combat zone under prior law.

For Iowa tax purposes, persons serving peacekeeping duties in the hazardous duty area or other persons serving overseas in support of the persons in the hazardous duty area will be eligible for the same tax benefits that were previously only available to persons serving military duties in a combat zone. The tax benefits that are available for persons serving in the hazardous duty area or persons serving overseas in support of the persons in the hazardous duty area are described in rule 701—301.12(422).

This rule is intended to implement Iowa Code section 422.3 as amended by 1996 Iowa Acts, Senate File 2168.
[Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—301.15(422) Special tax computation for taxpayers who are 65 years of age or older.

301.15(1) *Tax years beginning on or after January 1, 2007, but before January 1, 2009.* A special tax computation is available for determining the state income tax liability for certain taxpayers, except single taxpayers described in subrule 301.4(1), who are 65 years of age or older. For married persons filing jointly, filing separately on a combined return or filing separate returns, only one spouse is required to be 65 years of age or older on December 31 of the tax year. Under this provision, the taxpayer multiplies the net income for the tax year in excess of $24,000 by the maximum individual income tax rate. The tax amount computed by this procedure is then compared to the tax amount on the individual's taxable income from the tax tables or the tax-rate schedule. The taxpayer is subject to the lesser of the two tax amounts. In the case of married taxpayers electing to file separate returns or separately on the combined return, the incomes of both spouses must be considered for purposes of determining the tax liability from the special tax computation. The tax liability calculated from the special tax computation is allocated between the spouses in the ratio of each spouse's net income to the combined net income of both spouses. For purposes of this rule, the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422) and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) must be included in the net income amounts when determining the tax liability from the special tax computation.

EXAMPLE: A married couple had gross income, which included pensions, of $27,000 for 2007, and they elected to file separately on a combined return. One spouse had gross income of $15,000, and the other spouse had gross income of $12,000. Only one spouse was 65 years of age as of December 31, 2007. Each spouse was able to claim a $6,000 pension exclusion in accordance with rule 701—302.47(422). The one spouse with a net income of $9,000 had a regular tax liability of $229, and the other spouse with a net income of $6,000 had a regular tax liability of $70 for a total regular tax liability in the amount of $299. The special tax computation of these taxpayers is shown below:

Taxpayers' combined net income after pension exclusion	$15,000
Pension Exclusion	$12,000
Total Income	$27,000
Less: Income not subject to special tax	$24,000
Income subject to special tax	$3,000
Maximum Individual Income Tax Rate	8.98%
Special Tax Liability for 2007	$269

Since the taxpayers' special tax liability for 2007 was $269, this tax was imposed since it was less than the taxpayers' regular tax liability of $299. This special tax liability is allocated to each spouse on the following basis:

Spouse 1

$$\frac{\$15{,}000}{\$27{,}000} \times \$269 = \$149$$

Spouse 2

$$\frac{\$12{,}000}{\$27{,}000} \times \$269 = \$120$$

The special tax computation for low-income taxpayers is not available to married taxpayers filing separate state returns or to married taxpayers filing separately on the combined return form in instances where one of the spouses has a net operating loss described in Iowa Code section 422.9, subsection 3, and the spouse elects to carry back or carry forward the net operating loss. Also, the special tax computation for low-income taxpayers is not available if the taxpayer is required to annualize the taxpayer's income as described in rule 701—303.9(422).

301.15(2) *Tax years beginning on or after January 1, 2009.* A special tax computation is available for determining the state income tax liability for certain taxpayers, except single taxpayers described in subrule 301.4(1), who are 65 years of age or older. For married persons filing jointly, filing separately on a combined return or filing separate returns, only one spouse is required to be 65 years of age or older on December 31 of the tax year. Under this provision, the taxpayer multiplies the net income for the tax year in excess of $32,000 by the maximum individual income tax rate. The tax amount computed by this procedure is then compared to the tax amount on the individual's taxable income from the tax tables or the tax-rate schedule. The taxpayer is subject to the lesser of the two tax amounts. In the case of married taxpayers electing to file separate returns or separately on the combined return, the incomes of both spouses must be considered for purposes of determining the tax liability from the special tax computation. The tax liability calculated from the special tax computation is allocated between the spouses in the ratio of each spouse's net income to the combined net income of both spouses. For purposes of this rule, the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422) and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) must be included in the net income amounts when determining the tax liability from the special tax computation.

The special tax computation for low-income taxpayers is not available to married taxpayers filing separate state returns or to married taxpayers filing separately on the combined return form in instances when one of the spouses has a net operating loss described in Iowa Code section 422.9, subsection 3, and the spouse elects to carry back or carry forward the net operating loss. Also, the special tax computation

for low-income taxpayers is not available if the taxpayer is required to annualize the taxpayer's income as described in rule 701—303.9(422).

This rule is intended to implement Iowa Code section 422.5 as amended by 2006 Iowa Acts, Senate File 2408.

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◊ Two or more ARCs

CHAPTER 302
DETERMINATION OF NET INCOME

[Prior to 12/17/86, Revenue Department[730]]
[Prior to 11/2/22, see Revenue Department[701] Ch 40]

701—302.1(422) Net income defined. Net income for state individual income tax purposes shall mean federal adjusted gross income as properly computed under the Internal Revenue Code and shall include the adjustments in 701—302.2(422) to 701—302.9(422). The remaining provisions of this rule and 701—302.12(422) through 701—302.86(422) shall also be applicable in determining net income.

This rule is intended to implement Iowa Code section 422.7.

[**ARC 8605B**, IAB 3/10/10, effective 4/14/10; **ARC 9103B**, IAB 9/22/10, effective 10/27/10; **ARC 9820B**, IAB 11/2/11, effective 12/7/11; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—302.2(422) Interest and dividends from federal securities. For individual income tax purposes, the state is prohibited by federal law from taxing dividends from corporations owned or sponsored by the federal government, or interest derived from obligations of the United States and its possessions, agencies, and instrumentalities. Therefore, if the federal adjusted gross income of an individual, taxable by Iowa, includes dividends or interest of this type, an adjustment must be made by deducting the amount of the dividend or interest. If the inclusion of an amount of income or the amount of a deduction is based upon federal adjusted gross income and federal adjusted gross income includes dividends from corporations owned or sponsored by the federal government, or interest derived from obligations of the United States and its possessions, agencies, and instrumentalities, a recomputation of the amount of income or deduction must be made excluding dividends or interest of this type from the calculations.

A federal statute exempts stocks and obligations of the United States Government, as well as the interest on the obligations, from state income taxation (see 31 U.S.C.S. Section 3124(a)).

"Obligations of the United States" are those obligations issued "to secure credit to carry on the necessary functions of government." *Smith v. Davis* (1944) 323 U.S. 111, 119, 89 L.Ed. 107, 113, 65 S.Ct. 157, 161. The exemption is aimed at protecting the "borrowing" and "supremacy" clauses of the United States Constitution. *Society for Savings v. Bowers* (1955) 349 U.S. 143, 144, 99 L.Ed.2d 950, 955, 75 S.Ct. 607, 608; *Hibernia v. City and County of San Francisco* (1906) 200 U.S. 310, 313, 50 L.Ed. 495, 496, 26 S.Ct. 265, 266.

Tax-exempt credit instruments possess the following characteristics:

1. They are written documents,
2. They bear interest,
3. They are binding promises by the United States to pay specified sums at specified dates, and
4. They have Congressional authorization which also pledges the faith and credit of the United States in support of the promise to pay. *Smith v. Davis,* supra.

A governmental obligation that is secondary, indirect, or contingent, such as a guaranty of a nongovernmental obligor's primary obligation to pay the principal amount of and interest on a note, is not an obligation of the type exempted under 31 U.S.C.S. Section 3124(1). *Rockford Life Ins. Co. v. Department of Revenue,* 107 S.Ct. 2312 (1987).

The following list contains widely held United States Government obligations, but is not intended to be all-inclusive.

This noninclusive listing indicates the position of the department with respect to the income tax status of the listed securities. It is based on current federal law and the interpretation thereof by the department. Federal law or the department's interpretation is subject to change. Federal law precludes all states from imposing an income tax on the interest income from direct obligations of the United States Government. Also, preemptive federal law may preclude state taxation of interest income from the securities of federal government-sponsored enterprises and agencies and from the obligations of U.S. territories. Any profit or gain on the sale or exchange of these securities is taxable.

302.2(1) Federal obligations and obligations of federal instrumentalities the interest on which is exempt from Iowa income tax.

a. United States Government obligations: United States Treasury—Principal and interest from bills, bonds, and notes issued by the United States Treasury exempt under 31 U.S.C. Section 3124[a].

1. Series E, F, G, H, and I bonds
2. United States Treasury bills
3. U.S. Government certificates
4. U.S. Government bonds
5. U.S. Government notes
6. Original issue discount (OID) on a United States Treasury obligation

b. Territorial obligations:

1. Guam—Principal and interest from bonds issued by the Government of Guam (48 U.S.C.S. Section 1423[a]).

2. Puerto Rico—Principal and interest from bonds issued by the Government of Puerto Rico (48 U.S.C.S. Section 745).

3. Virgin Islands—Principal and interest from bonds issued by the Government of the Virgin Islands (48 U.S.C.S. Section 1403).

4. Northern Mariana Islands—Principal and interest from bonds issued by the Government of the Northern Mariana Islands (48 U.S.C.S. Section 1681(c)).

c. Federal agency obligations:

1. Commodity Credit Corporation—Principal and interest from bonds, notes, debentures, and other similar obligations issued by the Commodity Credit Corporation (15 U.S.C.S. Section 713a-5).

2. Banks for Cooperatives—Principal and interest from notes, debentures, and other obligations issued by Banks for Cooperatives (12 U.S.C.S. Section 2134).

3. Farm Credit Banks—Principal and interest from systemwide bonds, notes, debentures, and other obligations issued jointly and severally by Banks of the Federal Farm Credit System (12 U.S.C.S. Section 2023).

4. Federal Intermediate Credit Banks—Principal and interest from bonds, notes, debentures, and other obligations issued by Federal Intermediate Credit Banks (12 U.S.C.S. Section 2079).

5. Federal Land Banks—Principal and interest from bonds, notes, debentures, and other obligations issued by Federal Land Banks (12 U.S.C.S. Section 2055).

6. Federal Land Bank Association—Principal and interest from bonds, notes, debentures, and other obligations issued by the Federal Land Bank Association (12 U.S.C.S. Section 2098).

7. Financial Assistance Corporation—Principal and interest from notes, bonds, debentures, and other obligations issued by the Financial Assistance Corporation (12 U.S.C.S. Section 2278b-10[b]).

8. Production Credit Association—Principal and interest from notes, debentures, and other obligations issued by the Production Credit Association (12 U.S.C.S. Section 2077).

9. Federal Deposit Insurance Corporation (FDIC)— Principal and interest from notes, bonds, debentures, and other such obligations issued by the Federal Deposit Insurance Corporation (12 U.S.C.S. Section 1825).

10. Federal Financing Bank—Interest from obligations issued by the Federal Financing Bank. Considered to be United States Government obligations (12 U.S.C.S. Section 2288, 31 U.S.C.S. Section 3124[a]).

11. Federal Home Loan Bank—Principal and interest from notes, bonds, debentures, and other such obligations issued by any Federal Home Loan Bank and consolidated Federal Home Loan Bank bonds and debentures (12 U.S.C.S. Section 1433).

12. Federal Savings and Loan Insurance Corporation (FSLIC)—Principal and interest from notes, bonds, debentures, and other such obligations issued by the Federal Savings and Loan Insurance Corporation (12 U.S.C.S. Section 1725[e]).

13. Federal Financing Corporation—Principal and interest from notes, bonds, debentures, and other such obligations issued by the Federal Financing Corporation (12 U.S.C.S. Section 2288(b)).

14. Financing Corporation (FICO)—Principal and interest from any obligation of the Financing Corporation (12 U.S.C.S. Sections 1441[e][7] and 1433).

15. General Services Administration (GSA)—Principal and interest from General Services Administration participation certificates. Considered to be United States Government obligations (31 U.S.C.S. Section 3124[a]).

16. Housing and Urban Development (HUD).

- Principal and interest from War Housing Insurance debentures (12 U.S.C.S. Section 1739[d]).
- Principal and interest from Rental Housing Insurance debentures (12 U.S.C.S. Section 1747g[g]).
- Principal and interest from Armed Services Mortgage Insurance debentures (12 U.S.C.S. Section 1748b[f]).
- Principal and interest from National Defense Housing Insurance debentures (12 U.S.C.S. Section 1750c[d]).
- Principal and interest from Mutual Mortgage Insurance Fund debentures (12 U.S.C.S. Section 1710[d]).

17. National Credit Union Administration Central Liquidity Facility—Income from notes, bonds, debentures, and other obligations issued on behalf of the National Credit Union Administration Central Liquidity Facility (12 U.S.C.S. Section 1795k[b]).

18. Resolution Funding Corporation—Principal and interest from obligations issued by the Resolution Funding Corporation (12 U.S.C.S. Sections 1441[f][7] and 1433).

19. Student Loan Marketing Association (Sallie Mae)—Principal and interest from obligations issued by the Student Loan Marketing Association. Considered to be United States Government obligations (20 U.S.C.S. Section 1087-2[1], 31 U.S.C.S. Section 3124[a]).

20. Tennessee Valley Authority—Principal and interest from bonds issued by the Tennessee Valley Authority (16 U.S.C.S. Section 831n-4[d]).

21. United States Postal Service—Principal and interest from obligations issued by the United States Postal Service (39 U.S.C.S. Section 2005[d][4]).

22. Treasury Investment Growth Receipts.

23. Certificates on Government Receipts.

302.2(2) Taxable securities. There are a number of securities issued under the authority of an Act of Congress which are subject to the Iowa income tax. These securities may be guaranteed by the United States Treasury or supported by the issuing agency's right to borrow from the Treasury. Some may be backed by the pledge of full faith and credit of the United States Government. However, it has been determined that these securities are not direct obligations of the United States Government to pay a specified sum at a specified date, nor are the principal and interest from these securities specifically exempted from taxation by the respective authorizing Acts. Therefore, income from such securities is subject to the Iowa income tax. Examples of securities which fall into this category are those issued by the following agencies and institutions:

a. Federal agency obligations:

1. Federal or State Savings and Loan Associations
2. Export-Import Bank of the United States
3. Building and Loan Associations
4. Interest on federal income tax refunds
5. Postal Savings Account
6. Farmers Home Administration
7. Small Business Administration
8. Federal or State Credit Unions
9. Mortgage Participation Certificates
10. Federal National Mortgage Association
11. Federal Home Loan Mortgage Corporation (Freddie Mac)
12. Federal Housing Administration
13. Federal National Mortgage Association (Fannie Mae)
14. Government National Mortgage Association (Ginnie Mae)
15. Merchant Marine (Maritime Administration)

16. Federal Agricultural Mortgage Corporation (Farmer Mac)

b. Obligations of international institutions:

1. Asian Development Bank
2. Inter-American Development Bank
3. International Bank for Reconstruction and Development (World Bank)

c. Other obligations:

Washington D.C. Metro Area Transit Authority

Interest from repurchase agreements involving federal securities is subject to Iowa income tax. *Nebraska Department of Revenue v. John Loewenstein,* 513 US 123 (1994). *Everett v. State Dept. of Revenue and Finance,* 470 N.W.2d 13 (Iowa 1991).

For tax years beginning on or after January 1, 1987, interest from Mortgage Backed Certificate Guaranteed by Government National Mortgage Association ("Ginnie Maes") is subject to Iowa income tax. See *Rockford Life Insurance Company v. Illinois Department of Revenue,* 96 L.Ed.2d 152.

For the treatment of interest or dividends from regulated investment companies (mutual funds) that invest in obligations of the type discussed in this rule, see rule 701—302.52(422).

This rule is intended to implement Iowa Code section 422.7.

[**ARC 7761B**, IAB 5/6/09, effective 6/10/09; **ARC 1101C**, IAB 10/16/13, effective 11/20/13; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—302.3(422) Interest and dividends from foreign securities and securities of state and other political subdivisions. Interest and dividends from foreign securities and from securities of state and other political subdivisions are to be included in Iowa net income. Certain types of interest and dividends, because of specific exemption, are not includable in income for federal tax purposes. To the extent such income has been excluded for federal income tax purposes, unless the item of income is specifically exempted from state taxation by the laws or constitution of Iowa or of the United States, it must be added to Iowa taxable income.

The following is a noninclusive listing of bonds issued by the state of Iowa and its political subdivisions, interest on which is exempt from both federal and state income taxes.

1. Board of regents: Bonds issued under Iowa Code sections 262.41, 262.51, 262.60, 262A.8, and 263A.6.
2. Urban renewal: Bonds issued under Iowa Code section 403.9(2).
3. Municipal housing law - low-income housing: Bonds issued under Iowa Code section 403A.12.
4. Subdistricts of soil conservation districts, revenue bonds: Bonds issued under Iowa Code section 161A.22.
5. Aviation authorities, revenue bonds: Bonds issued under Iowa Code section 330A.16.
6. Rural water districts: Bonds and notes issued under Iowa Code section 357A.15.
7. County health center: Bonds issued under Iowa Code section 331.441(2)*"c"*(7).
8. Iowa finance authority, water pollution control works and drinking water facilities financing: Bonds issued under Iowa Code section 16.131(5).
9. Iowa finance authority, beginning farmer loan program: Bonds issued under Iowa Code section 16.64.
10. Iowa finance authority, Iowa comprehensive petroleum underground storage tank fund: Bonds issued under Iowa Code section 455G.6(14).
11. Iowa finance authority, 911 program notes and bonds: Bonds issued under Iowa Code section 34A.20(6).
12. Quad Cities interstate metropolitan authority bonds: Bonds issued under Iowa Code section 28A.24.
13. Prison infrastructure revenue bonds: Bonds issued under Iowa Code sections 12.80(3) and 16.177(8).
14. Community college residence halls and dormitories bonds: Bonds issued under Iowa Code section 260C.61.
15. Community college bond program bonds: Bonds issued under Iowa Code section 260C.71(6).

16. Interstate bridges bonds: Bonds issued under Iowa Code section 313A.36.

17. Iowa higher education loan authority: Obligations issued by the authority pursuant to Iowa Code section 261A.27.

18. Vision Iowa program: Bonds issued pursuant to Iowa Code section 12.71(8).

19. School infrastructure program bonds: Bonds issued under Iowa Code section 12.81(8).

20. Iowa utilities board and Iowa consumer advocate building project bonds: Bonds issued under Iowa Code section 12.91(9).

21. Iowa jobs program revenue bonds: Bonds issued under Iowa Code section 12.87(8).

Interest from repurchase agreements involving obligations of the type discussed in this rule is subject to Iowa income tax. *Nebraska Department of Revenue v. John Loewenstein,* 513 US 123 (1994). *Everett v. State Dept. of Revenue and Finance,* 470 N.W.2d 13 (Iowa 1991).

For the treatment of interest or dividends from regulated investment companies (mutual funds) that invest in obligations of the type discussed in this rule, see rule 701—302.52(422).

Gains and losses from the sale or other disposition of bonds issued by the state of Iowa or its political subdivisions, as distinguished from interest income, shall be taxable for state income tax purposes.

This rule is intended to implement Iowa Code section 422.7.

[**ARC 8605B**, IAB 3/10/10, effective 4/14/10; **ARC 1101C**, IAB 10/16/13, effective 11/20/13; **ARC 1665C**, IAB 10/15/14, effective 11/19/14; **ARC 4309C**, IAB 2/13/19, effective 3/20/19; **ARC 5673C**, IAB 6/2/21, effective 7/7/21; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—302.4 Reserved.

701—302.5(422) Military pay.

302.5(1) Reserved.

302.5(2) For income received for services performed prior to January 1, 1969, and for services performed for tax periods beginning on or after January 1, 1977, but before January 1, 2011. An Iowa resident who is on active duty in the armed forces of the United States, as defined in Title 10, United States Code, Section 101, shall include all income received for such service performed prior to January 1, 1969, and for services performed during tax periods beginning on or after January 1, 1977, but before January 1, 2011. For tax years beginning on or after January 1, 2011, see rule 701—302.76(422). However, the taxability of this active duty military income shall be terminated for any income received for services performed effective the day after either of the two following conditions:

a. When universal compulsory military service is reinstated by the United States Congress. "Compulsory military service" is defined to be the actual act of drafting individuals into the military service and not just the registration of individuals under the Military Selective Service Act (50 App. U.S.C. 453); or

b. When a state of war is declared to exist by the United States Congress.

Federal active duty does not include a member of the national guard when called for training by order of the governor through order of the adjutant general. These members are in the service of the state and not on active duty of the United States. Federal active duty also does not include members of the various military reserve programs. A taxpayer must be on active federal duty to qualify for exemption. National guard and reservists who undergo voluntary training are not on active duty in a federal status. National guard and reservist pay does not qualify for the military exemption and such pay is taxable by the state of Iowa.

Compensation received from the United States Government by nonresident members of the armed forces who are temporarily present in the state of Iowa pursuant to military orders is exempt from Iowa income tax.

This rule is intended to implement Iowa Code section 422.5.

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701—302.6(422) Interest and dividend income. This rule applies to interest and dividends from foreign securities and securities of state and other political subdivisions. Interest and dividends from foreign securities and from securities of state and other political subdivisions are to be included in Iowa taxable

income. Certain types of interest and dividends, because of specific exemption, are not included in income for federal tax purposes. To the extent such income has been excluded for federal income tax purposes, unless the term of income is specifically exempted from state taxation by the laws or constitutions of Iowa or of the United States, it must be added to Iowa taxable income.

This rule is intended to implement Iowa Code section 422.7.
[Editorial change: IAC Supplement 11/2/22]

701—302.7(422) Current year capital gains and losses. In determining short-term or long-term capital gain or loss the provisions of the Internal Revenue Code are to be followed.

This rule is intended to implement Iowa Code section 422.7.
[Editorial change: IAC Supplement 11/2/22]

701—302.8(422) Gains and losses on property acquired before January 1, 1934. When property was acquired prior to January 1, 1934, the basis as of January 1, 1934, for determining capital or other gains or losses is the higher of cost, adjusted for depreciation allowed or allowable to January 1, 1934, or fair market value as of that date.

If, as a result of this provision, a basis is to be used for purposes of Iowa individual income tax which is different from the basis used for purposes of federal income tax, appropriate adjustment must be made and detailed schedules supplied in the computation of Iowa taxable income.

This rule is intended to implement Iowa Code section 422.7.
[Editorial change: IAC Supplement 11/2/22]

701—302.9(422) Work opportunity tax credit and alcohol and cellulosic biofuel fuels credit. Where an individual claims the work opportunity tax credit under Section 51 of the Internal Revenue Code or the alcohol and cellulosic biofuel fuels credit under Section 40 of the Internal Revenue Code, the amount of credit allowable must be used to increase federal taxable income. The amount of credit allowable used to increase federal adjusted gross income is deductible in determining Iowa net income. The work opportunity tax credit applies to eligible individuals who begin work before January 1, 2012. The adjustment for the alcohol and cellulosic biofuel fuels credit is applicable for tax years beginning on or after January 1, 1980.

This rule is intended to implement 2011 Iowa Code Supplement section 422.7 as amended by 2012 Iowa Acts, Senate File 2328.
[**ARC 0337C**, IAB 9/19/12, effective 10/24/12; Editorial change: IAC Supplement 11/2/22]

701—302.10 and **302.11** Reserved.

701—302.12(422) Income from partnerships or limited liability companies. Residents engaged in a partnership or limited liability company, even if located or doing business outside the state of Iowa, are taxable upon their distributive share of net income of such partnership or limited liability company, whether distributed or not, and are required to include such distributive share in their return. A nonresident individual who is a member of a partnership or limited liability company doing business in Iowa is taxable on that portion of net income which is applicable to the Iowa business activity whether distributed or not. See 701—Chapter 401.

This rule is intended to implement Iowa Code sections 422.7, 422.8, and 422.15.
[Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—302.13(422) Subchapter "S" income. Where a corporation elects, under Sections 1371-1379 of the Internal Revenue Code, to distribute the corporation's income to the shareholders, the corporation's income, in its entirety, is subject to individual reporting whether or not actually distributed. Both resident and nonresident shareholders shall report their share of the corporation's net taxable income on their respective Iowa returns. *Isaacson v. Iowa State Tax Commission,* 183 N.W.2d 693, Iowa Supreme Court, February 9, 1971. Residents shall report their distributable share in total while nonresidents shall report only their portion of their distributable share which was earned in Iowa. For tax years beginning on or after January 1, 1996, residents should refer to 701—Chapter 403 to determine if they qualify to

compute Iowa taxable income by allocation and apportionment. See 701—Chapter 503 for allocation and apportionment of corporate income.

This rule is intended to implement Iowa Code sections 422.7, 422.8, 422.15, and 422.36.
[Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—302.14(422) Contract sales. Interest derived as income from a land contract is intangible personal property and is assignable to the recipient's domicile. Gains received from the sale or assignment of land contracts are considered to be gains from real property in this state and are assignable to this state. As to nonresidents, see 701—302.16(422).

This rule is intended to implement Iowa Code sections 422.7 and 422.8.
[Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—302.15(422) Reporting of incomes by married taxpayers who file a joint federal return but elect to file separately for Iowa income tax purposes. Married taxpayers who have separate incomes and have filed jointly for federal income tax purposes can elect to file separate Iowa returns or to file separately on the combined Iowa return form. Where married persons file separately, both must use the optional standard deduction if either elects to use it, or both must claim itemized deductions if either elects to claim itemized deductions. The provisions of Treasury Regulation § 1.63-1 are equally applicable regarding the election to use the standard deduction or itemized deductions for Iowa income tax purposes. The spouses' election to file separately for Iowa income tax purposes is subject to the condition that incomes received by the taxpayers and the deductions for business expenses are allocated between the spouses as the incomes and deductions would have been allocated if the taxpayers had filed separate federal returns. Any Iowa additions to net income and any deductions to net income which pertain to taxpayers filing separately for Iowa income tax purposes must also be allocated accurately between the spouses. Thus, if married taxpayers file a joint federal return and elect to file separate Iowa returns or separately on the combined Iowa return, the taxpayers are required to compute their separate Iowa net incomes as if they had determined their federal adjusted gross incomes on separate federal returns with the Iowa adjustments to net income.

However, the fact that the taxpayers file separately for Iowa income tax purposes does not mean that the spouses will be subject to limitations that would apply if the taxpayers had filed separate federal returns. Instead, tax provisions that are applicable for taxpayers filing joint federal returns are also applicable to the taxpayers when they file separate Iowa returns unless the tax provisions are superseded by specific provisions in Iowa income tax law.

For example, married taxpayers that file separate federal returns cannot take the child and dependent care credit (in most instances) and cannot take the earned income credit. Taxpayers that file a joint federal return and elect to file separately for Iowa income tax purposes can take the child and dependent care credit and the earned income credit on their Iowa returns assuming they meet the qualifications for claiming these credits on the joint federal return.

The following paragraphs and examples are provided to clarify some issues and provide some guidance for taxpayers who filed a joint federal income tax return and elect to file separate Iowa returns or separately on the combined Iowa return form.

1. Election to expense certain depreciable business assets. When married taxpayers who have filed a joint federal return elect to file separate Iowa returns or separately on the combined Iowa return form, the taxpayers may claim the same deduction for the expensing of depreciable business assets as they were allowed on their joint federal return of up to $100,000 (for the tax year beginning on or after January 1, 2003, and which is adjusted annually for inflation for subsequent tax years) as authorized under Section 179 of the Internal Revenue Code. In a situation where one spouse is a wage earner and the second spouse has a small business, the second spouse may claim the same deduction for expensing depreciable assets of up to $100,000 (for the tax year beginning on or after January 1, 2003) that was allowable on the taxpayers' joint federal return. The fact that a spouse elects to file a separate Iowa return or separately on the combined return form after filing a joint federal return does not mean the spouse is limited to the same deduction for expensing of depreciable business assets of up to $50,000 (for the tax year beginning on or after January 1, 2003) that would have applied if the spouse had filed a separate federal return.

In situations where a married couple has ownership of a business, the deduction for the expensing of depreciable assets which is allowable on the spouses' joint federal return should be allocated between the spouses in the same ratio as incomes and losses from the business are reported by the spouses. Subrule 302.15(4) sets out criteria for allocation of incomes and losses of businesses in which married couples have an ownership interest.

2. Capital losses. Except for the Iowa capital gains deduction for limited amounts of net capital gains from certain types of assets described in rule 701—302.38(422), the federal income tax provision for reporting capital gains and losses and for the carryover of capital losses in excess of certain amounts are applicable for Iowa individual income tax purposes. When married taxpayers file a joint federal income tax return and elect to file separate Iowa returns or separately on the combined return form, the spouses must allocate capital gains and losses between them on the basis of the ownership of the assets that were sold or exchanged. That is, the spouses must allocate the capital gains and losses between them on the separate Iowa returns as the capital gains and losses would have been allocated if the taxpayers had filed separate federal returns instead of a joint federal return. However, each spouse is not subject to the $1,500 capital loss limitation on the separate Iowa return which is applicable to a married taxpayer that files a separate federal return. Instead, the spouses are collectively subject to the same $3,000 capital loss limitation for married taxpayers filing joint federal returns which is authorized under Section 1211(b) of the Internal Revenue Code. In circumstances where both spouses have net capital losses, each of the spouses can claim a capital loss of up to $1,500 on the separate Iowa return. In a situation where one spouse has a net capital loss of less than $1,500 and the other spouse has a capital loss greater than $1,500, the first spouse can claim the entire capital loss, while the second spouse can claim the portion of the net capital loss on the joint federal return that was not claimed by the first spouse. In no case can the net capital losses claimed on separate Iowa returns by married taxpayers exceed the $3,000 maximum capital loss that is allowed on the joint federal return. In a circumstance where one spouse has a net capital loss and the other spouse has a net capital gain, the amounts of capital gains and losses claimed by the spouses on their separate Iowa returns must conform with the net capital gain amount or net capital loss amount claimed on the joint federal return for the taxpayers. The following examples illustrate how capital gains and losses are to be allocated between spouses filing separate Iowa returns or separately on the combined Iowa return form for married taxpayers who filed joint federal returns.

EXAMPLE 1. A married couple filed a joint federal return which showed a net capital loss of $3,000. All of the capital loss was attributable to the husband, as the wife had no capital gains or losses. Therefore, when the taxpayers filed separate Iowa returns, the husband's return showed a $3,000 capital loss and the wife's return showed no capital gains or losses.

EXAMPLE 2. A married couple filed a joint federal return showing a net capital loss of $3,000, which was the maximum loss they could claim, although they had aggregate capital losses of $8,000. The husband had a net capital loss of $6,000 and the wife had a net capital loss of $2,000. When the taxpayers filed their separate Iowa returns each spouse claimed a net capital loss of $1,500, since each spouse had a capital loss of up to $1,500. The husband had a net capital loss carryover of $4,500 and the wife had a net capital loss carryover of $500.

EXAMPLE 3. A married couple filed a joint federal return showing a net capital loss of $2,500. The husband had a net capital gain of $7,500 and the wife had a net capital loss of $10,000. The wife claimed a net capital loss of $10,000 on her separate Iowa return, while the husband reported a net capital gain of $7,500 on his separate Iowa return.

EXAMPLE 4. A married couple filed a joint federal return showing a net capital loss of $3,000. The wife had a net capital loss of $800 and the husband had a net capital loss of $2,500. The wife claimed a $800 net capital loss on her separate Iowa return. The husband claimed a net capital loss on his separate Iowa return of $2,200 which was the portion of the net capital loss claimed on the joint federal return that was not claimed by the wife. The husband had a net capital loss carryover of $300.

3. Unemployment compensation benefits. When a husband and wife have filed a joint federal return and elect to file separate Iowa returns or separately on the Iowa combined return form, the spouses are to report the same amount of unemployment compensation benefits on their Iowa returns as was reported for federal income tax purposes as provided in Section 85 of the Internal Revenue Code.

When unemployment compensation benefits are received in the tax year the benefits are to be reported by the spouse or spouses who received the benefits as a result of employment of the spouse or spouses. Nonresidents of Iowa, including nonresidents covered by the reciprocal agreement with Illinois, are to report unemployment compensation benefits on the Iowa income tax return as Iowa source income to the extent the benefits pertain to the individual's employment in Iowa. In a situation where the unemployment compensation benefits are the result of employment in Iowa and in one or more other states, the unemployment compensation benefits should be allocated to Iowa on the basis of the individual's Iowa salaries and wages for the employer to the total salaries and wages for the employer. However, to the extent that unemployment compensation benefits pertain to a person's employment in Iowa for a railroad and the benefits are paid by the railroad retirement board, the benefits are totally exempt from Iowa income tax pursuant to 45 U.S.C. Section 352(e).

302.15(1) *Income from property in which only one spouse has an ownership interest but which is not used in business.* If ownership of property not used in a business is in the name of only one spouse and each files a separate state return, income derived from such property may not be divided between husband and wife but must be reported by only that spouse possessing the ownership interest.

302.15(2) *Income from property in which both husband and wife have an ownership interest but which is not used in a business.* A husband and wife who file a joint federal return and elect to file separate Iowa returns must each report the share of income from jointly or commonly owned real estate, stocks, bonds, bank accounts, and other property not used in a business in the same manner as if their federal adjusted gross incomes had been determined separately. The rules for determining the manner of reporting this income depend upon the nature of the ownership interest and, in general, may be summarized as follows:

a. Joint tenants. A husband and wife owning property as joint tenants with the right of survivorship, a common example of which is a joint savings account, should each report on separate returns one-half of the income from the savings account held by them in joint tenancy.

b. Tenants in common. Income from property held by husband and wife as tenants in common is reportable by them in proportion to their legally enforceable ownership interests in the property.

302.15(3) *Salary and wages derived from personal or professional services performed in the course of employment.* A husband and wife who file a joint federal return and elect to file separate Iowa returns must report on each spouse's state return the salary and wages which are attributable to services performed pursuant to each individual's employment. The income must be reported on Iowa separate returns in the same manner as if their federal adjusted gross incomes had been determined separately. The manner of reporting wages and salaries by spouses is dependent upon the nature of the employment relationship and is subject to the following rules:

a. Interspousal employment—salary or wages paid by one spouse to the other. Wages or compensation paid for services or labor performed by one spouse with respect to property or business owned by the other spouse may be reported on a separate return if the amount of the payment is reasonable for the services or labor actually performed. It is presumed that the compensation or wages paid by one spouse to the other is not reasonable nor allowable for purposes of reporting the income separately unless a bona fide employer-employee relationship exists. For example, unless actual services are rendered, payments are actually made, working hours and standards are set and adhered to, unemployment compensation and workers' compensation requirements are met, the payments may not be separately reported by the salaried spouse.

b. Wages and salaries received by a husband or wife pursuant to an employment agreement with an employer other than a spouse. Wages or compensation paid for services or labor performed by a husband or wife pursuant to an employment agreement with some other employer is presumed income of only that spouse that is employed and must be reported separately only by that spouse.

302.15(4) *Income from a business in which both husband and wife have an ownership interest.* Income derived from a business the ownership of which is in both spouses' names, as evidenced by record title or by the existence of a bona fide partnership agreement or by other recognized method of establishing legal ownership, may be allocated between spouses and reported on separate individual state income tax returns provided that the interest of each spouse is allocated according to

the capital interest of each, the management and control exercised by each, and the services performed by each with respect to such business. Compliance with the conditions contained in paragraphs *"a"* or *"b"* of this subrule and consideration of paragraphs *"c," "d,"* and *"e"* of this subrule must be made in allocating income from a business in which both husband and wife have an ownership interest.

a. Allocation of partnership income. Allocation of partnership income between spouses is presumed valid only if partnership information returns, as required for income tax purposes, have currently been filed with respect to the federal self-employment tax law. An oral understanding does not constitute a bona fide partnership implied merely from a common ownership of property.

b. Allocation of income derived from a business other than a partnership in which both husband and wife claim an ownership interest. In the case of a business owned by a husband and wife who filed a joint federal income tax return in which one of them claimed all of the income therefrom for federal self-employment tax purposes, it will be presumed for purposes of administering the state income tax law, unless expressly shown to the contrary by the taxpayer, that the spouse who claimed that income for federal self-employment tax purposes did, thereby, with the consent of the other spouse, claim all right to such income and that therefore such income must be included in the state income tax return of the spouse who claimed it for federal self-employment tax purposes if the husband and wife file separate state income tax returns.

c. Capital contribution. In determining the weight to be attributed to the capital contribution of each spouse to a business, consideration may be given only to that invested capital which is legally traceable to each individual spouse. Capital existing under the right, dominion, and control of one spouse which is invested in the business is presumed to be a capital contribution of that spouse. Sham transactions which do not affect real changes of ownership in capital between spouses in that such transactions do not legally disturb the right, dominion, and control of the assignor or the donor over the capital must be disregarded in determining capital contribution of the recipient spouse.

d. Management and control. Participation in the control and management of a business must be distinguished from the regular performance of nonmanagerial services. Contribution of management and control with respect to the business must be of a substantial nature in order to accord it weight in making an allocation of income. Substantial participation in management does not necessarily involve continuous or even frequent presence at the place of business, but it does involve genuine consultation with respect to at least major business decisions, and it presupposes substantial acquaintance with an interest in the operations, problems, and policies of the business, along with sufficient maturity and background of education or experience to indicate an ability to grasp business problems that are appreciably commensurate with the demands of the enterprise concerned. Vague or general statements as to family discussions at home or elsewhere will not be accepted as a sufficient showing of actual consultation.

e. Services performed. The amount of services performed by each spouse is a factor to be considered in determining proper allocation of income from a business in which each spouse has an ownership interest. In order to accord weight to services performed by an individual spouse, the services must be of a beneficial nature in that they make a direct contribution to the business. For example, for a business operation, whether it is a retail sales enterprise, farming operation or otherwise, in which both husband and wife have an ownership interest, the services contributed by the spouses must be directly connected with the business operation. Services for the family such as planting and maintaining family gardens, domestic housework, cooking family meals, and routine errands and shopping, are not considered to be services performed or rendered as an incident of or a contribution to the particular business; such activities by a spouse must be disregarded in determining the allocable income attributable to that spouse.

This rule is intended to implement Iowa Code section 422.7.

[**ARC 8356B**, IAB 12/2/09, effective 1/6/10; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—302.16(422) Income of nonresidents. Except as otherwise provided in this rule all income of nonresidents derived from sources within Iowa is subject to Iowa income tax.

Net income received by a nonresident taxpayer from a business, trade, profession, or occupation in Iowa must be reported.

Income from the sale of property, located in Iowa, including property used in connection with the trade, profession, business or occupation of the nonresident, is taxable to Iowa even though the sale is consummated outside of Iowa, and provided that the property was sold before subsequent use outside of Iowa. Any income from the property prior to its sale is also Iowa taxable income.

Income received from a trust or an estate, where the income is from Iowa sources, is taxable, regardless of the situs of the estate or trust. Dividends received in lieu of, or in partial or full payment of, an amount of wages or salary due for services performed in Iowa by a nonresident shall be considered taxable Iowa income. Annuities, interest on bank deposits and interest-bearing obligations, and dividends are not allocated to Iowa except to the extent to which they are derived from a business, trade, profession, or occupation carried on within the state of Iowa by the nonresident.

Interest received from the sale of property, on an installment contract even though the gain from the sale of the property is subject to Iowa taxation, is not allocable to Iowa if the property is not part of the nonresident's trade, profession, business or occupation. As to residents, see 701—302.14(422).

302.16(1) *Nonresidents exempt from paying tax.* See 701—subrules 301.5(10) and 301.5(11) for the net income exemption amounts for nonresidents.

These provisions for reducing tax in 701—paragraphs 301.5(10)*"c"* and 301.5(11)*"b"* do not apply to the Iowa minimum tax which must be paid irrespective of the amount of Iowa income that an individual has.

302.16(2) *Compensation for personal services of nonresidents.* The Iowa income of a nonresident must include compensation for personal services rendered within the state of Iowa. The salary or other compensation of an employee or corporate officer who performs services related to businesses located in Iowa, or has an office in Iowa, are not subject to Iowa tax, if the services are performed while the taxpayer is outside of Iowa. However, the salary earned while the nonresident employee or officer is located within the state of Iowa would be subject to Iowa taxation. The Iowa taxable income of the nonresident shall include that portion of the total compensation received from the employer for personal services for the tax year which the total number of working days that the individual was employed within the state of Iowa bears to the total number of working days within and without the state of Iowa.

Compensation paid by an Iowa employer for services performed wholly outside of Iowa by a nonresident is not taxable income to the state of Iowa. However, all services performed within Iowa, either part-time or full-time, would be taxable to the nonresident and must be reported to this state.

Compensation received from the United States Government by a nonresident member of the armed forces is explained in 701—302.5(422).

Income from commissions earned by a nonresident traveling salesperson, agent or other employee for services performed or sales made and whose compensation depends directly on the volume of business transacted by the nonresident will include that proportion of the compensation received which the volume of business transacted by the employee within the state of Iowa bears to the total volume of business transacted by the employee within and without the state. Allowable deductions will be apportioned on the same basis. However, where separate accounting records are maintained by a nonresident or the employer of the business transacted in Iowa, then the amount of Iowa compensation can be reported based upon separate accounting.

Nonresident actors, singers, performers, entertainers, wrestlers, boxers (and similar performers), must include as Iowa income the gross amount received for performances within this state.

Nonresident attorneys, physicians, engineers, architects (and other similar professions), even though not regularly employed in this state, must include as Iowa income the entire amount of fees or compensation received for services performed in this state.

If nonresidents are employed in this state at intervals throughout the year, as would be the case if employed in operating trains, planes, motor buses, or trucks and similar modes of transportation, between this state and other states and foreign countries, and who are paid on a daily, weekly or monthly basis, the gross income from sources within this state is that portion of the total compensation for personal services which the total number of working days employed within the state bears to the total number of working

days both within and without the state. If paid on a mileage basis, the gross income from sources within this state is that portion of the total compensation for services which the number of miles traveled in Iowa bears to the total number of miles traveled both within and without the state. If paid on some other basis, the total compensation for personal services must be apportioned between this state and other states and foreign countries in such a manner as to allocate to Iowa that portion of the total compensation which is reasonably attributable to personal services performed in this state. Any alternative method of allocation is subject to review and change by the director. However, pursuant to federal law, nonresidents who earn compensation in Iowa and one or more other states for a railway company, an airline company, a merchant marine company, or a motor carrier are only subject to the income tax laws of their state of residence, and the compensation would not be considered gross income from sources within Iowa.

302.16(3) *Income from business sources within and without the state.* When income is derived from any business, trade, profession, or occupation carried on partly within and partly without the state only such income as is fairly and equitably attributable to that portion of the business, trade, profession, or occupation carried on in this state, or to services rendered within the state shall be included in the gross income of a nonresident taxpayer. In any event, the entire amount of such income both within and without the state is to be shown on the nonresident's return.

302.16(4) *Apportionment of business income from business carried on both within and without the state.*

a. If a nonresident, or a partnership or trust with a nonresident member, transacts business both within and without the state, the net income must be so apportioned as to allocate to Iowa a portion of the income on a fair and equitable basis, in accordance with approved methods of accounting.

b. The amount of net income attributable to the manufacture or sale of tangible personal property shall be that portion which the gross sales made within the state bears to the total gross sales. The gross sales of tangible personal property are in the state if the property is delivered or shipped to a purchaser within this state, regardless of the F.O.B. point or other conditions of the sale.

c. Income derived from business other than the manufacture or sale of tangible personal property shall be attributed to Iowa in that portion which the Iowa gross receipts bear to the total gross receipts. Gross receipts are attributable to this state in the portion which the recipient of the service receives benefit of the service in this state.

d. If the taxpayer believes that the gross sales or gross receipts methods subjects the taxpayer to taxation on a greater portion of net income than is reasonably attributable to the business within this state the taxpayer may request the use of separate accounting or another alternative method which the taxpayer believes to be proper under the circumstances. In any event, the entire income received by the taxpayer and the basis for a special method of allocation shall be disclosed in the taxpayer's return.

e. On or after January 1, 2016, see 701—Chapter 276 for allocation and apportionment of net income to Iowa by an out-of-state business or out-of-state employee who enters Iowa to perform disaster and emergency-related work during a disaster response period as those terms are defined in Iowa Code section 29C.24.

302.16(5) *Income from intangible personal property.* Business income of nonresidents from rentals or royalties for the use of, or the privilege of using in this state, patents, copyrights, secret processes and formulas, goodwill, trademarks, franchises, and other like property is income from sources within the state.

Income of nonresidents from intangible personal property such as shares of stock in corporations, bonds, notes, bank deposits and other indebtedness is not taxable as income from sources within this state except where such income is derived from a business, trade, profession, or occupation carried on within this state by the nonresident. If a nonresident buys or sells stocks, bonds, or other such property, so regularly, systematically and continuously as to constitute doing business in this state, the profit or gain derived from such activity is taxable as income from a business carried on within Iowa.

Following are examples to illustrate when intangible income may or may not be subject to the allocation provisions of Iowa Code section 422.8 and rules 701—302.15(422) and 701—304.5(422):

EXAMPLE A - An Illinois resident is a laborer at a factory in Davenport. A $50 payroll deduction is made each week from the laborer's paycheck to the company's credit union. The Illinois resident will

earn $600 in interest income from the Iowa credit union account in 1983. The interest income would not be included in the net income allocated to Iowa since the interest income is not derived from the taxpayer's business or utilized for business purposes.

EXAMPLE B - A Nebraska resident is a self-employed plumber, who has a plumbing business in Council Bluffs. The plumber has an interest-bearing checking account in an Iowa bank which the plumber uses to pay bills for the plumbing business. The plumber will earn $200 in interest income from the checking account in 1982. The plumber will have a net income of $25,000 from the plumbing business which will be reported on the plumber's 1982 Iowa return. The interest income earned by this nonresident would be taxable to Iowa since it is derived from the business and is utilized in the business.

EXAMPLE C - An Illinois resident has a farm in Illinois. The Illinois resident has an account in an Iowa savings and loan association and invests earnings from the Illinois farm in the Iowa savings and loan account. In 1982, the Illinois farmer will earn $1,000 in interest income from the account in the Iowa savings and loan. The interest income is not included in the net income allocable to Iowa since the interest income is not derived from the taxpayer's trade or business.

EXAMPLE D - An Illinois resident has Iowa farms. The Illinois resident invests the profits from the farms in a savings account in an Iowa bank. Several times a year, the taxpayer transfers part of the funds from the savings account to the taxpayer's checking account to purchase machinery to be used in the farming operations. The interest income would not be included in income allocated to Iowa since the interest income is not derived from the taxpayer's trade or business nor is the savings account utilized as a business account.

EXAMPLE E - An Illinois resident is a physician, whose practice is in Iowa. The physician has a business checking account in an Iowa bank that is used to pay the bills relating to the physician's practice. In the same bank, the physician has a personal savings account where all the physician's receipts for a given month are deposited. On the first working day of the month, funds are transferred from the savings account to the checking account to pay the bills that have accrued during the month. The interest income from the savings account would be included in net income allocated to Iowa since it is derived from and utilized in the business.

EXAMPLE F - A nonresident has a farm in Iowa which is the nonresident's principal business, although this person is an Illinois resident. The nonresident has an interest-bearing checking account in an Iowa bank. This checking account is used to pay personal expenditures as well as to pay expenses incurred in operation of the farm. In 1982, the taxpayer will earn $550 in interest from the checking account. The interest would be included in net income allocated to Iowa since the interest is derived from the business, generated from a business account, and utilized in the business.

Income of a nonresident beneficiary from an estate or trust, distributed or distributable to the beneficiary out of income from intangible personal property of the estate or trust, is not income from sources in this state and is not taxable to the nonresident beneficiary unless the property is so used by the estate or trust as to create a business, trade, profession, or occupation in this state.

Whether or not the executor or administrator of an estate or the trustee of a trust is a resident of this state is immaterial, insofar as the taxation of income of beneficiaries from the estate or trust are concerned.

EXAMPLE G - A nonresident is a partner in a family investment partnership in which the other partners are members of the same family. The other partners are residents of Iowa. The partnership invests in mutual funds, interest-bearing securities and stocks which produce interest, dividend and capital gain income for the partnership. The partners who are Iowa residents make occasional decisions in Iowa on what investments should be made by the partnership. The distributive share of interest, dividend and capital gain income reported by the nonresident would not be included in net income allocated to Iowa since it was not derived from a business carried on within the state.

302.16(6) *Distributive shares of nonresident partners.* When a partnership derives income from sources within this state as determined in 302.16(3) through 302.16(5), the nonresident members of the partnership are taxable only upon that portion of their distributive share of the partnership income which is derived from sources within this state.

302.16(7) *Interest and dividends from government securities.* Interest and dividends from federal securities subject to the federal income tax under the Internal Revenue Code are not to be included in determining the Iowa net income of a nonresident, but any interest and dividends from securities and from securities of state and other political subdivisions exempt for federal income tax under the Internal Revenue Code are to be included in the Iowa net income of a nonresident to the extent that same are derived from a business, trade, profession, or occupation carried on within the state of Iowa by the nonresident.

302.16(8) *Gains or losses from sales or exchanges of real property and tangible personal property by a nonresident of Iowa.* If a nonresident realizes any gains or losses from sales or exchanges of real property or tangible personal property within the state of Iowa, such gains or losses are subject to the Iowa income tax and shall be reported to this state by the nonresident. Gains or losses attributable to Iowa will be determined as follows:

1. Gains or losses from sales or exchanges of real property located in this state are allocable to this state.

2. Capital gains and losses from sales or exchanges of tangible personal property are allocable to this state if the property had a situs in this state at the time of the sale.

In determining whether a short-term or long-term capital gain or a capital loss is involved in a sale or exchange, and determining the amount of a gain from the sale of real or tangible property in Iowa, the provisions of the Internal Revenue Code are to be followed.

302.16(9) *Capital gains or losses from sales or exchanges of ownership interests in Iowa business entities by nonresidents of Iowa.* Nonresidents of Iowa who sell or exchange ownership interests in various Iowa business entities will be subject to Iowa income tax on capital gains and capital losses from those transactions for different entities as described in the following paragraphs:

a. Capital gains from sales or exchanges of stock in C corporations and S corporations. When a nonresident of Iowa sells or exchanges stock in a C corporation or an S corporation, that shareholder is selling or exchanging the stock, which is intangible personal property. The capital gain received by a nonresident of Iowa from the sale or exchange of capital stock of a C corporation or an S corporation is taxable to the state of the personal domicile or residence of the owner of the capital stock unless the stock attains an independent business situs apart from the personal domicile of the individual who sold the capital stock. The stock may acquire an independent business situs in Iowa if the stock had been used as an integral part of some business activity occurring in Iowa in the year in which the sale or exchange of the stock had taken place. Whether the stock has attained an independent business status is determined on a factual basis.

For example, a situation in which capital stock owned by a nonresident of Iowa was used as collateral to secure a loan to remodel a retail store in Iowa, regardless of the ownership of the store, would meet the test for the stock being used as an integral part of some business activity in Iowa.

Assuming that the gain from the sale or exchange of stock is attributable to Iowa, the next step is to determine how much of the gain is attributable to Iowa. This is computed on the basis of the Iowa allocation and apportionment rules applicable to the separate business the stock has become an integral part of for the year in which the sale or exchange occurred. For example, if the business was subject to Iowa income tax on 40 percent of its income in the year of the sale or exchange, then 40 percent of the capital gain would be attributable or taxable by Iowa.

However, the fact that the gain from the sale or exchange of stock is taxable or partially taxable to Iowa does not mean that the dividends received by the nonresident in the year of sale are taxable to Iowa. Dividends from stock used in an Iowa specific business activity would not be taxable to Iowa except under special circumstances. An illustration of these special circumstances would be when the dividends are from capital stock from a business where the purchase and sale of stock constitute a regular business in Iowa. In this situation the dividends would be taxable to Iowa. See subrule 302.16(5).

b. Capital gains from sales or exchanges of interests in partnerships. When a nonresident of Iowa sells or exchanges the individual's interest in a partnership, the nonresident is actually selling an intangible since the partnership can continue without the nonresident partner and the assets used by the partnership are legally owned by the partnership and an individual retains only an equitable interest in

the assets of the partnership by virtue of the partner's ownership interest in the partnership. However, because of the unique attributes of partnerships, the owner's interest in a partnership is considered to be localized or "sourced" at the situs of the partnership's activities as a matter of law. *Arizona Tractor Co. v. Arizona State Tax Com'n.,* 566 P.2d 1348, 1350 (Ariz. App. 1997); Iowa Code chapter 486 (unique attributes of a partnership defined). Therefore, if a partnership conducts all of its business in Iowa, 100 percent of the gain on the sale or exchange of a partnership interest would be attributable to Iowa. On the other hand, if the partnership conducts 100 percent of its business outside of Iowa, none of the gain would be attributable to Iowa for purposes of the Iowa income tax. In the situation where a partnership conducts business both in and out of Iowa, the capital gain from the sale or exchange of an interest in the partnership would be allocated or apportioned in and out of Iowa based upon the partnership's activities in and out of Iowa in the year of the sale or exchange.

Note that if a partnership is a publicly traded partnership and is taxed as a corporation for federal income tax purposes, any capital gains realized on the sale or exchange of a nonresident partner's interest in the partnership will receive the same tax treatment as the capital gain from the sale or exchange of an interest in a C corporation or an S corporation as specified in paragraph *"a"* of this subrule.

c. Capital gains from sales or exchanges of sole proprietorships. When a nonresident sells or exchanges the individual's interest in a sole proprietorship, the nonresident is actually selling or exchanging tangible and intangible personal property used in this business because the sole proprietor is the legal and equitable owner of all such assets. Therefore, the general source or situs rules governing the gain from the sale or exchange of tangible property and intangible property by a nonresident individual control. Thus, if the sole proprietorship is located in Iowa, the gain from the sale or exchange of the proprietorship by a nonresident would be taxable to Iowa.

d. Capital gains from sales or exchanges of interests in limited liability companies. Limited liability companies are hybrid business entities containing elements of both a partnership and a corporation. If a limited liability company properly elected to file or would have been required to file a federal partnership tax return, a capital gain from the sale or exchange of an ownership interest in the limited liability company by a nonresident member of the company would be taxable to Iowa to the same extent as if the individual were selling a similar interest in a partnership as described in paragraph *"b"* of this subrule. However, if the limited liability company properly elected or would have been required to file a federal corporation tax return, a nonresident member who sells or exchanges an ownership interest in the limited liability company would be treated the same as if the nonresident were selling a similar interest in a C corporation or an S corporation as described in paragraph *"a"* of this subrule.

e. Taxation of corporate liquidations. As a matter of Iowa law, the proceeds from corporate liquidating distributions are not considered to be the proceeds from the sale or exchange of corporate stock. Rather, such proceeds represent the transfer back to the shareholder of that shareholder's pro-rata share of the actual assets of the corporation in which each shareholder held only an equitable ownership interest prior to the dissolution. *Lynch v. State Board of Assessment and Review,* 228 Iowa 1000, 1003-1004, 291 N.W. 161 (1940). The amount of such gain is calculated by subtracting the distribution realized from the shareholder's basis in the stock. Id. Thus, any gain realized by the shareholder upon such distribution is considered a capital gain from a sale or exchange of the assets by the shareholder for purposes of sourcing the shareholder's liquidating distribution gain. Consequently, the gain, whether it is from a distribution of cash or other property, is controlled by the general source or situs rules in subrule 302.16(8) governing the taxation of the sale or exchange of tangible personal property by a nonresident and subrule 302.16(10) governing the sale or exchange of intangible personal property by a nonresident.

f. Capital losses realized by a nonresident of Iowa from the sale or exchange of an ownership interest in an Iowa business entity. In a situation where a nonresident of Iowa sells the ownership interest in an Iowa business entity and has a capital loss from the transaction, the nonresident can claim the loss on the Iowa income tax return under the same circumstances that a capital gain would have been reported as described in paragraphs *"a"* through *"e"* of this subrule. The federal income tax provisions for netting Iowa source capital gains and losses are applicable as well as the federal provisions for limiting the net

capital loss in the tax year to $3,000, with the carryover of the portion of net capital losses that exceed $3,000.

302.16(10) *Capital gains and losses from sales or exchanges of intangible personal property other than ownership interests in business entities.* Capital gains and losses realized by a nonresident of Iowa from the sale or exchange of intangible personal property (other than interests in business entities) are taxable to Iowa if the intangible property was an integral part of some business activity occurring regularly in Iowa prior to the sale or exchange. In the case of an intangible asset which was an integral part of a business activity of a business entity occurring regularly within and without Iowa, a capital gain or loss from the sale or exchange of the intangible asset by a nonresident of Iowa would be reported to Iowa in the ratio of the Iowa business activity to the total business activity for the year of the sale.

This rule is intended to implement Iowa Code sections 422.5, 422.7, and 422.8.

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701—302.17(422) Income of part-year residents. A taxpayer who was a resident of Iowa for only a portion of the taxable year is subject to the following rules of taxation:

1. For that portion of the taxable year for which the taxpayer was a nonresident, the taxpayer shall allocate to Iowa only the income derived from sources within Iowa.
2. For that portion of the taxable year for which the taxpayer was an Iowa resident, the taxpayer shall allocate to Iowa all income earned or received whether from sources within or without Iowa.

A taxpayer moving into Iowa may adjust the Iowa-source gross income on Schedule IA 126 by the amount of the moving expense to the extent allowed by Section 217 of the Internal Revenue Code. Any reimbursement of moving expense shall be included in Iowa-source gross income. A taxpayer moving from Iowa to another state or country may not adjust the Iowa-source gross income by the amount of moving expense, nor should any reimbursement of moving expense be allocated to Iowa.

This rule is intended to implement Iowa Code sections 422.5, 422.7, and 422.8.

[Editorial change: IAC Supplement 11/2/22]

701—302.18(422) Net operating loss carrybacks and carryovers. Net operating losses shall be allowed or allowable for Iowa individual income tax purposes and will be computed using a method similar to the method used to compute losses allowed or allowable for federal income tax purposes. In determining the applicable amount of Iowa loss carrybacks and carryovers, the adjustments to net income set forth in Iowa Code section 422.7 and the deductions from net income set forth in Iowa Code section 422.9 must be considered.

302.18(1) *Treatment of federal income taxes.*

a. Refund of federal income taxes due to net operating loss carrybacks or carryovers shall be reflected in the following manner:

(1) Accrual basis taxpayers shall accrue refunds of federal income taxes to the year in which the net operating loss occurs.

(2) Cash basis taxpayers shall reflect refunds of federal income taxes in the return for the year in which the refunds are received.

(3) Refunds reported in the year in which the net operating loss occurs which contain both business and nonbusiness components shall be analyzed and separated accordingly. The amount of refund attributable to business income shall be that amount of federal taxes paid on business income which are being refunded.

b. Federal income taxes paid in the year of the loss which contain both business and nonbusiness components shall be analyzed and separated accordingly. Federal income taxes paid in the year of the loss shall be reflected as a deduction to business income to the extent that the federal income tax was the result of the taxpayer's trade or business. Federal income taxes paid which are not attributable to

a taxpayer's trade or business shall also be allowed as a deduction but will be limited to the amount of gross income which is not derived from a trade or business.

302.18(2) *Nonresidents doing business within and without Iowa.* If a nonresident does business both within and without Iowa, the nonresident shall make adjustments reflecting the apportionment of the operating loss on the basis of business done within and without the state of Iowa, according to rule 701—302.16(422). The apportioned income or loss shall be added or deducted, as the case may be, to any amount of other income attributable to Iowa for that year.

302.18(3) *Loss carryback and carryforward.* The net operating loss attributable to Iowa as determined in rule 701—302.18(422) shall be subject to the federal 2-year carryback and 20-year carryover provisions if the net operating loss was for a tax year beginning after August 5, 1997, or subject to the federal 3-year carryback and the 15-year carryforward provisions if the net operating loss was for a tax year beginning prior to August 6, 1997. However, in the case of a casualty or theft loss for an individual taxpayer or for a net operating loss in a presidentially declared disaster area incurred by a taxpayer engaged in a small business or in the trade or business of farming, the net operating loss is to be carried back 3 taxable years and forward 20 taxable years if the loss is for a tax year beginning after August 5, 1997. The net operating loss or casualty or theft loss shall be carried back or over to the applicable year as a reduction or part of a reduction of the taxable income attributable to Iowa for that year. However, a net operating loss shall not be carried back to a year in which the taxpayer was not doing business in Iowa. If the election under Section 172(b)(3) of the Internal Revenue Code is made, the Iowa net operating loss shall be carried forward 20 taxable years if the net operating loss is for a tax year beginning after August 5, 1997, or the net operating loss shall be carried forward 15 taxable years if the loss is for a tax year beginning before August 6, 1997. A copy of the federal election made under Section 172(b)(3) of the Internal Revenue Code must be attached to the Iowa individual return filed with the department.

302.18(4) *Loss not applicable.* No part of a net loss for a year for which an individual was not subject to the imposition of Iowa individual income tax shall be included in the Iowa net operating loss deduction applicable to any year prior to or subsequent to the year of the loss.

302.18(5) *Special adjustments applicable to net operating losses.* Section 172(d) of the Internal Revenue Code provides for certain modifications when computing a net operating loss. These modifications refer to, but are not limited to, such things as considerations of other net operating loss deductions, treatment of capital gains and losses, and the limitation of nonbusiness deductions. Where applicable, the modifications set forth in Section 172 of the Internal Revenue Code shall be considered when computing the net operating loss carryover or carryback for Iowa income tax purposes.

302.18(6) *Distinguishing business or nonbusiness items.* In computing a net operating loss, nonbusiness deductions may be claimed only to the extent of nonbusiness income. Therefore, it is necessary to distinguish between business and nonbusiness income and expenses. For Iowa net operating loss purposes, an item will retain the same business or nonbusiness identity which would be applicable for federal income tax purposes.

302.18(7) *Examples.* The computation of a net operating loss deduction for Iowa income tax purposes is illustrated in the following examples:

a. Individual A had the following items of income for the taxable year:

Gross income from retail sales business		$125,000
Interest income from federal securities		2,000
Salary from part-time job		12,500
Individual A's federal return showed the following deductions:		
Business deductions (retail sales)		$150,000
Itemized (nonbusiness) deductions:		
Interest	$400	
Real estate tax	600	
Iowa income tax	800	$ 1,800

Individual A paid $3,000 federal income tax during the year which consisted of $2,500 federal withholding (business) and a $500 payment (nonbusiness) which was for the balance of the prior year's federal tax liability.

The federal computations are as follows:

	Per Return	Computed NOL
Income:		
Retail Sales	$125,000	$125,000
Interest income-federal securities	2,000	2,000
Salary	12,500	12,500
Subtotal	$139,500	$139,500
Deductions:		
Business	$150,000	$150,000
Itemized deductions	1,800	1,800
(Loss) per federal	($ 12,300)	
Computed net operating loss		($ 12,300)

Since the nonbusiness deductions do not exceed the nonbusiness income, the loss per the federal return and the computed net operating loss are the same.

The Iowa computations are as follows:

	Per Return	Computed NOL
Income:		
Retail sales	$125,000	$125,000
Salary	12,500	12,500
Subtotal	$137,500	$137,500
Deductions:		
Business	$150,000	$150,000
Federal tax deductions	3,000	2,500
Itemized deductions	1,000	-
(Loss) per return	($ 16,500)	
Computed Iowa NOL		($ 15,000)

NOTE: Itemized (nonbusiness deductions) are eliminated due to the lack of nonbusiness income. The only nonbusiness income, interest from federal securities, is not taxable for Iowa income tax purposes under Iowa Code section 422.7. The only federal tax deduction allowable is that related to business activity.

b. Individual B had the following items of income for the taxable year:

Gross income from restaurant business		$300,000
Wages		12,000
Business long-term capital gain @100%		1,000
Municipal bond interest (nonbusiness)		1,000
Federal tax refund of prior year taxes		500
Iowa tax refund of prior year taxes		100
Individual B's federal return showed the following deductions:		
Business deductions from restaurant		$333,000
Itemized deductions:		
Interest (nonbusiness)	$590	
Real estate tax (nonbusiness)	780	
Iowa income tax*	520	
Alimony (nonbusiness)	600	
Union dues (business)	100	2,590

*Iowa estimated payments totaled $220 of which $70 related to nonbusiness income and $150 related to business capital gains and business profits. $300 in Iowa tax was withheld from his wages.

Individual B paid $2,000 in federal income taxes during the tax year. $1,500 of this amount was withholding on wages and $500 was a federal estimated payment based on capital gains and projected business profits.

In the previous year 75 percent of B's income was from business sources and 25 percent was from nonbusiness sources.

The federal computations are as follows:

	Per Return	Computed NOL
Income:		
Retail sales	$300,000	$300,000
Wages	12,000	12,000
Capital gains	500(a)	1,000(a)
Iowa refund	100	100
Subtotal	$312,600	$313,100
Deductions:		
Business	$333,000	$333,000
Itemized deductions	2,590	575(b)
(Loss) per federal	($ 22,990)	
Computed net operating loss		($ 20,475)

(a) Capital gains are reduced by 50 percent in computing adjusted gross income, but must be reported in full in computing a net operating loss.

(b) Itemized deductions are limited to business deductions consisting of $100 for union dues, $450 for Iowa tax on business income, and nonbusiness deductions to the extent of nonbusiness income which amounts to $25. The only nonbusiness income is 25 percent of the $100 Iowa refund.

The Iowa computations are as follows:

	Per Return	Computed NOL
Income:		
Retail sales	$300,000	$300,000
Wages	12,000	12,000
Capital gains	500	1,000
Municipal bond interest	1,000	1,000
Federal refund	500	500
Subtotal	$314,000	$314,500
Deductions:		
Business	$333,000	$333,000
Federal tax	2,000	2,000
Itemized deductions	2,070(c)	1,225(d)
(Loss) per return	($ 23,070)	
Computed Iowa NOL		($ 21,725)

(c) Iowa income tax is not an itemized deduction for Iowa income tax purposes.

(d) Itemized deductions are limited to business deductions of $100 for union dues and nonbusiness deductions to the extent of nonbusiness income of $1,125. Nonbusiness income includes $1,000 of municipal bond interest and 25 percent ($125) of the federal tax refund.

302.18(8) *Net operating losses for nonresidents and part-year residents for tax years beginning on or after January 1, 1982.* For tax years beginning on or after January 1, 1982, nonresidents and part-year residents may carryback/carryforward only those net operating losses from Iowa sources. Nonresidents and part-year residents may not carryback/carryforward net operating losses which are from all sources.

Before the Iowa net operating loss of a nonresident or part-year resident is available for carryback/carryforward to another tax year, the loss must be decreased or increased by a number of possible adjustments depending on which adjustments are applicable to the taxpayer for the year of the loss. Iowa Net Operating Loss (NOL) Worksheet (41-123) may be used to make the adjustments to the net operating loss and compute the net operating loss deduction available for carryback/carryforward.

If the net operating loss was increased by an adjustment for an individual retirement account or H.R.10 retirement plan, the net operating loss should be decreased by the amount of the adjustment. The net operating loss should also be decreased by the amount of any capital loss or by the capital gain deduction to the extent the capital loss or capital gain deduction was from the sale or exchange of an asset from an Iowa source.

In a situation where the nonresident or part-year resident taxpayer received a federal income tax refund in the year of the NOL, the refund should reduce the loss in the ratio of the Iowa source income to the all source income for the tax year in which the refund was generated.

The net operating loss should be increased by any federal income tax paid in the loss year for a prior year in the ratio of the Iowa income for the prior year to the all source income for the prior year. Federal income tax withheld from wages or other compensation received in the loss year may be used to increase the Iowa net operating loss to the extent the tax is withheld from wages or other compensation earned in Iowa.

Federal estimate tax payments would be allocated to Iowa and increase the net operating loss on the basis of the Iowa income not subject to withholding to total income not subject to withholding. In

any case where this method of allocation of federal estimate payments to Iowa is not considered to be equitable, the taxpayer may allocate the payments using another method as long as this method is disclosed on the taxpayer's Iowa individual income tax return for the year of the loss. However, the burden of proof is on the taxpayer to show that an alternate method of allocation is equitable.

Nonbusiness deductions included in the itemized deductions paid during the year of the net operating loss may be used to increase the NOL to the extent of nonbusiness income which is reported to Iowa in computation of the net operating loss. In most instances of net operating losses for nonresidents, no itemized deductions will be allowed in computing the net operating loss deduction. This is because most nonresidents will have no nonbusiness income reported to Iowa. Business deductions included in the federal itemized deductions may be used to increase the net operating loss deduction to the extent the deductions pertain to a business, trade, occupation or profession conducted in Iowa.

EXAMPLE A. A nonresident taxpayer had the following all source income and Iowa source income for 1982:

Category	All Source Income	Iowa Source Income
Wages	$20,000	$20,000
Interest	5,000	0
Rental income	5,000	5,000
Business loss	(50,000)	(10,000)
Iowa net income (loss)	($20,000)	$15,000

The nonresident taxpayer did not have an Iowa net operating loss available for carryback/carryforward for Iowa income tax purposes because the taxpayer's Iowa source income was not negative. The taxpayer's all source loss of ($20,000) does not qualify for carryback/carryforward on the Iowa return. However, since the taxpayer's all source income is negative, the taxpayer will not have an Iowa income tax liability for the year of the all source loss.

EXAMPLE B. A nonresident taxpayer received a federal refund of $1,000 in 1983. The refund was from the taxpayer's 1981 federal return where the taxpayer's Iowa income was 20% of the total income. $2,000 of federal income tax was withheld from the taxpayer's Iowa wages in 1982. The taxpayer had $10,000 in itemized deductions in 1982. However, the taxpayer had no Iowa nonbusiness income in 1982. In addition, no Iowa business deductions were included in the itemized deductions available on the federal return. The individual had the following all source income and Iowa source income in 1982:

Category	All Source Income	Iowa Source Income
Wages	$60,000	$10,000
Interest	3,000	0
Rental income	5,000	5,000
Farm income loss	(30,000)	(30,000)
Capital gain	2,000	2,000
Total incomes	$40,000	($13,000)

The taxpayer's Iowa source loss of ($13,000) was decreased by $200 of the federal refund since 20% of the refund was considered to be from Iowa income. The loss was decreased by $3,000 which was the capital gain deduction of the Iowa source asset sold in 1982. The loss was increased by the federal income tax withheld of $2,000 from Iowa wages. Because there is no Iowa source nonbusiness income nor Iowa source business deductions, the taxpayer's itemized deductions will not affect the net operating loss deduction.

Shown below is a recap of the net operating loss deduction for the nonresident taxpayer.

Iowa source net loss	($13,000)
Iowa portion of federal refund	200
Federal tax withheld on Iowa wages	(2,000)
Capital gain deduction	3,000
Total	($11,800)

The taxpayer's net operating loss deduction available for carryback/carryforward to another tax year is ($11,800).

After all adjustments are made to the Iowa net operating loss to compute the net operating loss deduction available for carryback/carryforward, the NOL deduction is applied to the carryback/carryforward tax year as described in paragraph *"a"* and paragraph *"b"* below:

a. Application of net operating losses to tax years beginning prior to January 1, 1982. In cases where a net operating loss deduction for a nonresident or part-year resident for a tax year beginning on or after January 1, 1982, is applied to a tax year beginning prior to January 1, 1982, the net operating loss deduction is applied to the taxable income for the carryback/carryforward year unless the NOL deduction is greater than the taxable income. If the NOL deduction is greater than the taxable income, the taxable income is increased by any Iowa source capital loss or any Iowa source capital gain deduction before the NOL deduction is applied against the taxable income.

EXAMPLE 1. A nonresident taxpayer has an Iowa net operating loss deduction of ($15,000) from the taxpayer's 1982 Iowa return. The taxpayer is carrying the NOL deduction back to 1979 where taxpayer's Iowa taxable income was $14,000. The taxpayer had a net capital loss of $3,000 in 1979. Because the taxpayer's 1979 taxable income of $14,000 was $1,000 less than the NOL deduction, the taxable income was increased by $1,000 of the net capital loss so there would be no carryover of the NOL to 1980. However, since the NOL deduction erased all the taxable income for 1979, the taxpayer would be granted a refund of all the Iowa income tax paid for the carryback year of 1979, plus applicable interest.

b. Application of net operating losses to tax years beginning on or after January 1, 1982. In situations where a net operating loss of a nonresident or part-year resident for a tax year beginning on or after January 1, 1982, is carried back/carried forward for application to a tax year beginning on or after January 1, 1982, the net operating loss deduction is applied to the Iowa source income of the taxpayer for the carryback/carryforward year. The Iowa source income is the income on line 25 of Section B of Schedule IA-126 for the 1982 and 1983 Iowa returns and line 26 of Section B of Schedule IA-126 for the 1984 Iowa return and the incomes on similar corresponding lines of Section B of Schedule IA-126 for tax years after 1984. In situations where the net operating loss deductions are larger than the Iowa source incomes, the Iowa source incomes are increased by any Iowa source capital gains or capital losses that are applicable, not to exceed the NOL deduction.

The Iowa source net income after reduction by the NOL deduction is divided by the all source income for the taxpayer. The resulting percentage is the adjusted Iowa income percentage. This percentage is subtracted from 100 percent to arrive at the revised nonresident/part-year resident credit for the taxpayer. The taxpayer's overpayment as a result of the net operating loss is the amount by which the revised nonresident/part-year credit exceeds the nonresident/part-year credit prior to application of the net operating loss deduction.

EXAMPLE 1. A nonresident taxpayer had a net operating loss deduction of $11,800 for the 1996 tax year. When the 1996 Iowa return was filed, the taxpayer elected to carry the loss forward to the 1997 tax year. The taxpayer's all source net income and Iowa source net income for 1997 were as shown below. The net operating loss carryforward from 1996 is deducted only from the Iowa source income for 1997:

Category	All Source Income	Iowa Source Income
Wages	$ 60,000	$ 20,000
Interest	3,000	0
Rental income	10,000	3,000
Farm income	25,000	25,000
Capital gain	2,000	2,000
Net operating loss carryforward	—	(11,800)
Iowa net income	$100,000	$ 38,200

The Iowa source income of $38,200 after reduction by the NOL carryforward is divided by the all source income of $100,000 which results in an Iowa income percentage of 38.2. This percentage is subtracted from 100 percent to arrive at the nonresident/part-year resident credit percentage of 61.8. When the tax after credit amount of $7,364 is multiplied by the nonresident/part-year credit percentage of 61.8, this results in a credit of $4,551. This credit is $869 greater than the nonresident/part-year credit of $3,682 would have been for 1997 without application of the net operating loss deduction which was carried forward from 1996.

302.18(9) *Net operating loss carryback for a taxpayer engaged in the business of farming.* Notwithstanding the net operating loss carryback periods described in subrule 302.18(3), a taxpayer who is engaged in the trade or business of farming as defined in Section 263A(e)(4) of the Internal Revenue Code and has a loss from farming as defined in Section 172(b)(1)(F) of the Internal Revenue Code for a tax year beginning on or after January 1, 1998, this loss from farming is a net operating loss which the taxpayer may carry back five taxable years prior to the year of the loss. Therefore, if a taxpayer has a net operating loss from the trade or business of farming for the 1998 tax year, the net operating loss from farming can be carried back to the taxpayer's 1993 Iowa return and can be applied to the income shown on that return. The farming loss is the lesser of (1) the amount that would be the net operating loss for the tax year if only income and deductions from the farming business were taken into account, or (2) the amount of the taxpayer's net operating loss for the tax year. Thus, if a taxpayer has a $10,000 loss from a grain farming business and the taxpayer had wages in the tax year of $7,000, the taxpayer's loss for the year is only $3,000. Therefore, the taxpayer has a net operating loss from farming of $3,000 that may be carried back five years.

However, if a taxpayer has a net operating loss from the trade or business of farming for a taxable year beginning in 1998 or for a taxable year after 1998 and makes a valid election for federal income tax purposes to carry back the net operating loss two years, or three years if the loss was in a presidentially declared disaster area or related to a casualty or theft loss, the net operating loss must be carried back two years or three years for Iowa income tax purposes. A copy of the federal election made under Section 172(i)(3) for the two-year or three-year carryback in lieu of the five-year carryback may be attached to the Iowa return or the amended Iowa return to show why the carryback was two years or three years instead of five years.

This rule is intended to implement Iowa Code sections 422.5 and 422.7 and Iowa Code Supplement section 422.9(3).

[Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—302.19(422) Casualty losses. Casualty losses may be treated in the same manner as net operating losses and may be carried back three years and forward seven years in the event said casualty losses exceed income in the loss year.

This rule is intended to implement Iowa Code section 422.7.

[Editorial change: IAC Supplement 11/2/22]

701—302.20(422) Adjustments to prior years. When Iowa requests for refunds are filed, they shall be allowed only if filed within three years after the tax payment upon which a refund or credit became due, or one year after the tax payment was made, whichever time is the later. Even though a refund may be barred by the statute of limitations, a loss shall be carried back and applied against income on a previous year to determine the correct amount of loss carryforward.

This rule is intended to implement Iowa Code section 422.73.

[Editorial change: IAC Supplement 11/2/22]

701—302.21(422) Additional deduction for wages paid or accrued for work done in Iowa by certain individuals. For tax years beginning on or after January 1, 1984, but before January 1, 1989, a taxpayer who operates a business which is considered to be a small business as defined in subrule 302.21(2) is allowed an additional deduction for 50 percent of the first 12 months of wages paid or accrued during the tax years for work done in Iowa by employees first hired on or after January 1, 1984, or after July 1, 1984, where the taxpayer first qualifies as a small business under the expanded definition of a small business effective July 1, 1984, and meets one of the following criteria.

A handicapped individual domiciled in this state at the time of hiring.

An individual domiciled in this state at the time of hiring who meets any of the following conditions:

1. Has been convicted of a felony in this or any other state or the District of Columbia.
2. Is on parole pursuant to Iowa Code chapter 906.
3. Is on probation pursuant to Iowa Code chapter 907 for an offense other than a simple misdemeanor.
4. Is in a work release program pursuant to Iowa Code chapter 247A.

An individual, whether or not domiciled in this state at the time of the hiring, who is on parole or probation and to whom the interstate probation and parole compact under Iowa Code section 913.40 applies.

For tax years beginning on or after January 1, 1989, the additional deduction for wages paid or accrued for work done in Iowa by certain individuals is 65 percent of the wages paid for the first 12 months of employment of the individuals, not to exceed $20,000 per individual. Individuals must meet the same criteria to qualify their employers for this deduction for tax years beginning on or after January 1, 1989, as for tax years beginning before January 1, 1989.

For tax years ending after July 1, 1990, a taxpayer who operates a business which does not qualify as a small business specified in subrule 302.21(2) may claim an additional deduction for wages paid or accrued for work done in Iowa by certain convicted felons provided the felons are described in the four numbered paragraphs above and the following unnumbered paragraph and provided the felons are first hired on or after July 1, 1990. The additional deduction is 65 percent not to exceed $20,000 for the first 12 months of wages paid for work done in Iowa.

The qualifications mentioned in subrules 302.21(1), 302.21(4), 302.21(5), and 302.21(6) and in paragraphs 302.21(3)*"f"* and *"g"* apply to the additional deduction for work done in Iowa by a convicted felon in situations where the taxpayer is not a small business as well as in situations where the taxpayer is a small business.

The additional deduction applies to any individual hired on or after July 1, 2001, whether or not domiciled in Iowa at the time of hiring, who is on parole or probation and to whom either the interstate probation and parole compact under Iowa Code section 907A.1 or the compact for adult offenders under Iowa Code chapter 907B applies. The amount of additional deduction for hiring this individual is equal to 65 percent of the wages paid, but the additional deduction is not to exceed $20,000 for the first 12 months of wages paid for work done in Iowa.

302.21(1) The additional deduction shall not be allowed for wages paid to an individual who was hired to replace an individual whose employment was terminated within the 12-month period preceding the date of first employment. However, if the individual being replaced left employment voluntarily without good cause attributable to the employer or if the individual was discharged for misconduct in connection with the individual's employment as determined by the department of workforce development, the additional deduction shall be allowed.

The determination of whether an individual left employment voluntarily without good cause attributable to the employer or if the individual was discharged for misconduct is a factual determination which must be made on a case-by-case basis.

302.21(2) The term "small business" means a business entity organized for profit including but not limited to an individual proprietorship, partnership, joint venture, association or cooperative. It includes the operation of a farm, but not the practice of a profession. The following conditions apply to a business entity which is a small business for purposes of the additional deduction for wages:

a. The small business shall not have had more than 20 full-time equivalent employee positions during each of the 26 consecutive weeks within the 52-week period immediately preceding the date on which an individual for whom an additional deduction for wages is taken was hired. Full-time equivalent position means any of the following:

1. An employment position requiring an average work week of 40 or more hours;
2. An employment position for which compensation is paid on a salaried full-time basis without regard to hours worked; or
3. An aggregation of any number of part-time positions which equal one full-time position. For purposes of this subrule each part-time position shall be categorized with regard to the average number of hours worked each week as a one-quarter, half, three-quarter, or full-time position, as set forth in the following table:

Average Number of Weekly Hours	Category
More than 0 but less than 15	¼
15 or more but less than 25	½
25 or more but less than 35	¾
35 or more	1 (full-time)

b. The small business shall not have more than $1 million in annual gross revenues, or after July 1, 1984, $3 million in annual gross revenues or as the average of the three preceding tax years. "Annual gross revenues" means total sales, before deducting returns and allowances but after deducting corrections and trade discounts, sales taxes and excise taxes based on sales, as determined in accordance with generally accepted accounting principles.

c. The small business shall not be an affiliate or subsidiary of a business which is dominant in its field of operation. "Dominant in its field of operation" means having more than 20 full-time equivalent employees and more than $1 million of annual gross revenues, or after July 1, 1984, $3 million of annual gross revenues or as the average of the three preceding tax years. "Affiliate or subsidiary of a business dominant in its field of operations" means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation.

d. "Operation of a farm" means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing or the production of livestock. Operation of a farm shall not include the production of timber, forest products, nursery products, or sod and operation of a farm shall not include a contract where a processor or distributor of farm products or supplies provides spraying, harvesting or other farm services.

e. "The practice of a profession" means a vocation requiring specialized knowledge and preparation including but not limited to the following: medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, psychology, psychiatry, chiropractic, nursing, dentistry, dental hygiene, optometry, speech pathology, audiology, pharmacy, physical therapy, occupational therapy, mortuary science, law, architecture, engineering and surveying, and accounting.

302.21(3) Definitions.

a. The term *"handicapped person"* means any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such an impairment.

The term handicapped does not include any person who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the person from performing the duties of employment or whose employment, by reason of current use of alcohol or drugs, would constitute a direct threat to the property or the safety of others.

b. The term *"physical or mental impairment"* means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin and endocrine; or any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

c. The term *"major life activities"* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

d. The term *"has a record of such impairment"* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

e. The term *"is regarded as having such an impairment"* means:

1. Has a physical or mental impairment that does not substantially limit major life activities but that is perceived as constituting such a limitation;

2. Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

3. Has none of the impairments defined as physical or mental impairments, but is perceived as having such an impairment.

f. The term *"successfully completing a probationary period"* includes those instances where the employee quits without good cause attributable to the employer during the probationary period or was discharged for misconduct during the probationary period.

g. The term *"probationary period"* means the period of probation for newly hired employees, if the employer has a written probationary policy. If the employer has no written probationary policy for newly hired employees, the probationary period shall be considered to be six months from the date of hire.

302.21(4) If a newly hired employee has been certified as either a vocational rehabilitation referral or an economically disadvantaged ex-convict for purposes of qualification for the work opportunity tax credit under Section 51 of the Internal Revenue Code, that employee shall be considered to have met the qualifications for the additional wage deduction.

A vocational rehabilitation referral is any individual certified by a state employment agency as having a physical or mental disability which, for the individual constitutes or results in a substantial handicap to employment. In addition, the individual must have been referred to the employer after completion or while receiving rehabilitation services pursuant to either a state or federal approved vocational rehabilitation program.

For all other newly hired employees, the employer has the burden of proof to show that the employees meet the qualifications for the additional wage deduction.

302.21(5) The taxpayer shall include a schedule with the filing of its tax return showing the name, address, social security number, date of hiring and wages paid of each employee for which the taxpayer claims the additional deduction for wages.

302.21(6) If the employee for which an additional deduction for wages was allowed fails to successfully complete a probationary period and the taxpayer has already filed an Iowa individual income tax return taking the additional deduction for wages, the taxpayer shall file an amended return adding back the additional deduction for wages. The amended return shall state the name and social security number of the employee who failed to successfully complete a probationary period.

This rule is intended to implement 2011 Iowa Code Supplement section 422.7 as amended by 2012 Iowa Acts, Senate File 2247.

[**ARC 7761B**, IAB 5/6/09, effective 6/10/09; **ARC 0337C**, IAB 9/19/12, effective 10/24/12; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—302.22(422) Disability income exclusion.

302.22(1) Effective for tax years beginning on or after January 1, 1984, a taxpayer who is permanently and totally disabled and has not attained age 65 by the end of the tax year or reached mandatory retirement age can exclude a maximum of $100 per week of payments received in lieu of wages. In order for the payments to qualify for the exclusion, the payments must be made under a plan providing payment of such amounts to an employee for a period during which the employee is absent from work on account of permanent and total disability.

302.22(2) In the case of a married couple where both spouses meet the qualifications for the disability exclusion, each spouse may exclude $5,200 of income received on account of disability.

302.22(3) There is a reduction in the exclusion, dollar for dollar, to the extent that a taxpayer's federal adjusted gross income (determined without this exclusion and without the deduction for the two-earner married couple) exceeds $15,000. In the case of a married couple, both spouses' incomes must be considered for purposes of determining if the disability income exclusion is to be reduced for income that exceeds $15,000. The taxpayers' disability income exclusion is eliminated when the taxpayers' federal adjusted gross income is equal to or exceeds $20,200. The deduction of the taxpayers' disability income exclusion because the taxpayers' federal adjusted gross income is greater than $15,000 is illustrated in the following example:

A married couple is filing their 1984 Iowa return. The husband retired during the year and received $8,000 in disability income during the 40-week period in 1984 that he was retired. The husband's other income in 1984 was $2,500 and the wife's income was $7,500.

Of the $8,000 in disability payments received by the husband in the 40-week period he was retired in 1984, only $4,000 is eligible for the exclusion. This is because the maximum amount that can be excluded on a weekly basis as a result of the disability exclusion is $100.

However, the $4,000 that qualifies for the exclusion must be reduced to the extent that the taxpayer's federal adjusted gross income exceeds $15,000. In this example, the taxpayer's federal adjusted gross income is $18,000, which exceeds $15,000 by $3,000. Therefore, the amount eligible for exclusion of $4,000 must be reduced by $3,000. This gives the taxpayers an exclusion of $1,000.

302.22(4) For purposes of the disability income exclusion, "permanent and total disability" means the individual is unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which (a) can be expected to last for a continuous period of 12 months or more or (b) can be expected to result in death. A certificate from a qualified physician must be attached to the individual's tax return attesting to the taxpayer's permanent and total disability as of the date the individual claims to have retired on disability. The certificate must include the name and address of the physician and contain an acknowledgment that the certificate will be used by the taxpayer to claim the exclusion. In an instance where an individual has been certified as permanently and totally disabled by the Veterans Administration, Form 6004 may be attached to the return instead of the physician's certificate. Form 6004 must be signed by a physician on the VA disability rating board.

302.22(5) Mandatory retirement age is the age at which the taxpayer would have been required to retire under the employer's retirement program.

302.22(6) The disability income exclusion is not applicable to federal income tax for tax years beginning after 1983. There are many revenue rulings, court cases and other provisions which were relevant to the disability income exclusion for the tax periods when the exclusion was available on federal returns. These provisions, court cases and revenue rulings concerning the disability income exclusion are equally applicable to the disability income exclusion on Iowa returns for tax years beginning on or after January 1, 1984.

This rule is intended to implement Iowa Code section 422.7.

[Editorial change: IAC Supplement 11/2/22]

701—302.23(422) Social security benefits. For tax years beginning on or after January 1, 1984, but before January 1, 2014, social security benefits received are taxable on the Iowa return. Although Tier 1 railroad retirement benefits were taxed similarly as social security benefits for federal income

tax purposes beginning on or after January 1, 1984, these benefits are not subject to Iowa income tax. 45 U.S.C. Section 231m prohibits taxation of railroad retirement benefits by the states.

The following subrules specify how social security benefits are taxed for Iowa individual income tax purposes for tax years beginning on or after January 1, 1984, but prior to January 1, 1994; for tax years beginning on or after January 1, 1994, but prior to January 1, 2007; and for tax years beginning on or after January 1, 2007, but prior to January 1, 2014:

302.23(1) *Taxation of social security benefits for tax years beginning on or after January 1, 1984, but prior to January 1, 1994.* For tax years beginning on or after January 1, 1984, but prior to January 1, 1994, social security benefits are taxable on the Iowa return to the same extent as the benefits are taxable for federal income tax purposes. When both spouses of a married couple receive social security benefits and file a joint federal income tax return but separate returns or separately on the combined return form, the taxable portion of the benefits must be allocated between the spouses. The following formula should be used to compute the amount of social security benefits to be reported by each spouse on the Iowa return:

$$\text{Taxable Social Security Benefits on the Federal Return} \times \frac{\text{Total Social Security Benefit Received by Husband (or Wife)}}{\text{Total Social Security Benefits Received by Both Spouses}}$$

The example shown below illustrates how taxable social security benefits are allocated between spouses:

A married couple filed a joint federal income tax return for 1984. They filed separately on the combined return form for Iowa income tax purposes. During the tax year the husband received $6,000 in social security benefits and the wife received $3,000 in social security benefits. $2,000 of the social security benefits was taxable on the federal return.

The $2,000 in taxable social security benefits is allocated to the spouses on the following basis:

Husband

$$\$2{,}000 \times \frac{\$6{,}000}{\$9{,}000} = \$1{,}333.40$$

Wife

$$\$2{,}000 \times \frac{\$3{,}000}{\$9{,}000} = \$666.60$$

In situations where taxpayers have received both social security benefits and Tier 1 railroad retirement benefits and are taxable on a portion of those benefits, the formula which follows should be used to determine the social security benefits to be included in net income:

$$\text{Taxable Social Security Benefits and Railroad Retirement Benefits on Federal Return} \times \frac{\text{Total Social Security Benefit Received}}{\text{Total Social Security Benefits and Railroad Retirement Benefits Received}}$$

302.23(2) *Taxation of social security benefits for tax years beginning on or after January 1, 1994, but prior to January 1, 2007.* For tax years beginning on or after January 1, 1994, but prior to January 1, 2007, although up to 85 percent of social security benefits received may be taxable for federal income tax purposes, no more than 50 percent of social security benefits will be taxable for state individual income tax purposes. Thus, in the case of Iowa income tax returns for 1994 through 2006, social security benefits will be taxed as the benefits were taxed from 1984 through 1993 as described in subrule 302.23(1).

The amount of social security benefits that is subject to tax is the lesser of one-half of the annual benefits received in the tax year or one-half of the taxpayer's provisional income over a specified base amount. The provisional income is the taxpayer's modified adjusted gross income plus one-half of the social security benefits and one-half of the railroad retirement benefits received. Although railroad benefits are not taxable, one-half of the railroad retirement benefits received may be used to determine the

amount of social security benefits that is taxable for state income tax purposes. Modified adjusted gross income is the taxpayer's federal adjusted gross income, plus interest that is tax-exempt on the federal return, plus any of the following incomes:

1. Savings bond proceeds used to pay expenses of higher education excluded from income under Section 135 of the Internal Revenue Code.
2. Foreign source income excluded from income under Section 911 of the Internal Revenue Code.
3. Income from Guam, American Samoa, and the Northern Mariana Islands excluded under section 931 of the Internal Revenue Code.
4. Income from Puerto Rico excluded under Section 933 of the Internal Revenue Code.

A taxpayer's base amount is: *(a)* $32,000 if married and a joint federal return was filed, *(b)* $0 if married and separate federal returns were filed by the spouses and *(c)* $25,000 for individuals who filed federal returns and used a filing status other than noted in *(a)* and *(b)*.

The IA 1040 booklet and instructions for 1994 through 2006 will include a worksheet to compute the amount of social security benefits that is taxable for Iowa income tax purposes. An example of the social security worksheet follows. Similar worksheets will be used for computing the amount of social security benefits that is taxable for years 1995 through 2006. An example of the social security worksheet follows:

1. Enter amount(s) from box 5 of all of Form(s) SSA-1099. If a joint return was filed, enter totals from box 5 of Form(s) SSA-1099 for both spouses. Do not include railroad retirement benefits from RRB-1099 here. See line 3.	1. _____
2. Divide line 1 amount above by 2.	2. _____
*3. Add amounts of the following incomes from Form 1040: wages, taxable interest income, dividend income, taxable state and local income tax refunds, alimony, business income or loss, capital gain or loss, capital gain distributions, other gains, taxable IRA distributions, taxable pensions and annuities, incomes from Schedule E, farm income or loss, unemployment compensation, other income and 1/2 of railroad retirement benefits from RRB 1099.	3. _____
4. Enter amount from Form 1040, line 8b for interest that is federally tax-exempt.	4. _____
5. Add lines 2, 3 and 4.	5. _____
6. Enter total adjustment to income from Form 1040.	6. _____
7. Subtract line 6 from line 5.	7. _____
8. Enter on line 8 one of the following amounts based on the filing status used on Form 1040: Single, Head of Household, or Qualifying Widow(er), enter $25,000. Married filing jointly, enter $32,000. Married filing separately, enter $0 ($25,000 if you did not live with spouse any time in 1994).	8. _____
9. Subtract line 8 from line 7. If zero or less enter 0. If line 9 is zero, none of the social security benefits are taxable. If line 9 is more than zero, go to line 10.	9. _____
10. Divide line 9 amount above by 2.	10. _____
11. Taxable social security benefits enter smaller of line 2 or line 10 here and on line 14 IA 1040.	11. _____

*If applicable, include on line 3 the following incomes excluded from federal adjusted gross income: foreign earned income, income excluded by residents of Puerto Rico, American Samoa, and Guam and proceeds from savings bonds used for higher education.

Married taxpayers who filed a joint federal return and are filing separate Iowa returns or separately on the combined return form can allocate taxable social security benefits between them with the following formula.

$$\text{Taxable Social Security Benefits From Worksheet} \times \frac{\text{Total Social Security Benefit Received by Husband (or Wife)}}{\text{Total Social Security Benefits Received by Both Spouses}}$$

302.23(3) *Taxation of social security benefits for tax years beginning on or after January 1, 2007, but prior to January 1, 2014.* For tax years beginning on or after January 1, 2007, but prior to January 1, 2014, the amount of social security benefits subject to Iowa income tax will be computed as described in subrule 302.23(2), but will be further reduced by the following percentages:

Calendar years 2007 and 2008	32%
Calendar year 2009	43%
Calendar year 2010	55%
Calendar year 2011	67%
Calendar year 2012	77%
Calendar year 2013	89%

The Iowa individual income tax booklet and instructions for 2007 through 2013 will include a worksheet to compute the amount of social security benefits that is taxable for Iowa income tax purposes. An example of the social security worksheet follows:

1. Enter amount(s) from box 5 of Form(s) SSA-1099. If a joint return was filed, enter totals from box 5 of Form(s) SSA-1099 for both spouses. Do not include railroad retirement benefits from RRB-1099 here. See line 3. 1. _____

2. Divide line 1 amount above by 2. 2. _____

*3. Add amounts of the following incomes from Form 1040: wages, taxable interest income, dividend income, taxable state and local income tax refunds, alimony, business income or loss, capital gain or loss, capital gain distributions, other gains, taxable IRA distributions, taxable pensions and annuities, incomes from Schedule E, farm income or loss, unemployment compensation, other income and 1/2 of railroad retirement benefits from RRB 1099. 3. _____

4. Enter amount from Form 1040, line 8b for interest that is federally tax-exempt. 4. _____

5. Add lines 2, 3 and 4. 5. _____

6. Enter total adjustment to income from Form 1040. 6. _____

7. Subtract line 6 from line 5. 7. _____

8. Enter on line 8 one of the following amounts based on the filing status used on Form 1040: Single, Head of Household, or Qualifying Widow(er), enter $25,000. Married filing jointly, enter $32,000. Married filing separately, enter $0 ($25,000 if you did not live with spouse anytime during the year). 8. _____

9. Subtract line 8 from line 7. If zero or less enter 0. If line 9 is zero, none of the social security benefits are taxable. If line 9 is more than zero, go to line 10. 9. _____

10. Divide line 9 amount above by 2. 10. _____

11. Taxable social security benefits before phase-out exclusion. Enter smaller of line 2 or line 10. 11. _____

12. Multiply line 11 by applicable exclusion percentage. 12. _____

13. Taxable social security benefits. Subtract line 12 from line 11. 13. _____

*If applicable, include on line 3 the following incomes excluded from federal adjusted gross income: foreign earned income, income excluded by residents of Puerto Rico, American Samoa, and Guam and proceeds from savings bonds used for higher education and employer-provided adoption benefits.

Married taxpayers who filed a joint federal return and are filing separate Iowa returns or separately on the combined return form can allocate taxable social security benefits between them with the following formula.

$$\text{Taxable Social Security Benefits From Worksheet} \times \frac{\text{Total Social Security Benefit Received by Spouse 1 (or Spouse 2)}}{\text{Total Social Security Benefits Received by Both Spouses}}$$

The amount on line 12 of this worksheet is the phase-out exclusion of social security benefits which must be included in net income in determining whether an Iowa return must be filed in accordance with rules 701—301.1(422) and 701—301.5(422), and this amount must also be included in net income in calculating the special tax computation in accordance with rule 701—301.15(422).

302.23(4) *Taxation of social security benefits for tax years beginning on or after January 1, 2014.* For tax years beginning on or after January 1, 2014, no social security benefits are taxable on the Iowa return. However, the 100 percent phase-out exclusion of social security benefits must still be included in net income in determining whether an Iowa return must be filed in accordance with rules 701—301.1(422) and 701—301.5(422), and the 100 percent phase-out exclusion of social security benefits must also be included in net income in calculating the special tax computation in accordance with rule 701—301.15(422).

This rule is intended to implement Iowa Code section 422.7 as amended by 2006 Iowa Acts, Senate File 2408.
[Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—302.24(99E) Lottery prizes. Prizes awarded under the Iowa Lottery Act are Iowa earned income. Therefore, individuals who win lottery prizes are subject to Iowa income tax in the aggregate amount of prizes received in the tax year, even if the individuals were not residents of Iowa at the time they received the prizes.

This rule is intended to implement Iowa Code section 99E.19.
[Editorial change: IAC Supplement 11/2/22]

701—302.25 and **302.26** Reserved.

701—302.27(422) Incomes from distressed sales of qualifying taxpayers. For tax years beginning on or after January 1, 1986, taxpayers with gains from sales, exchanges, or transfers of property must exclude those gains from net income, if the gains are considered to be distressed sale transactions.

302.27(1) *Qualifications that must be met for transactions to be considered distressed sales.* There are a number of qualifications that must be met before a transaction can be considered to be a distressed sale. The transaction must involve forfeiture of an installment real estate contract, the transfer of real or personal property securing a debt to a creditor in cancellation of that debt, or from the sale or exchange of property as a result of actual notice of foreclosure. The following three additional qualifications need to have been met.

a. The forfeiture, transfer, or sale or exchange was done for the purpose of establishing a positive cash flow.

b. Immediately before the forfeiture, transfer, or sale or exchange, the taxpayer's debt-to-asset ratio exceeded 90 percent as computed under generally accepted accounting principles.

c. The taxpayer's net worth at the end of the tax year was less than $75,000.

In determining the taxpayer's debt-to-asset ratio immediately before the forfeiture, transfer, or sale or exchange and at the end of the tax year, the taxpayer must include any asset transferred within 120

days prior to the transaction or within 120 days prior to the end of the tax year without adequate and full consideration in money or money's worth.

Proof of forfeiture of the installment real estate contract, proof of transfer of property to a creditor in cancellation of a debt, or a copy of the notice of foreclosure constitutes documentation of the distressed sale and must be made a part of the return. Balance sheets showing the taxpayer's debt-to-asset ratio immediately before the distressed sale transaction and the taxpayer's net worth at the end of the tax year must also be included with the income tax return. The balance sheets supporting the debt-to-asset ratio and the net worth must list the taxpayer's personal assets and liabilities as well as the assets and liabilities of the taxpayer's farm or other business.

For purposes of this provision, in the case of married taxpayers, except in the instance when the husband and wife live apart at all times during the tax year, the assets and liabilities of both spouses must be considered in determining the taxpayers' net worth or the taxpayers' debt-to-asset ratio.

302.27(2) *Losses from distressed sale transactions of qualifying taxpayers.* Losses from distressed sale transactions meeting the qualifications described above were disallowed prior to the time that the provision for disallowing these losses was repealed in the 1990 session of the General Assembly. Taxpayers whose Iowa income tax liabilities were increased because of disallowance of losses from distressed sales transactions may file refund claims with the department to get refunds of the taxes paid due to disallowance of the losses. Refund claims will be honored by the department to the extent that the taxpayers provide verification of the distressed sale losses and the claims are filed within the statute of limitations for refund given in Iowa Code subsection 422.73(2).

This rule is intended to implement Iowa Code section 422.7.

[Editorial change: IAC Supplement 11/2/22]

701—302.28 Reserved.

701—302.29(422) Intangible drilling costs. For tax years beginning on or after January 1, 1986, but before January 1, 1987, intangible drilling and development costs which pertain to any well for the production of oil, gas, or geothermal energy, and which are incurred after the commencement of the installation of the production casing for the well, are not allowed as an expense in the tax year when the costs were paid or incurred and must be added to net income. Instead of expensing the intangible drilling and development costs which are incurred after the commencement of the installation of the production casing for a well, the expenses must be amortized over a 26-month period, beginning in the month in which the costs are paid or incurred if the costs were incurred for a well which is located in the United States, the District of Columbia, and those continental shelf areas which are adjacent to United States territorial waters and over which the United States has exclusive rights with respect to the exploration and exploitation of natural resources as provided in Section 638 of the Internal Revenue Code.

In the case of intangible drilling and development costs which are incurred for oil or gas wells outside the United States, those costs must be recovered over a ten-year straight-line amortization period beginning in the year the costs are paid or incurred. However, in lieu of amortization of the costs, the taxpayer may elect to add these costs to the basis of the property for cost depletion purposes.

For tax years beginning on or after January 1, 1987, the intangible drilling costs, which are an addition to income subject to amortization, are the intangible drilling costs described in Section 57(a)(2) of the Internal Revenue Code. These intangible drilling costs are an item of tax preference for federal minimum tax purposes for tax years beginning after December 31, 1986.

This rule is intended to implement Iowa Code section 422.7.

[Editorial change: IAC Supplement 11/2/22]

701—302.30(422) Percentage depletion. For tax years beginning on or after January 1, 1987, the percentage depletion that is an addition to net income is the depletion described in Section 57(a)(1) of the Internal Revenue Code only to the extent the depletion applies to an oil, gas, or geothermal well.

This depletion is an item of tax preference for federal minimum tax purposes for tax years beginning after December 31, 1986.

This rule is intended to implement Iowa Code section 422.7.

[**ARC 7761B**, IAB 5/6/09, effective 6/10/09; Editorial change: IAC Supplement 11/2/22]

701—302.31(422) Away-from-home expenses of state legislators. For tax years beginning on or after January 1, 1987, state legislators whose personal residences in their legislative districts are more than 50 miles from the state capitol may claim the same deductions for away-from-home expenses as are allowed on their federal income tax returns under Section 162(h)(1)(B) of the Internal Revenue Code. These individuals may claim deductions for meals and lodging per "legislative day" in the amount of per diem allowance for federal employees in effect for the tax year. The portion of this per diem allowance which is equal to the daily expense allowance authorized for state legislators in Iowa Code section 2.10 may be claimed as an adjustment to income. The balance of the per diem allowance for federal employees must be allocated between lodging expenses and meal expenses and is deductible as a miscellaneous itemized deduction. However, only 50 percent of the amount attributable to meal expenses may be deducted for tax years beginning on or after January 1, 1994.

State legislators whose personal residences in their legislative districts are 50 miles or less from the state capitol may claim a deduction for meals and lodging of $50 per "legislative day." However, in lieu of either of the deduction methods previously described in this rule, any state legislator may elect to itemize adjustments to income for amounts incurred for meals and lodging for the "legislative days" of the state legislator.

This rule is intended to implement Iowa Code section 422.7.

[**ARC 7761B**, IAB 5/6/09, effective 6/10/09; Editorial change: IAC Supplement 11/2/22]

701—302.32(422) Interest and dividends from regulated investment companies which are exempt from federal income tax. For tax years beginning on or after January 1, 1987, interest and dividends from regulated investment companies which are exempt from federal income tax under the Internal Revenue Code are subject to Iowa income tax. See rule 701—302.52(422) for a discussion of the Iowa income tax exemption of some interest and dividends from regulated investment companies that invest in certain obligations of the state of Iowa and its political subdivisions the interest from which is exempt from Iowa income tax. To the extent that a loss on the sale or exchange of stock in a regulated investment company was disallowed on an individual's federal income tax return pursuant to Section 852(b)(4)(B) of the Internal Revenue Code because the taxpayer held the stock six months or less and because the regulated investment company had invested in federal tax-exempt securities, the loss is allowed for purposes of computation of net income.

This rule is intended to implement Iowa Code section 422.7.

[Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—302.33 Reserved.

701—302.34(422) Exemption of restitution payments for persons of Japanese ancestry. For tax years beginning on or after January 1, 1988, restitution payments authorized by P.L. 100-383 to individuals of Japanese ancestry who were interned during World War II are exempt from Iowa income tax to the extent the payments are included in federal adjusted gross income. P.L. 100-383 provides for a payment of $20,000 for each qualifying individual who was alive on August 10, 1988. In cases where the qualifying individuals have died prior to the time that the restitution payments were received, the restitution payments received by the survivors of the interned individuals are also exempt from Iowa income tax.

This rule is intended to implement Iowa Code section 422.7.

[Editorial change: IAC Supplement 11/2/22]

701—302.35(422) Exemption of Agent Orange settlement proceeds received by disabled veterans or beneficiaries of disabled veterans. For tax years beginning on or after January 1, 1989, proceeds from settlement of a lawsuit against the manufacturer or distributor of a Vietnam herbicide received by a

disabled veteran or the beneficiary of a disabled veteran for damages from exposure to the herbicide are exempt from Iowa income tax to the extent the proceeds are included in federal adjusted gross income. For purposes of this rule, Vietnam herbicide means a herbicide, defoliant, or other causative agent containing a dioxin, including, but not limited to, Agent Orange used in the Vietnam conflict beginning December 22, 1961, and ending May 7, 1975.

This rule is intended to implement Iowa Code section 422.7.
[Editorial change: IAC Supplement 11/2/22]

701—302.36(422) Exemption of interest earned on bonds issued to finance beginning farmer loan program. Interest earned on or after July 1, 1989, from bonds or notes issued by the agricultural development authority to finance the beginning farmer loan program is exempt from the state income tax.

This rule is intended to implement Iowa Code sections 175.17 and 422.7.
[Editorial change: IAC Supplement 11/2/22]

701—302.37(422) Exemption of interest from bonds issued by the Iowa comprehensive petroleum underground storage tank fund board. Interest received from bonds issued by the Iowa comprehensive petroleum underground storage tank fund board is exempt from state individual income tax. This is effective for interest received from these bonds on or after May 5, 1989, but before July 1, 2009.

This rule is intended to implement Iowa Code section 455G.6.
[Editorial change: IAC Supplement 11/2/22]

701—302.38(422) Capital gain deduction or exclusion for certain types of net capital gains. Rescinded **ARC 7102C**, IAB 10/18/23, effective 11/22/23.

701—302.39(422) Exemption of interest from bonds or notes issued to fund the 911 emergency telephone system. Interest received on or after May 4, 1990, from bonds or notes issued by the Iowa finance authority to fund the 911 emergency telephone system is exempt from the state income tax.

This rule is intended to implement Iowa Code sections 422.7 and 477B.20.
[**ARC 4309C**, IAB 2/13/19, effective 3/20/19; Editorial change: IAC Supplement 11/2/22]

701—302.40(422) Exemption of active-duty military pay of national guard personnel and armed forces reserve personnel received for services related to operation desert shield. For tax years ending on or after August 2, 1990, military pay received by persons in the national guard and persons in the armed forces military reserve is exempt from state income tax to the extent the military pay is not otherwise excluded from taxation and the military pay is for active-duty military service on or after August 2, 1990, pursuant to military orders related to Operation Desert Shield. The exemption applies to individuals called to active duty in Iowa to replace other persons who were in military units who were called to serve on active duty outside Iowa provided the military orders specify that the active duty assignment in Iowa pertains to Operation Desert Shield.

Persons filing original returns or amended returns on Form IA 1040X for tax years where the exempt income was received should print the notation, "Operation Desert Shield" at the top of the original return form or amended return form. A copy of the military orders showing the person was called to active duty and was called in support of Operation Desert Shield should be attached to the original return form or amended return form to support the exemption of the active duty military pay.

This rule is intended to implement Iowa Code section 422.7.
[Editorial change: IAC Supplement 11/2/22]

701—302.41(422) Capital gain exclusion for elected employee-owned stock in a qualified corporation.

302.41(1) *In general.* Employee-owners may make a single, irrevocable lifetime election to exclude from net income the net capital gain from the sale or exchange of capital stock from a qualified corporation at the following rates:

a. For tax years beginning in the 2023 calendar year, 33 percent.

b. For tax years beginning in the 2024 calendar year, 66 percent.

c. For tax years beginning on or after January 1, 2025, 100 percent.

302.41(2) *Definitions.* Unless otherwise indicated in this rule or required by the context, all words and phrases used in this rule that are defined under Iowa Code section 422.7(43) shall have the same meaning as provided to them under that Iowa Code section.

302.41(3) *Qualifying for the exclusion.* For the employee-owner's sale or exchange to qualify for the exclusion in this rule, the capital stock must be acquired by the employee-owner while employed and on account of employment with a qualified corporation.

a. While employed. The capital stock must have been acquired while the employee-owner was employed by the qualifying corporation. Capital stock received as compensation is acquired by the employee-owner while employed. Capital stock acquired from a stock right, stock warrant, or stock option is only acquired by the employee-owner while employed if such right, warrant, or option is exercised while the employee-owner is employed by the qualifying corporation.

b. On account of employment. For capital stock to have been acquired on account of employment, the employee-owner must have acquired the capital stock in a manner only available to employees of the qualified corporation. Capital stock acquired at formation in exchange for capital contribution is not acquired on account of employment.

c. Holding period. To qualify for the exclusion, the employee-owner must own the capital stock for at least ten cumulative years. If the employee-owner owns any capital stock in the qualified corporation for at least ten cumulative years, then every share of the employee-owner's capital stock in that qualified corporation is considered to meet the holding period requirement. For stock rights, stock warrants, or stock options, the holding period does not begin until the right, warrant, or option is exercised.

302.41(4) *Electing capital stock for exclusion.*

a. General rule. The employee-owner shall make the election to exclude capital gain from the sale of capital stock of a qualified corporation on a form prescribed by the department with the employee-owner's original Iowa income tax return for the tax year in which the election is made. The form shall be available on the department's website. To qualify for the exclusion, the employee-owner must include all information required by the form.

b. Election when sale or exchange takes place over multiple transactions. The election applies to all subsequent sales or exchanges of capital stock of the same qualified corporation of which the initial election was made, within 15 years of the date the election was made. The employee-owner shall include the form prescribed by the department with the employee-owner's Iowa income tax return when claiming the exclusion for a subsequent sale or exchange.

c. The election can only be made once. An employee-owner may only make one lifetime election to exclude the qualifying capital stock of a single qualifying corporation under this rule. The election is irrevocable once made.

302.41(5) *Election by a party other than the employee-owner.*

a. Election upon death of the employee-owner. If the employee-owner dies after having sold or exchanged qualifying capital stock without having made an election, the surviving spouse or, if there is no surviving spouse, the personal representative of the employee-owner's estate may make a qualifying election in the manner described in subrule 302.41(4) for the tax year in which the employee-owner died.

b. Inter vivos transfer of qualifying capital stock. After the election described in this rule has been made, the election applies to capital stock transferred from the employee-owner to the employee-owner's spouse as an inter vivos gift or to an inter vivos trust primarily for the benefit of the employee-owner's spouse. Capital stock transferred through a will or testamentary trust does not qualify for this exclusion. The election only applies if the spouse was married to the employee-owner on the date of the sale or exchange or the date of death of the employee-owner.

This rule is intended to implement Iowa Code section 422.7.

[**ARC 7103C**, IAB 11/1/23, effective 12/6/23]

701—302.42(422) Depreciation of speculative shell buildings.

302.42(1) For tax years beginning on or after January 1, 1992, speculative shell buildings constructed or reconstructed after that date may be depreciated as 15-year property under the accelerated cost recovery system of the Internal Revenue Code. If the taxpayer has deducted depreciation on the speculative shell building on the taxpayer's federal income tax return, that amount of depreciation must be added to the federal adjusted gross income in order to deduct depreciation computed under this rule.

302.42(2) On sale or other disposition of the speculative building, the taxpayer must report on the taxpayer's Iowa individual income tax return the same gain or loss as is reported on the taxpayer's federal individual income tax return. If, while owned by the taxpayer, the building is converted from a speculative shell building to another use, the taxpayer must deduct the same amount of depreciation on the taxpayer's Iowa tax return as is deducted on the taxpayer's federal tax return.

302.42(3) For the purposes of this rule, the term "speculative shell building" means a building as defined in Iowa Code section 427.1(27)*"c."*

This rule is intended to implement Iowa Code section 422.7.

[Editorial change: IAC Supplement 11/2/22]

701—302.43(422) Retroactive exemption for payments received for providing unskilled in-home health care services to a relative. Retroactive to January 1, 1988, for tax years beginning on or after that date, supplemental assistance payments authorized under Iowa Code section 249.3(2)*"a"*(2) which are received by an individual providing unskilled in-home health care services to a member of the caregiver's family are exempt from state income tax to the extent that the individual caregiver is not a licensed health care professional designated in Iowa Code section 147.13, subsections 1 to 10.

For purposes of this exemption, a member of the caregiver's family includes a spouse, parent, stepparent, child, stepchild, brother, stepbrother, sister, stepsister, lineal ancestor such as grandparent and great-grandparent, and lineal descendant such as grandchild and great-grandchild, and those previously described relatives who are related by marriage or adoption. Those licensed health care professionals who are not eligible for this exemption include medical doctors, doctors of osteopathy, physician assistants, psychologists, podiatrists, chiropractors, physical therapists, occupational therapists, nurses, dentists, dental hygienists, optometrists, speech pathologists, audiologists, and other similar licensed health care professionals.

This rule is intended to implement Iowa Code section 422.7.

[**ARC 7761B**, IAB 5/6/09, effective 6/10/09; **ARC 8589B**, IAB 3/10/10, effective 4/14/10; Editorial change: IAC Supplement 11/2/22]

701—302.44(422,541A) Individual development accounts. Individual development accounts are authorized for low-income taxpayers for tax years beginning on or after January 1, 1994. Additions to the accounts are described in the following subrule:

302.44(1) *Exemption of additions to individual development accounts.* The following additions to individual development accounts are exempt from the state income tax of the owners of the accounts to the extent the additions were subject to federal income tax:

a. The amount of contributions made in the tax year to an account by persons and entities other than the owner of the account.

b. The amount of any savings refund or state match payments made in the tax year to an account as authorized for contributions made to the accounts by the owner of the account.

c. Earnings on the account in the tax year or interest earned on the account.

302.44(2) Reserved.

This rule is intended to implement Iowa Code sections 422.7, 541A.2 and 541A.3 as amended by 2008 Iowa Acts, Senate File 2430.

[Editorial change: IAC Supplement 11/2/22]

701—302.45(422) Exemption for distributions from pensions, annuities, individual retirement accounts, or deferred compensation plans received by nonresidents of Iowa. For tax years beginning on or after January 1, 1994, a distribution from a pension plan, annuity, individual retirement account, or deferred compensation plan which is received by a nonresident of Iowa is exempt from

Iowa income tax to the extent the distribution is directly related to the documented retirement of the pensioner, annuitant, owner of individual retirement account, or participant in a deferred compensation arrangement. For tax years beginning on or after January 1, 1996, distributions of nonqualified retirement benefits which are paid by a partnership to its retired partners and which are received by a nonresident of Iowa are exempt from Iowa income tax to the extent the distribution is directly related to the documented retirement of the partner. In a situation where the pensioner, annuitant, owner of the individual retirement account, or participant of a deferred compensation arrangement dies before the date of documented retirement, any distribution from the pension, annuity, individual retirement account, or deferred compensation arrangement will not be taxable to the beneficiary receiving the distributions if the beneficiary is a nonresident of Iowa. If the pensioner, annuitant, owner of the individual retirement account, or participant of a deferred compensation arrangement dies after the date of documented retirement, any distributions from the pension, annuity, individual retirement account, or deferred compensation arrangement will not be taxable to a beneficiary receiving distributions if the beneficiary is a nonresident of Iowa.

For purposes of this rule, the distributions from the pensions, annuities and deferred compensation arrangements were from pensions, annuities, and deferred compensation earned entirely or at least partially from employment or self-employment in Iowa. For purposes of this rule, distributions from individual retirement arrangements were from individual retirement arrangements that were funded by contributions from the arrangements that were deductible or partially deductible on the Iowa income tax return of the owner of the individual retirement accounts.

The following subrules include definitions and examples which clarify when distributions from pensions, annuities, individual retirement accounts, and deferred compensation arrangements are exempt from Iowa income tax, when the distributions are received by nonresidents of Iowa:

302.45(1) *Definitions.*

a. The word "beneficiary" means an individual who receives a distribution from a pension or annuity plan, individual retirement arrangement, or deferred compensation plan as a result of either the death or divorce of the pensioner, annuitant, participant of a deferred compensation arrangement, or owner of an individual retirement account.

b. The term "individual's documented retirement" means any evidence that the individual can provide to the department of revenue which would establish that the individual or the individual's beneficiary is receiving distributions from the pension, annuity, individual retirement account, or the deferred compensation arrangement due to the retirement of the individual.

Examples of documents that would establish an individual's retirement may include: copies of birth certificates or driver's licenses to establish an individual's age; copies of excerpts from an employer's personnel manual or letter from employer to establish retirement or early retirement policies; a copy of a statement from a physician to establish an individual's disability which could have contributed to a person's retirement.

c. The term "nonresident" applies only to individuals and includes all individuals other than those individuals domiciled in Iowa and those individuals who maintain a permanent place of abode in Iowa. See 701—subrule 300.17(2) for the definition of domicile.

302.45(2) *Examples:*

a. John Jones had worked for the same Iowa employer for 32 years when he retired at age 62 and moved to Arkansas in March of 1994. Mr. Jones started receiving distributions from the pension plan from his former employer starting in May 1994. Because Mr. Jones was able to establish that he was receiving the distributions from the pension plan due to his retirement from his employment, Mr. Jones was not subject to Iowa income tax on the distributions from the pension plan. Note that Mr. Jones had sold his Iowa residence in March and established his domicile in Arkansas at the time of his move to Arkansas.

b. Wanda Smith was the daughter of John Smith who died in February 1994 after 25 years of employment with a company in Urbandale, Iowa. Wanda Smith was the sole beneficiary of John and started receiving distributions from John's pension in April 1994. Wanda Smith was a bona fide resident of Oakland, California, when she received distributions from her father's pension. Wanda was not subject

to Iowa income tax on the distributions since she was a nonresident of Iowa at the time the distributions were received.

c. Martha Graham was 55 years old when she quit her job with a firm in Des Moines to take a similar position with a firm in Dallas, Texas. Ms. Graham had worked for the Des Moines business for 22 years before she resigned from the job in May 1994. Starting in July 1994, Ms. Graham received monthly distributions from the pension from her former Iowa employer. Although Ms. Graham was a nonresident of Iowa, she was subject to Iowa income tax on the pension distribution since the taxpayer didn't have a documented retirement.

d. William Moore was 58 years old when he quit his job with a bank in Mason City in February 1994 after 30 years of employment with the bank. By the time Mr. Moore started receiving pension payments from his employment with the bank, he had moved permanently to New Mexico. Shortly after he arrived in New Mexico, Mr. Moore secured part-time employment. The pension payments were not taxable to Iowa as Mr. Moore was retired notwithstanding his part-time employment in New Mexico.

e. Joe Brown had worked for an Iowa employer for 25 years when he retired in June 1992 at the age of 65. Mr. Brown started receiving monthly pension payments in July 1992. Mr. Brown resided in Iowa until August 1994, when he moved permanently to Nevada to be near his daughter. Mr. Brown was not taxable to Iowa on the pension payments he received after his move to Nevada. Mr. Brown's retirement occurred in June 1992 when he resigned from full-time employment.

This rule is intended to implement Iowa Code section 422.8.

[Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—302.46(422) Taxation of compensation of nonresident members of professional athletic teams. Effective for tax years beginning on or after January 1, 1995, the Iowa source income of a nonresident individual who is a member of a professional athletic team includes the portion of the individual's total compensation for services provided for the athletic team that is in the ratio that the number of duty days spent in Iowa rendering services for the team during the tax year bears to the total number of duty days spent both within and without Iowa in the tax year. Thus, if a nonresident member of a professional athletic team has $50,000 in total compensation from the team in 1995 and the athlete has 20 Iowa duty days and 180 total duty days for the team in 1995, $5,556 of the compensation would be taxable to Iowa ($50,000 × 20/180 = $5,556).

The following subrules include definitions, examples, and other information which clarify Iowa's taxation of nonresident members of professional athletic teams:

302.46(1) *Definitions.*

a. The term "professional athletic team" includes, but is not limited to, any professional baseball, basketball, football, soccer, or hockey team.

b. The term "member of a professional athletic team" includes those employees who are active players, players on the disabled list, and any other persons required to travel and who travel with and perform services on behalf of a professional athletic team on a regular basis. This includes, but is not limited to, coaches, managers, and trainers.

c. The term "total compensation for services rendered as a member of a professional athletic team" means the total compensation received during the taxable year for services rendered. "Total compensation" includes, but is not limited to, salaries, wages, bonuses (as described in subparagraph (1) of this paragraph), and any other type of compensation paid during the taxable year to a member of a professional athletic team for services performed in that year. Such compensation does not include strike benefits, severance pay, termination pay, contract or option year buy-out payments, expansion or relocation payments, and any other payments not related to services rendered for the team.

For purposes of this paragraph, "bonuses" included in "total compensation for services rendered as a member of a professional athletic team" subject to the allocation described in this rule are:

(1) Bonuses earned as a result of play (i.e., performance bonuses) during the season, including bonuses paid for championship, playoff, or "bowl" games played by a team, or for the member's selection to all-star, league, or other honorary positions; and

(2) Bonuses paid for signing a contract, unless all of the following conditions are met:

1. The payment of the signing bonus is not conditional upon the signee playing any games for the team, or performing any subsequent services for the team, or even making the team;

2. The signing bonus is payable separately from the salary and any other compensation; and

3. The signing bonus is nonrefundable.

d. Except as provided in subparagraphs (4) and (5) of this paragraph, the term "duty days" means all days during the taxable year from the beginning of the professional athletic team's official preseason training period through the last game in which the team competes or is scheduled to compete. Duty days are included in the allocation described in this rule for the tax year in which they occur, including where a team's official preseason training period through the last game in which the team competes, or is scheduled to compete, occurs during more than one tax year.

(1) Duty days also includes days on which a member of a professional athletic team renders a service for a team on a date which does not fall within the previously mentioned period (e.g., participation in instructional leagues, the "Pro Bowl" or promotional "caravans"). Rendering a service includes conducting training and rehabilitation activities, but only if conducted at the facilities of the team.

(2) Included within duty days are game days, practice days, days spent at team meetings, promotional caravans and preseason training camps, and days served with the team through all postseason games in which the team competes or is scheduled to compete.

(3) Duty days for any person who joins a team during the period from the beginning of the professional athletic team's official preseason training period through the last game in which the team competes, or is scheduled to compete, begins on the day the person joins the team. Conversely, duty days for any person who leaves a team during such period ends on the day the person leaves the team. When a person switches teams during a taxable year, separate duty day calculations are to be made for the period the person was with each team.

(4) Days for which a member of a professional athletic team is not compensated and is not rendering services for the team in any manner, including days when the member of a professional athletic team has been suspended without pay and prohibited from performing any services for the team, are not to be treated as duty days.

(5) Days for which a member of a professional athletic team is on the disabled list and does not conduct rehabilitation activities at facilities of the team and is not otherwise rendering services for the team in Iowa, are not to be considered duty days spent in Iowa. However, all days on the disability list are considered to be included in total duty days spent both within and outside the state of Iowa.

(6) Total duty days for members of a professional athletic team that are not professional athletes are the number of days in the year that the members are employed by the professional athletic team. Thus, in the case of a coach of a professional athletic team who was coach for the entire year of 1995, the coach's total duty days for 1995 would be 365.

(7) Travel days in Iowa by a team member that do not involve a game, practice, team meeting, all-star game, or other personal service for the team are not considered to be duty days in Iowa. However, to the extent these days fall within the period from the team's preseason training period through the team's final game, these Iowa travel days will be considered in the total duty days spent within and outside Iowa, for team members who are professional athletes.

(8) Duty days in Iowa do not include days a team member performs personal services for the professional athletic team in Iowa on those days that the team member is a bona fide resident of a state with which Iowa has a reciprocal tax agreement. See rule 701—300.13(422).

302.46(2) *Filing composite Iowa returns for nonresident members of professional athletic teams.* For tax years beginning prior to January 1, 2022, professional athletic teams may file composite Iowa returns under 701—Chapter 404 on behalf of team members who are nonresidents of Iowa and who have compensation that is taxable to Iowa from duty days in Iowa for the athletic team. However, the athletic team may include on the composite return only those team members who are nonresidents of Iowa and who have no Iowa-source incomes other than the incomes from duty days in Iowa for the team. The athletic team may exclude from the composite return any team member who is a nonresident of Iowa and whose income from duty days in Iowa is less than $1,000. Information on filing composite

returns for tax years beginning on or after January 1, 2022, for nonresident members of professional athletic teams can be found in rule 701—405.9(422).

302.46(3) *Examples of taxation of nonresident members of professional athletic teams.*

a. Player A, a member of a professional athletic team, is a nonresident of Iowa. Player A's contract for the team requires A to report to such team's training camp and to participate in all exhibition, regular season, and playoff games. Player A has a contract which covers seasons that occur during year 1/year 2 and year 2/year 3. Player A's contract provides that A is to receive $500,000 for the year 1/year 2 season and $600,000 for the year 2/year 3 season. Assuming player A receives $550,000 from the contract during taxable year 2 ($250,000 for one-half the year 1/year 2 season and $300,000 for one-half the year 2/year 3 season), the portion of compensation received by player A for taxable year 2, attributable to Iowa, is determined by multiplying the compensation player A receives during the taxable year ($550,000) by a fraction, the numerator of which is the total number of duty days player A spends rendering services for the team in Iowa during taxable year 2 (attributable to both the year 1/year 2 season and the year 2/year 3 season) and the denominator of which is the total number of player A's duty days spent both within and outside Iowa for the entire taxable year.

b. Player B, a member of a professional athletic team, is a nonresident of Iowa. During the season, B is injured and is unable to render services for B's team. While B is undergoing medical treatment at a clinic, which is not a facility of the team, but is located in Iowa, B's team travels to Iowa for a game. The number of days B's team spends in Iowa for practice, games, meetings, for example, while B is present at the clinic, are not to be considered duty days spent in Iowa for player B for that taxable year for purposes of this rule, but these days are considered to be included within total duty days spent both within and outside Iowa.

c. Player C, a member of a professional athletic team, is a nonresident of Iowa. During the season, C is injured and is unable to render services for C's team. C performs rehabilitation exercises at the facilities of C's team in Iowa as well as at personal facilities in Iowa. The days C performs rehabilitation exercise in the facilities of C's team are considered duty days spent in Iowa for player C for that taxable year for purposes of this rule. However, days player C spends at personal facilities in Iowa are not to be considered duty days spent in Iowa for player C for that taxable year for purposes of this rule, but the days are considered to be included within total duty days spent both within and outside Iowa.

d. Player D, a member of a professional athletic team, is a nonresident of Iowa. During the season, D travels to Iowa to participate in the annual all-star game as a representative of D's team. The number of days D spends in Iowa for practice, the game, meetings, for example, are considered to be duty days spent in Iowa for player D for that taxable year for purposes of this rule, as well as included within total duty days spent both within and outside Iowa.

e. Assume the same facts as given in paragraph *"d,"* except that player D is not participating in the all-star game and is not rendering services for D's team in any manner. Player D is instead traveling to and attending this game solely as a spectator. The number of days player D spends in Iowa for the game is not to be considered to be duty days spent in Iowa for purposes of this rule. However, the days are considered to be included within total duty days spent both within and outside Iowa.

302.46(4) *Use of an alternative method to compute taxable portion of a nonresident's compensation as a member of a professional athletic team.* If a nonresident member of a professional athletic team believes that the method provided in this rule for allocation of the member's compensation to Iowa is not equitable, the nonresident member may propose the use of an alternative method for the allocation of the compensation to Iowa. The request for an alternative method for allocation must be filed no later than 60 days before the due date of the return, considering that the due date may be extended for up to 6 months after the original due date if at least 90 percent of the tax liability was paid by the original due date (April 30 for taxpayers filing on a calendar-year basis).

The request for an alternative method should be filed with the Taxpayer Services and Policy Division, P.O. Box 10457, Des Moines, Iowa 50306. The request must set forth the alternative method for allocation to Iowa of the compensation of the nonresident professional team member. In addition, the request must specify, in detail, why the method for allocation of the compensation set forth in this rule is not equitable, as well as why the alternative method for allocation of the compensation is more

equitable than the method provided in this rule. The burden of proof is on the nonresident professional team member to show that the alternative method is more equitable than the method provided in the rule.

If the department determines that the alternative method is more reasonable for allocation of the taxable portion of the team member's compensation than the method provided in this rule, the team member can use the alternative method on the current return and on subsequent returns.

If the department rejects the team member's use of the alternative method, the team member may file a protest within 60 days of the date of the department's letter of rejection. The nonresident team member's protest of the department's rejection of the alternate formula must be made in accordance with rule 701—7.9(17A) and must state, in detail, why the method provided in this rule is not equitable, as well as why the alternative method for allocation of the compensation is more equitable than the method set forth in this rule.

This rule is intended to implement Iowa Code sections 422.3, 422.7, and 422.8.

[**ARC 7761B**, IAB 5/6/09, effective 6/10/09; **ARC 0251C**, IAB 8/8/12, effective 9/12/12; Editorial change: IAC Supplement 11/2/22; **ARC 6900C**, IAB 2/22/23, effective 3/29/23; Editorial change: IAC Supplement 10/18/23]

701—302.47(422) Exclusion of pensions and other retirement benefits for disabled individuals, individuals who are 55 years of age or older, surviving spouses, and survivors. For tax years beginning on or after January 1, 2023, an individual who is disabled, is 55 years of age or older, is a surviving spouse, or is a survivor with an insurable interest in an individual who would have qualified for the exclusion at the time of death is eligible for an exclusion of retirement benefits received in the tax year. More information can be found in rule 701—302.80(422) for the exclusion of military retirement pay and rule 701—302.23(422) for the exclusion of Social Security benefits.

302.47(1) *Retirement income.*

a. Qualifying retirement income. Generally, distributions from documented retirement plans meeting the qualification requirements in the Internal Revenue Code qualify for the retirement income exclusion. The following is a nonexclusive list of plans that qualify for the retirement income exclusion:

(1) Traditional individual retirement account (IRA) authorized under Internal Revenue Code Section 408(a).

(2) Roth individual retirement account (Roth IRA) authorized under Internal Revenue Code Section 408A.

(3) Roth conversion income.

(4) Simplified employee pension individual retirement arrangement (SEP-IRA) defined in Internal Revenue Code Section 408(k).

(5) Savings incentive match plan for employees (SIMPLE IRA) defined under Internal Revenue Code Section 408(p).

(6) Qualified deferred compensation plans including those authorized under Internal Revenue Code Section 401(k).

(7) Eligible deferred compensation plans including those authorized under Internal Revenue Code Section 457(b).

(8) A defined benefit plan, pension plan, profit-sharing plan, or stock bonus plan qualified under Internal Revenue Code Section 401 including IPERS and employee stock ownership plans (ESOPs).

(9) Keogh plans or HR 10 plans.

(10) Eligible combined plans described in Internal Revenue Code Section 414(x).

b. Retirement income that does not qualify. Generally, distributions from retirement plans that do not meet the qualification requirements in the Internal Revenue Code do not qualify for the retirement income exclusion. The following nonexclusive list of plans does not qualify for the retirement income exclusion:

(1) Nonqualified deferred compensation plans described in Internal Revenue Code Section 409A.

(2) Nonqualified annuities.

302.47(2) *Survivors having an insurable interest.*

a. Insurable interest. "Insurable interest" is a term used in life insurance which also applies to this rule and means an interest in the life of the person insured, arising from the relations of the party obtaining

the insurance, either as credit of or surety for the insured, or from the ties of blood or marriage to the insured, as would justify a reasonable expectation of advantage or benefit from the continuance of the life of the insured. For purposes of this rule, the term "insurable interest" applies to a beneficiary receiving retirement benefits due to the death of a decedent under the same circumstances as if the beneficiary were receiving life insurance benefits as a result of the death of the decedent. Case law related to an insurable interest in the life insurance context is relevant in determining whether a beneficiary is a survivor with an insurable interest.

b. Survivors with an insurable interest must be natural persons. Only natural persons may be a survivor with an insurable interest for purposes of this exclusion.

c. Parties deemed to have an insurable interest by relationship. Some relationships are deemed so close that the individual will have an insurable interest in the decedent. These are spouses in each other's lives, parents in the lives of their children, and children in the lives of their parents.

d. Individuals other than close relations may be a survivor with an insurable interest. Individuals other than those with a relationship with the decedent described in paragraph 302.47(2)*"c"* must establish that they had a pecuniary interest in the continuation of the life of the decedent at the time of death to be considered a survivor with an insurable interest. The beneficiary has the burden of proof to show that the beneficiary had a reasonable expectation of an advantage or benefit that the beneficiary would have received with the continuance of the life of the decedent. Being named a beneficiary of the retirement plan alone does not establish that an individual is a survivor with an insurable interest.

EXAMPLE: A grandson was receiving college tuition regularly from his grandfather and received the grandfather's pension as a beneficiary of the grandfather after the grandfather's death. The grandson would be deemed to have an insurable interest in the benefits and would be eligible for the retirement income exclusion.

302.47(3) *Disabled individuals.* For purposes of this rule, a disabled individual is a person who is receiving benefits as a result of retirement from employment or self-employment due to disability. In addition, a person is considered to be a disabled individual if the individual is determined to be disabled in accordance with criteria established by the Social Security Administration or other federal or state governmental agency.

This rule is intended to implement Iowa Code sections 422.5 and 422.7.

[**ARC 8605B**, IAB 3/10/10, effective 4/14/10; **ARC 1665C**, IAB 10/15/14, effective 11/19/14; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23; **ARC 7502C**, IAB 1/10/24, effective 2/14/24]

701—302.48(422) Health insurance premiums deduction. For tax years beginning on or after January 1, 1996, the amounts paid by a taxpayer for health insurance for the taxpayer, the taxpayer's spouse, and the taxpayer's dependents are deductible in computing net income on the Iowa return to the extent the amounts paid were not otherwise deductible in computing adjusted gross income. However, amounts paid by a taxpayer for health insurance on a pretax basis whereby the portion of the wages of the taxpayer used to pay health insurance premiums is not included in the taxpayer's gross wages for income tax or social security tax purposes are not deductible on the Iowa return.

In situations where married taxpayers pay health insurance premiums from a joint checking or other joint account and the taxpayers are filing separate state returns or separately on the combined return form, the taxpayers must allocate the deduction between the spouses on the basis of the net income of each spouse to the combined net income unless one spouse can show that only that spouse's income was deposited to the joint account.

In circumstances where a taxpayer is self-employed and takes a deduction on the 1996 federal return for 30 percent of the premiums paid for health insurance on the federal return, the taxpayer would be allowed a deduction on the Iowa return for the portion of the health insurance premiums that was not deducted on the taxpayer's federal return, including any health insurance premiums deducted as an itemized medical deduction under Section 213 of the Internal Revenue Code.

For purposes of the state deduction for health insurance premiums, the same premiums for the same health insurance or medical insurance coverage qualify for this deduction as would qualify for the federal medical expense deduction. Thus, premiums paid for contact lens insurance qualify for the

health insurance deduction. Also eligible for the deduction for tax years beginning in the 1996 calendar year are premiums paid by a taxpayer before the age of 65 for medical care insurance effective after the age of 65, if the premiums are payable (on a level payment basis) for a period of ten years or more or until the year the taxpayer attains the age of 65 (but in no case for a period of less than five years). For tax years beginning on or after January 1, 1997, premiums for long-term health insurance for nursing home coverage are eligible for this deduction to the extent the premiums for long-term health care services are eligible for the federal itemized deduction for medical and dental expenses, irrespective of the limitations set forth in Section 213(d)(10) of the Internal Revenue Code. For example, a 55-year-old taxpayer who paid $1,050 in premiums for long-term health insurance for nursing home coverage for the 2004 tax year would be allowed a deduction for Iowa purposes for the entire $1,050, even though the limitation for the federal itemized deduction for medical expenses in Section 213(d)(10) of the Internal Revenue Code for these premiums for this taxpayer is $980.

Amounts paid under an insurance contract for other than medical care (such as payment for loss of limb or life or sight) are not deductible, unless the medical charge is stated separately in the contract or provided in a separate statement.

This rule is intended to implement Iowa Code section 422.7 as amended by 1997 Iowa Acts, Senate File 129.

[Editorial change: IAC Supplement 11/2/22]

701—302.49(422) Employer social security credit for tips. Employers in the food and beverage industry are allowed a credit under Section 45B of the Internal Revenue Code for a portion of the social security taxes paid or incurred after 1993 on employee tips. The credit is equal to the employer's FICA obligation attributable to tips received which exceed tips treated as wages for purposes of satisfying minimum wage standards of the Fair Labor Standards Act. The credit is allowed only for tips received by an employee in the course of employment from customers on the premises of a business for which the tipping of employees serving food or beverages is customary. To the extent that an employer takes the credit for a portion of the social security taxes paid or incurred, the employer's deduction for the social security tax is reduced accordingly. For Iowa income tax purposes, the full deduction for the social security tax paid or incurred is allowed for tax years beginning on or after January 1, 1994.

This rule is intended to implement Iowa Code Supplement section 422.7.

[Editorial change: IAC Supplement 11/2/22]

701—302.50(422) Computing state taxable amounts of pension benefits from state pension plans. For tax years beginning on or after January 1, 1995, a retired member of a state pension plan, or a beneficiary of a member, who receives benefits from the plan where there was a greater contribution to the plan for the member for state income tax purposes than for federal income tax purposes can report less taxable income from the benefits on the Iowa individual income tax return than was reported on the federal return for the same tax year. This rule applies only to a member of a state pension plan, or the beneficiary of a member, who received benefits from the plan sometime after January 1, 1995, and only in circumstances where the member received wages from public employment in 1995, 1996, 1997, or 1998, or possibly in 1999 for certain teachers covered by the state pension plan authorized in Iowa Code chapter 294 so the member had greater contributions to the state pension plan for state income tax purposes than for federal income tax purposes. Starting with wages paid on or after January 1, 1999, to employees covered by a state pension plan other than teachers covered by the state pension plan authorized in Iowa Code chapter 294, contributions made to the pension plan will be made on a pretax basis for state income tax purposes as well as for federal income tax purposes. However, in the case of teachers covered by the state pension plan authorized in Iowa Code chapter 294, contributions to the pension plan on behalf of these teachers on a pretax basis for state income tax purposes may start after January 1, 1999.

For example, in the case of a state employee who was covered by IPERS and had wages from covered public employment of $41,000 or more in 1995, that person would have made posttax contributions to IPERS of $1,517 for state income tax purposes for 1995 and zero posttax contributions to IPERS for federal income tax purposes for 1995. The $1,517 in contributions to IPERS for federal income tax

purposes was made on a pretax basis and was considered to have been made by the employee's employer or the state of Iowa and not the employee. At the time this employee receives retirement benefits from IPERS, the retired employee will be subject to federal income tax on the portion of the benefits that is attributable to the $1,517 IPERS contribution made in 1995. However, this employee will not be subject to state income tax on the portion of the IPERS benefits received which is attributable to the $1,517 contribution to IPERS for 1995.

This rule does not apply to members or beneficiaries of members who elect to take a lump sum distribution of benefits from a state pension plan in lieu of receiving monthly payments of benefits from the plan.

The following subrules further clarify how the portion of certain state pension benefits that is taxable for state individual income tax purposes for tax years beginning on or after January 1, 1995, is determined.

302.50(1) *Definitions related to state taxation of benefits from state pension plan.* The following definitions clarify those terms and phrases that have a bearing on the state's taxation of certain individuals who receive retirement benefits from state pension plans:

a. For purposes of this rule, the terms "state pension," "state pensions," and "state pension plans" mean only those pensions and those pension plans authorized in Iowa Code chapter 97A for public safety peace officers, chapter 97B for Iowa public employees (IPERS), chapter 294 for certain teachers, and chapter 411 for police officers and firefighters. There are other pension plans available for some public employees in the state which may be described as "state pensions" or "state pension plans" in other contexts or situations, but these pension plans are not covered by this rule. An example of a pension plan that is not a "state pension plan" for purposes of this rule is the judicial retirement system for state judges authorized in Iowa Code section 602.9101.

b. For purposes of this rule, "member" is an individual who was employed in public service covered by a state pension plan and is either receiving or was receiving benefits from the pension plan.

c. For purposes of this rule, "beneficiary" is a person who has received or is receiving benefits from a state pension plan due to the death of an individual or member who earned benefits in a state pension plan.

d. For purposes of this rule, the term "IPERS" means the Iowa public employees retirement system.

e. For purposes of this rule, the term "pretax," when the term is applied to a contribution made to a state pension plan during a year from a public employee's compensation, means a contribution to a state pension plan that is not taxed on the employee's income tax return for the tax year in which the contribution is made. The contribution is considered to have been made by the state or the employee's employer and not by the employee so this contribution is not part of the employee's basis in the pension that is not taxed when the pension is received.

f. For purposes of this rule, the term "posttax," when the term is applied to a contribution made to a state pension plan during a year from a public employee's compensation, means the contribution is included in the employee's taxable income for the tax year of the contribution and the contribution is considered to have been made by the employee. That is, the contribution is part of the employee's basis in the pension which is not taxed at the time the pension is received.

302.50(2) *Computation of the taxable amount of the state pension for federal income tax purposes.* An individual who receives benefits in the tax year from one of the state pension plans is not subject to federal income tax on the benefits to the extent of the pensioner's or member's recovery of posttax contribution to the pension plan. The individual receiving benefits in the year from a state pension plan should get a Form 1099-R showing the total benefits received in the tax year from the pension plan. The individual can determine the federal taxable amount of the benefits by using the general rule or the simplified general rule which is described in federal publication 17 or federal publication 575. Note that members who first receive pension benefits after November 18, 1996, must compute the federal taxable amount of their pension benefits by using the simplified general rule shown in the federal tax publications. Note also that individuals receiving benefits in the tax year from IPERS who started receiving benefits in 1993 or in later years will receive information with the 1099-R form

which shows the amount of gross benefits received in the tax year that is taxable for federal income tax purposes.

302.50(3) *Computing the taxable amount of state pension benefits for state individual income tax purposes.* An individual receiving state pension benefits in the tax year must have a number of facts about the state pension in order to be able to compute the taxable amount of the pension for Iowa income tax purposes. The individual must know the gross pension benefits received in the tax year, the taxable amount of the pension for federal income tax purposes, the employee's contribution to the pension for federal income tax purposes, and the employee's contribution to the pension for state income tax purposes. In situations where the employee's contribution for state income tax purposes is equal to the contribution for federal income tax purposes, the same amount of the pension will be taxable on the state income tax return as is taxable on the federal return.

In cases when all of an individual's employment covered by a state pension plan occurred on or after January 1, 1995, so that all the contributions to the pension plan (other than posttax service purchases) for the employee were made on a pretax basis for federal income tax purposes, all of the benefits received from the pension would be taxed on the federal income tax return. In this situation, the state taxable amount of the pension would be computed using the general rule or the simplified general rule shown in federal publication 17 or federal publication 575. The employee's state contribution or state basis would be entered on line 2 of the worksheet in the federal publication that is usually used to compute the taxable amount of the pension for the federal income tax return.

To compute the state taxable amount of the state pension in situations where the employee had a contribution to the pension for federal tax purposes, the federal taxable amount for the year is first subtracted from the gross pension benefit received in the year which leaves the amount of the pension received in the year which was not taxable on the federal return. Next, the member's posttax contribution or basis in the pension for federal tax purposes is divided by the member's posttax contribution or basis in the pension for state income tax purposes which provides the ratio of the member's federal basis or contribution to the member's state contribution or basis. Next, the amount of the state pension received in the year that is not taxed on the federal return is divided by the ratio or percentage that was determined in the previous step, which provides the exempt amount of the pension for state tax purposes. Finally, the state exempt amount determined in the previous step is subtracted from the gross amount received in the year, which leaves the taxable amount for state income tax purposes. Note that individuals who retired in 1993 and in years after 1993 and are receiving benefits from IPERS will receive information from IPERS which will advise them of the taxable amount of the pension for state income tax purposes. The examples in subrule 302.50(4) are provided to illustrate how the state taxable amounts of state pension benefits received in the tax year are computed in different factual situations.

302.50(4) *Examples.*

a. A state employee retired in April 1996 and started receiving IPERS benefits in April 1996. The retired state employee received $1,794.45 in gross benefits from IPERS in 1996. The federal taxable amount of the benefits was $1,690.36. The employee's federal posttax contribution or basis in the pension was $4,907 and the state posttax contribution or basis was $7,194. The nontaxable amount of the IPERS benefits for federal income tax was $104.09 which was calculated by subtracting the federal taxable amount of $1,690.36 from the gross amount of the benefits of $1,794.45. The ratio of the employee's posttax contribution to the pension for federal income tax purposes was 68.21 percent of the employee's contribution to the pension for state income tax purposes. This was determined by dividing $4,907 by $7,194. The nontaxable amount of the IPERS benefit for federal income tax purposes of $104.09 was then divided by 68.21 percent, which is the ratio determined in the previous step, and which results in a total of $152.60. This was the nontaxable amount of the pension for state income tax purposes. When $152.60 is subtracted from the gross benefits of $1,794.45 paid in the year, the remaining amount is $1,641.85 which is the taxable amount of the pension that should be reported on the individual's Iowa individual income tax return for the 1996 tax year.

b. A state employee retired in July 1995. The retired employee received $1,881.88 in IPERS benefits in 1996 and $1,790.60 of the benefits was taxable on the individual's federal return for 1996. The person's federal posttax contribution to the IPERS pension was $3,130 and the posttax contribution for

state income tax purposes was $3,821. The amount of benefits not taxable for federal income tax purposes was $91.28 which was computed by subtracting the amount of pension benefits of $1,790.60 that was taxable on the federal income tax return from the gross benefits of $1,881.88 received in 1996. The retiree's federal posttax contribution of $3,130 to IPERS was divided by the retiree's posttax contribution of $3,821 to IPERS for state income tax purposes which resulted in a ratio of 81.91 percent. The amount of IPERS benefits of $91.28 exempt for federal income tax purposes is divided by the 81.91 percent computed in the previous step which results in an amount of $111.44 which is the amount of IPERS benefits received in 1996 which is not taxable on the Iowa return. $111.44 is subtracted from the gross benefits of $1,881.88 received in 1996 which leaves the state taxable amount for 1996 of $1,770.44.

This rule is intended to implement Iowa Code section 422.7 as amended by 1998 Iowa Acts, House File 2513.

[Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—302.51(422) Exemption of active-duty military pay of national guard personnel and armed forces military reserve personnel for overseas services pursuant to military orders for peacekeeping in the Bosnia-Herzegovina area. For active duty military pay received on or after November 21, 1995, by national guard personnel and by armed forces military reserve personnel, the pay is exempt from state income tax to the extent the military pay was earned overseas for services performed pursuant to military orders related to peacekeeping in the Bosnia-Herzegovina area. In order for the active duty pay to qualify for exemption from tax, the military service had to have been performed outside the United States, but not necessarily in the Bosnia-Herzegovina area.

This rule is intended to implement Iowa Code section 422.7 as amended by 1997 Iowa Acts, House File 355.

[Editorial change: IAC Supplement 11/2/22]

701—302.52(422) Mutual funds. Iowa does not tax dividend or interest income from regulated investment companies to the extent that such income is derived from interest on United States Government obligations or obligations of this state and its political subdivisions. The exemption is also applicable to income from regulated investment companies which is derived from interest on government-sponsored enterprises and agencies where federal law specifically precludes state taxation of such interest. Income derived from interest on securities which are merely guaranteed by the federal government or from repurchase agreements collateralized by the United States Government obligations is not excluded and is subject to Iowa income tax. There is no distinction between Iowa's tax treatment of interest received by a direct investor as compared with a mutual fund shareholder. The interest retains its same character when it "flows-through" the mutual fund and is subject to taxation accordingly.

Taxpayers may subtract from federal adjusted gross income, income received from any of the obligations listed in subrule 302.2(1) and rule 701—302.3(422) above, even if the obligations are owned indirectly through owning shares in a mutual fund:

1. If the fund invests exclusively in these state tax-exempt obligations, the entire amount of the distribution (income) from the fund may be subtracted.

2. If the fund invests in both exempt and nonexempt obligations, the amount represented by the percentage of the distribution that the mutual fund identifies as exempt may be subtracted.

3. If the mutual fund does not identify an exempt amount or percentage, taxpayers may figure the amount to be subtracted by multiplying the distribution by the following fraction: as the numerator, the amount invested by the fund in state-exempt United States obligations; as the denominator, the fund's total investment. Use the year-end amounts to figure the fraction if the percentage ratio has remained constant throughout the year. If the percentage ratio has not remained constant, take the average of the ratios from the fund's quarterly financial reports.

Therefore, if the federal adjusted gross income of an individual, taxable by Iowa, includes dividends or interest of this type, an adjustment must be made deducting the amount of the dividend or interest.

This rule is intended to implement Iowa Code section 422.7.

[Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—302.53(422) Deduction for contributions by taxpayers to the Iowa educational savings plan trust and addition to income for refunds of contributions previously deducted. The Iowa educational savings plan trust was created so that individuals and certain other qualified participants can contribute funds on behalf of beneficiaries in accounts administered by the treasurer of state to cover qualified education expenses of the beneficiaries. The Iowa educational savings plan trust includes the college savings Iowa plan and the Iowa advisor 529 plan. The following subrules provide details on how individuals' net incomes are affected by contributions to beneficiaries' accounts, interest and any other earnings earned on beneficiaries' accounts, and refunds of contributions which were previously deducted. Definitions and other information about establishing college savings Iowa accounts may be found in rules promulgated by the treasurer of state. See 781—Chapter 16.

302.53(1) *Deduction from net income for contributions made to the Iowa educational savings plan trust on behalf of beneficiaries.*

a. An individual referred to as a "participant" can claim a deduction on the Iowa individual income tax return for contributions made by that individual to the Iowa educational savings plan trust on behalf of a beneficiary.

b. For tax years beginning on or after January 1, 2015, if a participant makes a contribution to the Iowa educational savings plan trust on or after January 1, but on or before the deadline for filing an Iowa individual income tax return, excluding extensions, the participant may elect to have the deduction for the contribution apply to that participant's Iowa individual income taxes for the calendar year immediately preceding the year in which the contribution was made. Once a participant has elected to apply a contribution to the calendar year immediately preceding the year in which the contribution was made, the contribution is deemed to have been made on December 31 of that previous calendar year. Once the election has been made, the deduction for that contribution may only be applied in computing the taxpayer's Iowa net income for the calendar year immediately preceding the year in which the contribution was made. Contributions made on or after January 1, but before the deadline for filing Iowa individual income taxes, that the participant elects to have applied to the immediately preceding calendar year shall count toward the maximum contribution that may be deducted for that previous year. See paragraph 302.53(1)*"c"* below.

EXAMPLE: An individual makes a contribution to her Iowa educational savings plan account on April 5, 2018. The deadline for filing a 2017 Iowa income tax return is April 30, 2018. The individual elects to have the contribution apply to her 2017 individual income taxes instead of her 2018 Iowa individual income taxes. The department of revenue will consider the individual's contribution to have been made on December 31, 2017. The individual may now claim a deduction for the contribution, up to the annual maximum deduction, on her 2017 Iowa income taxes. However, because the individual elected to have her contribution apply to her 2017 Iowa income taxes, she cannot claim the deduction for the April 5, 2018, contribution on her 2018 Iowa income tax return.

c. The deduction on the 1998 Iowa return cannot exceed $2,000 per beneficiary for contributions made in 1998 or the adjusted maximum annual amount for contributions made after 1998. Note that the maximum annual amount that can be deducted per beneficiary may be adjusted or increased to an amount greater than $2,000 for inflation on an annual basis. Rollover contributions from other states' educational savings plans will qualify for the deduction, subject to the maximum amount allowable. Starting with tax years beginning in the 2000 calendar year, a participant may contribute an amount on behalf of a beneficiary that is greater than $2,000, but may claim a deduction on the Iowa individual return of the lesser of the amount contributed or $2,000 as adjusted by inflation. For example, if a taxpayer made a $5,000 contribution on behalf of a beneficiary to the Iowa educational savings plan trust in 2000, the taxpayer may claim a deduction on the IA 1040 return for 2000 in the amount of $2,054, as this amount is $2,000 as adjusted for inflation in effect for 2000.

EXAMPLE: An individual has ten grandchildren from the age of six months to 12 years. In October 1998, the person became a participant in the Iowa educational savings plan trust by making $2,000 contributions to the trust on behalf of each of the ten grandchildren. When the participant filed the 1998

Iowa individual income tax return, the participant could claim a deduction on the return for the $20,000 contributed to the Iowa educational savings plan trust on behalf of the individual's ten grandchildren.

302.53(2) *Exclusion of interest and earnings on beneficiary accounts in the Iowa educational savings plan trust.* To the extent that interest or other earnings accrue on a beneficiary's account in the Iowa educational savings plan trust, the interest or other earnings are excluded for purposes of computing net income on the Iowa individual income tax return of the participant or the return of the beneficiary.

302.53(3) *Including on the Iowa individual return amounts refunded to the participant from the Iowa educational savings plan trust that had previously been deducted.* The refund or withdrawal of funds is to be included in net income on a participant's Iowa individual income tax return to the extent that contributions to the account had been deducted on prior Iowa individual income tax returns of the participant if the participant cancels a beneficiary's account in the Iowa educational savings plan trust and receives a refund of the funds in the account made on behalf of the beneficiary or if the participant makes a withdrawal from the Iowa educational savings plan trust for purposes other than the following:

a. Qualifying higher education withdrawals. The payment of qualified higher education expenses as defined in Section 529(e)(3) of the Internal Revenue Code. The term "qualified higher education expenses" does not include tuition expenses related to attendance at an elementary or secondary school.

b. Qualifying elementary and secondary tuition withdrawals. For withdrawals made on or after January 1, 2018, the payment of tuition expenses in connection with and required for enrollment or attendance at an elementary or secondary school in Iowa which is accredited under Iowa Code section 256.11, and which adheres to the provisions of the federal Civil Rights Act of 1964 and Iowa Code chapter 216. These qualified tuition expenses shall not exceed $10,000 per beneficiary per year. This limitation is based on the beneficiary, not the participant.

Participants are responsible for tracking the amount of qualified tuition expense payments a beneficiary may receive from other participants. If a beneficiary's distributions exceed this annual limitation, the most recent payments are presumed to be the nonqualifying payments. By agreement amongst themselves, account holders are permitted to choose an alternative method for determining which payments are nonqualifying. An alternative method is presumed valid if, after the additions to income required by this paragraph, the beneficiary's total qualifying tax-free withdrawals for elementary or secondary school tuition expenses do not exceed the $10,000 limitation. However, upon request, the account holders are responsible for providing the department with adequate documentation to substantiate the method used.

c. Change in beneficiaries. A change in beneficiaries under, or transfer to another account within, the Iowa educational savings plan trust.

d. ABLE rollovers. A transfer to the Iowa ABLE savings plan trust, provided such change or transfer is permitted under Iowa Code section 12D.6(5).

EXAMPLE: Because a beneficiary of a certain participant died in the year 2000, this participant in the Iowa educational savings plan trust canceled the participant agreement for the beneficiary with the trust and received a refund of $4,200 of funds in the beneficiary's account. Because $4,000 of the refund represented contributions that the participant had deducted on prior Iowa individual income tax returns, the participant was to report on the Iowa return for the tax year 2000, $4,000 in contributions that had been deducted on the participant's Iowa returns for 1998 and 1999.

EXAMPLE: Beneficiary A is an elementary school student who attends an accredited elementary school located in Iowa. Participant B and participant C have each opened an Iowa educational savings plan trust account with A as the designated beneficiary. In January 2019, participant B withdraws $6,000 from B's account to pay A's spring semester tuition. In August 2019, participant C withdraws $6,000 from C's account to pay for A's fall semester tuition. Although neither B nor C has made a withdrawal in excess of $10,000, that limitation is based on the beneficiary, A, who has received a total of $12,000 in distributions in 2019. Because A's total distributions have exceeded the annual limitation on distributions related to elementary or secondary school tuition, the participants must include the $2,000 excess in their net income. Because C's withdrawal was made after B's, the entire excess is presumed attributable to C,

and therefore C must include the entire $2,000 excess in C's Iowa net income for 2019, unless B and C can show that they agreed to an alternative method of allocating the excess amount.

This rule is intended to implement Iowa Code section 422.7.

[**ARC 7761B**, IAB 5/6/09, effective 6/10/09; **ARC 3664C**, IAB 2/28/18, effective 4/4/18; **ARC 4516C**, IAB 6/19/19, effective 7/24/19; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—302.54(422) Roth individual retirement accounts. Roth individual retirement accounts were authorized in the Taxpayer Relief Act of 1997 and are applicable for tax years beginning after December 31, 1997. Generally, no deduction is allowed on either the federal income tax return or the Iowa individual income tax return for a contribution to a Roth IRA. The following subrules include information about tax treatment of certain transactions for Roth IRAs.

302.54(1) *Taxation of income derived from rolling over or converting existing IRAs to Roth IRAs.* At the time existing IRAs are rolled over to or converted to Roth IRAs in the 1998 calendar year or in a subsequent year, any income realized from the rollover or conversion of the existing IRA is taxable. However, in the case of conversion of existing IRAs to Roth IRAs in 1998, the taxpayer can make an election to have all the income realized from the conversion subject to tax in 1998 rather than have the conversion income spread out over four years. If the conversion income is spread out over four years, one-fourth of the conversion income is included on the 1998 Iowa and federal returns of the taxpayer and one-fourth of the income is included on the taxpayer's Iowa and federal returns for each of the following three tax years. Note that if an existing IRA for an individual is converted to a Roth IRA for the individual in a calendar year after 1998, all the income realized from the conversion is to be reported on the federal return and the Iowa return for that tax year for the individual. That is, when conversion of existing IRAs to Roth IRAs occurs after 1998, there is no provision for having the conversion income taxed over four years.

For example, an Iowa resident converted three existing IRAs to one Roth IRA in 1998, realized $20,000 in income from the conversion, and did not elect to have all the conversion income taxed on the 1998 Iowa and federal returns. Because the taxpayer did not make the election so all the conversion income was taxed in 1998, $5,000 in conversion income was to be reported on the taxpayer's federal and Iowa returns for 1998 and similar incomes were to be reported on the federal and Iowa returns for 1999, 2000, and 2001. Note that to the extent the recipient of the Roth IRA conversion income is eligible, the conversion income is subject to the pension/retirement income exclusion described in rule 701—302.47(422).

302.54(2) *Roth IRA conversion income for part-year residents.* To the extent that an Iowa resident has Roth IRA conversion income on the individual's federal income tax return, the same income will be included on the resident's Iowa income tax return. However, when an individual with Roth IRA conversion income in the tax year is a part-year resident of Iowa, the individual may allocate the conversion income on the Iowa return in the ratio of the taxpayer's months in Iowa during the tax year to 12 months. In a situation where an individual spends more than half of a month in Iowa, that month is to be reported to Iowa for purposes of the allocation.

For example, an individual moved to Des Moines from Omaha on June 12, 1998, and had $20,000 in Roth IRA conversion income in 1998. Because the individual spent 7 months in Iowa in 1998, 7/12, or 60 percent, of the $20,000 in conversion income is allocated to Iowa. Thus, $12,000 of the conversion income should be reported on the taxpayer's Iowa return for 1998.

This rule is intended to implement Iowa Code section 422.7 as amended by 1998 Iowa Acts, Senate File 2357.

[Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—302.55(422) Exemption of income payments for victims of the Holocaust and heirs of victims. For tax years beginning on or after January 1, 2000, income payments received by individuals because they were victims of the Holocaust or income payments received by individuals who are heirs of victims of the Holocaust are excluded in the computation of net incomes, to the extent the payments were included in the individuals' federal adjusted gross incomes. Victims of the Holocaust were victims

of persecution in the World War II era for racial, ethnic or religious reasons by Nazi Germany or other Axis regime.

Holocaust victims may receive income payments for slave labor performed in the World War II era. Income payments may also be received by Holocaust victims as reparation for assets stolen from, hidden from, or otherwise lost in the World War II era, including proceeds from insurance policies of the victims. The World War II era includes the time of the war and the time immediately before and immediately after the war. However, income from assets acquired with the income payments or from the sale of those assets shall not be excluded from the computation of net income. The exemption of income payments shall only apply to the first recipient of the income payments who was either a victim of persecution by Nazi Germany or any other Axis regime or a person who is an heir of the victim of persecution.

This rule is intended to implement Iowa Code sections 217.39 and 422.7.
[Editorial change: IAC Supplement 11/2/22]

701—302.56(422) Taxation of income from the sale of obligations of the state of Iowa and its political subdivisions. For tax years beginning on or after January 1, 2001, income from the sale of obligations of the state of Iowa and its political subdivisions shall be added to Iowa net income to the extent not already included. Gains or losses from the sale or other disposition of bonds issued by the state of Iowa or its political subdivisions shall be included in Iowa net income unless the law authorizing these obligations specifically exempts the income from the sale or other disposition of the bonds from the Iowa individual income tax.

This rule is intended to implement Iowa Code section 422.7 as amended by 2001 Iowa Acts, chapter 116.
[Editorial change: IAC Supplement 11/2/22]

701—302.57(422) Installment sales by taxpayers using the accrual method of accounting. For tax years beginning on or after January 1, 2000, and prior to January 1, 2002, taxpayers who use the accrual method of accounting and who have sales or exchanges of property that they reported on the installment method for federal income tax purposes must report the total amount of the gain or loss from the transaction in the tax year of the sale or exchange pursuant to Section 453 of the Internal Revenue Code as amended up to and including January 1, 2000.

EXAMPLE 1. Taxpayer Jones uses the accrual method of accounting for reporting income. In 2001, Mr. Jones sold farmland he had held for eight years for $200,000 which resulted in a capital gain of $50,000. For federal income tax purposes, Mr. Jones elected to report the transaction on the installment basis, where he reported $12,500 of the gain on his 2001 federal return and will report capital gains of $12,500 on each of his federal returns for the 2002, 2003 and 2004 tax years.

However, for Iowa income tax purposes, Mr. Jones must report on his 2001 Iowa return the entire capital gain of $50,000 from the land sale. Although Taxpayer Jones must report a capital gain of $12,500 on each of his federal income tax returns for 2002, 2003 and 2004, from the installment sale of the farmland in 2001, he will not have to include the installments of $12,500 on his Iowa income tax returns for those three tax years because Mr. Jones had reported the entire capital gain of $50,000 from the 2001 transaction on his 2001 Iowa income tax return.

EXAMPLE 2. Taxpayer Smith uses the accrual method of accounting for reporting income. In 2002, Mr. Smith sold farmland he had held for eight years for $500,000 which resulted in a capital gain of $100,000. For federal income tax purposes, Mr. Smith elected to report the transaction on the installment basis, where he reported $20,000 of the gain on his 2002 federal return and will report the remaining capital gains on federal returns for the four subsequent tax years. Because this installment sale occurred in 2002, Mr. Smith shall report $20,000 of the capital gain on his Iowa income tax return for 2002 and will report the balance of the capital gains from the installment sale on Iowa returns for the next four tax years, the same as reported on his federal returns for those years.

This rule is intended to implement Iowa Code section 422.7 as amended by 2002 Iowa Acts, House File 2116.
[Editorial change: IAC Supplement 11/2/22]

701—302.58(422) Exclusion of distributions from retirement plans by national guard members and members of military reserve forces of the United States. For tax years beginning on or after January 1, 2002, members of the Iowa national guard or members of military reserve forces of the United States who are ordered to national guard duty or federal active duty are not subject to Iowa income tax on the amount of distributions received during the tax year from qualified retirement plans of the members to the extent the distributions were taxable for federal income tax purposes. In addition, the members are not subject to state penalties on the distributions even though the members may have been subject to federal penalties on the distributions for early withdrawal of benefits. Because the distributions described above are not taxable for Iowa income tax purposes, a national guard member or armed forces reserve member who receives a distribution from a qualified retirement plan may request that the payer of the distribution not withhold Iowa income tax from the distribution.

This rule is intended to implement 2011 Iowa Code Supplement section 422.7 as amended by 2012 Iowa Acts, Senate File 2097.

[**ARC 0337C**, IAB 9/19/12, effective 10/24/12; Editorial change: IAC Supplement 11/2/22]

701—302.59 Reserved.

701—302.60(422) Additional first-year depreciation allowance.

302.60(1) *Assets acquired after September 10, 2001, but before May 6, 2003.* For tax periods ending after September 10, 2001, but beginning before May 6, 2003, the additional first-year depreciation allowance ("bonus depreciation") of 30 percent authorized in Section 168(k) of the Internal Revenue Code, as enacted by Public Law No. 107-147, Section 101, does not apply for Iowa individual income tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets acquired after September 10, 2001, but before May 6, 2003, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after September 10, 2001, but before May 6, 2003, can be calculated on Form IA 4562A.

See 701—subrule 502.22(1) for examples illustrating how this subrule is applied.

302.60(2) *Assets acquired after May 5, 2003, but before January 1, 2005.* For tax periods beginning after May 5, 2003, but beginning before January 1, 2005, the bonus depreciation of 50 percent authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No. 108-27, Section 201, may be taken for Iowa individual income tax. If the taxpayer elects to take the 50 percent bonus depreciation, the depreciation deduction allowed on the Iowa individual income tax return is the same as the depreciation deduction allowed on the federal income tax return for assets acquired after May 5, 2003, but before January 1, 2005.

a. If the taxpayer elects to take the 50 percent bonus depreciation and had filed an Iowa return prior to February 24, 2005, which reflected the disallowance of 50 percent bonus depreciation, the taxpayer may choose between two options to reflect this change. Taxpayer may either file an amended return for the applicable tax year to reflect the 50 percent bonus depreciation provision, or taxpayer may reflect the change for 50 percent bonus depreciation on the next Iowa return filed subsequent to February 23, 2005. Taxpayer must choose only one of these two options. Regardless of the option chosen, taxpayer must complete and attach a revised Form IA 4562A to either the amended return or the return filed subsequent to February 23, 2005.

EXAMPLE 1: Taxpayer filed a 2003 Iowa individual income tax return on April 15, 2004, which reflected an adjustment of $50,000 for the difference between federal depreciation and Iowa depreciation relating to the disallowance of 50 percent bonus depreciation. Taxpayer now elects to take the 50 percent

bonus depreciation for Iowa tax purposes. Taxpayer may either amend the 2003 Iowa return to reflect a $50,000 reduction in Iowa taxable income, or taxpayer may take the additional deduction of $50,000 on taxpayer's 2004 Iowa return that is filed after February 23, 2005.

EXAMPLE 2: Assume the same facts as given in Example 1, and taxpayer filed a 2004 Iowa return prior to February 24, 2005. Taxpayer did not take an additional $50,000 deduction on the 2004 Iowa return. Taxpayer may either amend the 2003 Iowa return to reflect a $50,000 reduction in Iowa taxable income, or taxpayer may take the additional deduction of $50,000 on taxpayer's 2005 Iowa return.

b. If the taxpayer elects not to take the 50 percent bonus depreciation, taxpayer must add the total amount of depreciation claimed on assets acquired after May 5, 2003, but before January 1, 2005, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k). If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets. The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after May 5, 2003, but before January 1, 2005, can be calculated on Form IA 4562A.

302.60(3) *Assets acquired after December 31, 2007, but before January 1, 2010.* For tax periods beginning after December 31, 2007, but beginning before January 1, 2010, the bonus depreciation of 50 percent authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No. 110-185, Section 103, and Public Law 111-5, Section 1201, does not apply for Iowa individual income tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets acquired after December 31, 2007, but before January 1, 2010, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after December 31, 2007, but before January 1, 2010, can be calculated on Form IA 4562A.

See rule 701—502.22(422) for examples illustrating how this rule is applied.

302.60(4) *Qualified disaster assistance property.* For property placed in service after December 31, 2007, with respect to federal declared disasters occurring before January 1, 2010, the bonus depreciation of 50 percent authorized in Section 168(n) of the Internal Revenue Code for qualified disaster assistance property, as amended by Public Law 110-343, Section 710, does not apply for Iowa individual income tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on qualified disaster assistance property and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(n).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of this property for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of such property.

The adjustment for both depreciation and the gain or loss on the sale of qualifying disaster assistance property can be calculated on Form IA 4562A.

302.60(5) *Assets acquired after December 31, 2009, but before January 1, 2014.* For tax periods beginning after December 31, 2009, but beginning before January 1, 2014, the bonus depreciation authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No. 111-240, Section 2022, Public Law No. 111-312, Section 401, and Public Law No. 112-240, Section 331, does

not apply for Iowa individual income tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets acquired after December 31, 2009, but before January 1, 2014, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after December 31, 2009, but before January 1, 2014, can be calculated on Form IA 4562A.

See 701—subrule 502.22(3) for examples illustrating how this subrule is applied.

This rule is intended to implement Iowa Code section 422.7 as amended by 2013 Iowa Acts, Senate File 106.

[**ARC 8589B**, IAB 3/10/10, effective 4/14/10; **ARC 9820B**, IAB 11/2/11, effective 12/7/11; **ARC 1101C**, IAB 10/16/13, effective 11/20/13; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—302.61(422) Exclusion of active duty pay of national guard members and armed forces military reserve members for service under orders for Operation Iraqi Freedom, Operation Noble Eagle, Operation Enduring Freedom or Operation New Dawn. For tax years beginning on or after January 1, 2003, active duty pay received by national guard members and armed forces reserve members is excluded to the extent the income is included in federal adjusted gross income and to the extent the active duty pay is for service under military orders for Operation Iraqi Freedom, Operation Noble Eagle or Operation Enduring Freedom. For tax years beginning on or after January 1, 2010, active duty pay received by national guard members and armed forces reserve members is excluded to the extent the income is included in federal adjusted gross income and to the extent the active duty pay is for service under military orders for Operation New Dawn. National guard members and military reserve members receiving active duty pay on or after January 1, 2003, but before January 1, 2011, for service not covered by military orders for one of the operations specified above are subject to Iowa income tax on the active duty pay to the extent the active duty pay is included in federal adjusted gross income. For active duty pay received on or after January 1, 2011, see rule 701—302.76(422). An example of a situation where the active duty pay may not be included in federal adjusted gross income is when the active duty pay was received for service in an area designated as a combat zone or in an area designated as a hazardous duty area so the income may be excluded from federal adjusted gross income. That is, if an individual's active duty military pay is not subject to federal income tax, the active duty military pay will not be taxable on the individual's Iowa income tax return.

National guard members and military reserve members who are receiving active duty pay for service on or after January 1, 2003, that is exempt from Iowa income tax, may complete an IA W-4 Employee Withholding Allowance Certificate and claim exemption from Iowa income tax for active duty pay received during the time they are serving on active duty pursuant to military orders for Operation Iraqi Freedom, Operation Noble Eagle, Operation Enduring Freedom or Operation New Dawn.

This rule is intended to implement Iowa Code section 422.7 as amended by 2011 Iowa Acts, House File 652.

[**ARC 9822B**, IAB 11/2/11, effective 12/7/11; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—302.62(422) Deduction for overnight expenses not reimbursed for travel away from home of more than 100 miles for performance of service as a member of the national guard or armed forces military reserve. A taxpayer may subtract, in computing net income, the costs not reimbursed that were incurred for overnight transportation, meals and lodging expenses for travel away from the taxpayer's home more than 100 miles, to the extent the travel expenses were incurred for the performance of services on or after January 1, 2003, by the taxpayer as a national guard member or an armed forces

military reserve member. The deduction for Iowa tax purposes is the same that is allowed for federal income tax purposes.

This rule is intended to implement Iowa Code section 422.7 as amended by 2005 Iowa Acts, House File 186.
[Editorial change: IAC Supplement 11/2/22]

701—302.63(422) Exclusion of income from military student loan repayments. Individuals serving on active duty in the national guard, armed forces military reserve or the armed forces of the United States may subtract, to the extent included in federal adjusted gross income, income from military student loan repayments made on or after January 1, 2003.

This rule is intended to implement Iowa Code section 422.7 as amended by 2003 Iowa Acts, House File 674.
[Editorial change: IAC Supplement 11/2/22]

701—302.64(422) Exclusion of death gratuity payable to an eligible survivor of a member of the armed forces, including a member of a reserve component of the armed forces who has died while on active duty. An eligible survivor of a member of the armed forces, including a member of a reserve component of the armed forces, who has died while on active duty may subtract, to the extent included in federal adjusted gross income, a gratuity death payment made to the eligible survivor of a member of the armed forces who died while on active duty after September 10, 2001. This exclusion applies to a gratuity death payment made to the eligible survivor of any person in the armed forces or a reserve component of the armed forces who died while on active duty after September 10, 2001.

The purpose of the death gratuity is to provide a cash payment to assist a survivor of a deceased member of the armed forces to meet financial needs during the period immediately following a service member's death and before other survivor benefits, if any, become available.

This rule is intended to implement Iowa Code section 422.7 as amended by 2003 Iowa Acts, House File 674.
[Editorial change: IAC Supplement 11/2/22]

701—302.65(422) Section 179 expensing.

302.65(1) *In general.* Iowa taxpayers who elect to expense certain depreciable business assets in the year the assets were placed in service under Section 179 of the Internal Revenue Code must also expense those same assets for Iowa income tax purposes in that year. However, for certain years, the Iowa limitations on this deduction are different from the federal limitations for the same year. This means that for some tax years, adjustments are required to determine the correct Iowa section 179 expensing deduction, as described in this rule.

302.65(2) *Claiming the deduction.*

a. Timing and requirement to follow federal election. A taxpayer who takes a federal section 179 deduction must also take the deduction for the same asset in the same year for Iowa purposes, except as expressly provided by Iowa law or this rule. A taxpayer who takes a federal section 179 deduction is not permitted to opt out of taking the same deduction for Iowa purposes. A taxpayer who does not take a federal section 179 deduction on a specific qualifying asset is not permitted to take a section 179 deduction for Iowa purposes on that asset.

b. Qualifying for the deduction. Whether a specific business asset qualifies for a section 179 deduction is determined by the Internal Revenue Code (Title 26, U.S. Code) and applicable federal regulations for both federal and Iowa purposes.

c. Amount of the Iowa deduction. Generally, the Iowa deduction must equal the amount of the federal deduction taken for the same asset in the same year, subject to special Iowa limitations. The following chart provides a comparison of the Iowa and federal section 179 dollar limitations and reduction limitations. See rule 701—502.23(422) for the section 179 rules applicable to corporations (both C and S corporations) and other entities subject to the corporate income tax, and see rule 701—602.24(422) for the section 179 rules applicable to financial institutions subject to the franchise tax.

Section 179 Deduction Allowances Under Federal and Iowa Law				
	Federal		Iowa	
Tax Year	Dollar Limitation	Reduction Limitation	Dollar Limitation	Reduction Limitation
2003	$ 100,000	$ 400,000	$ 100,000	$ 400,000
2004	102,000	410,000	102,000	410,000
2005	105,000	420,000	105,000	420,000
2006	108,000	430,000	108,000	430,000
2007	125,000	500,000	125,000	500,000
2008	250,000	800,000	250,000	800,000
2009	250,000	800,000	133,000	530,000
2010	500,000	2,000,000	500,000	2,000,000
2011	500,000	2,000,000	500,000	2,000,000
2012	500,000	2,000,000	500,000	2,000,000
2013	500,000	2,000,000	500,000	2,000,000
2014	500,000	2,000,000	500,000	2,000,000
2015	500,000	2,000,000	500,000	2,000,000
2016	500,000	2,010,000	25,000	200,000
2017	510,000	2,030,000	25,000	200,000
2018	1,000,000	2,500,000	70,000	280,000
2019	1,020,000	2,550,000	100,000	400,000
2020 and later	Iowa limitations are the same as federal			

d. Reduction. Both the federal and the Iowa deductions for section 179 assets are reduced (phased out dollar for dollar) for taxpayers whose total section 179 assets placed in service during a given year cost more than the amount specified (reduction limitation) for that year. Like the deduction limitation, the Iowa and federal reduction limitations are different for certain years. See paragraph 302.65(2)*"c"* for applicable limitations.

EXAMPLE: Taxpayer purchases $400,000 worth of qualifying section 179 assets and places all of them in service in 2018. Taxpayer claims a section 179 deduction of $400,000 for the full cost of the assets on the 2018 federal return. The Iowa section 179 deduction for 2018 is phased out dollar for dollar by the amount of section 179 assets placed in service in excess of $280,000. This means that, for 2018, the Iowa deduction is fully phased out if the taxpayer placed in service section 179 assets that cost, in total, more than $350,000. Since the cost of the qualifying assets in this example exceeds the Iowa section 179 phase-out limit, the taxpayer cannot claim any section 179 deduction on the Iowa return. However, the taxpayer may depreciate the entire cost of the assets for Iowa purposes.

e. Amounts in excess of the Iowa limits.

(1) Recovering the excess. Due to the differences between the Iowa and federal limitations for certain years, taxpayers may have a federal section 179 deduction that exceeds the amount allowed for Iowa purposes. This excess amount is handled in different ways depending on the source of the deduction.

1. Assets placed in service by the taxpayer or entity reporting the deduction. The cost of any section 179 assets placed in service by the taxpayer in excess of the Iowa limitation for a given year may be recovered through regular depreciation under Section 168 of the Internal Revenue Code, without regard to bonus depreciation under Section 168(k). The Iowa section 179 and depreciation deductions and any basis adjustments resulting from the difference in timing of the recovery between Iowa and federal law are calculated and tracked on forms made available on the department's website.

EXAMPLE: Taxpayer purchases a $100,000 piece of equipment and places it in service in 2018. Taxpayer claims a section 179 deduction of $100,000 for the full cost of the equipment on the 2018 federal return. Taxpayer is also required to claim a section 179 deduction of $70,000 on the 2018 Iowa

return (the full amount of the federal deduction up to the Iowa limit). The taxpayer can depreciate the remaining $30,000 cost of the equipment for Iowa purposes.

2. Special election for assets placed in service by a pass-through entity when the section 179 deduction is claimed by the owner of that pass-through. See subrule 302.65(3) for information on a special election available to certain owners of pass-through entities related to any section 179 deductions passed through from a partnership or other entity that, in the aggregate, exceed the Iowa limitations.

(2) Application of limitation to pass-throughs. In the case of pass-through entities, section 179 limitations apply at both the entity level and the owner level. Pass-through entities that are required to file an Iowa return and that actually place section 179 assets in service should follow 302.65(2)*"e"*(1)"1" to account for any assets for which the total federal section 179 deductions for a given year exceeded the Iowa limitation. Owners of pass-throughs receiving section 179 deductions from one or more pass-throughs that, in the aggregate, exceed the Iowa limitations should follow 302.65(2)*"e"*(1)"2."

EXAMPLE: Partner A (an individual and an Iowa resident) owns 50 percent interests in each of three partnerships: C, D, and E. Partnership C does business exclusively in Iowa, places $200,000 worth of section 179 assets in service during tax year 2019 and claims a federal section 179 deduction for the full cost of the assets. Because C is required to file an Iowa partnership return, C is subject to the Iowa section 179 limitations for 2019 and must adjust its Iowa section 179 deduction as provided in 302.65(2)*"e"*(1)"1." C passes 50 percent of its section 179 deduction ($100,000 for federal purposes, $50,000 for Iowa purposes) through to A. A also receives $50,000 each in section 179 deductions from D and E, for a total of $150,000 in section 179 deductions (for Iowa purposes) in 2019. A is subject to the $100,000 Iowa section 179 deduction limitation for 2019, but because A received total section 179 deductions from one or more pass-throughs in excess of the 2019 Iowa limitation, A is eligible for the special election referenced in 302.65(2)*"e"*(1)"2."

f. Income limitation. The Iowa section 179 deduction for any given year is limited to the taxpayer's income from active conduct in a trade or business in the same manner that the section 179 deduction is limited for federal purposes. If an allowable Iowa section 179 deduction exceeds the taxpayer's business income for a given year, any excess may be carried forward as described in paragraph 302.65(2)*"g."*

g. Carryforward. This paragraph applies only to amounts that do not exceed the Iowa section 179 deduction limitations for a given year but do exceed the taxpayer's business income for that year. As with the federal deduction, allowable Iowa section 179 deductions claimed in a given year that exceed a taxpayer's business income may be carried forward and claimed in future years. This carryforward, if any, is calculated using only amounts up to the Iowa limit. Any federal section 179 deduction the taxpayer claimed in excess of the Iowa limit is not an Iowa section 179 deduction and therefore is not eligible for the carryforward described in this paragraph. Such amounts must instead be recovered as described in paragraph 302.65(2)*"e,"* or in subrule 302.65(3) for taxpayers receiving the deduction from one or more pass-through entities and making the special election as described in that subrule.

EXAMPLE: Taxpayer purchases a $100,000 piece of equipment and places it in service in 2019. Taxpayer claims a section 179 deduction of $100,000 for the full cost of the equipment on the 2019 federal return. Taxpayer is also required to claim a section 179 deduction of $100,000 on the 2019 Iowa return (because the federal deduction is equal to the Iowa limit for the year, the Iowa and federal deductions are the same). However, the taxpayer has only $50,000 in business income for 2019, so the allowable deduction for that year is limited to $50,000. The remaining $50,000 may be carried forward and applied as a section 179 deduction (subject to all limitations) in 2020, and in any future years until the amount is fully deducted.

h. Differences in basis. Iowa adjustments for differences between the Iowa and federal section 179 deduction limitations may cause the taxpayer to have a different basis in the same asset for Iowa and federal purposes. Taxpayers are required to use forms made available on the department's website to calculate and track these differences.

302.65(3) *Section 179 deduction received from a pass-through entity.* In some cases, an individual or entity that receives income from one or more pass-through entities may receive a section 179 deduction in excess of the Iowa deduction limitation listed in paragraph 302.65(2)*"c"* for a given year. The individual

or entity may be eligible for a special election with regard to that excess section 179 deduction, as described in this subrule.

a. Tax years beginning before January 1, 2018. For tax years beginning before January 1, 2018, the amount of any section 179 deduction received in excess of the Iowa deduction limitation for that year is not eligible for the special election.

b. Special election available for tax years 2018 and 2019. For tax years beginning on or after January 1, 2018, but before January 1, 2020, an individual or entity that receives a section 179 deduction from one or more pass-through entities in excess of the Iowa deduction limitation for that tax year may elect to deduct the excess in future years, as described in this subrule. See rule 701—502.23(422) for rules applicable to corporations (both C and S corporations) and other entities subject to the corporate income tax, and see rule 701—602.24(422) for rules applicable to financial institutions subject to the franchise tax.

(1) This special election applies only to section 179 deductions passed through to the individual or entity by one or more other entities.

(2) If the total Iowa section 179 deduction passed through to the individual or entity exceeds the federal section 179 deduction limitation for that year, the individual or entity may only use the amount up to the federal limitation when calculating the deduction under this election. Any amount in excess of the federal limitation shall not be deducted for Iowa purposes.

c. Section 179 assets of an individual or entity. An individual or entity that makes the special election may not claim an Iowa section 179 deduction for any assets the individual or entity placed in service during the same year but must instead depreciate such assets using the modified accelerated cost recovery system (MACRS) without regard to bonus depreciation under Section 168(k) of the Internal Revenue Code. To the extent the individual or entity claimed a federal section 179 deduction on those assets, the Iowa depreciation deductions and any basis adjustments resulting from the difference in timing of the recovery between Iowa law and federal law are calculated and tracked on forms made available on the department's website.

EXAMPLE: A is a sole proprietor who places in service $20,000 worth of section 179 assets in tax year 2018 and claims the deduction for the full amount for federal purposes. A is also a partner in Partnership B, an out-of-state partnership with no Iowa filing obligation. Partnership B also places section 179 assets in service, properly claims a federal section 179 deduction, and passes a total of $100,000 of that deduction through to A. For federal purposes, A has a total of $120,000 in section 179 deductions. Because A has section 179 deductions from a pass-through that exceed the Iowa limitation for the year, A is eligible for the special election. A makes the special election and claims the maximum Iowa section 179 deduction of $70,000 on the amount passed through from Partnership B. Under the special election, A will be allowed to deduct the remaining $30,000 passed through from Partnership B over the next five years, as described in paragraph 302.65(3)*"e."* However, because A made the special election, A will be required to depreciate the entire $20,000 cost of the assets A placed in service as a sole proprietor.

d. Calculating the special election. An eligible individual or entity electing to take advantage of the special election must first add together all section 179 deductions which the individual or entity received from all relevant pass-through entities. The individual or entity must claim an aggregate Iowa section 179 deduction equal to the Iowa limit for the tax year. This amount must be subtracted from the total. Whatever remains is the amount the individual or entity will be permitted to deduct (special election deduction) in future years.

e. Special election deduction.

(1) Calculation. The remaining amount from paragraph 302.65(3)*"d"* must be divided into five equal shares.

(2) Claiming the special election deduction. The individual or entity may deduct one of the five shares in each of the next five years. The dollar limitations and reduction limitations on section 179 deductions do not apply to special deduction amounts allowed over the five-year period under this paragraph.

(3) Excess special deduction. The special election deduction for a given year is limited to the taxpayer's business income for that year. Any excess may be carried forward to future years. Any

amounts carried forward under this subparagraph shall be added to, and treated in the same manner as, regular Iowa section 179 deduction carryforwards as described in paragraph 302.65(2)*"g."*

EXAMPLE: A is an Iowa resident who is a partner in a partnership that does not do business in Iowa. In 2019, the partnership passes through a $600,000 federal section 179 deduction and does not recalculate the deduction for Iowa purposes, because the partnership has no obligation to file an Iowa return. A claims an Iowa section 179 deduction of $100,000 (the 2019 Iowa limitation) and elects the five-year carryforward for the rest, meaning A will be allowed to take a $100,000 Iowa deduction in each of the next five years.

In 2020, A is eligible for the $100,000 deduction carried forward under the election, but A only has $50,000 in business income. The deduction is limited to business income, so A can only use $50,000 of the deduction in this year. However, A will be permitted to treat the excess $50,000 as a section 179 carryforward and use it to offset business income in future years until the deduction is used up.

f. Basis. The individual's or entity's basis in the pass-through entity assets is adjusted by the full amount of the section 179 deduction passed through in the year that the section 179 deduction is received and is therefore the same for both Iowa and federal purposes.

g. Later tax years. For tax years beginning on or after January 1, 2020, Iowa fully conforms to the federal section 179 deduction and special Iowa treatment for excess section 179 deductions received from pass-throughs is not available.

This rule is intended to implement Iowa Code section 422.7 as amended by 2019 Iowa Acts, Senate File 220.

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701—302.66(422) Deduction for certain unreimbursed expenses relating to a human organ transplant. For tax years beginning on or after January 1, 2005, a taxpayer, while living, may subtract up to $10,000 in unreimbursed expenses that were incurred relating to the taxpayer's donation of all or part of a liver, pancreas, kidney, intestine, lung or bone marrow to another human being for immediate human organ transplantation. The taxpayer can claim this deduction only once, and the deduction can be claimed in the year in which the transplant occurred. The unreimbursed expenses must not be compensated by insurance to qualify for the deduction.

The unreimbursed expenses which are eligible for the deduction include travel expenses, lodging expenses and lost wages. If the deduction is claimed for travel expenses and lodging expenses, these expenses cannot also be claimed as an itemized deduction for medical expenses under Section 213(d) of the Internal Revenue Code for Iowa tax purposes. The deduction for lost wages does not include any sick pay or vacation pay reimbursed by an employer.

This rule is intended to implement Iowa Code section 422.7 as amended by 2005 Iowa Acts, House File 801.

[Editorial change: IAC Supplement 11/2/22]

701—302.67(422) Deduction for alternative motor vehicles. For tax years beginning on or after January 1, 2006, but beginning before January 1, 2015, a taxpayer may subtract $2,000 for the cost of a clean fuel motor vehicle if the taxpayer was eligible to claim for federal tax purposes the alternative motor vehicle credit under Section 30B of the Internal Revenue Code for this motor vehicle.

The vehicles eligible for this deduction include new qualified fuel cell motor vehicles, new advanced lean burn technology motor vehicles, new qualified hybrid motor vehicles, qualified plug-in electric drive motor vehicles and new qualified alternative fuel vehicles. The advanced lean burn technology, qualified hybrid and qualified alternative fuel vehicles must be placed in service before January 1, 2011, to qualify for the deduction. The qualified plug-in electric drive motor vehicles must be placed in service before January 1, 2012, to qualify for the deduction. The qualified fuel cell motor vehicles must be placed

in service before January 1, 2015, to qualify for the deduction. A taxpayer must claim a credit on the taxpayer's federal income tax return on federal Form 8910 to claim the deduction on the Iowa return.

This rule is intended to implement Iowa Code section 422.7.

[**ARC 9820B**, IAB 11/2/11, effective 12/7/11; Editorial change: IAC Supplement 11/2/22]

701—302.68(422) Injured veterans grant program.

302.68(1) For tax years beginning on or after January 1, 2006, a taxpayer who receives a grant under the injured veterans grant program provided in 2006 Iowa Acts, Senate File 2312, section 1, may subtract, to the extent included in federal adjusted gross income, the amount of the grant received. The injured veterans grant program is administered by the Iowa department of veterans affairs, and grants of up to $10,000 are provided to veterans who are residents of Iowa and are injured in the line of duty in a combat zone or in a zone where the veteran was receiving hazardous duty pay after September 11, 2001.

302.68(2) For tax years beginning on or after January 1, 2006, a taxpayer may subtract, to the extent not otherwise deducted in computing adjusted gross income, the amounts contributed to the department of veterans affairs for the purpose of providing grants under the injured veterans grant program established in 2006 Iowa Acts, Senate File 2312, section 1. If a deduction is claimed for these amounts contributed to the injured veterans grant program, this deduction cannot also be claimed as an itemized deduction for charitable contributions under Section 170 of the Internal Revenue Code for Iowa tax purposes.

This rule is intended to implement Iowa Code section 422.7 as amended by 2006 Iowa Acts, Senate File 2312.

[Editorial change: IAC Supplement 11/2/22]

701—302.69(422) Exclusion of ordinary or capital gain income realized as a result of involuntary conversion of property due to eminent domain. For tax years beginning on or after January 1, 2006, a taxpayer may exclude the amount of ordinary or capital gain income realized as a result of the involuntary conversion of property due to eminent domain for Iowa individual income tax. Eminent domain refers to the authority of government agencies or instrumentalities of government to requisition or condemn private property for any public improvement, public purpose or public use. The exclusion for Iowa individual income tax can only be claimed in the year in which the ordinary or capital gain income was reported on the federal income tax return.

In order for an involuntary conversion to qualify for this exclusion, the sale must occur due to the requisition or condemnation, or its threat or imminence, if it takes place in the presence of, or under the threat or imminence of, legal coercion relating to a requisition or condemnation. There are numerous federal revenue rulings, court cases and other provisions relating to the definitions of the terms "threat" and "imminence," and these are equally applicable to the exclusion of ordinary or capital gains realized for tax years beginning on or after January 1, 2006.

302.69(1) *Reporting requirements.* In order to claim an exclusion of ordinary or capital gain income realized as a result of involuntary conversion of property due to eminent domain, the taxpayer must attach a statement to the Iowa individual income tax return in the year in which the exclusion is claimed. The statement should state the date and details of the involuntary conversion, including the amount of the gain being excluded and the reasons why the gain meets the qualifications of an involuntary conversion relating to eminent domain. In addition, if the gain results from the sale of replacement property as outlined in subrule 302.69(2), information must be provided in the statement on that portion of the gain that qualified for the involuntary conversion.

302.69(2) *Claiming the exclusion when gain is not recognized for federal tax purposes.* For federal tax purposes, an ordinary or capital gain is not recognized when the converted property is replaced with property that is similar to, or related in use to, the converted property. In those cases, the basis of the old property is simply transferred to the new property, and no gain is recognized. In addition, when property is involuntarily converted into money or other unlike property, any gain is not recognized when replacement property is purchased within a specified period for federal tax purposes.

For Iowa individual income tax purposes, no exclusion will be allowed for ordinary or capital gain income when there is no gain recognized for federal tax purposes. The exclusion will only be allowed

in the year in which ordinary or capital gain income is realized due to the disposition of the replacement property for federal tax purposes, and the exclusion is limited to the amount of the ordinary or capital gain income relating to the involuntary conversion. The basis of the property for Iowa individual income tax purposes will remain the same as the basis for federal tax purposes and will not be altered because of the exclusion allowed for Iowa individual income tax.

EXAMPLE: In 2007, taxpayer sold some farmland as a result of an involuntary conversion relating to eminent domain and realized a gain of $50,000. However, the taxpayer purchased similar farmland immediately after the sale, and no gain was recognized for federal tax purposes. Therefore, no exclusion is allowed on the 2007 Iowa individual income tax return. In 2009, taxpayer sold the replacement farmland that was not subject to an involuntary conversion and realized a total gain of $70,000, which was reported on the 2009 federal income tax return. The taxpayer can claim a deduction of $50,000 on the 2009 Iowa individual income tax return relating to the gain that resulted from the involuntary conversion.

This rule is intended to implement Iowa Code section 422.7.

[Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—302.70(422) Exclusion of income from sale, rental or furnishing of tangible personal property or services directly related to production of film, television or video projects.

302.70(1) *Projects registered on or after January 1, 2007, but before July 1, 2009.* For tax years beginning on or after January 1, 2007, a taxpayer who is a resident of Iowa may exclude, to the extent included in federal adjusted gross income, income received from the sale, rental or furnishing of tangible personal property or services directly related to the production of film, television, or video projects that are registered with the film office of the Iowa department of economic development.

Income which can be excluded on the Iowa return must meet the criteria of a qualified expenditure for purposes of the film qualified expenditure tax credit as set forth in rule 701—304.37(15,422). See rule 701—300.17(422) for the determination of Iowa residency.

However, if a taxpayer claims this income tax exclusion, the same taxpayer cannot also claim the film qualified expenditure tax credit as described in rule 701—304.37(15,422). In addition, any taxpayer who claims this income tax exclusion cannot have an equity interest in a business which received a film qualified expenditure tax credit. Finally, any taxpayer who claims this income tax exclusion cannot participate in the management of the business which received the film qualified expenditure tax credit.

EXAMPLE: A production company which registers with the film office for a project is a limited liability company with three members, all of whom are Iowa residents. If any of the three members receives income that is a qualified expenditure for purposes of the film qualified expenditure tax credit, such member(s) cannot exclude this income on the Iowa income tax return because the member(s) has an equity interest in the business which received the credit.

302.70(2) *Projects registered on or after July 1, 2009.* For tax years beginning on or after July 1, 2009, a taxpayer who is a resident of Iowa may exclude no more than 25 percent of the income received from the sale, rental or furnishing of tangible personal property or services directly related to the production of film, television, or video projects that are registered with the film office of the Iowa department of economic development in the year in which the qualified expenditure occurred. A reduction of 25 percent of the income is allowed to be excluded for the three subsequent tax years.

EXAMPLE: An Iowa taxpayer received $10,000 in income in the 2010 tax year related to qualified film expenditures for a project registered on February 1, 2010. The $10,000 was reported as income on taxpayer's 2010 federal tax return. Taxpayer may exclude $2,500 of income on the Iowa individual income tax return for each of the tax years 2010-2013.

302.70(3) *Repeal of exclusion.* The exclusion of income from the sale, rental or furnishing of tangible personal property or services directly related to production of film, television or video projects is repealed for tax years beginning on or after January 1, 2012. However, the exclusion is still available if the contract or agreement related to a film project was entered into on or before May 25, 2012. Assuming the same facts as those in the example in subrule 302.70(2), the taxpayer can continue to

exclude $2,500 of income on the Iowa individual income tax return for the 2012 and 2013 tax years since the contract or agreement was entered into on or before May 25, 2012.

This rule is intended to implement 2012 Iowa Acts, House File 2337, sections 38 to 40, and Iowa Code section 422.7 as amended by 2012 Iowa Acts, House File 2337, section 33.

[**ARC 8589B**, IAB 3/10/10, effective 4/14/10; **ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 0398C**, IAB 10/17/12, effective 11/21/12; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—302.71(422) Exclusion for certain victim compensation payments. Effective for tax years beginning on or after January 1, 2007, a taxpayer may exclude from Iowa individual income tax any income received from certain victim compensation payments to the extent this income was reported on the federal income tax return. The amounts which may be excluded from income include the following:

1. Victim compensation awards paid under the victim compensation program administered by the department of justice in accordance with Iowa Code section 915.81, and received by the taxpayer during the tax year.

2. Victim restitution payments received by a taxpayer during the tax year in accordance with Iowa Code chapter 910 or 915.

3. Damages awarded by a court, and received by a taxpayer, in a civil action filed by a victim against an offender during the tax year.

This rule is intended to implement Iowa Code section 422.7 as amended by 2007 Iowa Acts, Senate File 70.

[Editorial change: IAC Supplement 11/2/22]

701—302.72(422) Exclusion of Vietnam Conflict veterans bonus.

302.72(1) For tax years beginning on or after January 1, 2007, but before January 1, 2013, a taxpayer who received a bonus under the Vietnam Conflict veterans bonus program may subtract, to the extent included in federal adjusted gross income, the amount of the bonus received. The Vietnam Conflict veterans bonus is administered by the Iowa department of veterans affairs, and bonuses of up to $500 are awarded to residents of Iowa who served on active duty in the armed forces of the United States between July 1, 1973, and May 31, 1975.

302.72(2) For tax years beginning on or after January 1, 2008, but before January 1, 2013, a taxpayer who received a bonus under the Vietnam Conflict veterans bonus program may subtract, to the extent included in federal adjusted gross income, the amount of the bonus received. The Vietnam Conflict veterans bonus is administered by the Iowa department of veterans affairs. Bonuses of up to $500 are awarded to veterans who were inducted into active duty service from the state of Iowa, who served on active duty in the United States armed forces between July 1, 1958, and May 31, 1975, and who have not received a bonus for that service from Iowa or another state.

This rule is intended to implement 2011 Iowa Code Supplement section 422.7 as amended by 2012 Iowa Acts, Senate File 2038.

[**ARC 0337C**, IAB 9/19/12, effective 10/24/12; Editorial change: IAC Supplement 11/2/22]

701—302.73(422) Exclusion for health care benefits of nonqualified tax dependents. Effective for tax years beginning on or after January 1, 2009, but beginning before January 1, 2011, a taxpayer may exclude from Iowa individual income tax the income reported from including nonqualified tax dependents on the taxpayer's health care plan, to the extent this income was reported on the federal income tax return.

302.73(1) *Term of coverage.* Iowa Code section 509A.13B provides that group insurance, group insurance for public employees, and individual health insurance policies or contracts permit continuation of existing coverage for an unmarried child of an insured or enrollee, if the insured or enrollee so elects. If the election is made, it will be in effect through the policy anniversary date on or after the date the child marries, ceases to be a resident of Iowa, or attains the age of 25, whichever occurs first, so long as the unmarried child maintains full-time status as a student in an accredited institution of postsecondary education. These children can be included on the health care coverage even though they are not claimed as a dependent on the federal and Iowa income tax returns.

302.73(2) *Federal treatment.* Section 105(b) of the Internal Revenue Code provides that the income reported from including dependents on the taxpayer's health care coverage is exempt from federal income tax. However, income is reported for federal income tax purposes on the value of the health care coverage of children who are not claimed as dependents on the taxpayer's federal and Iowa income tax returns for tax years beginning on or after January 1, 2009, but beginning before January 1, 2011. The amount of income included on the federal income tax return is allowed to be excluded on the Iowa return. For tax years beginning on or after January 1, 2011, income is no longer reported on the federal income tax return on the value of health care coverage of children who are not claimed as dependents and who have not attained age 27 as of the end of the tax year; therefore, no adjustment is required on the Iowa return.

This rule is intended to implement Iowa Code section 422.7 as amended by 2011 Iowa Acts, Senate File 512.

[**ARC 8605B**, IAB 3/10/10, effective 4/14/10; **ARC 9820B**, IAB 11/2/11, effective 12/7/11; Editorial change: IAC Supplement 11/2/22]

701—302.74(422) Exclusion for AmeriCorps Segal Education Award. Effective for tax years beginning on or after January 1, 2010, a taxpayer may exclude from Iowa individual income tax any amount of AmeriCorps Segal Education Award to the extent the education award was reported as income on the federal income tax return. The AmeriCorps Segal Education Award is available to individuals who complete a year of service in the AmeriCorps program. The education award can be used to pay education costs at institutions of higher learning, for educational training, or to repay qualified student loans.

This rule is intended to implement Iowa Code section 422.7 as amended by 2009 Iowa Acts, Senate File 482.

[**ARC 8605B**, IAB 3/10/10, effective 4/14/10; Editorial change: IAC Supplement 11/2/22]

701—302.75(422) Exclusion of certain amounts received from Iowa veterans trust fund. For tax years beginning on or after January 1, 2010, a taxpayer may subtract, to the extent included in federal adjusted gross income, the amounts received from the Iowa veterans trust fund related to travel expenses directly related to follow-up medical care for wounded veterans and their spouses and amounts received related to unemployment assistance during a period of unemployment due to prolonged physical or mental illness or disability resulting from military service.

This rule is intended to implement Iowa Code section 422.7 as amended by 2010 Iowa Acts, House File 2532.

[**ARC 9103B**, IAB 9/22/10, effective 10/27/10; Editorial change: IAC Supplement 11/2/22]

701—302.76(422) Exemption of active duty pay for armed forces, armed forces military reserve, or the national guard. For tax years beginning on or after January 1, 2011, all pay received from the federal government for military service performed while on active duty status in the armed forces, armed forces military reserve, or the national guard is excluded to the extent the pay was included in federal adjusted gross income.

302.76(1) Definition of active duty personnel. Active duty personnel who qualify for the exclusion include the following:

a. Active duty members of the regular armed forces, which include the Army, Navy, Marines, Air Force and Coast Guard of the United States.

b. Members of a reserve component of the Army, Navy, Marines, Air Force and Coast Guard who are on an active duty status as defined in Title 10 of the United States Code.

c. Members of the national guard who are in an active duty status as defined in Title 10 of the United States Code.

302.76(2) Military personnel who do not qualify for the exclusion include the following:

a. Members of a reserve component of the Army, Navy, Marines, Air Force and Coast Guard who are not in an active duty status as defined in Title 10 of the United States Code.

b. Full-time members of the national guard who perform duties in accordance with Title 32 of the United States Code.

c. Other members of the national guard who are not in an active duty status as defined in Title 10 of the United States Code.

d. Other members of the national guard who do not receive pay from the federal government.

302.76(3) Income from nonmilitary activities. Any wages earned from nonmilitary wages for personal services conducted in Iowa by both residents and nonresidents of Iowa will still be subject to Iowa individual income tax. In addition, both residents and nonresidents of Iowa who earn income from businesses, trades, professions or occupations operated in Iowa that are unrelated to military activity will be subject to Iowa individual income tax on that income.

302.76(4) Exemption from Iowa withholding. Active duty personnel meeting the requirements of subrule 302.76(1) who are receiving pay from the federal government on or after January 1, 2011, that is exempt from Iowa individual income tax may complete an IA W-4 Employee Withholding Allowance Certificate and claim exemption from Iowa income tax for active duty pay received from the federal government.

This rule is intended to implement Iowa Code section 422.7 as amended by 2011 Iowa Acts, House File 652.

[**ARC 9822B**, IAB 11/2/11, effective 12/7/11; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—302.77(422) Exclusion of biodiesel production refund. A taxpayer may exclude, to the extent included in federal adjusted gross income, the amount of the biodiesel production refund described in rule 701—250.1(423).

This rule is intended to implement Iowa Code section 422.7.

[**ARC 9821B**, IAB 11/2/11, effective 12/7/11; **ARC 5915C**, IAB 9/22/21, effective 10/27/21; Editorial change: IAC Supplement 11/2/22]

701—302.78(422) Allowance of certain deductions for 2008 tax year.

302.78(1) For the tax year beginning on or after January 1, 2008, but before January 1, 2009, the following deductions provided in the federal Emergency Economic Stabilization Act of 2008, Public Law No. 110-343, will be allowed on the Iowa individual income tax return:

a. The deduction for certain expenses of elementary and secondary school teachers allowed under Section 62(a)(2)(D) of the Internal Revenue Code.

b. The deduction for qualified tuition and related expenses allowed under Section 222 of the Internal Revenue Code.

c. The deduction for disaster-related casualty losses allowed under Section 165(h) of the Internal Revenue Code.

302.78(2) Taxpayers who did not claim these deductions on the Iowa return for 2008 as originally filed, or taxpayers who claimed these deductions on the Iowa return as filed and subsequently filed an amended return disallowing these deductions, must file an amended return for the 2008 tax year to claim these deductions. The amended return must be filed within the statute of limitations provided in 701—subrules 305.3(8) and 305.3(15). If the amended return is filed within the statute of limitations, the taxpayer is only entitled to a refund of the excess tax paid. The taxpayer will not be entitled to any interest on the excess tax paid.

This rule is intended to implement Iowa Code sections 422.7 and 422.9 as amended by 2011 Iowa Acts, Senate File 533.

[**ARC 9820B**, IAB 11/2/11, effective 12/7/11; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—302.79(422) Special filing provisions related to 2010 tax changes.

302.79(1) For the tax year beginning on or after January 1, 2010, but before January 1, 2011, the following adjustments will be allowed on the Iowa individual income tax return:

a. The deduction for certain expenses of elementary and secondary school teachers allowed under Section 62(a)(2)(D) of the Internal Revenue Code.

b. The deduction for qualified tuition and related expenses allowed under Section 222 of the Internal Revenue Code.

c. The increased expensing allowance authorized under Section 179(b) of the Internal Revenue Code.

302.79(2) Taxpayers who did not claim these adjustments on the Iowa return for 2010 as originally filed have two options to reflect these adjustments. Taxpayer may either file an amended return for the 2010 tax year to reflect these adjustments or taxpayer may reflect these adjustments on the tax return for the 2011 tax year. If the taxpayer elects to reflect these adjustments on the 2011 tax return, the following provisions are suspended related to the claiming of the following adjustments for 2011:

a. The limitation based on income provisions and regulations of Section 179(b)(3) of the Internal Revenue Code with regard to the Section 179(b) adjustment.

b. The applicable dollar limit provision of Section 222(b)(2)(B) of the Internal Revenue Code with regard to the qualified tuition and related expenses adjustment.

302.79(3) Examples. The following noninclusive examples illustrate how this rule applies:

EXAMPLE 1: Taxpayer claimed a $150,000 Section 179 expense on the federal return for 2010. Taxpayer only claimed a $134,000 Section 179 expense on the Iowa return as originally filed for 2010. Taxpayer elects not to file an amended return for 2010, but to make the adjustment on the 2011 Iowa return. Taxpayer reported a loss from the taxpayer's trade or business on the 2011 federal return, so no Section 179 expense can be claimed on the federal return for 2011 in accordance with Section 179(b)(3) of the Internal Revenue Code. Taxpayer can claim the $16,000 ($150,000 less $134,000) difference as a deduction on the Iowa return for 2011 since the income provision of Section 179(b)(3) is suspended for Iowa tax purposes.

EXAMPLE 2: Taxpayers are a married couple who claimed a $4,000 tuition and related expenses deduction on their federal return for 2010. Taxpayers did not claim this deduction on their Iowa return as originally filed for 2010. Taxpayers elected not to file an amended return for 2010, but to make the adjustment on the 2011 Iowa return. Taxpayers reported federal adjusted gross income in excess of $160,000 on their 2011 federal return, so no deduction for tuition and related expenses can be claimed on the 2011 federal return in accordance with Section 222(b)(2)(B) of the Internal Revenue Code. Taxpayers can claim the $4,000 deduction on the Iowa return for 2011 since the dollar limit provision of Section 222(b)(2)(B) is suspended for Iowa tax purposes.

EXAMPLE 3: Taxpayer is an elementary school teacher who claimed a $250 deduction for out-of-pocket expenses for school supplies on the federal return for 2010. Taxpayer did not claim this deduction on the Iowa return as originally filed for 2010. Taxpayer elected not to file an amended return for 2010, but to make the adjustment on the 2011 Iowa return. Taxpayer also claimed a $200 deduction for out-of-pocket expenses for school supplies on the federal return for 2011. Taxpayer can claim a $450 ($250 plus $200) deduction on the Iowa return for 2011.

This rule is intended to implement 2011 Iowa Acts, Senate File 533, section 143.

[**ARC 9820B**, IAB 11/2/11, effective 12/7/11; Editorial change: IAC Supplement 11/2/22]

701—302.80(422) Exemption for military retirement pay. Retirement pay received by taxpayers from the federal government for military service performed in the armed forces, armed forces reserves, or national guard is exempt from state income tax. In addition, amounts received by a surviving spouse, former spouse, or other beneficiary of a taxpayer who served in the armed forces, armed forces reserves, or national guard under the Survivor Benefit Plan are also exempt from state income tax. The retirement pay is only deductible to the extent it is included in the taxpayer's federal taxable income.

302.80(1) *Coordination with pension exclusion.* The exclusion of retirement pay is in addition to the exclusion, provided in rule 701—302.47(422), of pensions and other retirement benefits for disabled individuals, individuals who are 55 years of age or older, surviving spouses and survivors. In addition, taxpayers who do not qualify for the exclusion in rule 701—302.47(422) and who receive retirement pay under federal law that combines retirement pay for both uniformed service and the federal civil service retirement system or federal employees' retirement system must prorate the retirement pay based on years of service.

EXAMPLE: A single taxpayer who is not disabled and is 50 years of age receives $60,000 as a federal pension during the tax year. The taxpayer has 20 years of military service and 10 years of civilian

employment with the federal government. The military retirement pay portion is $40,000 (20 years, divided by 30 years, multiplied by $60,000). The taxpayer can exclude $40,000 of military retirement pay. The taxpayer may not exclude the $20,000 of civilian retirement pay since it does not qualify for the exclusion in rule 701—302.47(422) because the taxpayer is under 55 years of age and is not disabled.

302.80(2) *Coordination with filing threshold and alternate tax.* The military retirement pay is excluded from the calculation of income used to determine whether an Iowa income tax return is required to be filed pursuant to 701—subrules 301.1(1) and 301.5(10) through 301.5(13). In addition, the military retirement pay is excluded from the calculation of the special tax computation for all low-income taxpayers except single taxpayers pursuant to rule 701—301.9(422) and is excluded from the calculation of the special tax computation for taxpayers who are 65 years of age or older under rule 701—301.15(422).

302.80(3) *Iowa withholding.* The amount of military retirement pay is excluded from the calculation of payments used to determine whether Iowa tax should be withheld from pension and annuity payments as determined pursuant to 701—subrule 307.3(4).

This rule is intended to implement Iowa Code sections 422.5 and 422.7.

[**ARC 1665C**, IAB 10/15/14, effective 11/19/14; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23; **ARC 7502C**, IAB 1/10/24, effective 2/14/24]

701—302.81(422) Iowa ABLE savings plan trust. The Iowa ABLE savings plan trust was created so that individuals can contribute funds on behalf of designated beneficiaries into accounts administered by the treasurer of state. The funds contributed to the trust may be used to cover future disability-related expenses of the designated beneficiary. The funds contributed to the trust are intended to supplement, but not supplant, other benefits provided to the designated beneficiary by various federal, state, and private sources. The Iowa ABLE savings plan program is administered by the treasurer of state under the terms of Iowa Code chapter 12I. The following subrules provide details about how an individual's net income is affected by contributions to a beneficiary's account, by interest and any other earnings on a beneficiary's account, and by distributions of contributions which were previously deducted.

302.81(1) *Definitions.*

"Account owner" means an individual who enters into a participation agreement under Iowa Code chapter 12I for the payment of qualified disability expenses on behalf of a designated beneficiary.

"Designated beneficiary" means an individual who is a resident of this state or a resident of a contracting state and who meets the definition of "eligible individual" found in Section 529A of the Internal Revenue Code.

"Iowa ABLE savings plan trust" means a qualified ABLE program administered by the Iowa treasurer of state under the terms of Iowa Code chapter 12I.

"Other qualified ABLE program" refers to any qualified ABLE program administered by another state with which the Iowa treasurer of state has entered into an agreement under the terms of Iowa Code section 12I.10 (see subrule 302.81(2) below).

"Qualified ABLE program" means the same as defined in Section 529A of the Internal Revenue Code.

"Qualified disability expenses" means the same as defined in Section 529A of the Internal Revenue Code.

302.81(2) *Contracting with other states.* Iowa Code section 12I.10 allows the treasurer of state to choose to defer implementation of Iowa's own qualified ABLE program and instead enter into an agreement with another state that already has a qualified ABLE program, to provide Iowa residents access to that state's qualified ABLE program, provided that the other state's program meets the qualifications set out in Iowa Code section 12I.10(1).

302.81(3) *Subtraction from net income for contributions made to the Iowa ABLE savings plan trust or other qualified ABLE program.* For tax years beginning on or after January 1, 2016, individuals can subtract from their Iowa net income the amount contributed to the Iowa ABLE savings plan trust or other qualified ABLE program on behalf of a designated beneficiary during the tax year, subject to the maximum contribution level for that year. This subtraction is not allowed for any contribution that is

a transfer from an Iowa educational savings plan trust account and that was previously deducted as a contribution to the Iowa educational savings plan trust.

302.81(4) *Exclusion of interest and earnings on beneficiary accounts in the Iowa ABLE savings plan trust or other qualified ABLE program.* For tax years beginning on or after January 1, 2016, to the extent that interest or other earnings accrue on an account in the Iowa ABLE savings plan trust or other qualified ABLE program (if the account owner is an Iowa resident), the interest or other earnings are excluded for purposes of computing net income on the designated beneficiary's Iowa individual income tax return.

302.81(5) *Addition to net income of amounts distributed to the participant from the Iowa ABLE savings plan trust or other qualified ABLE program that had previously been deducted.*

a. For tax years beginning on or after January 1, 2016, if a taxpayer, as an account owner, cancels the account owner's account in the Iowa ABLE savings plan trust or other qualified ABLE program and receives a distribution of the funds in the account, the amount of the distribution shall be included in net income on the account owner's Iowa individual income tax return to the extent that contributions to the account had been deducted on prior state individual income tax returns of the account owner or any other person as a contribution to the Iowa ABLE savings plan trust or other qualified ABLE program or as a contribution to an Iowa educational savings plan trust account.

b. For tax years beginning on or after January 1, 2016, if a taxpayer makes a withdrawal of funds previously deducted by the taxpayer or any other person from the Iowa ABLE savings plan trust or other qualified ABLE program for purposes other than the payment of qualified disability expenses, the amount of the withdrawal shall be included in net income on the taxpayer's Iowa individual income tax return to the extent that contributions to the account had been deducted on prior Iowa individual income tax returns of the taxpayer or any other person as contributions to a qualified ABLE program or an Iowa educational savings plan trust account.

302.81(6) *Maximum contribution level.* The amount of the deduction available for an individual taxpayer each year for contributions on behalf of any one designated beneficiary to the Iowa ABLE savings plan trust or other qualified ABLE program may not exceed the maximum contribution level for that year. The maximum contribution level is set by the treasurer of state. The maximum contribution level is indexed yearly for inflation pursuant to Iowa Code section 12D.3(1).

This rule is intended to implement Iowa Code section 422.7.

[**ARC 2691C**, IAB 8/31/16, effective 10/5/16; **ARC 4516C**, IAB 6/19/19, effective 7/24/19; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—302.82(422,541B) First-time homebuyer savings accounts.

302.82(1) *Definitions.* Definitions that apply to the first-time homebuyer savings account program may be found in Iowa Code section 541B.2.

302.82(2) *Establishing an account.*

a. Account holders.

(1) A first-time homebuyer savings account holder must be an individual or married couple.

(2) Any individual may establish a first-time homebuyer savings account by opening an account that meets the requirements provided in this rule.

(3) A married couple who files a joint Iowa income tax return may establish a joint first-time homebuyer savings account by opening a joint savings account that meets the requirements provided in this rule. Married couples who file separately or separately on a combined return for Iowa income tax purposes may not establish a joint first-time homebuyer savings account.

(4) There is no limit on the number of first-time homebuyer savings accounts that any account holder may open. However, account holders are subject to other restrictions under the Iowa Code and these rules, including but not limited to the annual contribution limits and aggregate lifetime limits in paragraph 302.82(4)*"c."*

(5) No account holder may open or hold more than one account for the same designated beneficiary.

(6) The account holder may change the designated beneficiary of the account at any time.

b. Beneficiaries.

(1) In order to be a designated beneficiary of a first-time homebuyer savings account, an individual must:

1. Be a resident of Iowa, as defined in Iowa Code section 422.4,
2. Not own, either individually or jointly, any single-family or multifamily residence, and
3. Not have owned or purchased, individually or jointly, any single-family or multifamily residence at any time in the three years immediately prior to both:

- The date on which the individual is designated the beneficiary of a first-time homebuyer savings account, and
- The date of the qualified home purchase for which the eligible home costs are paid or reimbursed from the first-time homebuyer savings account.

(2) The designated beneficiary may also be the account holder.

(3) Each account shall have only one designated beneficiary.

(4) The account holder must designate a beneficiary, on forms provided by the department, by April 30 of the year immediately following the tax year in which the account holder opened the account.

c. Account requirements. To qualify as a first-time homebuyer savings account, the account must be:

(1) An interest-bearing savings account meeting the qualifications for a "savings deposit" under 12 CFR 204.2(d),

(2) At a state or federally chartered bank, savings and loan association, credit union, or trust company in Iowa, and

(3) Used exclusively as a first-time homebuyer savings account, in compliance with the requirements of this rule.

302.82(3) *Maintaining the account.*

a. Contributing to the account.

(1) Any person may make cash contributions to a first-time homebuyer savings account. Cash contributions may be made by people other than the account holder or the beneficiary. However, only the account holder may claim a deduction for contributing to a first-time homebuyer savings account, as described in subrule 302.82(4).

(2) There is no limit on the amount of contributions that may be made to or retained in a first-time homebuyer savings account. However, there are restrictions on the amounts that can be deducted for Iowa income tax purposes, as described in subrule 302.82(4).

b. Documenting transactions.

(1) Annual reports. For each tax year beginning with the tax year in which the first-time homebuyer savings account is established, the account holder must submit a report to the department showing all account activity during the tax year. The report shall be included with the taxpayer's Iowa individual income tax return and must show the account number of, all deposits into, and withdrawals from, the first-time homebuyer savings account, along with any other information required by the forms provided by the department.

(2) Withdrawal reports. All withdrawals must be reported, on forms provided by the department, within 90 days of the date of the withdrawal or, for withdrawals made less than 90 days before an account holder files an income tax return with the department, no later than the date the return is filed. Account holders must report both withdrawals for eligible home costs and any nonqualifying withdrawals. Any withdrawal that appears on the annual report but that is not properly reported at the time it is made shall be deemed to be a nonqualifying withdrawal that must be added back on the account holder's Iowa income tax return for the tax year in which the withdrawal was made.

(3) Account fees. Fees and charges for the maintenance of the account that are deducted from the account by the financial institution in which the first-time homebuyer savings account is held shall not be considered withdrawals for the purposes of the reporting requirements described in paragraph 302.82(3)*"b."*

c. Nonqualifying withdrawals. Funds may be withdrawn from a first-time homebuyer savings account at any time. However, once any nonqualifying withdrawal, as defined in subparagraph 302.82(5)*"a"*(2), is made, the account holder may no longer claim the Iowa income tax benefits

related to the first-time homebuyer savings account described in subrule 302.82(4). Furthermore, any nonqualifying withdrawal shall also result in an addition to income and penalty as described in subrule 302.82(5).

d. Ten-year limitation. An account shall not remain designated a first-time homebuyer savings account for more than ten years, beginning with the year in which the account was first opened. Any funds remaining in the account on January 1 of the tenth calendar year following the year in which the account holder first opened the account shall be deemed immediately withdrawn and may be subject to Iowa income taxes and penalties as described in subrule 302.82(5). The account holder has no obligation to close the account, but as of January 1 of the tenth calendar year after the year in which the account was opened, the account will no longer be a first-time homebuyer savings account entitled to the Iowa income tax benefits described in this rule. A change in the designated beneficiary of the account does not extend the ten-year period in which the account holder may maintain a first-time homebuyer savings account; the period still runs from the year the account was first opened.

e. Exclusively first-time homebuyer account. For an account to qualify as a first-time homebuyer savings account, the account holder shall use the account exclusively as a first-time homebuyer savings account consistent with these rules.

302.82(4) *Deductions.*

a. Deduction for contributions. Any funds contributed to the first-time homebuyer savings account by the account holder during the tax year may be deducted from the account holder's net income on the account holder's Iowa individual income tax return for that year, subject to the limitations described in paragraph 302.82(4)*"c."* Although anyone may contribute funds to the first-time homebuyer savings account, only the account holder may claim the deduction, and the deduction may be claimed only for amounts the account holder personally contributed.

b. Deduction for interest. To the extent that any interest earned on the funds in a first-time homebuyer savings account is included in the account holder's Iowa income for a tax year, the amount of that interest may be deducted from the account holder's net income on the account holder's Iowa individual income tax return for that tax year, subject to the lifetime limitation described in subparagraph 302.82(4)*"c"*(2).

c. Limitations.

(1) Annual limitation. The deduction described in paragraph 302.82(4)*"a"* is subject to the limitations described in paragraphs "1" and "2" below. These limitations apply to the total contributions that the account holder makes to all first-time homebuyer savings accounts owned by the account holder:

1. Joint first-time homebuyer savings account holders. For married couples who are joint first-time homebuyer savings account holders, the deduction is limited to $4,000 per year, adjusted annually for inflation.

2. For all other taxpayers who are first-time homebuyer savings account holders, the deduction is limited to $2,000 per year, adjusted annually for inflation.

(2) Lifetime limitation. Account holders are subject to an aggregate lifetime limit on the deductions described in paragraphs 302.82(4)*"a"* and *"b."* No account holder may take total deductions under this program in excess of the lifetime limitation in place for the tax year in which the account holder first opens a first-time homebuyer savings account. The applicable lifetime limit imposed upon taxpayers opening an account in a given year is calculated annually by multiplying the annual limit in effect for that year by 10.

(3) Annual publication of limitations. Each year, the department shall publish the annual contribution limit as indexed for inflation and the lifetime limit applicable to account holders who open accounts during that year.

302.82(5) *Additions to income.*

a. Nonqualifying withdrawals.

(1) Addition to income. If there is any nonqualifying withdrawal, as defined in subparagraph 302.82(5)*"a"*(2), during the tax year, the account holder must add to the account holder's Iowa net income for that year the full amount of the nonqualifying withdrawal, to the extent such income was previously deducted under paragraph 302.82(4)*"a."* Any nonqualifying withdrawal also makes the

account holder ineligible to claim any further deductions described in subrule 302.82(4) in any future tax year.

(2) Nonqualifying withdrawal defined.

1. Any withdrawal from a first-time homebuyer savings account for any purpose other than the payment or reimbursement of the designated beneficiary's eligible home costs in connection with a qualified home purchase is a nonqualifying withdrawal. A nonqualifying withdrawal includes but is not limited to a withdrawal caused by the death of the account holder and withdrawal made pursuant to garnishment, levy, bankruptcy order, or any other order. If a nonqualifying withdrawal occurs, the account holder cannot cure the nonqualifying withdrawal by returning funds to the account.

2. A withdrawal shall be presumed to be a nonqualifying withdrawal unless:

- Ownership of the qualifying home which the funds from the account are used to purchase passes to the designated beneficiary within 60 days of the date the funds are withdrawn, and
- The designated beneficiary actually occupies the home as the designated beneficiary's primary residence within 90 days of the date the funds are withdrawn.

3. Notwithstanding subparagraph 302.82(5)*"a"*(2), any amount transferred between different first-time homebuyer savings accounts of the same account holder by a person other than the account holder shall not be considered a nonqualifying withdrawal.

b. Unused funds. Any amount remaining in a first-time homebuyer savings account on January 1 of the tenth calendar year after the calendar year in which the account holder first opened any first-time homebuyer savings account shall be considered immediately withdrawn. This remaining amount shall be subject to the add-back described in paragraph 302.82(5)*"a."*

c. Penalties. For any amount considered a withdrawal required to be added to net income pursuant to this subrule, the account holder shall be assessed a penalty equal to 10 percent of the amount of the withdrawal. The penalty shall not apply to withdrawals made by reason of the death of the account holder or to withdrawals made pursuant to a garnishment, levy, or other order, including but not limited to an order in bankruptcy following a filing for protection under the federal Bankruptcy Code, 11 U.S.C. §101 et seq.

d. Examples.

EXAMPLE 1: Taxpayer eligible for the deduction; no addition to income or penalty from nonqualifying withdrawal. A is an individual. In 2018, A creates a new interest-bearing savings account with a financial institution. In 2018, A submits a form to the department designating the account as a first-time homebuyer savings account and designating Z, an Iowa resident who has never owned a home, as the beneficiary of the account. In tax year 2018, A contributes $1,000 to the first-time homebuyer savings account. A contributes $1,000 per year to the first-time homebuyer savings account during tax years 2019, 2020, and 2021. Every year, A timely submits the required annual reports and all accompanying information. In 2021, after A contributed $1,000 to the first-time homebuyer savings account, Z made a qualified home purchase. A withdrew the entire balance of the first-time homebuyer savings account and applied the amount to eligible home costs. Within 90 days of withdrawing the funds, A submitted the required withdrawal report and the necessary supporting documentation to the department.

Result: A is allowed to deduct from net income the amount of the contributions generated from the first-time homebuyer account, since the yearly contributions are below the annual limits. A is allowed to deduct $1,000 each year from A's 2018, 2019, 2020, and 2021 net income. Additionally, A is allowed to deduct income from interest generated from the account each year. A does not have any addition to net income or any penalties associated with the withdrawal or usage of the funds.

EXAMPLE 2: Nonqualifying withdrawal of entire account due to voluntary withdrawal by A. Assume the same facts as Example 1. However, rather than making a qualified withdrawal, in 2021, A withdraws the entire balance of the first-time homebuyer savings account and pays for Z's college tuition.

Result: The withdrawal is a nonqualified withdrawal. Any withdrawal that is not for eligible home costs is a nonqualified withdrawal. A's nonqualified withdrawal has three results. First, the amount of the nonqualified withdrawal is added back to the account holder's net income for the tax year in which the nonqualified withdrawal occurred. In this example, A's 2021 net income would increase by

the amount of the contributions that A previously deducted. (See Iowa Code section 422.7(41)*"c"*(1).) Second, A will be assessed a penalty equal to 10 percent of the total contributions that A previously deducted. (See Iowa Code section 422.7(41)*"d."*) Third, A will no longer be able to claim the first-time homebuyer deduction in any future tax years. (See Iowa Code section 422.7(41)*"b"*(2)(b).) A is barred from claiming the first-time homebuyer deduction in the future, even if A attempts to open a first-time homebuyer account for a different beneficiary in a different tax year.

EXAMPLE 3: Nonqualifying withdrawal of entire account by legal process. Assume the same facts as Example 1. However, rather than a qualifying withdrawal occurring, in 2021, a creditor levies the entire balance of the first-time homebuyer account in order to satisfy A's debt to the creditor.

Result: The levy is a nonqualified withdrawal. Any withdrawal, including a withdrawal that is caused by a legal process not initiated by A, that is not for a qualified home purchase is a nonqualified withdrawal. Example 3 has the same result as Example 2, except in Example 3, A does not incur a 10 percent penalty because the withdrawal was due to a levy. (See Iowa Code section 422.7(41)*"d."*)

EXAMPLE 4: Nonqualifying withdrawal of a partial balance of a first-time homebuyer savings account. A is an individual. In 2018, A creates a new interest-bearing savings account with a financial institution. In 2018, A submits a form with the department designating the account as a first-time homebuyer savings account and designating Z, an Iowa resident who has never owned a home, as the beneficiary of the account. In tax year 2018, A contributes $1,000 to the first-time homebuyer savings account. A contributes $1,000 per year to the first-time homebuyer savings account during tax years 2019, 2020, and 2021. Every year, A timely submits the required annual reports and all accompanying information. After making the $1,000 deposit for 2021, A has a total of $4,100 in the first-time homebuyer savings account. In 2022, A withdraws $1,000 from the account in order to pay for personal expenses.

Result: The $1,000 withdrawal is a nonqualifying withdrawal. A must file a withdrawal report with the department within 90 days of the withdrawal. A withdrawal report is required for both qualifying and nonqualifying withdrawals. The $1,000 withdrawal will result in the addition of $1,000 to A's 2022 net income. A will also be assessed a $100 penalty. The balance of the first-time homebuyer account is $3,100. Subject to the ten-year limitation and the other requirements of the deduction, A may use the remaining $3,100 for Z's eligible home costs prior to January 1, 2028. If A does so, A will not have the $3,000 added back to A's net income or face any penalties associated with the $3,000 eligible home costs. Regardless of what occurs with the remaining $3,100, A will be prohibited from claiming the first-time homebuyer deduction for any period after the date of the nonqualified withdrawal. This is true even if A attempts to repay the $1,000 withdrawal or if A attempts to open any other first-time homebuyer accounts.

EXAMPLE 5: No withdrawals made within ten years of opening the account. A is an individual. In March of 2018, A creates a new interest-bearing savings account with a financial institution. A completes all of the necessary paperwork and designates Z as the beneficiary of the account. In 2018, and in each subsequent year, A contributes $1,000 to the first-time homebuyer savings account. On December 31, 2027, A has made a total of $10,000 dollars in contributions to the account, has taken a deduction for each contribution, and has made no withdrawals from the account. On January 1, 2028, Z still has not purchased a qualifying home.

Result: As of January 1, 2028, the account is no longer a first-time homebuyer savings account, and the entire account balance is deemed to have been withdrawn in a nonqualifying withdrawal. A is required to report the entire $10,000 previously deducted for contributions to the account as income in tax year 2028 and pay a $1,000 penalty for the nonqualifying withdrawal. A can no longer open a new first-time homebuyer savings account or take any deductions for contributions made to another account under the program.

EXAMPLE 6: Divorce between taxpayers with a joint account. A and B are a married couple who file a joint Iowa income tax return. In 2018, A and B open a joint savings account and take the necessary steps to designate it as a joint first-time homebuyer savings account. In 2018, A and B contribute $2,000 to the account and deduct the full amount on their joint Iowa income tax return for 2018. They contribute

the same amount, file joint returns, and deduct the full amount in tax years 2019, 2020, and 2021. In 2022, A and B divorce. The divorce decree divides the funds in the account evenly between A and B.

Result: In this situation, when the funds from the account are distributed between A and B, the entire withdrawal is deemed to be a nonqualifying withdrawal, and A and B are jointly and severally liable for the payment of the tax and penalty due on the entire amount that they previously deducted for contributions to the first-time homebuyer savings account.

Alternative result: A and B can avoid this result by taking some steps before the divorce decree is entered. Prior to the divorce decree, A and B can each open a new first-time homebuyer savings account individually. As long as the divorce decree orders that funds from the original joint first-time homebuyer savings account be transferred to A's and B's new individual accounts, the funds may be transferred without triggering a nonqualifying withdrawal, A and B will not be subject to taxes or penalties on their previous contributions to the account, and each will still be eligible to take deductions for contributions to their new accounts, subject to the applicable limitations. In this scenario, the transfer must occur as a direct result of a court order; if A or B transfers funds themselves, the transfer is deemed to be a nonqualifying withdrawal.

Even if the funds in A and B's original joint account are successfully transferred without triggering a nonqualifying withdrawal as described above, both A and B will still be jointly and severally liable for any tax or penalty due on any nonqualifying withdrawal that either makes later, up to the amount they deducted on their joint returns prior to the divorce.

EXAMPLE 7: Death of the account holder. A is an individual. In 2018, A creates a new interest-bearing savings account with a financial institution. In 2018, A submits a form to the department designating the account as a first-time homebuyer savings account and designating Z, an Iowa resident who has never owned a home, as the beneficiary of the account. In tax year 2018, A contributes $1,000 to the first-time homebuyer savings account. A makes $1,000 contributions per year to the first-time homebuyer savings account during tax years 2019, 2020, and 2021. Every year, A timely submits the required annual reports and all accompanying information. In 2022, A dies without having withdrawn any funds from the account either for a qualifying home purchase for Z or for any other reason.

Result: All of the funds in the account are deemed immediately withdrawn at the time of A's death. Because this is a nonqualifying withdrawal, the $4,000 in contributions which A previously deducted must be included as income on A's final return. However, because the reason for the deemed withdrawal was A's death, the 10 percent penalty is not included on A's final return.

This rule is intended to implement Iowa Code section 422.7 and chapter 541B.

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701—302.83(422) Like-kind exchanges of personal property completed after December 31, 2017, but before tax periods beginning on or after January 1, 2020.

302.83(1) *In general.* Public Law 115-97, Section 13303, repealed the deferral of gain or loss from exchanges of like-kind personal property for federal purposes under Section 1031 of the Internal Revenue Code. This federal repeal applies to exchanges completed after December 31, 2017, unless the taxpayer began the exchange by transferring personal property or receiving replacement personal property on or before that date. Iowa did not conform to this federal repeal for Iowa individual income tax purposes for tax periods beginning before January 1, 2019. For tax years beginning on or after January 1, 2019, but before January 1, 2020, Iowa generally conforms to the federal treatment of gain or loss from exchanges of like-kind personal property, but eligible taxpayers may elect the treatment that applied under prior federal law for Iowa purposes. For tax years beginning on or after January 1, 2020, Iowa fully conforms to the federal treatment for these exchanges, and no special election is available. This rule governs exchanges of like-kind personal property completed after December 31, 2017, but before tax periods beginning on or after January 1, 2020. This rule does not apply to exchanges completed during any tax year beginning on or after January 1, 2020.

302.83(2) *Qualification.* Section 1031 of the Internal Revenue Code in effect on December 21, 2017, and any applicable federal regulations govern whether transactions involving the disposition and acquisition of personal property qualify for Iowa individual income tax purposes as a like-kind

exchange of personal property subject to the deferral of gain or loss, and also govern the date and tax period during which an exchange is considered completed. The treatment of such transactions as a like-kind exchange for Iowa individual income tax purposes is either mandatory or permissive depending on the date the like-kind exchange is completed.

a. Like-kind exchanges completed after December 31, 2017, but before tax periods beginning on or after January 1, 2019. Transactions involving the disposition and acquisition of personal property that qualify under this subrule as a like-kind exchange completed after December 31, 2017, but before tax periods beginning on or after January 1, 2019, are required to be treated as a like-kind exchange for Iowa individual income tax purposes.

b. Like-kind exchanges completed during tax periods beginning on or after January 1, 2019, but before January 1, 2020. For tax periods beginning on or after January 1, 2019, Iowa is conformed to the federal repeal of deferral of gain or loss from exchanges of like-kind personal property, so the federal and Iowa treatment of such transactions under Section 1031 of the Internal Revenue Code will generally be the same. However, transactions involving the disposition and acquisition of personal property that qualify under this subrule as a like-kind exchange completed during tax periods beginning on or after January 1, 2019, but before January 1, 2020, may at the election of the taxpayer be treated as a like-kind exchange for Iowa individual income tax purposes. The election is made by completing the necessary worksheets and forms and making the required adjustments on the Iowa return as described in subrule 302.83(3). No special attachment or statement is required. The election only applies to the transactions involved in the like-kind exchange, and the taxpayer may elect or not elect to treat other qualifying transactions as a like-kind exchange for Iowa purposes.

302.83(3) *Calculation and Iowa adjustments.* A taxpayer required to or electing to treat qualifying transactions as a like-kind exchange for Iowa tax purposes must make certain Iowa calculations and adjustments on forms and worksheets made available on the department's website. The IA 8824 Worksheet described in this subrule need not be included with the Iowa return but must be kept with the taxpayer's records. The taxpayer is responsible for providing documentation at the department's request to substantiate a like-kind exchange under this rule.

a. Like-kind exchange calculation. The taxpayer must complete Parts I and II of the IA 8824 Worksheet to compute the Iowa recognized gain, if any, the Iowa deferred gain or loss, and the Iowa basis of the like-kind personal property received in the like-kind exchange.

EXAMPLE 1: X, a sole proprietor engaged in commercial farming and filing on a calendar-year basis, trades a tractor with a fair market value (FMV) of $25,000 along with $75,000 in cash to Y for a new tractor with an FMV of $100,000. For purposes of this example it is assumed that the tractor trade occurs in 2019 and qualifies as a like-kind exchange and that X elects such treatment for Iowa individual income tax purposes under paragraph 302.83(2)*"b."* At the time of the trade, the adjusted basis of X's old tractor is $0 for federal tax purposes and is $13,680 for Iowa tax purposes. X realizes a gain for Iowa purposes on the exchange of the old tractor in the amount of $11,320 ($100,000 FMV of new tractor - $75,000 cash paid - $13,680 Iowa adjusted basis of old tractor). Because X did not receive any cash or other property that was not like-kind, or assume any liabilities from Y, the entire amount of X's $11,320 realized gain qualifies for deferral, so X recognizes $0 of gain on the exchange for Iowa tax purposes. As a result, X's basis in the new tractor for Iowa tax purposes is $88,680 ($13,680 Iowa adjusted basis of old tractor + $75,000 cash paid by X).

b. Iowa nonconformity adjustment.

(1) The taxpayer must complete Part III of the IA 8824 Worksheet to adjust for the difference between any recognized Iowa gain from the exchange as calculated on the IA 8824 Worksheet, Part II, and any gain or loss (including gain or loss recaptured as ordinary income) recognized on the taxpayer's federal return.

EXAMPLE 2: Assume the same facts as given in Example 1. Because the tractor trade occurred in 2019, it will not qualify as a like-kind exchange for federal tax purposes but will instead be treated as two separate transactions: a sale of the old tractor and a purchase of the new tractor. X recognizes a gain for federal tax purposes on the sale of the old tractor in the amount of $25,000 ($25,000 sales price of old tractor - $0 federal adjusted basis of old tractor), the entire amount of which is recaptured as

ordinary income because of prior depreciation. X reports the $25,000 of income on the federal return. X is required to report the same $25,000 as income on the Iowa return but is also allowed a $25,000 subtraction on the same Iowa return because X's recognized gain for Iowa tax purposes is $0 as calculated in Example 1. X's nonconformity adjustment of -$25,000 must be reported on the Iowa return in the manner prescribed on the IA 8824 Worksheet.

(2) If the total recognized federal gain is reported using the installment sale method under Section 453 of the Internal Revenue Code, the total amount of any Iowa nonconformity adjustment related to that federal gain must be claimed over the same installment period, and the proportion of the total Iowa nonconformity adjustment claimed for each tax year shall equal the same proportion that the federal gain reported for that tax year bears to the total amount of federal gain that will ultimately be reported for all tax years resulting from the disposition of the personal property. The taxpayer must complete an IA 8824 Worksheet for each tax year that an Iowa nonconformity adjustment is claimed.

c. Cost recovery adjustments.

(1) The taxpayer must complete the IA 4562A to account for any differences between the federal and Iowa cost recovery deductions related to the like-kind personal property involved in the like-kind exchange, including if the taxpayer's basis in the like-kind personal property received is different for federal and Iowa purposes, or if the taxpayer claimed additional first-year depreciation or a section 179 deduction for federal purposes on the like-kind property received in the exchange. See rule 701—302.60(422) for requirements related to the disallowance of additional first-year depreciation for Iowa individual income tax purposes. See rule 701—302.65(422) for the section 179 limitations imposed under the Iowa individual income tax.

(2) Treasury Regulation §1.168(i)-6 prescribes rules related to the calculation of depreciation for certain assets involved in a like-kind exchange, but a taxpayer may elect to not have those rules apply pursuant to Treasury Regulation §1.168(i)-6(i). A taxpayer may choose to make a similar election under Treasury Regulation §1.168(i)-6(i) for Iowa tax purposes with regard to a like-kind exchange under this rule if the personal property otherwise would have qualified for such federal election notwithstanding the fact that no like-kind exchange occurred for federal purposes or the fact that no election was actually made for federal tax purposes in accordance with Treasury Regulation §1.168(i)-6(j). The election is made by calculating depreciation for Iowa tax purposes on the personal property involved in the like-kind exchange using the method described in Treasury Regulation §1.168(i)-6(i) on the timely filed Iowa return, including extensions, for the same tax year that the like-kind exchange was completed. No special attachment or statement is required.

EXAMPLE 3: Assume the same facts as given in Examples 1 and 2. X elects additional first-year depreciation on the new tractor and claims a depreciation deduction on the federal return of $100,000 (100 percent of X's federal basis). X is required to add back the total amount of the federal depreciation on the Iowa return because Iowa does not allow additional first-year depreciation. But X is permitted deductions for regular depreciation on the new tractor with an Iowa basis of $88,680 ($13,680 carryover basis from old tractor + $75,000 excess basis from cash paid) under Section 168 of the Internal Revenue Code, without regard to bonus depreciation under Section 168(k). See rule 701—302.60(422) for more information on the disallowance of additional first-year depreciation.

EXAMPLE 4: Assume the same facts as given in Examples 1 and 2. X elects to expense the entire cost of the new tractor under Section 179 of the Internal Revenue Code and claims a deduction on the federal return of $100,000. X is also required to claim the section 179 deduction on the new tractor for Iowa tax purposes pursuant to subrule 302.65(2). However, the amount that represents the carryover basis from the old tractor ($13,680) is not eligible for the deduction under Section 179(d)(3) of the Internal Revenue Code, so the cost of the new tractor that is eligible for the section 179 deduction for Iowa purposes is only $75,000 (excess basis from cash paid). This is the amount of section 179 deduction that X must claim on the Iowa return, subject to the applicable Iowa dollar limitation and reduction limitations in rule 701—302.65(422). Because X is the taxpayer who placed the new tractor in service, X is permitted

deductions for regular depreciation on the carryover basis in the new tractor ($13,680) under Section 168 of the Internal Revenue Code, without regard to bonus depreciation under Section 168(k).

This rule is intended to implement Iowa Code section 422.7 as amended by 2018 Iowa Acts, chapter 1161 [Senate File 2417].

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701—302.84(422) Broadband infrastructure grant exemption.

302.84(1) *Broadband infrastructure grant exemption, generally.* For tax years beginning on or after January 1, 2019, certain qualifying communications service providers may subtract, to the extent included in income, the amount of qualifying government grants used to install broadband infrastructure that facilitates broadband service in targeted service areas at or above download and upload speeds identified by the Federal Communications Commission pursuant to Section 706 of the federal Telecommunications Act of 1996, as amended. This rule explains terms not defined in Iowa Code section 422.7.

302.84(2) *Definitions.*

"Facilitate" shall have the same meaning as defined in Iowa Code section 8B.1.

"Grant" means a transfer for a governmental purpose of money or property to a transferee that is not a related party to or an agent of the transferor. The transfer must not impose any obligation or condition to directly or indirectly repay any amount to the transferor or a related party. Obligations or conditions intended solely to assure expenditure of the transferred moneys in accordance with the governmental purpose of the transfer do not prevent a transfer from being a grant.

1. "Federal grant" means any grant issued by the United States government, including any agency or instrumentality thereof.

2. "State grant" means any grant issued by any state of the United States, the District of Columbia, or a territory or possession of the United States, including any agency or instrumentality thereof.

3. "Local grant" means any grant issued by any city, county, township, school district, or any other unit of local government, including any agency or instrumentality thereof.

302.84(3) *Limitation on certain refund claims.* For tax years beginning on or after January 1, 2019, and before January 1, 2020, refund claims resulting from this exemption must be filed prior to October 1, 2020. No refunds shall be issued for claims filed on or after that date.

This rule is intended to implement Iowa Code section 422.7.

[**ARC 5606C**, IAB 5/5/21, effective 6/9/21; Editorial change: IAC Supplement 11/2/22]

701—302.85(422) Interest expense deduction adjustments. For tax years beginning on or after January 1, 2020, the limit on the amount of business interest expense that a taxpayer may deduct in a taxable year under Internal Revenue Code (IRC) Section 163(j) does not apply for Iowa purposes. This rule provides information on how taxpayers must calculate and report their business interest expense deduction for Iowa purposes for tax year 2018 (subrule 302.85(2)), when Iowa did not conform to the limitation; tax year 2019 (subrule 302.85(3)), when Iowa did conform to the limitation; and tax years 2020 and later (subrule 302.85(4) et seq.), when Iowa again does not conform to this limitation. All references to the Code of Federal Regulations (Treas. Reg.) and certain other information in this rule are based on final Internal Revenue Service (IRS) regulations and guidance in effect on January 13, 2021.

302.85(1) *Definitions.* The following terms apply to the interpretation and application of this rule.

"Current-year business interest expense" means the same as defined in Treas. Reg. Section 1.163(j)-1(b)(9).

"Excess business interest expense" means the same as defined in Treas. Reg. Section 1.163(j)-1(b)(16).

"Iowa partnership" means any partnership required to file an Iowa return (IA 1065) for the relevant tax year.

"Iowa S corporation" means any S corporation required to file an Iowa return (IA 1120S) for the relevant tax year.

"Non-Iowa partnership" means any partnership that is not required to file an Iowa return (IA 1065) for the relevant tax year.

"Non-Iowa S corporation" means any S corporation that is not required to file an Iowa return (IA 1120S) for the relevant tax year.

302.85(2) *Tax year 2018.* For tax years beginning on or after January 1, 2018, but before January 1, 2019 (tax year 2018), Iowa conforms with the IRC in effect on January 1, 2015, meaning the 30 percent limitation on the business interest expense deduction first imposed by IRC Section 163(j) under Public Law 115-97 (TCJA) does not apply for Iowa purposes.

a. In general. For tax year 2018, Iowa taxpayers are permitted to deduct current-year business interest expense without regard to the limitations imposed by IRC Section 163(j) under the TCJA. The taxpayer's additional deduction is computed on the 2018 Nonconformity Adjustments Worksheet. Taxpayers who qualify for these higher Iowa deductions in 2018 may need to make further adjustments in 2019 for amounts deducted under this subrule for Iowa purposes but disallowed and carried forward for federal purposes. See subrule 302.85(3) for more information about these 2019 adjustments.

b. Special rules for partnerships and S corporations.

(1) Iowa partnerships and S corporations. Partnerships and S corporations required to file Iowa returns in tax year 2018 are required to make adjustments for Iowa's nonconformity with IRC Section 163(j) at the entity level, meaning they can deduct the full interest expense on the entity's own Iowa return and the reduction to the partner's or shareholder's share of the entity's income will be included in the all source modifications line of the partners' or shareholders' Iowa Schedules K-1.

EXAMPLE 1: P, a partnership doing business in Iowa, has $100,000 in current-year business interest expense in 2018. For federal purposes, $20,000 of that amount is disallowed under IRC Section 163(j). The partnership deducts $80,000 at the entity level in 2018, and the remaining disallowed $20,000 is allocated to the partners to be deducted in future years. For Iowa purposes, the $80,000 of business interest expense allowed for federal purposes is included in the partnership's non-separately stated ordinary business income (loss), and the partnership will make an adjustment on the entity's IA 1065 to deduct the $20,000 of current-year business interest expense that was disallowed for federal purposes. The $20,000 additional Iowa deduction will be reported to the partners as an all source modification on the partners' IA 1065 Schedules K-1, and partners will receive the benefit of this all source modification item when the partners report their Iowa partnership income on their own Iowa tax return for the year. The partners will not be permitted to make further Iowa adjustments on their own Iowa tax return for the excess business interest expense amounts passed through to them from the partnership for federal purposes.

(2) Owners of partnerships and S corporations with no entity-level 2018 Iowa filing requirement.

1. Non-Iowa partnerships. Iowa partners who received interest expense deductions from partnerships that were not required to file 2018 Iowa returns may claim the larger Iowa deduction for business interest expenses passed through from the partnership on the partner's own 2018 Iowa return by including in the partner's Iowa deduction the amount of disallowed business interest expense deduction shown on the 2018 federal Schedule K-1 (Form 1065), line 13, code K, received from the non-Iowa partnership.

EXAMPLE 2: X is an Iowa resident and a partner in P2, an out-of-state partnership with no business in Iowa and no Iowa filing obligation. In 2018, P2 has $100,000 in current-year business interest expense and is subject to the IRC Section 163(j) limitation for federal purposes. At the entity level, P2 is permitted to deduct $80,000 on its 2018 federal partnership return. The $20,000 in excess business interest expense is then allocated to P2's partners. X is allocated $5,000 in excess business interest expense from P2. Because P2 is not required to file an Iowa return, and therefore X did not receive a 2018 IA 1065 Schedule K-1 from P2, X is permitted to deduct the $5,000 allocated from P2 as current-year business interest expense on X's 2018 Iowa income tax return.

2. Non-Iowa S corporations. Iowa shareholders of S corporations that have no Iowa filing requirement are limited to the deduction actually passed through to them on the federal Schedule K-1 received from the S corporation for Iowa purposes in tax year 2018. These shareholders are not permitted to make adjustments for interest expense disallowed at the entity level for the non-Iowa S corporation.

EXAMPLE 3: R is an Iowa resident and a shareholder in X, an out-of-state S corporation with no business in Iowa and no Iowa filing obligation. In 2018, X has $100,000 in current-year business interest expense and is subject to the IRC Section 163(j) limitation for federal purposes. At the entity level, X is permitted to deduct $80,000 on its 2018 federal income tax return. The $20,000 in excess business interest expense is then carried forward to be deducted by X in future tax years. Because X is not required to file an Iowa return, and excess business interest expense amounts are carried forward at the entity level for S corporations rather than being allocated to shareholders, R is not eligible to make an adjustment for X's disallowed business interest expense amounts on R's 2018 Iowa income tax return. R will only be able to benefit from the deductions for these disallowed amounts for Iowa purposes in the same years that X actually deducts the carried-forward amounts for federal purposes.

302.85(3) *Tax year 2019.* For tax years beginning on or after January 1, 2019, but before January 1, 2020 (tax year 2019), Iowa conforms to the IRC in effect on March 24, 2018.

a. Applicable limitation. For tax year 2019, Iowa conforms to the 30 percent limitation on the business interest expense deduction imposed by IRC Section 163(j). Because of Iowa's fixed conformity date, Iowa did not conform with the higher 50 percent limitation retroactively imposed by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law 116-136, to the extent that increased limitation applied in tax year 2019 for federal purposes. For tax year 2019 only, taxpayers are required to calculate their Iowa business interest expense deduction by applying the limitations of IRC Section 163(j) without regard to IRC Section 163(j)(10).

EXAMPLE 4: Taxpayer Z has an adjusted taxable income (ATI) of $100,000 for tax year 2019 and $80,000 in deductible business interest expense. For federal purposes, Z's business interest expense deduction is limited to $50,000 (50 percent of ATI) under the CARES Act. However, because Iowa only conforms to the 30 percent limitation imposed by the TCJA, and not the higher CARES Act limitation for 2019, Z's Iowa business interest expense deduction for the year is limited to $30,000. Z will report this difference by entering a negative $20,000 adjustment on IA 101, line 3 (Z may have additional adjustments on this line if the current year federal deduction included amounts carried forward from 2018).

b. Addition to income for tax year 2018 federal carryforward amounts deducted in tax year 2019. To the extent a taxpayer's tax year 2019 federal business interest expense deduction includes amounts that were disallowed and carried forward to future years under IRC Section 163(j) in tax year 2018 for federal purposes, but allowed as a deduction in tax year 2018 for Iowa purposes under paragraph 302.85(2)*"a"* (in general), subparagraph 302.85(2)*"b"*(1) (Iowa partnerships and S corporations), or numbered paragraph 302.85(2)*"b"*(2)"1" (non-Iowa partnerships), these carried-forward amounts must be added back in computing Iowa income. These prior deductions and current adjustments are calculated and tracked on the IA 101 Nonconformity Adjustments form. Note that shareholders of non-Iowa S corporations should not be required to add back 2018 carryforward amounts deducted by the S corporation 2019, because the shareholders were not permitted to deduct these excess amounts for Iowa purposes in 2018. See numbered paragraph 302.85(2)*"b"*(2)"2."

EXAMPLE 5: X is a partner in P under the same facts described in Example 1 above. For tax year 2019, X completes federal Form 8990 and is eligible to deduct $1,000 of the excess business interest expense allocated to X from P in 2018 on X's 2019 federal income tax return. This $1,000 federal deduction for prior-year excess business interest expense allocated from P must be added back in computing X's 2019 Iowa income. The same add-back would be required if this scenario were applied to the facts in Example 2 above.

302.85(4) *Tax years beginning on or after January 1, 2020.* For tax years beginning on or after January 1, 2020, Iowa does not conform with the IRC Section 163(j) business interest expense deduction limitation.

a. Current-year business interest expense. For tax years beginning on or after January 1, 2020, a taxpayer's current-year business interest expense is fully deductible to the extent permitted by IRC Section 163 for Iowa purposes without regard to any limitation under subsection 163(j). Even though Iowa does not conform to IRC Section 163(j), provisions of the IRC other than Section 163(j) may subject interest expense to disallowance, deferral, capitalization, or other limitations, and those other provisions

of the IRC still generally apply for Iowa purposes. No additional Iowa adjustments are permitted for federal limitations such as those described in Treas. Reg. Section 1.163(j)-3(b)(4), which are determined after the application of IRC Section 163(j) for federal purposes. See Treas. Reg. Section 1.163(j)-3 for examples of other provisions of the IRC that may restrict interest expense deductions for federal and Iowa purposes, independent of the IRC Section 163(j) limitation.

b. Carryforward.

(1) Special one-time carryforward catch-up (tax year 2020 only). For tax years beginning on or after January 1, 2020, but before January 1, 2021 (tax year 2020), taxpayers who filed a 2019 Iowa return are permitted to deduct all interest expense deduction amounts that were disallowed and carried forward under IRC Section 163(j) for Iowa purposes in tax year 2019. This deduction shall be calculated and reported on the taxpayer's 2020 Iowa income tax return using form IA 163A. Business interest expense amounts carried over from tax year 2018 at the federal level shall not be deducted for Iowa tax purposes in tax year 2020.

EXAMPLE 6: In 2019, X had $100,000 in current-year business interest expense. X's business interest expense deduction was limited to $50,000 for federal purposes and limited to $30,000 for Iowa purposes due to Iowa's nonconformity with the CARES Act for that year. See paragraph 40.85(3)*"a."* In 2020, X is again subject to an IRC Section 163(j) limitation and is not permitted to deduct any prior-year carryforward amounts for federal purposes. However, because Iowa does not conform to the IRC Section 163(j) limitation for 2020, X may deduct all of X's current-year business interest expense and all $70,000 ($100,000 - $30,000) of X's disallowed Iowa interest expense carried over from 2019. X must complete the IA 163 in order to calculate X's current-year business interest expense deduction, and the IA 163A to determine the total amount of 2019 disallowed Iowa interest expense amounts which may be deducted in full on X's 2020 Iowa return.

(2) Addition to income for prior-year federal carryforward amounts deducted in the current year. When current-year interest expense is limited at the federal level, the disallowed business interest expense is carried forward to be deducted in future years for federal purposes, when certain conditions are met. See Treas. Reg. Section 1.163(j)-1(b)(10) for the definition of "disallowed business interest expense." Iowa law allows taxpayers to fully deduct current-year business interest expense, and no amounts are carried forward for Iowa purposes. Disallowed business interest expense carryforward amounts from prior years, including excess business interest expense allocated to a partner in a prior year, cannot be deducted for Iowa purposes except as described in subparagraph 302.85(4)*"b"*(1). All prior-year disallowed business interest expense carryforward amounts deductible under IRC Section 163(j) in the current year at the federal level, including excess business interest expense allocated to a partner in a prior year, must be added back in computing the taxpayer's Iowa income for the year.

EXAMPLE 7: In 2020, taxpayer X has $100,000 in current-year business interest expense. For federal purposes, X is subject to the IRC Section 163(j) limitation. X deducts $70,000 in business interest expense on X's 2020 federal return and carries the remaining $30,000 forward to be deducted in future years. For Iowa purposes, X deducts the full $100,000 in current-year business interest expense in 2020.

In 2021, X has $50,000 in current-year business interest expense. For federal purposes, X is permitted to deduct the full $50,000 in interest expense generated in 2021, plus $5,000 of the amount that was disallowed in 2020 for a total federal deduction of $55,000 in 2021. X must add the federal carryforward amount ($5,000) back on X's 2021 Iowa return, limiting X's 2021 Iowa deduction to the $50,000 in current-year business interest expense.

302.85(5) *Partners and partnerships.*

a. Partnership-level adjustments. For tax years beginning on or after January 1, 2020, an Iowa partnership that is subject to the IRC Section 163(j) limitation for federal purposes is permitted to deduct all current-year business interest expense at the partnership level in that tax year for Iowa purposes.

(1) Excess business interest expense. A partnership may include as a reduction on the partnership's Iowa income tax return any excess business interest expense, as defined in Treas. Reg. Section 1.163(j)-1(b)(16), of the partnership that was disallowed and allocated to the partners for that tax year for federal purposes.

(2) Tiered partnerships. For partnerships that receive excess business interest expense passed through from a partnership in which they are a partner, see paragraph 302.85(5)*"b"* for information on how to report Iowa adjustments for that passed-through income.

b. Partner-level adjustments.

(1) Interest expense from Iowa partnerships. Iowa adjustments related to excess business interest expense of an Iowa partnership are made at the entity level as described in subparagraph 302.85(5)*"a"*(1) and are reported to partners on an IA 1065 Schedule K-1. Partners are not permitted to make any Iowa adjustment at the partner level to their federal interest expense deduction for amounts of excess business interest expense allocated from an Iowa partnership on the partner's federal Schedule K-1 related to that Iowa partnership. See Example 1 above.

(2) Interest expense from non-Iowa partnerships. For tax years beginning on or after January 1, 2020, partners may include as part of their Iowa business interest expense deduction the total amount of current-year excess business interest expense deduction passed through to them from all non-Iowa partnerships as shown on the federal Schedule K-1 (Form 1065), line 13, code K. See Example 2 above.

(3) Partnership basis. A partner's basis is reduced (but not below zero) by the amount of excess business interest expense the partnership passes through to the partner each year. See Treas. Reg. Section 163(j)-6(h) for detailed information about how to make these basis adjustments. For federal purposes, immediately before disposition of the partnership interest, the partner's basis is then increased by the amount of any passed-through business interest expense which has not yet been treated as paid or accrued by the partner as described in Treas. Reg. Section 163(j)-6(h)(3). No basis increase at the time of disposition is allowed for Iowa purposes for passed-through business interest expense amounts that were deducted for Iowa, but not for federal, purposes due to Iowa's nonconformity with IRC Section 163(j).

302.85(6) *S corporation adjustments.* For federal purposes, IRC Section 163(j) limitations are applied at the S corporation level. Unlike partnerships, disallowed business interest expense amounts are carried forward and deducted in future years at the entity level rather than being passed through to shareholders. See rule 701—502.29(422) for more information about the IRC Section 163(j) adjustments required for corporations, including S corporations, for Iowa purposes. See also Treas. Reg. Section 1.163(j)-6(l) for more information about the application of IRC Section 163(j) to S corporations for federal purposes.

This rule is intended to implement Iowa Code section 422.7(60).

[**ARC 5733C**, IAB 6/30/21, effective 8/4/21; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—302.86(422) COVID-19 grant exclusion.

302.86(1) *Definitions.* For purposes of this rule:

"Administering agency" means the economic development authority, the Iowa finance authority, or the department of agriculture and land stewardship.

"Grant recipient" means a person who applies for and is issued a qualifying COVID-19 grant by an administering agency.

"Issued" means the approval of the grant recipient's application and amount for a qualifying COVID-19 grant by an administering agency, regardless of when the grant funds were paid by the administering agency.

302.86(2) *Qualifying COVID-19 grant programs.*

a. The department is responsible for determining whether a grant program provides a "qualifying COVID-19 grant" as defined in Iowa Code section 422.7(62). In making this determination, and for purposes of the definition of "qualifying COVID-19 grant," a grant program is "created to primarily provide COVID-19 related financial assistance to economically impacted individuals and businesses located in this state" if that grant program, at the time of its inception, was intended by the administering agency to provide a majority (more than 50 percent) of its financial assistance to or for the benefit of either or both of the following persons economically affected by the COVID-19 pandemic:

(1) Individuals living in Iowa.

(2) Businesses that are doing business in Iowa or are deriving income from sources within Iowa.

b. The administering agency shall notify the director of the existence of any grant program it believes may be a qualifying COVID-19 grant program. Upon such notification, the department will request from the administering agency the information necessary to determine whether that program is a qualifying COVID-19 grant as defined in Iowa Code section 422.7(62) and this rule. The administering agency shall provide the department with the requested information within the time frame prescribed by the department in its request. Failure to provide the requested information to the department shall prevent the department from determining that the grant program is a qualifying COVID-19 grant. Grant programs not specifically listed below in paragraph 302.86(2)*"c"* are not qualifying COVID-19 grants and are not eligible for the exclusion provided in this rule, even if that program may otherwise meet the definition of "qualifying COVID-19 grant" in Iowa Code section 422.7(62).

c. The following is an exhaustive list of programs that have been identified by the department as qualifying COVID-19 grants, including a general description of each program's grant recipients, that may qualify for the exclusion from Iowa net income under subrule 302.86(3):

(1) Beef up Iowa program administered by the department of agriculture and land stewardship. Grant recipient is Iowa State University.

(2) Iowa beginning farmer debt relief fund administered by the Iowa finance authority. Grant recipients include Iowa beginning farmers.

(3) Iowa biofuels relief program administered by the economic development authority. Grant recipients include Iowa biodiesel and ethanol producers.

(4) Iowa county fairs relief fund administered by the economic development authority. Grant recipients include Iowa county and district fairs.

(5) Iowa COVID-19 business disruption relief program administered by the economic development authority. Grant recipients include Iowa bars, taverns, breweries, distilleries, wineries, and other similar drinking establishments.

(6) Iowa COVID-19 targeted small business sole operator fund administered by the economic development authority. Grant recipients include Iowa targeted small businesses.

(7) Iowa disposal assistance program administered by the department of agriculture and land stewardship. Grant recipients include Iowa pork and egg producers.

(8) Iowa eviction and foreclosure prevention program administered by the Iowa finance authority. Grant recipients include Iowa residential renters and homeowners.

(9) Iowa homeowner foreclosure prevention program administered by the Iowa finance authority. Grant recipients include Iowa residential homeowners.

(10) Iowa hospital COVID-19 relief fund administered by the economic development authority. Grant recipients include Iowa hospitals.

(11) Iowa livestock producer relief fund administered by the economic development authority. Grant recipients include Iowa livestock producers.

(12) Iowa movie theatre relief grant program administered by the economic development authority. Grant recipients include Iowa movie theaters.

(13) Iowa nonprofit recovery fund administered by the economic development authority. Grant recipients include Iowa nonprofit organizations.

(14) Iowa renewable fuel retail recovery program administered by the department of agriculture and land stewardship. Grant recipients include Iowa fuel retailers.

(15) Iowa rent and utility assistance program administered by the Iowa finance authority. Grant recipients include Iowa residential renters.

(16) Iowa residential utility disruption prevention program administered by the economic development authority. Grant recipients include Iowa residential renters and homeowners.

(17) Iowa restaurant and bar relief grant program administered by the economic development authority. Grant recipients include Iowa bars, breweries, brewpubs, distilleries, wineries, and restaurants.

(18) Iowa small business relief grant program administered by the economic development authority. Grant recipients include Iowa small businesses.

(19) Iowa small business utility disruption prevention program administered by the economic development authority. Grant recipients include Iowa small businesses and small nonprofit organizations.

(20) Local produce and protein program administered by the department of agriculture and land stewardship. Grant recipients include Iowa schools, early childcare centers, specialty crop producers, and food hubs.

(21) Meat processing expansion and development program administered by the department of agriculture and land stewardship. Grant recipients include Iowa meat and poultry processing businesses and employees and Iowa livestock producers.

(22) Pack the pantry program administered by the department of agriculture and land stewardship. Grant recipients include Iowa food pantries.

(23) Pass the pork program administered by the department of agriculture and land stewardship. Grant recipients include Iowa food banks.

(24) Turkey to table program administered by the department of agriculture and land stewardship. Grant recipients include Iowa food banks.

(25) Iowa bowling center relief fund administered by the economic development authority. Grant recipients include Iowa for-profit bowling centers.

(26) Iowa charter bus relief program administered by the economic development authority. Grant recipients include for-profit charter bus companies with a vehicle fleet registered in Iowa.

(27) Iowa sports entertainment relief program administered by the economic development authority. Grant recipients include certain for-profit and nonprofit sports teams with a home venue located in Iowa.

(28) Iowa fitness center relief program administered by the economic development authority. Grant recipients include for-profit, nonprofit, and local government-owned fitness centers located in Iowa.

302.86(3) *Excluding qualifying COVID-19 grants from Iowa net income.*

a. Generally. A grant recipient may subtract a qualifying COVID-19 grant when calculating Iowa net income if all of the following apply:

(1) The grant was issued as part of a qualifying COVID-19 grant program identified in paragraph 302.86(2)*"c."*

(2) The grant was issued on or after March 17, 2020, and on or before December 31, 2021.

(3) The grant funds were included in the grant recipient's net income for a tax year ending on or after March 17, 2020, but beginning before January 1, 2024. The grant may only be subtracted to the extent it is included in the grant recipient's net income for that qualifying tax year. A qualifying COVID-19 grant that is exempt from federal income tax, and thus not included in the grant recipient's Iowa net income, does not qualify for an additional subtraction on the grant recipient's Iowa return.

b. Third-party payee of grant funds. A third-party payee of qualifying COVID-19 grant funds is not eligible for this exemption from Iowa income. If the proceeds of a qualifying COVID-19 grant are paid to someone other than the grant recipient, only the grant recipient on whose behalf the grant proceeds were paid may qualify for this exemption from Iowa income.

c. Repayment. Grant funds that were repaid to the administering agency for any reason are not eligible for this exemption from Iowa income.

d. Reporting requirements. A grant recipient who received qualifying COVID-19 grant funds and who excludes those funds when calculating Iowa net income should retain documentation to support the claimed exclusion. A grant recipient must provide such documentation to the department if requested. The required documentation may include, but is not limited to, documentation to support that the grant recipient was issued and received the grant within the qualifying periods.

This rule is intended to implement Iowa Code section 422.7(62).

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701—302.87(422) Capital gain deduction for certain types of net capital gains. Information relating to the Iowa capital gain deduction available for tax years prior to January 1, 2023, can be found in prior versions of rule 701—302.38(422). Prior versions of the Iowa Administrative Code are located here: www.legis.iowa.gov/law/administrativeRules/agencies. For tax years beginning on or after January 1,

2023, net capital gains from the sale of real property used in a farming business and the sale of certain livestock described in subrules 302.87(5) and 302.87(6) may be excluded in the computation of net income for qualified individual taxpayers. To exclude qualifying capital gains, a taxpayer has to meet certain holding period and material participation requirements, unless otherwise indicated in this rule.

302.87(1) *Definitions.* Unless otherwise indicated in this rule or required by the context, all words and phrases used in this rule that are defined under Iowa Code section 422.7(13) shall have the same meaning as provided to them under that Iowa Code section.

"Disabled individual" means an individual who is receiving benefits as a result of retirement from employment or self-employment due to disability. In addition, a person is considered to be a disabled individual if the individual is determined to be disabled in accordance with criteria established by the Social Security Administration or other federal or state governmental agency.

302.87(2) *Material participation.* If the taxpayer has regular, continuous, and substantial involvement in the operations of a farming business that meets the criteria for material participation in an activity under Section 469(h) of the Internal Revenue Code and the federal tax regulations for material participation in 26 CFR Sections 1.469-5 and 1.469-5T for the applicable number of years required under Iowa law for the deduction, the taxpayer has met the material participation requirement. Section 469(h)(3) of the Internal Revenue Code does not apply when determining material participation for the purposes of this rule.

a. Work done in connection with an activity is not participation in the activity if the work is not of a type that is customarily done by an owner and one of the principal purposes for the performance of the work is to avoid the disallowance of any loss or credit from the activity.

b. Work done in an activity by an individual in the individual's capacity as an investor is not material participation in the business or activity unless the investor is directly involved in the day-to-day management or operations of the activity or business. Investor-type activities include the study and review of financial statements or reports on operations of the activity, preparing or compiling summaries or analyses of finances or operations of the activity for the individual's own use, and monitoring the finances or operations of the activity in a nonmanagerial capacity.

c. A highly relevant factor in material participation in a business is how regularly the taxpayer is present at the place where the principal operations of a business are conducted. In addition, a taxpayer is likely to have material participation in a business if the taxpayer performs all functions of the business. The fact that the taxpayer utilizes employees or contracts for services to perform daily functions in a business will not prevent the taxpayer from qualifying as materially participating in the business, but the services will not be attributed to the taxpayer.

d. In determining whether a particular taxpayer has material participation in a business, participation of the taxpayer's spouse in a business must also be taken into account. Activity done by a taxpayer's spouse is considered activity done by the taxpayer. The spouse's participation in the business must be taken into account even if the spouse does not file a joint state return with the taxpayer or if the spouse has no ownership interest in the business. The activities of other family members, employees, independent contractors, vendors, laborers, or consultants are not attributed to the taxpayer to determine material participation.

e. Generally, an individual will be considered as materially participating in a tax year if the taxpayer satisfies or meets any of the following tests:

(1) The individual participates in the farming business for more than 500 hours in the taxable year.

(2) The individual's participation in the farming business constitutes substantially all of the participation of all individuals in the business (including individuals who are not owners of interests in the business) for the tax year.

EXAMPLE: Taxpayer A is a teacher in a small town in southeast Iowa. Taxpayer A owns 20 acres of farmland. Taxpayer A grows various crops on this land and is the only one who works on the farm. In the summer of 2023, there was a drought killing most of Taxpayer A's crops so Taxpayer A spent only 80 hours in 2023 growing crops. Taxpayer A is deemed to have materially participated in the farming business in 2023.

(3) The individual participates in the farming business for more than 100 hours in the tax year, and no other individual (including individuals who are not owners of interests in the business) participates more in the business than the taxpayer during the tax year.

(4) The individual participates in two or more businesses, excluding rental businesses, in the tax year and participates for more than 500 hours in all of the businesses and more than 100 hours in each of the businesses, and the participation is not material participation within the meaning of one of the tests in subparagraphs 302.87(2)*"e"*(1) through (3), (5) and (6).

EXAMPLE: Taxpayer B is a full-time CPA. Taxpayer B owns a restaurant and a farm. In 2023, Taxpayer B spent 400 hours working on the farm and 150 hours at the restaurant, and other individuals spent more time in the business activity than Taxpayer B did. Taxpayer B is treated as a material participant in each of the businesses in 2023.

(5) The individual materially participated (determined without regard to this subparagraph) in a farming business for five of the ten years preceding the applicable tax year.

EXAMPLE: Taxpayer C is the co-owner of a farming business. Taxpayer C stopped farming in 2018 after 15 years of farming. Since Taxpayer C stopped farming, Taxpayer C has retained interest in the farming business. Taxpayer C is considered to be materially participating in the business in 2019, 2020, 2021, 2022, and 2023 because Taxpayer C materially participated in the farming business during five of the ten years immediately preceding 2019, 2020, 2021, 2022, and 2023.

(6) The individual participates in the business activity for more than 100 hours and, based on all the facts and circumstances, the individual participates on a regular, continuous, and substantial basis. Management activities of a taxpayer are not considered for purposes of determining if there was material participation if either of the following applies: any person other than the taxpayer is compensated for management services or any person provides more hours of management services than the taxpayer.

f. The following paragraphs provide additional information regarding material participation:

(1) Limited partners of a limited partnership. The limited partners will not be treated as materially participating in any activity of a limited partnership except in a situation where the limited partner would be treated as materially participating under the material participation tests in subparagraphs 302.87(2)*"e"*(1) or 302.87(2)*"e"*(5) above if the taxpayer were not a limited partner for the tax year.

(2) Cash farm lease. A taxpayer who rents out farmland on a cash basis is not materially participating in a farming business. The burden is on the taxpayer to show that the taxpayer materially participated in the farming business operated on the cash-rented farmland.

(3) Farmer landlord involved in crop-share arrangement. A farmer landlord is subject to self-employment tax on net income from a crop-share arrangement with a tenant. The landlord is considered to be materially participating with the tenant in the crop-share activity if the landlord satisfies one of the four following tests:

TEST 1: The landlord does any three of the following: (1) pays or is obligated to pay for at least half the direct costs of producing the crop; (2) furnishes at least half the tools, equipment, and livestock used in producing the crop; (3) consults with the tenant; and (4) inspects the production activities periodically.

TEST 2: The landlord regularly and frequently makes, or takes part in making, management decisions substantially contributing to or affecting the success of the enterprise.

TEST 3: The landlord worked 100 hours or more spread over a period of five weeks or more in activities connected with crop production.

TEST 4: The landlord has done tasks or performed duties which, considered in their total effect, show that the landlord was materially and significantly involved in the production of the farm commodities.

(4) Conservation reserve program (CRP). Activities conducted under the CRP do not fall within the definition of "farming business" under Iowa Code section 422.7. If a taxpayer's only activity is managing CRP land, the taxpayer does not meet the material participation requirement. A taxpayer may still meet the material participation requirement if the taxpayer materially participates in a farming business through a different activity.

(5) Recordkeeping requirements. Taxpayers are required to provide proof of services performed and the hours attributable to those services. Detailed records should be maintained by the taxpayer, on as close to a daily basis as possible at or near the time of the performance of the activity, to verify that the

material participation test has been met. However, material participation can be established by any other reasonable means, such as approximating the number of hours based on appointment books, calendars, or narrative summaries. Records prepared long after the activity, in preparation of an audit or proceeding, are insufficient to establish participation in an activity.

302.87(3) *Lifetime election.* A retired farmer may make a single lifetime election on a form prescribed by the department to exclude all qualifying capital gains from the sale of real property used in a farming business and the sale of certain livestock described in subrules 302.87(5) and 302.87(6). If a retired farmer makes the election described in this subrule, the retired farmer is not eligible to make the election to exclude the net income received pursuant to a farm tenancy agreement covering real property under Iowa Code section 422.7(14) and rule 701—302.88(422) or claim the beginning farmer tax credit under Iowa Code section 422.11E in the same tax year or any subsequent tax year. The election is irrevocable once made.

a. Beginning farmer tax credit. A retired farmer shall not utilize an unclaimed amount of a beginning farmer tax credit in the same tax year they are making an election described in this subrule or in subrule 302.88(3) or in any subsequent tax year.

b. Surviving spouses. A surviving spouse of a deceased retired farmer may be eligible to make the election described in this subrule or the election described in subrule 302.88(3) or exclude the qualifying income pursuant to the election made by the retired farmer prior to death.

(1) A surviving spouse of a deceased retired farmer may make the election described in this subrule or the election described in subrule 302.88(3) on behalf of the deceased retired farmer that the retired farmer would have been eligible to make prior to death. A surviving spouse may only make an election on behalf of the deceased retired farmer by the due date of the tax return, including extensions, for the tax year immediately following the tax year of the retired farmer's death.

EXAMPLE 1: Farmer A, a retired farmer, owned real property used in a farming business, Plot 1. Farmer A was married to Spouse B. Farmer A sold Plot 1 which generated a capital gain. Farmer A died later that tax year. Farmer A qualified to make an election to exclude qualifying capital gains from the calculation of net income prior to death but did not make an election before death. Spouse B can make an election on behalf of Farmer A on the final tax return.

(2) If a retired farmer made the election described in this subrule or the election described in subrule 302.88(3) prior to death, the surviving spouse of the deceased retired farmer may exclude the qualifying income pursuant to the election made by the retired farmer prior to death. A surviving spouse cannot change the election the deceased retired farmer made. Any election made by the retired farmer prior to death is binding on all real property used in a farming business owned by the retired farmer at the time of death. This election is only binding on the retired farmer and the surviving spouse.

EXAMPLE 2: Farmer C, a retired farmer, owned real property used in a farming business, Plot 2. Farmer C was married to Spouse D. Farmer C met the material participation and holding period requirements. Farmer C made the election to exclude net income from a farm tenancy agreement described in subrule 302.88(3) from Plot 2. Farmer C then died. Spouse D inherited Plot 2 from Farmer C. Spouse D does not qualify to make an election. Spouse D may exclude net income from a farm tenancy agreement from Plot 2 pursuant to the election Farmer C made before death. Spouse D cannot exclude qualifying capital gains with regard to Plot 2 or claim the beginning farmer tax credit.

EXAMPLE 3: Assume the same facts as Example 2 but Spouse D does qualify to make an election independent of Farmer C. Spouse D still cannot exclude qualifying capital gains from Plot 2 or claim the beginning farmer tax credit unless Spouse D disclaims Farmer C's election and makes an election as described in subparagraph 3.

EXAMPLE 4: Farmer E, a retired farmer, owned real property used in a farming business, Plot 3, Plot 4, and Plot 5. Farmer E was married to Spouse F. Farmer E met the holding period and material participation requirements. Farmer E sold Plot 3, which generated a capital gain. Farmer E made an election to exclude the capital gain. Farmer E then died. Spouse F inherited Plot 4 and Plot 5 from Farmer E. Plot 4 and Plot 5 are bound by the election Farmer E made before death. Spouse F is eligible to exclude the capital gain from the sale of Plot 4 and Plot 5 pursuant to the election Farmer E made.

Spouse F cannot exclude net income from a farm tenancy agreement from Plot 4 or Plot 5 or claim the beginning farmer tax credit.

EXAMPLE 5: Farmer G, a retired farmer, owned real property used in a farming business, Plot 6 and Plot 7. Farmer G was married to Spouse H. Farmer G met the holding period and the material participation requirements. Farmer G made the election to exclude net income from a farm tenancy agreement described in subrule 302.88(3) from Plot 6 and Plot 7. Farmer G then died. Spouse H inherited Plot 6 and Plot 7. Spouse H is bound by the election made by Farmer G on Plot 6 and Plot 7 and may exclude the net income from a farm tenancy agreement for those plots. Spouse H gets remarried to a new spouse, Spouse J. Spouse H then dies. Spouse J inherits Plot 6 and Plot 7 from Spouse H. Spouse J is not a surviving spouse of a retired farmer and is not bound by the election Farmer G originally made on Plot 6 and Plot 7. Spouse J may make an election described in this subrule or described in subrule 302.88(3) on Plot 6 and Plot 7 if Spouse J meets the eligibility criteria.

(3) A surviving spouse of a deceased retired farmer may disclaim the election made by the retired farmer. If a surviving spouse of a deceased retired farmer makes this disclaimer, the surviving spouse is not eligible to deduct qualifying income pursuant to an election made by the retired farmer prior to death. A surviving spouse of a deceased retired farmer shall make this disclaimer on a form prescribed by the department and file the form with the surviving spouse's income tax return. A surviving spouse must make the disclaimer by the due date of the tax return, including extensions, for the tax year immediately following the tax year of the retired farmer's death. If the surviving spouse excluded income on the surviving spouse's return for the tax year of the retired farmer's death pursuant to the election the retired farmer made and wants to disclaim the election, then the surviving spouse must amend the surviving spouse's return to include that income in Iowa net income and adjust tax liability accordingly. If no disclaimer is made by the due date, including extensions, of the surviving spouse's income tax return for the tax year immediately following the tax year of the retired farmer's death, then the surviving spouse is no longer eligible to make a disclaimer and is bound by the election the retired farmer made. The disclaimer is irrevocable once made. Once a disclaimer has been made, a surviving spouse may make a single lifetime election that would also apply to the land previously bound by the deceased retired farmer's election if the surviving spouse meets the definition of a retired farmer. A surviving spouse may make a single lifetime election that would apply to land not bound by the deceased retired farmer's election if the surviving spouse meets the eligibility criteria.

EXAMPLE 6: Farmer K, a retired farmer, owned real property used in a farming business, Plot 8. Farmer K was married to Spouse L. Farmer K met the holding period and the material participation requirements. Farmer K made the election to exclude net income from a farm tenancy agreement described in subrule 302.88(3) from Plot 8. Farmer K then died. Spouse L inherited Plot 8 from Farmer K. Spouse L independently qualifies as a retired farmer to make an election described in this subrule or the election described in subrule 302.88(3). Spouse L may exclude net income from a farm tenancy agreement from Plot 8 pursuant to the election Farmer K made before death, or Spouse L may disclaim that election and make Spouse L's own election to exclude capital gains from Plot 8.

EXAMPLE 7: Assume the same facts as Example 6 except Spouse L does not independently qualify as a retired farmer to make an election described in this subrule or the election described in subrule 302.88(3). Spouse L may exclude net income from a farm tenancy agreement from Plot 8 pursuant to the election Farmer K made before death, or Spouse L may disclaim that election and not exclude income because Spouse L does not qualify to make an election as a retired farmer.

c. Joint owners. A retired farmer may exclude income pursuant to the election described in this subrule or the election described in subrule 302.88(3) to the extent of the retired farmer's ownership interest in the real property.

(1) A retired farmer who owns real property used in a farming business jointly with a spouse and makes the election described in this subrule or the election described in subrule 302.88(3) may only exclude qualifying income from that real property to the extent of the retired farmer's ownership interest held in that real property. The retired farmer's ownership interest does not include the ownership interest of the retired farmer's spouse. If each spouse qualifies as a retired farmer, each spouse may make different elections on the property they jointly own to the extent of their respective ownership interests. There is a

rebuttable presumption that spouses who jointly own real property used in a farming business each have a 50 percent ownership interest in the real property. This can be rebutted with documentation proving a different ownership percentage.

EXAMPLE 8: Farmer M and Farmer N, both retired farmers, are married and own Plot 9 jointly. They each have a 50 percent ownership interest in Plot 9. They both qualify to make the election to exclude qualifying capital gains or net income from a farm tenancy agreement. They file jointly for Iowa tax purposes. In 2023, Farmer M and Farmer N receive $50,000 total in net income from a farm tenancy agreement covering Plot 9. Farmer M makes the election to exclude net income from a farm tenancy agreement. Farmer N does not make an election. Farmer M is eligible to exclude $25,000, 50 percent of the net income from Plot 9, from net income. Farmer N must include $25,000, 50 percent of the net income from the farm tenancy agreement, in net income. Farmer N is still eligible to make an election to exclude qualifying capital gains or net income from a farm tenancy agreement in a subsequent tax year.

EXAMPLE 9: Assume the same facts as Example 8 except Farmer N makes the same election to exclude net income from a farm tenancy agreement. On the jointly filed return, Farmer M and Farmer N can exclude from net income $50,000, 100 percent of the net income from a farm tenancy agreement.

EXAMPLE 10: Assume the same facts as Example 8 except Farmer N does not qualify to make an election to exclude qualifying capital gains or net income from a farm tenancy agreement. Farmer M can exclude from net income $25,000, 50 percent of the net income received from a farm tenancy agreement on Plot 9. Farmer N must include in net income $25,000, 50 percent of the net income from the farm tenancy agreement on Plot 9.

(2) A retired farmer who owns real property used in a farming business jointly with someone who is not the retired farmer's spouse may only exclude qualifying income from that real property to the extent of the retired farmer's ownership interest held in the real property.

EXAMPLE 11: Farmer O, a retired farmer, owns Plot 10 jointly with Farmer P. Farmer O and Farmer P are not taxed as a partnership. Farmer O has a 60 percent ownership interest in Plot 10, while Farmer P has a 40 percent ownership interest. Farmer O qualifies to make an election to exclude qualifying capital gains or net income from a farm tenancy agreement. Farmer P does not. Farmer O and Farmer P sell Plot 10 for a capital gain of $100,000. Farmer O elects to exclude the capital gain. Farmer O may exclude from net income $60,000, 60 percent of the capital gain. Farmer P is required to include $40,000 in net income, 40 percent of the capital gain.

302.87(4) *Net capital gains from the sale of real property used in a farming business.* Net capital gains from the sale of real property used in a farming business may be excluded from the owner's Iowa net income if the owner held the real property used in a farming business for ten or more years and materially participated in a farming business for at least ten years. If the taxpayer is a retired farmer, the taxpayer must make the election described in subrule 302.87(3) to exclude qualifying capital gains. It is not required that the property be located in Iowa for the owner to qualify for the deduction.

a. Material participation means the same as "materially participated" as defined in Iowa Code section 422.7(13) and described in detail in subrule 302.87(2). If the taxpayer is a retired farmer and materially participated in a farming business for ten or more years in the aggregate, then the taxpayer will meet the material participation requirements. If the taxpayer is not a retired farmer, the taxpayer must have materially participated in a farming business for the ten years immediately preceding the sale. When determining whether a taxpayer is no longer materially participating to meet the definition of a retired farmer, the material participation test in subparagraph 302.87(2)*"e"*(5) shall not apply and the participation of the spouse of the taxpayer does not count as participation by the taxpayer.

b. If the taxpayer has held the real property used in a farming business and sells the property to a relative of the taxpayer, the net capital gain from the sale may be excluded from net income regardless of whether the taxpayer met the material participation or holding period requirements.

c. In situations in which real property was sold by a partnership, S corporation, limited liability company, estate, or trust and the capital gain from the sale of the real property flows through to the owners of the business entity for federal income tax purposes, the owners may exclude the capital gain from their net incomes if the real property was held for ten or more years and the owners had materially

participated in a farming business for ten years prior to the date of sale of the real property, or ten years in the aggregate if the owner is a retired farmer.

d. Installments received in the tax year from installment sales of real property used in a farming business are eligible for the exclusion of capital gains from net income if all relevant criteria were met at the time of the installment sale.

EXAMPLE: A taxpayer received an installment payment in 2025 from the sale of real property used in a farming business that occurred in 2023. The installment received in 2025 would qualify for the exclusion if the taxpayer had held the real property for a minimum of ten years and had materially participated in a farming business for a minimum of ten years at the time of the sale in 2023.

e. Capital gains from the sale of real property by a C corporation do not qualify for the capital gain deduction.

f. The following noninclusive examples illustrate how this subrule applies:

EXAMPLE 1: S corporation, X, owned 1,000 acres of farmland. Taxpayer A is the sole shareholder of X and had materially participated in X for more than ten years at the time that X sold 500 acres of the farmland for a capital gain of $100,000. X owned the farmland for more than ten years at the time of the sale. The capital gain recognized by X that passed through to Taxpayer A as the shareholder of X can be excluded from Iowa net income because Taxpayer A met the material participation and holding period requirements.

EXAMPLE 2: Taxpayer B and Taxpayer C are brothers who both owned 50 percent of the stock in an S corporation, Y, that owned 1,000 acres of farmland. Taxpayer B managed all the farming operations for Y from the time Y was formed in 2010. Taxpayer C did not participate in the farming operations. Y sold 200 acres of the farmland to another brother, Taxpayer D, for a $50,000 gain. $25,000 of the capital gain passed through to Taxpayer B, and $25,000 of the capital gain passed through to Taxpayer C. Both Taxpayer B and Taxpayer C had owned the corporation for at least ten years at the time the land was sold, but only Taxpayer B had materially participated in the corporation for at least ten years. Taxpayer B may exclude the $25,000 capital gain from the land sale because he met the time held and material participation requirements. Taxpayer C may exclude the $25,000 capital gain because the land was sold to a relative of Taxpayer C.

EXAMPLE 3: Taxpayer E owned and materially participated in a farming business for 15 years and raised row crops. There were 500 acres of land in the farming business, 300 acres had been held for 15 years, and 200 acres had been held for five years. Taxpayer E sold the 500 acres of land. Taxpayer E cannot exclude the capital gain from the sale of the 200 acres that had only been held for five years. Taxpayer E may exclude the capital gain from the sale of the 300 acres of land that had been held for 15 years.

EXAMPLE 4: Taxpayer F owned and materially participated in a farming business for more than ten years. In this business, Taxpayer F farmed a neighbor's land on a crop-share basis throughout the period. Taxpayer F bought 80 acres of land and farmed that land for six years until Taxpayer F sold the land for a capital gain of $20,000. Taxpayer F cannot exclude the capital gain because the farmland had been held for less than ten years even though Taxpayer F materially participated in a farming business for more than ten years.

EXAMPLE 5: Taxpayer G and Taxpayer H were partners in a partnership since 2008 that owned 80 acres of farmland. Taxpayer G and Taxpayer H are both over 55 years old. The land was sold in 2023 when Taxpayer G and Taxpayer H retired from farming. In all the years Taxpayer G and Taxpayer H were partners in the partnership, Taxpayer G materially participated in the farming business. Taxpayer H was a material participant for the years 2008-2013 and 2018-2023. Taxpayer G and Taxpayer H realized a capital gain of $50,000 from the land sale, which was divided equally between them. Taxpayer G was able to exclude $25,000 of the capital gain that Taxpayer G received from the sale since Taxpayer G had held the land and materially participated in a farming business for at least ten years at the time the land was sold. Taxpayer H was able to exclude $25,000 of the capital gain because, although Taxpayer H had not materially participated in a farming business for ten consecutive years when the land was sold, Taxpayer H was a retired farmer and had materially participated in a farming business for ten years in the aggregate.

EXAMPLE 6: Taxpayer J had a farming business that Taxpayer J owned and materially participated in for 20 years. There were two tracts of farmland in the farming business. Taxpayer J sold one tract of farmland in the farming business that Taxpayer J had held for more than ten years for a $50,000 capital gain. The farmland was sold to a person who was not a relative. During the same year, Taxpayer J had $30,000 in long-term capital losses from sales of stock. In this situation, the capital gains would not be applied against the capital losses. Because the capital losses are unrelated to the farming business, Taxpayer J does not have to reduce the Iowa capital gain deduction by the capital losses from the sales of stock.

EXAMPLE 7: Taxpayer K had owned farmland, Plot A, and had materially participated in a farming business since 2010. In 2018, Taxpayer K entered into a like-kind exchange under Section 1031 of the Internal Revenue Code for farmland, Plot B. Taxpayer K continued to materially participate in a farming business. Plot B was sold in 2023, resulting in a capital gain. Under Section 1223 of the Internal Revenue Code, the holding period for the capital gain starts in 2010. Taxpayer K held Plot B for less than ten years, but because Taxpayer K met the ten-year holding period requirement under Section 1223, the capital gain from the sale qualifies for the Iowa capital gain deduction.

EXAMPLE 8: Taxpayer L and Taxpayer M, a married couple, owned farmland in Iowa since 1995. Taxpayer L died in 2010 and, under Taxpayer L's will, Taxpayer M acquired a life interest in the farm. The farmland was managed by their child, Taxpayer N, after Taxpayer L's death. Taxpayer N had a remainder interest. Taxpayer M died in 2018, and Taxpayer N continued to materially participate and manage the farm operation. Taxpayer N sold the farmland in 2023 and reported a capital gain. Under Section 1223 of the Internal Revenue Code, the holding period for the capital gain starts in 2010, when Taxpayer L died. Because the holding period for the capital gain was ten years or more, and Taxpayer N met the material participation requirement, Taxpayer N can deduct the capital gain.

302.87(5) *Net capital gains from the sale of cattle or horses used for certain purposes and held for 24 months by taxpayers who are retired farmers.* Net capital gains from the sale of cattle or horses held for 24 months or more for draft, breeding, dairy, or sporting purposes may be excluded from the taxpayer's Iowa net income if the taxpayer is a retired farmer and the taxpayer made the election described in subrule 302.87(3). The retired farmer must have materially participated in the farming business in which the cattle or horses were held for five of the eight years preceding the retired farmer's retirement or disability and must have sold all or substantially all of the retired farmer's interest in the farming business by the time the election is made. For purposes of this subrule and subrule 302.87(6), "substantially all" means 90 percent of the interest in the farming business.

a. Material participation means the same as "materially participated" as defined in Iowa Code section 422.7(13) and described in detail in subrule 302.87(2). When determining whether a taxpayer is no longer materially participating to meet the definition of a retired farmer, the material participation test in subparagraph 302.87(2)*"e"*(5) shall not apply and the participation of the spouse of the taxpayer does not count as participation by the taxpayer.

b. Whether cattle or horses sold by the taxpayer after the taxpayer has held them 24 months or more were held for draft, breeding, dairy, or sporting purposes may be determined from federal court cases on such sales and the standards and examples included in 26 CFR Section 1.1231-2. Proper records should be kept showing purchase and birth dates of cattle and horses. The absence of records may make it impossible for the owner to show that the owner held a particular animal for the necessary holding period. Whether cattle or horses are held for draft, breeding, dairy, or sporting purposes depends on all the facts and circumstances of each case.

c. Capital gains from sales of qualifying cattle or horses by an S corporation, partnership, or limited liability company, where the capital gains flow through to the owners of the respective business entity for federal income tax purposes, qualify for the capital gain deduction to the extent the owners receiving the capital gains are retired farmers who meet all the relevant criteria.

d. Capital gains from sales of qualifying cattle or horses by a C corporation are not eligible for the capital gain deduction.

302.87(6) *Net capital gains from the sale of breeding livestock, other than cattle or horses, held for 12 or more months by taxpayers who are retired farmers.* Net capital gains from the sale of breeding

livestock, other than cattle or horses, held for 12 or more months may be excluded from the taxpayer's Iowa net income if the taxpayer is a retired farmer and the taxpayer made the election described in subrule 302.87(3). The retired farmer must have materially participated in the farming business in which the breeding livestock, other than cattle or horses, were held for five of the eight years preceding the retired farmer's retirement or disability. The retired farmer must have sold all or substantially all of the retired farmer's interest in the farming business by the time the election is made.

a. Material participation means the same as "materially participated" as defined in Iowa Code section 422.7(13) and described in detail in subrule 302.87(2). When determining whether a taxpayer is no longer materially participating to meet the definition of a retired farmer, the material participation test in subparagraph 302.87(2)*"e"*(5) shall not apply and the participation of the spouse of the taxpayer does not count as participation by the taxpayer.

b. If livestock other than cattle or horses is considered to have been held for breeding purposes under the criteria established in 26 CFR Section 1.1231-2, the livestock will also be deemed to have been breeding livestock for purposes of this rule. Proper records should be kept showing purchase and birth dates of breeding livestock. The absence of records may make it impossible for the owner to show that the owner held a particular animal for the necessary holding period. Whether livestock are held for breeding purposes depends on all the facts and circumstances of each case.

c. Capital gains from sales of qualifying livestock other than cattle or horses by an S corporation, partnership, or limited liability company, where the capital gains flow through to the owners of the respective business entity for federal income tax purposes, qualify for the capital gain deduction to the extent the owners receiving the capital gains are retired farmers who meet all the relevant criteria.

d. Capital gains from the sale of breeding livestock other than cattle or horses by a C corporation are not eligible for the capital gain deduction.

302.87(7) *Installments from sales consummated before January 1, 2023.* Installments from sales that were consummated before January 1, 2023, that result in net capital gains qualify for the capital gain deduction if the requirements of Iowa Code section 422.7(21) and rule 701—302.38(422), as they existed prior to January 1, 2023, were met at the time the sale was consummated.

This rule is intended to implement Iowa Code section 422.7(13).

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701—302.88(422) Net income from a farm tenancy agreement covering real property. An eligible individual may elect to exclude net income from a farm tenancy agreement covering real property held by the individual for ten or more years from the computation of net income, if the eligible individual materially participated in a farming business for ten or more years.

302.88(1) *Definitions.* Unless otherwise indicated in this rule or required by the context, all words and phrases used in this rule that are defined under Iowa Code section 422.7(14) shall have the same meaning as provided to them under that Iowa Code section.

"Disabled individual" means an individual who is receiving benefits as a result of retirement from employment or self-employment due to disability. In addition, a person is considered to be a disabled individual if the individual is determined to be disabled in accordance with criteria established by the Social Security Administration or other federal or state governmental agency.

"Held" shall be determined with reference to the holding period provisions of Section 1223 of the Internal Revenue Code and the federal regulations pursuant thereto.

302.88(2) *Material participation.* Material participation for the purposes of this rule is determined pursuant to subrule 302.87(2) and the definition of "materially participated" in Iowa Code section 422.7(14). An eligible individual meets the material participation requirements if the individual materially participated in a farming business for ten years or more in the aggregate. When determining whether an eligible individual has stopped materially participating, the material participation test in subparagraph 302.87(2)*"e"*(5) and the material participation of a spouse shall not apply.

302.88(3) *Lifetime election.* An eligible individual may make a single lifetime election on a form prescribed by the department to exclude net income pursuant to a farm tenancy agreement covering real property. If an eligible individual makes the election described in this subrule, the eligible individual

is not eligible to make an election to exclude the capital gain from the sale of real property used in a farming business or certain livestock under Iowa Code section 422.7(13) and rule 701—302.87(422) or claim the beginning farmer tax credit under Iowa Code section 422.11E in the same tax year or any subsequent tax year. The election is irrevocable once made.

a. Beginning farmer tax credit. A retired farmer shall not utilize an unclaimed amount of a beginning farmer tax credit in the same tax year the retired farmer is making an election described in this subrule or in subrule 302.87(3) or in any subsequent tax year.

b. Surviving spouses. A surviving spouse of a deceased eligible individual may make the election described in this subrule or the election described in subrule 302.87(3) subject to the provisions of subrule 302.87(3). For purposes of this subrule, "retired farmer" as used in subrule 302.87(3) has the same meaning as "eligible individual."

c. Joint owners. An eligible individual may exclude income pursuant to the election described in this subrule or the election described in subrule 302.87(3) to the extent of the eligible individual's ownership interest in the real property subject to the provisions of subrule 302.87(3). For purposes of this subrule, "retired farmer" as used in subrule 302.87(3) has the same meaning as "eligible individual."

302.88(4) *Amount of exclusion.* An eligible individual that has made the election described in subrule 302.88(3) may exclude the amount of net income received from a farm tenancy agreement covering real property. An eligible individual may exclude net income from any qualifying farm tenancy agreement covering real property if the holding period requirements are met with respect to the real property in question, including agreements that are entered into after the single lifetime election is made. The amount of the exclusion cannot exceed the fair profits which would normally arise from a farm tenancy agreement between two parties operating at arm's length.

This rule is intended to implement Iowa Code section 422.7(14).

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◊ Two or more ARCs

CHAPTER 307
WITHHOLDING

[Prior to 12/17/86, Revenue Department[730]]
[Prior to 11/2/22, see Revenue Department[701] Ch 46]

701—307.1(422) Who must withhold.

307.1(1) *Requirement of withholding.*

a. General rule. Every employer maintaining an office or transacting business within this state and required under provisions of Sections 3401 to 3404 of the Internal Revenue Code to withhold and pay federal income tax on compensation paid for services performed in this state to an individual is required to deduct and withhold from such compensation for each payroll period (as defined in Section 3401(b) of the Internal Revenue Code) an amount computed in accordance with subrules 307.2(1) and 307.2(2). Iowa income tax is not required to be withheld on any compensation paid in this state of a character which is not subject to federal income tax withholding (whether or not such compensation is subject to withholding for federal taxes other than income tax, e.g., FICA taxes), except as provided in rule 701—307.4(422).

b. Examples. Paragraph *"a"* above may be illustrated by the following examples:

(1) Temporary help. A is a typist in the offices of B corporation, where she has worked regularly for two months. A is, however, supplied to B corporation by C, a temporary help agency located in Iowa. C renders a weekly bill to B corporation for A's services, and C then pays A. B corporation is not A's "employer" within Section 3401(d) of the Internal Revenue Code, and B corporation is therefore not required by the Internal Revenue Code to withhold a tax on A's compensation. Since B corporation is not required to withhold a tax for federal purposes on A's compensation, B is not required to do so for Iowa purposes. C, the temporary help agency, however, is required to withhold from A's compensation for federal purposes and must also do so for Iowa purposes.

(2) Domestic help. A is employed as a cook by Mr. and Mrs. B. The B's are required to withhold FICA (i.e., Social Security) tax from compensation paid to A, but are not required to withhold income tax from such compensation under the Internal Revenue Code, because under Section 3401(a)(3), A's compensation does not constitute "wages". Since the B's are not required to withhold income tax for federal purposes, they are not required to do so for Iowa purposes.

(3) Executives. A is a corporate executive. On January 1, 1998, A entered into an agreement with B corporation under which he was to be employed by B in an executive capacity for a period of five years. Under the contract, A is entitled to a stated annual salary and to additional compensation of $10,000 for each year. The additional compensation is to be credited to a bookkeeping reserve account and deferred, accumulated and paid in annual installments of $5,000 on A's retirement beginning January 1, 2003. In the event of A's death prior to exhaustion of the account, the balance is to be paid to A's personal representative. A is not required to render any service to B after December 31, 2002. During 2003, A is paid $5,000 while a resident of Iowa. The $5,000 is not excluded from "wages" under Section 3401(a) of the Internal Revenue Code; therefore, B is required to withhold federal income tax, and, since it is compensation paid in this state, B must withhold Iowa income tax on A's deferred compensation.

(4) Agricultural labor. Wages paid for agricultural labor are subject to withholding for state income tax purposes to the same extent that the wages are subject to withholding for federal income tax purposes.

c. Exemption from withholding. An employer may be relieved of the responsibility to withhold Iowa income tax on an employee who does not anticipate an Iowa income tax liability for the current tax year.

An employee who anticipates no Iowa income tax liability for the current tax year shall file with the employer a withholding allowance certificate claiming exemption from withholding. An employee who meets this criterion may claim an exemption from withholding at any time; however, this exemption from withholding must be renewed by February 15 of each tax year that the criterion is met. If the employee wishes to discontinue or is required to revoke the exemption from withholding, the employee must file a new withholding allowance certificate within ten days from the date the employee anticipates

a tax liability or on or before December 31 if a tax liability is anticipated for the next tax year. Subrule 307.3(3) contains more information.

d. Withholding from lottery winnings. Every person, including employees and agents of the Iowa lottery authority, making any payment of "winnings subject to withholding" shall deduct and withhold a tax in an amount equal to 5 percent of the winnings. The tax shall be deducted and withheld upon payment of the winnings to a payee by the person or payer making this payment. Any person or payee receiving a payment of winnings subject to withholding must furnish the payer with a statement as is required under Treasury Regulation §31.3402(q)-1, paragraph "e," with the information required by that paragraph. Payers of winnings subject to withholding must file Form W-2G with the Internal Revenue Service, the department of revenue, and the payee of the lottery winnings by the dates specified in the Internal Revenue Code and in Iowa Code section 422.16. The W-2G form shall include the information described in Treasury Regulation §31.3402(q)-1, paragraph "f."

"Winnings subject to withholding" means any payment where the proceeds from a wager exceed $600. The rules for determining the amount of proceeds from a wager under Treasury Regulation Section 31.3402(q)-1, paragraph "c," shall apply when determining whether the proceeds from Iowa lottery winnings are great enough so that withholding is required. This rule shall apply to winnings from tickets purchased from the Powerball and Hot Lotto games or any other similar games to the extent the tickets were purchased within the state of Iowa.

e. Withholding from prizes from games of skill, games of chance, or raffles. Every person making any payment of a "prize subject to withholding" must deduct and withhold a tax in an amount equal to 5 percent of the prize from a game of skill, a game of chance, or a raffle. Effective July 1, 2015, any person making any payment of a "prize subject to withholding" for bingo must withhold tax in the same manner as persons making payments of prizes subject to withholding for games of skill, games of chance, or raffles. The tax must be deducted and withheld upon payment of the winnings to a payee by the person making this payment. Any person or payee receiving a payment of winnings subject to withholding must furnish the payer with a statement as is required under Treasury Regulation Section 31.3402(q)-1, paragraph "e," with the information required by that paragraph. Payers of prizes subject to withholding must file Form W-2G with the Internal Revenue Service, the department of revenue, and the payee of the prize by the dates specified in the Internal Revenue Code and in Iowa Code section 422.16. The W-2G form must include the information described in Treasury Regulation Section 31.3402(q)-1, paragraph "f."

"Prizes subject to withholding" means any payment of a prize where the amount won exceeds $600.

f. Withholding from winnings from pari-mutuel wagers. Every person making any payment of "winnings subject to withholding" must deduct and withhold a tax in an amount equal to 5 percent of the winnings from pari-mutuel wagers. The tax must be deducted and withheld upon payment of the winnings to a payee by the person making this payment. Any person or payee receiving a payment of winnings subject to withholding must furnish the payer with a statement as is required under Treasury Regulation Section 31.3402(q)-1, paragraph "e," with the information required by that paragraph. Payers of winnings subject to withholding must file Form W-2G with the Internal Revenue Service, the department of revenue, and the payee of the winnings by the dates specified in the Internal Revenue Code and in Iowa Code section 422.16. The W-2G form must include the information described in Treasury Regulation Section 31.3402(q)-1, paragraph "f."

"Winnings subject to withholding" are winnings in excess of $1,000.

g. Withholding from winnings from slot machines on riverboat gambling vessels and from winnings from slot machines at racetracks. Withholding of state income tax is required if the winnings from slot machines on riverboat gambling vessels or from slot machines at racetracks exceed $1,200.

307.1(2) *Withholding on pensions, annuities and other nonwage payments to Iowa residents.* State income tax is required to be withheld from payments of pensions, annuities, supplemental unemployment benefits and sick pay benefits and other nonwage income payments made to Iowa residents in those circumstances mentioned in the following paragraphs. This subrule covers those nonwage payments described in Sections 3402(o), 3402(p), 3402(s), 3405(a), 3405(b), and 3405(c) of the Internal Revenue Code. This includes, but is not limited to, payments from profit-sharing plans, stock bonus plans, deferred

compensation plans, individual retirement accounts, lump-sum distributions from qualified retirement plans, other retirement plans, and annuities, endowments and life insurance contracts issued by life insurance companies. These payments are subject to Iowa withholding tax if they are also subject to federal withholding tax. However, no state income tax withholding is required from nonwage payments to residents to the extent those payments are not subject to state income tax. In the case of some nonwage payments to residents, such as payments of pensions and annuities, no state income tax is required to be withheld if no federal income tax is being withheld from the payments of the pensions and annuities.

For purposes of this subrule, an individual receiving nonwage payments will be considered to be an Iowa resident and subject to this subrule if the individual's permanent residence is in Iowa. The fact that a nonwage payment is deposited in a recipient's account in a financial institution located outside Iowa does not mean that the recipient's permanent residence is established in the place where the financial institution is situated.

Payers of pension and annuity benefits and other nonwage payments have the option of either withholding Iowa income tax from these payments on the basis of tables and formulas included in the Iowa withholding tax guide of the department of revenue or withholding Iowa income tax from these payments at the rate of 5 percent.

a. Withholding from pension and annuity payments to residents. Withholding of state income tax is required from payments of pensions and annuities to Iowa residents to the extent that the recipients of the payments have not filed with the payers of the benefits election forms which specify that no federal income tax is to be withheld. Therefore, state income tax is to be withheld when federal income tax is being withheld from the pensions or annuities.

However, although Iowa income tax is ordinarily required to be withheld from pension and annuity payments made to Iowa residents if federal income tax is being withheld from the payments, no state income tax is required to be withheld if pension and annuity payments are not subject to Iowa income tax, as in the case of railroad retirement benefits which are exempt from Iowa income tax by a provision of federal law or retirement distributions subject to the retirement income exclusion described in rule 701—302.47(422).

b. Withholding from payments to residents from profit-sharing plans, stock bonus plans, deferred compensation plans, individual retirement accounts and from annuities, endowments and life insurance contracts issued by life insurance companies. Payments to Iowa residents from profit-sharing plans, stock bonus plans, deferred compensation plans, individual retirement accounts and payments from life insurance companies for contracts for annuities, endowments or life insurance benefits are subject to withholding of state income tax if federal income tax is withheld from the benefits. However, no state income tax is to be withheld from the income tax payments described above to the extent those income tax payments are exempt from Iowa income tax. Rule 701—302.47(422) provides more information about the retirement income exclusion.

In cases where the recipients elect withholding of state income tax from the income payments, the payers are to withhold from the payments at a rate of 5 percent on the taxable portion of the payment, if that can be determined by the payer or on the entire income payment if the payer does not know how much of the payment is taxable. Once a recipient makes an election for state income tax withholding, that election will remain in effect until a later election is made.

c. Withholding from payments to residents for supplemental unemployment compensation benefits and sick pay benefits. Income payments made for supplemental unemployment compensation benefits described in Section 3402(o)(2)(a) of the Internal Revenue Code and for sick pay benefits are subject to withholding of state income tax. In the case of supplemental unemployment compensation benefits, those benefits are treated as wages for purposes of state income tax withholding. Therefore, state income tax should be withheld from these payments when federal income tax is withheld. The amount of state income tax withholding should be determined by the withholding tables provided in the Iowa employers' "Withholding Tax Guide."

In the case of state income tax withholding for sick pay benefits paid by third-party payers in accordance with Section 3402(o)(1) of the Internal Revenue Code, state income tax is to be withheld from the benefits by the payer only if state income tax withholding is requested by the payee of the

benefits. If withholding is requested by the payee, the withholding should be done at a 5 percent rate on the sick pay benefits. Once withholding is started, it should continue until such time as the payee requests that no state income tax be withheld. For sick pay benefits not paid by third-party payers, state income tax is required to be withheld since federal income tax is required to be withheld.

d. Voluntary state income tax withholding from unemployment benefit payments. Recipients of unemployment benefit payments described in Section 3402(p)(2) of the Internal Revenue Code may elect to have state income tax withheld from the benefit payments at a rate of 5 percent. An individual's election to have state income tax withheld from unemployment benefits is separate from any election to have federal income tax withheld from the benefits.

e. Withholding on lump-sum distributions from qualified retirement plans. For lump-sum distribution payments from qualified retirement plans made to Iowa residents, state income tax is required to be withheld under the conditions described in this paragraph. No state income tax is required to be withheld from a lump-sum distribution payment to an Iowa resident in a situation where the payment is not subject to Iowa income tax. Rule 701—302.47(422) provides more information about the retirement income exclusion. Iowa income tax is to be withheld from a lump-sum distribution made to an Iowa resident to the extent that federal income tax is being withheld from the distribution. The rate of withholding of state income tax from the lump-sum distribution is 5 percent from the total distribution or 5 percent from the taxable amount if that amount is known by the payer. Note that in the case of a lump-sum distribution, the Iowa income tax imposed on the taxable amount of the distribution is 25 percent of the federal income tax on the distribution.

f. Withholding of state income tax from nonwage payments to residents on the basis of tax tables and tax formulas. State income tax from the nonwage payments made to Iowa residents may be withheld on the basis of formulas and tables included in the Iowa withholding tax guide of the department of revenue. When state income tax is being withheld based upon the formulas or tables in the withholding guide, the amounts of the nonwage payments are treated as wage payments for purposes of the tables or the formulas.

The frequency of the nonwage payments determines which of the withholding tables to use or the number of pay periods in the calendar year to use in the formula. For example, if the nonwage payment is made on a monthly basis, the monthly wage bracket withholding table should be utilized for withholding or 12 should be utilized in the formula to indicate that there will be 12 nonwage payments in the year.

The payers of nonwage payments should withhold state income tax from the nonwage payments to Iowa residents when federal income tax is being withheld from the nonwage payments. The payers should withhold from the nonwage payments to Iowa residents from tables or the formulas in the Iowa withholding guide on the basis of the number of withholding exemptions claimed on Form IA W-4 which has been completed by the payees of the payments. However, if a payee of a nonwage payment has not completed an IA W-4 form (Iowa employee's withholding allowance certificate) by the time a nonwage payment is to be made by the payer of the nonwage payment, the payer is to withhold state income tax on the basis that the payee has claimed one withholding allowance or exemption.

In a situation when a payee of a nonwage payment completes Form IA W-4 and claims exemption from state income tax withholding when federal income tax is being withheld from the nonwage payment, the payer of the nonwage payment should withhold state income tax using one withholding allowance or exemption unless the payee has verified exemption from state income tax.

g. Withholding on distributions from qualified retirement plans that are not directly rolled over. Other than distributions to payees who qualify for the retirement income exclusion, state income tax is to be withheld at a rate of 5 percent from the gross amount or taxable amount if known by the payer of the distribution made to Iowa residents if the distributions are not transferred directly to an IRA, Section 403(a) annuity or another qualified retirement plan. The distributions that are subject to state income tax withholding are those distributions that are subject to 20 percent withholding for

federal income tax purposes. Rule 701—302.47(422) provides more information about the retirement income exclusion.

This rule is intended to implement Iowa Code sections 96.3, 99B.8, 99D.16, 99F.18, 99G.31, 422.5, 422.7, and 422.16.

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701—307.2(422) Computation of amount withheld.

307.2(1) *Amount withheld.*

a. General rules. Every employer required to deduct and withhold a tax on compensation paid in Iowa to an individual shall deduct and withhold for each payroll period an amount the total of which will approximate the employee's annual tax liability. "Payroll period" for Iowa withholding purposes shall have the same definition as in Section 3401 of the Internal Revenue Code and shall include "miscellaneous payroll period" as that term is defined and used in that section and the associated regulations.

b. Methods of computations. Employers required to withhold Iowa income tax on compensation paid in this state shall compute the amount of tax to be withheld for each payroll period pursuant to the methods and rules provided herein.

(1) Tables. An employer may elect to use the withholding tables provided in the Iowa employers' withholding tax guide and withholding tables, which are available from the department of revenue.

(2) Formulas. Formulas that are provided in the Iowa employers' withholding tax guide and tax tables are available for employers who have a computerized payroll system.

(3) Other methods. An employer may request and be granted the use of an alternate method for computing the amount of Iowa tax to be deducted and withheld for each payroll period so long as the alternate proposal approximates the employee's annual Iowa tax liability. When submitting an alternate formula, the withholding agent should explain the formula and show examples comparing the amount of withholding under the proposed formula with the department's tables or computer formula at various income levels and by using various numbers of personal exemptions. Any alternate formula must be approved by the department prior to its use.

c. Supplemental wage payments. A supplemental wage payment is the payment of a bonus, commission, overtime pay, or other special payment that is made in addition to the employee's regular wage payment in a payroll period. When such supplemental wages are paid, the amount of tax required to be withheld shall be determined by using the current withholding tables or formulas. If supplemental wages are paid at the same time as regular wages, the regular tables or formulas are used in determining the amount of tax to be withheld as if the total of the supplemental and regular wages were a single wage payment for the regular payroll period. If supplemental wages are paid at any other time, the regular tables or formulas are used in determining the amount of tax to be withheld as if the supplemental wage were a single wage payment for the regular payroll period. When a withholding agent makes a payment of supplemental wages to an employee and the employer withholds federal income tax on a flat-rate basis, pursuant to Treasury Regulation §31.3402(g)-1, state income tax shall be withheld from the supplemental wages at a rate of 6 percent without consideration for any withholding allowances or exemptions.

d. Vacation pay. Amounts of so-called "vacation allowances" shall be subject to withholding as though they were regular wage payments made for the period covered by the vacation. If the vacation allowance is paid in addition to the regular wage payment for such period, the allowance shall be treated as supplemental wage payments.

307.2(2) *Correction of underwithholding or overwithholding.*

a. Underwithholding. If an employer erroneously underwithholds an amount of Iowa income tax required to be deducted and withheld from compensation paid to an employee within a payroll period, the employer should correct the error within the same calendar year by deducting the difference between the amount withheld and the amount required to be withheld from any compensation still owed the

employee, even though such compensation may not be subject to withholding. If the error is discovered in a subsequent calendar year, no correction shall be made by the employer.

b. Overwithholding. If an employer erroneously overwithholds an amount of tax required to be deducted and withheld from compensation paid to an employee, repayment of such overwithheld amount shall be made in the same calendar year. Repayment may be made in either of two ways: (1) the amount of overwithholding may be repaid directly to the employee, in which case the employer must obtain written receipt showing the date and amount of the repayment, or (2) the employer may reimburse the employee by applying the overcollection against the tax required to be deducted and withheld on compensation to be paid in the same calendar year in which the overcollection occurred. If the error is discovered in a subsequent calendar year, no repayment shall be made.

This rule is intended to implement Iowa Code section 422.16.

[Editorial change: IAC Supplement 11/2/22]

701—307.3(422) Forms, returns, and reports.

307.3(1) *Definitions.* For the purposes of this rule, the following definitions apply:

"GovConnectIowa" means the e-services portal of the department of revenue.

"Income statement" means a statement that conforms to the requirements of Iowa Code section 422.16(7)*"a."* An income statement includes, but is not limited to, Internal Revenue Service (IRS) Form W-2, IRS Form 1099, and IRS Form W-2G.

"Payee" means an employee or other person who had Iowa income tax withheld pursuant to Iowa Code section 422.16.

"Payer" means an employer or other person required to withhold and remit Iowa income tax pursuant to Iowa Code section 422.16.

307.3(2) *Withholding registration.*

a. Every payer required to deduct and withhold Iowa income tax must register with the department of revenue by filing an Iowa Business Tax Registration Form either on a paper form available online at tax.iowa.gov or through GovConnectIowa. The form shall indicate the payer's federal employer identification number. If a payer has not received a federal employer identification number, the payer must notify the department of the payer's federal employer identification number once the number has been assigned. If a payer fails to provide the payer's federal employer identification number within 90 days of the registration filing, the department will consider the payer's withholding registration invalid.

b. If a payer deducts and withholds Iowa income tax but does not file the Iowa Business Tax Registration Form, the department may register the payer using the best information available. If a payer uses a service provider to report and remit Iowa withholding tax on behalf of the payer, the department may use information obtained from the service provider to register the payer if an Iowa Business Tax Registration Form is not filed. This information would include, but is not limited to, the name, address, federal employer identification number, filing frequency, and withholding contact of the payer.

307.3(3) *Allowance certificate.*

a. General rules. On or before the date on which an individual commences employment with an employer, the individual shall furnish the employer with a signed Iowa employee's withholding allowance certificate (IA W-4) indicating the number of withholding allowances which the individual claims, which in no event shall exceed the number to which the individual is entitled. The employer is required to request a withholding allowance certificate from each employee. If the employee fails to furnish a certificate, the employee shall be considered as claiming no withholding allowances. Subrule 307.3(5) contains information on Form IA W-4P, which is to be used by payers of pensions, annuities, deferred compensation, individual retirement accounts and other retirement incomes.

The employer must submit to the department of revenue a copy of a withholding allowance certificate received from an employee if:

(1) The employee claimed more than a total of 22 withholding allowances, or

(2) The employee is claiming an exemption from withholding and it is expected that the employee's wages from that employer will normally exceed $200 per week.

Employers required to submit withholding certificates should use the following address:

Iowa Department of Revenue
Compliance Division
Examination Section
Hoover State Office Building
P.O. Box 10456
Des Moines, Iowa 50306

The department will notify the employer whether to honor the withholding certificate or to withhold as though the employee is claiming no withholding allowances.

b. Form and content. The "Iowa Employee's Withholding Allowance Certificate" (IA W-4) must be used to determine the number of allowances that may be claimed by an employee for Iowa income tax withholding purposes. Generally, the greater number of allowances an employee is entitled to claim, the lower the amount of Iowa income tax to be withheld for the employee. The following withholding allowances may be claimed on the IA W-4 form:

(1) Personal allowances. An employee can claim one personal allowance or two if the individual is eligible to claim head of household status. The employee can claim an additional allowance if the employee is 65 years of age or older and another additional allowance if the employee is blind.

If the employee is married and the spouse either does not work or is not claiming an allowance on a separate W-4 form, the employee can claim an allowance for the spouse. The employee may also claim an additional allowance if the spouse is 65 years of age or older and still another allowance if the spouse is blind.

(2) Dependent allowances. The employee can claim an allowance for each dependent that the employee will be able to claim on the employee's Iowa return.

(3) Allowances for itemized deductions. The employee can claim allowances for itemized deductions to the extent the total amount of estimated itemized deductions for the tax year for the employee exceeds the applicable standard deduction amount by $200. In instances where an employee is married and the employee's spouse is a wage-earner, the total allowances for itemized deductions for the employee and spouse should not exceed the aggregate amount itemized deduction allowances to which both taxpayers are entitled.

(4) Allowances for the child/dependent care credit. Employees who expect to be eligible for the child/dependent care credit for the tax year can claim withholding allowances for the credit. The allowances are determined from a chart included on the IA W-4 form on the basis of net income shown on the Iowa return for the employee. If the employee is married and has filed a joint federal return with a spouse who earns Iowa wages subject to withholding, the withholding allowances claimed by both spouses for the child/dependent care credit should not exceed the aggregate number of allowances to which both taxpayers are entitled. Taxpayers that expect to have a net income of $45,000 or more for a tax year beginning on or after January 1, 2006, should not claim withholding allowances for the child and dependent care credit, since these taxpayers are not eligible for the credit.

(5) Allowances for adjustments to income. For tax years beginning on or after January 1, 2008, employees can claim allowances for adjustments to income which are set forth in Treasury Regulation §31.3402(m)-1, paragraph *"b."* This includes adjustments to income such as alimony, deductible IRA contributions, student loan interest and moving expenses which are allowed as deductions in computing income subject to Iowa income tax. In instances where an employee is married and the employee's spouse is a wage earner, the withholding allowances claimed by both spouses for adjustments to income for the employee and spouse should not exceed the aggregate number of allowances to which both taxpayers are entitled.

c. Change in allowances which affect the current calendar year.

(1) Decrease. If, on any day during the calendar year, the number of withholding allowances to which an employee is entitled is less than the number of withholding allowances claimed by the individual on a withholding certificate then in effect, the employee must furnish the employer with a new Iowa withholding allowance certificate relating to the number of withholding allowances which the employee then claims, which must in no event exceed the number to which the employee is entitled on such day.

(2) Increase. If, on any day during the calendar year, the number of withholding allowances to which an employee is entitled is more than the number of withholding allowances claimed by the employee on the withholding allowance certificate then in effect, the employee may furnish the employer with a new Iowa withholding allowance certificate on which the employee must in no event claim more than the number of withholding allowances to which the employee is entitled on such day.

d. Change in allowances which affect the next calendar year. If, on any day during the calendar year, the number of withholding allowances to which the employee will be, or may reasonably be expected to be, entitled to for the employee's taxable year which begins in, or with, the next calendar year is different from the number to which the employee is entitled on such day, the following rules shall apply:

(1) If such number is less than the number of withholding allowances claimed by an employee on an Iowa withholding allowance certificate in effect on such day, the employee must within a reasonable time furnish the employee's employer with a new withholding allowance certificate reflecting the decrease.

(2) If such number is greater than the number of withholding allowances claimed by the employee on an Iowa withholding allowance certificate in effect on such day, the employee may furnish the employee's employer with a new withholding allowance certificate reflecting the increase.

e. Duration of allowance certificate. An Iowa withholding allowance certificate which is in effect pursuant to these regulations shall continue in effect until another withholding allowance certificate takes effect. Employers should retain copies of the IA W-4 forms for at least four years.

307.3(4) *Reports and payments of income tax withheld.*

a. Returns of income tax withheld from wages.

(1) Quarterly returns. Every payer required to withhold tax on compensation paid for personal services in Iowa shall make a return for the first calendar quarter in which tax is withheld and for each subsequent calendar quarter, whether or not compensation is paid therein, until a final return is filed. The payer's Iowa Withholding Tax Quarterly Return is the form prescribed for making the return required under this paragraph. Monthly tax deposits or semimonthly tax deposits may be required in addition to quarterly returns. Subparagraphs 307.3(4)*"a"*(2) and 307.3(4)*"a"*(3) contain more information about monthly and semimonthly tax deposits. In some circumstances, only an annual return and payment of withheld taxes will be required. Paragraph 307.3(4)*"c"* contains more information on annual reporting.

Payments shall be based upon the tax required to be withheld and must be remitted in full.

A payer is not required to list the name(s) of the payee(s) when filing quarterly returns.

If a payer's payroll is not constant, and the payer finds that no income was paid during the current quarter, the payer shall enter the numeral "zero" on the return and submit the return as usual.

(2) Monthly deposits. Every payer required to file a quarterly withholding return shall also file a monthly deposit if the amount of tax withheld during any calendar month exceeds $500 but is less than $10,000. No monthly deposit is required for the third month in any calendar quarter. The information otherwise required to be reported on the monthly deposit for the third month in a calendar quarter shall be reported on the quarterly return filed for that quarter, and no monthly deposit need be filed for such month.

(3) Semimonthly deposits. Every payer who withholds more than $5,000 in a semimonthly period must file a semimonthly tax deposit. A semimonthly period is defined as the period from the first day of a calendar month through the fifteenth day of a calendar month, or the period from the sixteenth day of a calendar month through the last day of a calendar month. When semimonthly deposits are required, a payer must still file a quarterly return.

(4) Final returns. A payer who in any return period permanently ceases doing business shall file the returns required by subparagraphs 307.3(4)*"a"*(1), 307.3(4)*"a"*(2), and 307.3(4)*"a"*(3) as final returns for such period. The payer shall cancel the withholding registration by submitting the Iowa Business Tax Cancellation Form or through GovConnectIowa.

b. Time for filing returns.

(1) Quarterly returns. Each return required by subparagraph 307.3(4)*"a"*(1) shall be filed on or before the last day of the first calendar month following the calendar quarter for which such return is made.

(2) Monthly tax deposits. Monthly deposits required by subparagraph 307.3(4)*"a"*(2) shall be filed on or before the fifteenth day of the second and third months of each calendar quarter for the first and second months of each calendar quarter, respectively.

(3) Semimonthly tax deposits. Semimonthly deposits required by subparagraph 307.3(4)*"a"*(3) for the semimonthly period from the first day of the month through the fifteenth day of the month shall be filed with payment of the tax on or before the twenty-fifth day of the same month. The semimonthly deposits required by subparagraph 307.3(4)*"a"*(3) for the semimonthly period from the sixteenth day of the month through the last day of the month shall be filed with payment of the tax on or before the tenth day of the month following the month in which the tax is withheld.

Quarterly returns, amended returns, monthly deposits and semimonthly deposits shall be made electronically in a format and by means specified by the department of revenue. Tax payments are considered to have been made on the date that the tax is transmitted and released to the department. For withholding that occurs on or after January 1, 2022, tax payments shall be made using GovConnectIowa.

(4) Determination of payment frequency. The department and the department of management have the authority to change payment thresholds by department rule. This paragraph sets forth the payment thresholds and frequencies for each payer based on the amount withheld.

The following criteria will be used to determine if a change in payment frequency is warranted.

Payment Frequency	Threshold
Semimonthly	Greater than $120,000 in annual withholding (more than $5,000 in a semimonthly period).
Monthly	Between $6,000 and $120,000 in annual withholding (more than $500 in a monthly period).
Quarterly	Less than $6,000 in annual withholding.
Annual	Less than 3 employees.

1. To request to pay on a less frequent basis than required, the request must be in writing and submitted to the department. A payer's written request to be allowed to pay less frequently will be reviewed by the department, and a written determination will be issued to the payer who made the request. A change in payment frequency to pay on a less frequent basis will be granted in only two instances:

- Incorrect historical data is used in the conversion. A business may meet the criteria based on the original filing data, but, upon investigation, the filing history may prove that the business does not meet the dollar criteria because of adjustments, amended returns, or requests for refunds.
- Data available may have been distorted by the fact that the data reflected an unusual pattern in tax collection. The factors causing such a distortion must be documented and approved by the department.

If a payer is permitted to pay on a less frequent basis, the payer must begin to pay on the less frequent basis at the start of the next quarter unless the payer is permitted to pay annually, in which case the payer must submit future payments in accordance with paragraph 307.3(4)*"c."*

2. A payer may also pay more frequently than required. No request is required to be made to pay on a more frequent basis.

3. The department and the department of management may perform a review of payment frequency thresholds every five years or as needed based on department discretion. Factors the departments will consider in determining if the payment frequency thresholds need to be changed

include but are not limited to tax rate changes, inflation, the need to maintain consistency with required multistate compacts, changes in law, and migration between filing brackets.

(5) Amended return. If the amount of Iowa income tax withheld and remitted to the department of revenue for the year is different than the withheld tax and withholding credits claimed, the payer must report the difference on an amended return and, if the return shows less tax withheld and remitted than shown due, the payer must submit payment to the department.

c. Reporting annual withholding.

(1) Any payer who does not have employee withholding but who is required to withhold state income tax from other distributions is exempted from the provisions of subparagraphs (2) and (3) of paragraph 307.3(4)*"a,"* if these distributions are made annually in one calendar quarter. These payers need only comply with the reporting requirements of the one calendar quarter in which the tax is withheld.

(2) Every payer employing not more than two individuals and who expects to employ either or both for the full calendar year may pay with the Iowa Withholding Tax Quarterly Return due for the first calendar quarter of the year the full amount of income taxes which would be required to be withheld from the wages for the full calendar year. The payer shall advise the department of revenue that annual reporting is contemplated and shall also state the number of persons employed. The payer shall compute the annual withholding from wages by determining the normal withholding for one pay period and multiply this amount by the total number of pay periods within the calendar year. The payer shall be entitled to recover from the employee(s) any part of such lump-sum payment that represents an advance to the employee(s). If a payer pays a lump sum with the first quarterly return, the payer shall be excused from filing further quarterly returns for the calendar year involved unless the payer hires other or additional employees.

d. Furnishing income statements to payee.

(1) General rule. Every payer required to deduct and withhold income tax of a payee must furnish to each payee with respect to the income paid in Iowa by such payer during the calendar year an income statement containing the following information: the name, address, and taxpayer identification number of the payer; the name, address, and taxpayer identification number of the payee; the total amount of taxable income paid in Iowa; the total amount deducted and withheld as tax under subrule 307.1(1); and the total amount of federal income tax withheld.

(2) Form of income statement. The information required to be furnished to a payee under the preceding paragraph shall be furnished on the appropriate IRS form including but not limited to IRS Form W-2 and IRS Form 1099. Any reproduction, modification, or substitution for an IRS form by the payer must be approved by the department. Payers should keep copies of income statements for four years from the end of the year for which the income statements apply.

(3) Time for furnishing an income statement. Each income statement required by paragraph 307.3(4)*"d"* to be furnished for a calendar year and each corrected income statement required for any prior year shall be furnished to the payee on or before January 31 of the year succeeding such calendar year, or if an employee's employment is terminated before the close of a calendar year without expectation that it will resume during the same calendar year, within 30 days from the day on which the last payment of compensation is made, if requested by such employee, but not later than January 31 of the following year. Paragraph 307.3(4)*"e"* contains provisions relating to the filing of copies of certain income statements with the department of revenue.

(4) Corrections. A payer must furnish a corrected income statement to a payee if, after the original statement has been furnished, an error is discovered in either the amount of income shown to have been paid in Iowa for the prior year or the amount of tax shown to have been deducted and withheld in the prior year. The corrected statement shall be marked "corrected ."

(5) Undelivered income statements. Any payee's copy of the income statement which, after reasonable effort, cannot be delivered to a payee shall be transmitted to the department with a letter of explanation.

(6) Lost or destroyed. If the income statement is lost or destroyed, the payer shall furnish a substitute copy to the payee. The copy shall be clearly marked "Reissued."

(7) Penalty. A willful failure to meet the furnishing requirements set out in this paragraph will subject payers to the penalty under Iowa Code section 422.16(10)*"a."* Rule 701—307.5(422) contains more information about this penalty.

e. Filing income statements with the department.

(1) For tax year 2019 and all subsequent tax years, all payers are required to electronically file all W-2 forms, W-2G forms, and 1099 forms for payees from whom Iowa income tax was withheld with the department of revenue on or before February 15 following the tax year. Income statements for tax years beginning on or after January 1, 2022, must be filed using GovConnectIowa.

(2) Corrections. A payer must file a corrected income statement with the department if, after the original statement has been filed, an error is discovered in either the amount of income shown to have been paid in Iowa for the prior year or the amount of tax shown to have been deducted and withheld in the prior year. The corrected statement shall be marked "corrected."

(3) Penalty. A willful failure to meet the filing requirements set out in Iowa Code section 422.16 and this paragraph will subject payers to the penalties under Iowa Code section 422.16(10). Rule 701—307.5(422) contains more information about this penalty.

(4) Other income statements. Any income statement not listed in this paragraph that cannot be submitted electronically must be filed with the department by mail on or before February 15 following the tax year.

(5) Extension. The director or the department employee designated by the director may allow a 30-day extension of time for filing income statements with the department in the case of illness, disability, or absence, or if good cause is shown. To apply for an extension, a payer shall use the form available on the department website.

f. Withholding deemed to be held in trust. Funds withheld from income for Iowa income tax purposes are deemed to be held in trust for payment to the department of revenue. The state and the department shall have a lien upon all the assets of the payer and all the property used in the conduct of the payer's business to secure the payment of the tax as withheld under the provisions of this rule. An owner, conditional vendor, or mortgagee of property subject to such lien may exempt the property from the lien granted to Iowa by requiring the payer to obtain a certificate from the department, certifying that such payer has posted with the department security for the payment of the amounts withheld under this rule.

g. Payment of tax deducted and withheld. The amount of tax shown to be due on each deposit or return required to be filed under subrule 307.3(4) shall be due on or before the date on which such deposit or return is required to be filed.

h. Correction of underpayment or overpayment of taxes withheld.

(1) Underpayment. If a return is filed for a return period under rule 701—307.3(422) and less than the correct amount of tax is reported on the return and paid to the department, the payer shall report and pay the additional amount due by filing an amended Iowa Withholding Tax Quarterly Return.

(2) Overpayment. If a payer remits more than the correct amount of tax for a return period, the payer may file an amended Iowa Withholding Tax Quarterly Return and request a refund of the withholding tax paid which was not due.

307.3(5) *Iowa W-4P—withholding certificate for pension or annuity payments.*

a. For payments made from pension plans, annuity plans, individual retirement accounts, or deferred compensation plans to residents of Iowa, payers of these retirement benefits are to use Form IA W-4P for withholding of state income tax from the benefits. Iowa income tax withholding is not required on payments of distributions from qualifying retirement plans if the payee is eligible for the retirement income exclusion described in rule 701—302.47(422). However, withholding at a rate of 5 percent is required if the payee is not eligible for the retirement income exclusion or if the distribution is from a plan that does not qualify for the retirement income exclusion.

b. Payers of retirement benefits taxable in Iowa that want to use withholding formulas or tables to withhold state income tax instead of at the 5 percent rate may design their own IA W-4P withholding certificate form without approval of the department.

This rule is intended to implement Iowa Code sections 422.7, 422.12C, and 422.16.

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701—307.4(422) Withholding on nonresidents.

307.4(1) *General rules.* Payers of Iowa income to nonresidents are required to withhold Iowa income tax and to remit the tax to the department on all payments of Iowa income to nonresidents except as otherwise described in this rule. Withholding agents should use the following methods and rates in withholding for nonresidents:

a. Wages or salaries. Use the same withholding procedures, tables, formulas, and rates as are used for residents. See rule 701—307.2(422). Subrule 307.4(5) is an exception to the general rule. In addition, in accordance with the reciprocal tax agreement between Iowa and Illinois described in 701—subrule 300.13(1), Iowa withholding tax is not withheld on wages of Illinois residents who perform personal services in Iowa.

b. Payments other than wages, salaries, and other compensation for personal services. In lieu of using withholding tables or computer formulas to determine the amount of Iowa income tax to be withheld from payments made to nonresidents other than for salaries, wages, or other compensation for personal services, or income payments to nonresidents for agricultural commodities or products, Iowa income tax should be withheld at a rate of 5 percent of the amount of the payment. Subrule 307.4(6) describes the optional exemption from withholding of income payments made to nonresidents for the sale of agricultural commodities or products.

Nonresidents who prefer to make Iowa estimate payments instead of having Iowa income tax withheld from income payments from Iowa sources should refer to subrule 307.4(3) and rule 701—308.3(422).

307.4(2) *Income of nonresidents subject to withholding.* Listed below are various types of income paid to nonresidents which are subject to withholding. The list is for illustrative purposes only and is not deemed to be all-inclusive.

a. Personal service, including salaries, wages, commissions and fees for personal service wholly performed within this state and such portions of similar income of nonresident traveling salespersons or agents as may be derived from services rendered in this state.

b. Rents and royalties from real or personal property located within this state.

c. Interest or dividends derived from securities or investments within this state, when such interests or dividends constitute income of any business, trade, profession or occupation carried on within this state and subject to taxation.

d. Income derived from any business of a temporary nature carried on within this state by a nonresident, such as contracts for construction and similar contracts.

e. Income derived from sources within this state by attorneys, physicians, engineers, accountants, and similar sources as compensation for services rendered to clients in this state.

f. Compensation received by nonresident actors, singers, performers, entertainers, and wrestlers for performances in this state. See subrule 307.4(5) for an exception to this rule.

g. The Iowa gross income of a nonresident who is employed and receiving compensation for services shall include compensation for personal services which are rendered within this state. Compensation for personal services rendered by a nonresident wholly without the state is excluded from gross income of the nonresident even though the payment of such compensation may be made by a resident individual, partnership or corporation.

h. The gross income from commissions earned by a nonresident traveling salesperson, agent or other employee for services performed or sales made whose compensation depends directly on volume of business transacted by the nonresident, includes that proportion of the total compensation received

which the volume of business or sales by the employee within this state bears to the total volume of business or sales within and without the state.

i. Payments made to landlords by agents, including elevator operators, for grain or other commodities which have been received by the landlord as rent constitute taxable income of the landlord when sold by the landlord. Subrule 307.5(6) contains information about the exemption from withholding on incomes paid to nonresidents for the sale of agricultural commodities or products.

j. Wages paid to nonresidents of Iowa who earn the compensation from regularly assigned duties in Iowa and one or more other states for a railway company or for a motor carrier are not taxable to Iowa. Pursuant to 49 U.S.C. Section 11502, the nonresidents in this situation are subject only to the income tax laws of their states of residence. Thus, when an Iowa resident performs regularly assigned duties in two or more states for a railroad or a motor carrier, the only state income tax that should be withheld from the wages paid for these duties is Iowa income tax.

k. Wages paid to nonresidents of Iowa who earn compensation from regularly assigned duties in Iowa and one or more states for an airline company. In accordance with 49 U.S.C. Section 40116, airline employees who are nonresidents of Iowa are subject only to the income tax laws of their states of residence or the state in which they perform 50 percent or more of their duties.

l. Wages paid to nonresidents of Iowa who earn compensation from regularly assigned duties in Iowa for a merchant marine company. In accordance with 46 U.S.C. Section 11108, interstate waterway workers who are nonresidents of Iowa are subject only to the income tax laws of their states of residence.

307.4(3) *Nonresident certificate of release.* Where a nonresident payee makes the option to pay estimated Iowa income tax, a certificate of release from withholding will be issued by the Iowa department of revenue to the designated payers. The certificate of release will be forwarded to the specified withholding agent(s) and payer(s), and will state the amount of income covered by the estimated tax payment. Any income paid in excess of the amount so stated will be subject to withholding tax at the current rate. See 701—Chapter 308 for information on making estimate payments.

307.4(4) *Recovering excess tax withheld.* A nonresident payee may recover any excess Iowa income tax withheld from income of the payee by filing an Iowa income tax return after the close of the tax year and reporting income from Iowa sources in accordance with the income tax return instructions.

307.4(5) *Exemption from withholding of nonresidents engaged in film production or television production in this state.* Nonresidents engaged in film production or television production in this state are not subject to state withholding on wages earned from this activity if the nonresidents' employer has applied to the department for exemption from withholding of state income tax and the employer's application includes the following information about the nonresident employees:

a. The employees' names.

b. The employees' permanent mailing addresses.

c. The employees' social security numbers.

d. The estimated amounts the employees are to be paid for services provided by the employees in this state.

The employer's application for exemption from withholding for the nonresident employees will not be approved by the department if the employer fails to provide all the required information.

Only those nonresident employees described in the application for exemption from withholding will be covered when the application is approved by the department. If additional nonresident employees are hired after the initial application for exemption is filed, those employees should be described in an amendment to the application for exemption which must be filed with the department of revenue.

Applications for exemption from withholding for nonresident employees engaged in film production or television production should be directed to the Iowa Department of Revenue, Compliance Division, Examination Section, Hoover State Office Building, P.O. Box 10456, Des Moines, Iowa 50306.

307.4(6) *Exemption from withholding for the sale of agricultural commodities or products.* Withholding agents are not required to withhold state income tax from income payments made to nonresidents or representatives of the nonresidents for the sales of agricultural commodities or products, if the withholding agents provide certain information to the department of revenue about the sales. The following paragraphs describe the agricultural commodities and products that are included

in the exemption from withholding, specify the information needed on the sales and clarify other issues related to the exemption from withholding. 701—subrule 308.3(4) describes an election for withholding agents to make estimate payments on behalf of nonresident taxpayers for net incomes of the nonresidents from agricultural commodities or products.

a. Agricultural commodities or products included in the exemption from withholding. Withholding agents are not required to withhold state income tax from income payments they make to nonresidents or representatives of the nonresidents for the sale of commodity credit certificates, grain (corn, soybeans, wheat, oats, etc.), livestock (cattle, hogs, sheep, horses, etc.), domestic fowl (chickens, ducks, turkeys, geese, etc.), or any other agricultural commodities or products, if the withholding agents provide the department of revenue with the information specified in paragraph *"b"* of this subrule.

b. Information to be provided to the department by withholding agents claiming exemption from withholding on income payments made to nonresidents for the sales of agricultural items. The following information is to be provided on a listing to the department of revenue by withholding agents electing exemption from withholding of state income tax on income payments made in the calendar year to nonresidents or representatives of the nonresidents on the sales of agricultural commodities or products made in the year:

(1) Name of the nonresident (last name, first name and middle initial).

(2) Home address of the nonresident.

(3) Social security number of the nonresident.

(4) Aggregate payments made in the calendar year for the nonresident (includes payments made to a representative of the nonresident on behalf of the nonresident).

(5) Two-digit Iowa county code number of the first one of the following that applies to the nonresident:

1. County in which the nonresident owns real property or personal property.
2. County in which the nonresident leases real property or personal property.
3. County in which the nonresident has agricultural products stored or in which livestock is located.
4. County where the nonresident has performed custom farming activities in the year.
5. County where the nonresident has other business activities in Iowa other than merely sales activities.

If a nonresident does not own or lease property in Iowa or have other connection with Iowa as described in subparagraph 307.4(6)*"b"*(5), items "3," "4," and "5," the nonresident is not subject to Iowa income tax on the income payments for agricultural commodities or products and the nonresident's income payments should not be included on the listing.

In a situation where a withholding agent is unable to get all the information that is to be provided to the department on income payments on sales of agricultural items, the agent is relieved of the requirement to withhold if the agent can provide written evidence showing an attempt was made to acquire all the information.

The listing of aggregate income payments to nonresidents with an Iowa connection for sales of agricultural commodities and products in the calendar year should be sent to the department by the withholding agent on or before April 1 of the year following the year in which the income payments were made. In lieu of the listing, the withholding agent may compile the information on aggregate income payments to nonresidents on a magnetic tape, diskette or other electronic reporting, provided the submission meets departmental guidelines described in 701—paragraph 8.3(1)*"e."*

The listing, magnetic tape or other electronic submission should be sent to the following address: Iowa Department of Revenue, Compliance Division, Examination Section, Hoover State Office Building, P.O. Box 10456, Des Moines, Iowa 50306; idr@iowa.gov.

A withholding agent is not exempt from withholding of state income tax on income payments to nonresidents on sales of agricultural commodities or products if the withholding agent does not provide the department of revenue with information on income payments made during the year by April 1 of the subsequent year.

307.4(7) *Exemption from withholding of payments made to nonresidents for deferred compensation, pensions, and annuities.* Iowa income tax withholding is not required from payments of deferred compensation, pensions, and annuities made to nonresidents which are attributable to personal services of the nonresidents in Iowa since these payments are not subject to Iowa income tax. See rule 701—302.45(422) for the exclusion from Iowa income tax for these payments received by nonresidents.

307.4(8) *Exemption from withholding of a nonresident's distributive share of income from a pass-through entity.* For tax years beginning on or after January 1, 2022, a partnership, S corporation, estate, or trust is not required to withhold state income tax on a nonresident member's distributive share of Iowa-source income from the pass-through entity. Instead, pass-through entities are subject to the composite return requirements in 701—Chapter 405.

307.4(9) *Exemption from withholding of payments made to an out-of-state business or out-of-state employee due to state-declared disaster.* On or after January 1, 2016, see 701—Chapter 276 for withholding requirements of an out-of-state business or out-of-state employee who enters Iowa to perform disaster and emergency-related work during a disaster response period as those terms are defined in Iowa Code section 29C.24.

This rule is intended to implement Iowa Code section 422.15, Iowa Code section 422.16 as amended by 2007 Iowa Acts, House File 923, section 16, and Iowa Code sections 422.17 and 422.73.

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701—307.5(422) Penalty and interest.

307.5(1) *Definitions.* For the purposes of this rule, the following definitions apply:

"Income statement" means a statement that conforms to the requirements of Iowa Code section 422.16(7)*"a."* An income statement includes, but is not limited to, Internal Revenue Service (IRS) Form W-2, IRS Form 1099, and IRS Form W-2G.

"Payee" means an employee or other person who had Iowa income tax withheld pursuant to Iowa Code section 422.16.

"Payer" means an employer or other person required to withhold and remit Iowa income tax pursuant to Iowa Code section 422.16.

307.5(2) *Penalties for willful failure to file or furnish an income statement or for willfully filing or furnishing a false or fraudulent income statement.*

a. Payers responsible for furnishing an income statement to a payee as described in paragraph 307.3(4)*"d"* and for filing an income statement with the department as described in paragraph 307.3(4)*"e"* shall be subject to a $500 penalty for each instance of any of the following:

(1) Willful failure to furnish an income statement to a payee by January 31 of the year following the year in which income tax is withheld.

(2) Willful failure to file an income statement with the department by February 15 of the year following the year in which income tax is withheld.

(3) Willfully furnishing a false or fraudulent income statement to a payee.

(4) Willfully filing a false or fraudulent income statement with the department.

b. Penalties assessed under this subrule may not be waived.

c. Penalties assessed under this subrule are in addition to any other penalty allowed under law.

307.5(3) *Penalties for failure to file a return or failure to pay.*

a. Payers are subject to the penalties provided in Iowa Code section 421.27 for failure to file a quarterly return and failure to remit any withholding due. A penalty assessed under Iowa Code section 421.27 is in addition to any penalty assessed under law. Rule 701—10.6(421) contains a further explanation and examples applying the penalties under Iowa Code section 421.27. The penalties imposed under Iowa Code sections 421.27(1), 421.27(2), and 421.27(3) may be subject to waiver. Rule 701—10.7(421) contains details on penalty waivers.

b. Pursuant to Iowa Code section 421.27(4), if the department determines that the payer willfully failed to file or pay with the intent to evade tax or a filing requirement, the penalty shall be 75 percent of the unpaid tax. In this case, the penalty is not subject to waiver.

307.5(4) *Computation of interest on unpaid tax.* Interest shall accrue on tax due from the original due date of the return. Interest on refunds of any portion of the tax imposed by statute which has been erroneously refunded and which is recoverable by the department shall bear interest as provided by law from the date of payment of the refund, with each fraction of a month considered to be an entire month. Rule 701—10.2(421) contains more information about the statutory interest rate.

All payments shall be first applied to the penalty and then to the interest, and the balance, if any, to the amount of tax due.

307.5(5) *Computation of interest on overpayments.* If the amount of tax determined to be due by the department is less than the amount paid, the excess to be refunded will accrue interest from the first day of the second calendar month following the date of payment or the date the return was due to be filed or was filed, whichever is later.

307.5(6) *Examples.*

EXAMPLE 1: Employer has ten employees, all residing in Iowa. After the close of the tax year, Employer fails to furnish two of its employees with W-2s by January 31 of the following year. Additionally, Employer fails to file any W-2s with the department by February 15 of the following year and does not request an extension. If the department determines that Employer's failures to furnish two W-2s to its employees and file ten W-2s with the department were willful, the department shall assess a penalty in the amount of $6,000 (12 instances x $500).

EXAMPLE 2: The same facts as Example 1, but the department determines Employer underpaid its withholding obligations by $2,000 for the tax year. Employer timely filed its required quarterly returns. In addition to the penalties assessed in Example 1, Employer shall be assessed a penalty of $100 (5% x $2,000) for failure to pay, plus interest calculated pursuant to subrule 307.5(5). If the department determines Employer willfully underpaid and filed a false return in order to avoid paying Iowa withholding, the department shall assess a penalty of $1,500 (75% x $2,000).

This rule is intended to implement Iowa Code sections 421.27, 422.16, and 422.25.

[Editorial change: IAC Supplement 11/2/22; **ARC 6904C**, IAB 2/22/23, effective 3/29/23]

701—307.6(422) Withholding tax credit to workforce development fund. Upon payment in full of a certificate of participation or other obligation issued to fund a job training program under Iowa Code chapter 260E, the community college which provided the training is to notify the economic development authority of the amount paid by the employer or business to the community college during the previous 12 months. The economic development authority is to notify the department of revenue of this amount. The department is to credit 25 percent of this amount to the workforce development fund in each quarter for the next ten years from the withholding tax paid by the employer or business. If the withholding tax paid by the employer or business for a quarter is not sufficient to cover the sum to be credited to the workforce development fund, the sum to be credited is to be reduced accordingly. The aggregate amount from all employers to be transferred to the workforce development fund in a year is not to exceed $4 million for fiscal years beginning on or after July 1, 2001, but before July 1, 2014. The aggregate amount is not to exceed $5,750,000 for the fiscal year beginning July 1, 2014, and the aggregate amount is not to exceed $6,000,000 for fiscal years beginning on or after July 1, 2015.

This rule is intended to implement Iowa Code section 422.16A as amended by 2014 Iowa Acts, House File 2460.

[**ARC 1665C**, IAB 10/15/14, effective 11/19/14; Editorial change: IAC Supplement 11/2/22]

701—307.7(422) ACE training program credits from withholding. The accelerated career education (ACE) program is a training program administered by the Iowa department of economic development to provide technical training in state community colleges for employees in highly skilled jobs in the state to the extent that the training is authorized in an agreement between an employer or group of employers and a community college for the training of certain employees of the employer or group of employers. If a community college and an employer or group of employers enter into a program agreement for ACE

training, a copy of the agreement is to be sent to the department of revenue. No costs incurred prior to the date of the signing between a community college and an employer or group of employers may be reimbursed or are eligible for program job credits, including job credits from withholding unless the costs are incurred on or after July 1, 2000.

307.7(1) The costs of the ACE training program may be paid from the following sources:

a. Program job credits which the employer receives on the basis of the number of program job positions agreed to by the employer for the training program;

b. Cash or in-kind contributions by the employer toward the costs of the program which must be at least 20 percent of the total cost of the program;

c. Tuition, student fees, or special charges fixed by the board of directors of the community college to defray costs of the program;

d. Guarantee by the employer of payments to be received under paragraphs *"a"* and *"b"* of this subrule.

This rule pertains only to the program job credits from withholding described in paragraph *"a."*

307.7(2) ACE training programs financed by job credits from withholding. In situations when an employer or group of employers and a community college have entered into an agreement for training under the ACE program and the agreement provides that the training will be financed by credits from withholding, the amount of funding will be determined by the program job credits identified in the agreement. Eligibility for the program job credits is based on certification of program job positions and program job wages by the employer at the time established in the agreement with the community college. An amount of up to 10 percent of the gross program job wage as certified by the employer in the agreement shall be credited from the total amount of Iowa income tax withheld by the employer. For example, if there were 20 employees designated to be trained in the agreement and their gross wages were $600,000, the gross program job wage would be $600,000. Therefore, 10 percent of the gross program job wage in this case would be $60,000, and this amount would be credited against Iowa income tax which would ordinarily be withheld from the wages of all employees of the employer and remitted to the department of revenue on a quarterly basis. The amount credited against the withholding tax liability of the employer would be paid to the community college training the employer's employees under the ACE program. The employer may take the credits against withholding tax on returns filed with the department of revenue until such time as the program costs of the ACE program are considered to be satisfied.

This rule is intended to implement Iowa Code sections 260G.4A and 422.16.

[Editorial change: IAC Supplement 11/2/22]

701—307.8(260E) New job tax credit from withholding. The Iowa industrial new jobs training program is a program administered by the economic development authority for projects established by a community college for the creation of jobs by providing education and training of workers for new jobs for new or expanding industries. For employers that have entered into an agreement with a community college under Iowa Code chapter 260E, a credit equal to 1.5 percent of the wages paid by the employer to each employee covered by the agreement can be taken on the Iowa withholding tax return. If the amount of withholding by the employer is less than 1.5 percent of the wages paid to the employees covered by the agreement, the employer can take the remaining credit against Iowa tax withheld for other employees. An employee does not include a resident of Illinois who earns wages in Iowa since these employees are not subject to Iowa withholding tax in accordance with the Iowa-Illinois reciprocal tax agreement discussed in 701—subrule 300.13(1). The administrative rules for the Iowa industrial new jobs training program administered by the economic development authority may be found in 261—Chapter 5.

This rule is intended to implement Iowa Code section 260E.2 as amended by 2012 Iowa Acts, Senate File 2212, and section 260E.5.

[**ARC 0337C**, IAB 9/19/12, effective 10/24/12; Editorial change: IAC Supplement 11/2/22]

701—307.9(15) Supplemental new jobs credit from withholding and alternative credit for housing assistance programs.

307.9(1) *Supplemental new jobs credit from withholding.* For eligible businesses approved by the economic development authority under Iowa Code section 15A.7, a credit equal to an additional 1.5 percent of the wages paid to employees in new jobs for these eligible businesses can be taken on the Iowa withholding tax return. This supplemental new jobs credit is in addition to the credit described in rule 701—307.8(260E). The administrative rules for the supplemental new jobs credit from withholding may be found in 261—paragraph 59.6(3)*"a."*

307.9(2) *Alternative credit for housing assistance programs.* As an alternative to the credit described in subrule 307.9(1) for eligible businesses in an enterprise zone, a business may provide a housing assistance program in the form of down payment assistance or rental assistance for employees in new jobs. A credit equal to 1.5 percent of the wages paid to employees participating in a housing assistance program may be claimed on the Iowa withholding tax return for wages paid prior to July 1, 2009. Effective July 1, 2009, the alternative credit for housing assistance programs was repealed. The administrative rules for the enterprise zone program administered by the Iowa department of economic development may be found in 261—Chapter 59.

This rule is intended to implement Iowa Code section 15A.7 and 2014 Iowa Code sections 15E.196 and 15E.197.

[**ARC 8605B**, IAB 3/10/10, effective 4/14/10; **ARC 1744C**, IAB 11/26/14, effective 12/31/14; Editorial change: IAC Supplement 11/2/22]

701—307.10(403) Targeted jobs withholding tax credit. For employers that enter into a withholding agreement with pilot project cities approved by the economic development authority and create or retain targeted jobs in a pilot project city, a credit equal to 3 percent of the gross wages paid to employees under the withholding agreement can be taken on the Iowa withholding tax return. The employer shall remit the amount of the credit to the pilot project city. The administrative rules for the targeted jobs withholding tax credit program administered by the economic development authority may be found in 261—Chapter 71.

If the amount of withholding by the employer is less than 3 percent of the wages paid to the employees covered under the withholding agreement, the employer can take the remaining credit against Iowa tax withheld for other employees or may carry the credit forward for up to ten years or until depleted, whichever is the earlier.

If an employer also has a new job credit from withholding provided in rule 701—307.8(260E) or the supplemental new jobs credit from withholding provided in subrule 307.9(1), these credits shall be collected and disbursed prior to the collection and disbursement of the targeted jobs withholding tax credit.

The following nonexclusive examples illustrate how this rule applies:

EXAMPLE 1: Company A does not have a withholding credit under Iowa Code chapter 260E or a supplemental new jobs credit under Iowa Code chapter 15E. Company A enters into a withholding agreement, and the withholding rate for employees covered under the agreement is 4 percent of the wages paid. Company A will be allowed a credit on the Iowa withholding return equal to 3 percent of the wages paid to each employee covered under the withholding agreement, since the targeted jobs withholding tax credit cannot exceed 3 percent.

EXAMPLE 2: Company B does not have a withholding credit under Iowa Code chapter 260E or a supplemental new jobs credit under Iowa Code chapter 15E. Company B enters into a withholding agreement, and the withholding rate for employees covered under the agreement is 2.5 percent of the wages paid. Company B will be allowed a credit on the Iowa withholding return equal to 3 percent of the wages paid to each employee covered under the withholding agreement. The extra withholding credit equal to 0.5 percent may be used to offset withholding tax for Company B's employees not covered under the withholding agreement.

EXAMPLE 3: Company C has a withholding credit under Iowa Code chapter 260E of 1.5 percent of the wages paid to new employees and a supplemental new jobs credit under Iowa Code chapter 15E of 1.5 percent of the wages paid to new employees. Company C also enters into a withholding agreement for the same employees covered under the 260E agreement and supplemental new jobs credit agreement,

and the withholding rate for employees covered under these agreements is 5 percent of the wages paid. Company C will be allowed a credit on the Iowa withholding return equal to 5 percent of the wages paid to each employee covered under these agreements. Since the community college receives disbursement of the credit before the pilot project city, the community college will receive 3 percent of the wages paid to each employee covered under the agreements, and the pilot project city will receive the remaining 2 percent of the wages paid to each employee covered under the agreements.

EXAMPLE 4: Company D has a withholding credit under Iowa Code chapter 260E of 1.5 percent of the wages paid to new employees and a supplemental new jobs credit under Iowa Code chapter 15E of 1.5 percent of the wages paid to new employees. Company D also enters into a withholding agreement for the same employees covered under the 260E agreement and supplemental new jobs credit agreement, and the withholding rate for employees covered under the agreement is 2.5 percent of the wages paid. Company D will be allowed a credit on the Iowa withholding tax return equal to 6 percent of the wages paid to each employee covered under these agreements. The extra withholding credit equal to 3.5 percent may be used to offset withholding tax for Company D's employees not covered under these agreements.

307.10(1) *Notification by the employer.* Once a withholding agreement is entered into with a pilot project city, the employer shall notify the department of revenue that an agreement has been executed. With this notification, the employer must also provide its address, tax identification number and the number of new jobs created under the agreement. In addition, for each year that the withholding agreement is in place, the employer must notify the department of revenue by January 31 of the number of new jobs created as of December 31 of the preceding year.

307.10(2) *Notification by the pilot project city.* The pilot project city must notify the department of revenue on a quarterly basis of the amount of the targeted jobs withholding credit that each employer covered by a withholding agreement remitted to the city. This notification must occur within 45 days after the end of each calendar quarter. In addition, the pilot project city must notify the department of revenue immediately when a withholding agreement with an employer is terminated.

This rule is intended to implement Iowa Code section 403.19A as amended by 2013 Iowa Acts, Senate File 433.

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