

CHAPTER 42
ADJUSTMENTS TO COMPUTED TAX

[Prior to 12/17/86, Revenue Department[730]]

701—42.1(257,442) School district surtax. Iowa law provides for the implementation of an income surtax for increasing local school district budgets. The surtax must be approved by the voters of a school district in a special election or by a resolution of the board of directors of a school district. The surtax rate is determined by the department of management on the basis of the revenue to be raised by the surtax for the particular school district with the surtax.

The school district surtax is imposed on the income tax liabilities of all taxpayers residing in the school district on the last day of the taxpayers' tax years. For purposes of the school district surtax, income tax liability is the tax computed under Iowa Code section 422.5, less the credits against computed tax which are authorized in Iowa Code sections 422.11A, 422.11B, 422.11C, 422.12, and 422.12B. The credits that are applied against tax before the school district surtax is imposed are all the nonrefundable tax credits and those tax credits that are carried over if the credits exceed the computed tax.

In a situation where an individual is residing in a school district with a surtax and the individual dies during the tax year, the individual will be considered to be subject to the surtax, since the individual was residing in the school district on the last day of the individual's tax year.

An individual serving in the Armed Forces of the United States who maintains permanent residence in an Iowa school district with a surtax is subject to the surtax regardless of whether the individual is physically residing in the school district on the last day of the tax year.

A person who is present in the school district on the last day of the tax year on a temporary basis due to annual leave or in transit between duty stations is not subject to the surtax.

This rule is intended to implement Iowa Code sections 257.21, 257.29, 298.2, and 422.15.

701—42.2(422) Exemption, research activities, earned income, and investment tax credits.

42.2(1) Exemption credits for tax years beginning on or after January 1, 1998.

a. A single person may deduct from the computed tax a personal exemption credit of \$40. A single person is defined in 701—subrule 39.4(1).

b. A married person living with husband or wife at the close of the taxable year, or living with husband or wife at the time of the death of that spouse during the taxable year, may, if a joint return is filed, deduct from the computed tax a personal exemption of \$80. Where such spouse files a separate return, each spouse is entitled to deduct from the computed tax a personal exemption of \$40. The personal exemption may not be divided between the spouses in any other proportion.

c. A taxpayer may deduct from computed tax an exemption of \$40 for each dependent. "Dependent" has the same meaning as provided by the Internal Revenue Code, and the same dependents may be claimed for Iowa income tax purposes as the taxpayer is entitled to claim for federal income tax purposes. If each spouse furnished 50 percent of the support, the spouses may elect between them which spouse is to be entitled to claim the dependent. The dividing of dependent credits applies only to the number of dependents and not to the money credits for a particular dependent.

d. A head of household as defined in 701—subrule 39.4(7) is allowed a personal exemption credit of \$80.

e. A taxpayer who is 65 years of age on or before the first day following the end of the tax year is allowed an additional personal exemption credit of \$20 in addition to any other credits allowed by this rule.

f. A taxpayer who is blind as defined in Iowa Code section 422.12(5) is allowed an additional personal exemption credit of \$20 in addition to any other credits allowed by this rule.

g. A nonresident taxpayer or a part-year resident taxpayer will be allowed to deduct personal exemption credits as if the resident taxpayer or part-year taxpayer was a resident for the entire year.

42.2(2) to 42.2(5) Rescinded IAB 11/24/04, effective 12/29/04.

42.2(6) Research activities credit. Effective for tax years beginning on or after January 1, 1985, taxpayers are allowed a credit equal to 6½ percent of the state's apportioned share of qualified expenditures for increasing research activities. Effective for tax years beginning on or after January 1, 1991, the state research activities credit will be computed on the basis of the qualifying expenditures for increasing research activities as allowable under Section 41 of the Internal Revenue Code in effect on January 1, 1999. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in Iowa to the total qualified research expenditures. The Iowa research activities credit is made permanent for tax years beginning on or after January 1, 1991, even though there may no longer be a research activities credit for federal income tax purposes.

a. *Qualified expenditures in Iowa are:*

- (1) Wages for qualified research services performed in Iowa.
- (2) Cost of supplies used in conducting qualified research in Iowa.
- (3) Rental or lease cost of personal property used in Iowa in conducting qualified research.

Where personal property is used both within and without Iowa in conducting qualified research, the rental or lease cost must be prorated between Iowa and non-Iowa use by the ratio of days used in Iowa to total days used both within and without Iowa.

(4) Sixty-five percent of contract expenses paid by a corporation to a qualified organization for basic research performed in Iowa.

b. *Total qualified expenditures are:*

- (1) Wages paid for qualified research services performed everywhere.
- (2) Cost of supplies used in conducting qualified research everywhere.
- (3) Rental or lease cost of personal property used in conducting qualified research everywhere.
- (4) Sixty-five percent of contract expenses paid by a corporation to a qualified organization for basic research performed everywhere.

Qualifying expenditures for increasing research activities is the smallest of the amount by which the qualified research expenses for the taxable year exceed the base period research expenses or 50 percent of the qualified research expenses for the taxable year.

Research expenditures for tax years beginning after December 31, 1985, but before January 1, 1987, will qualify for the Iowa credit for increasing research activities to the extent that the credit would be allowable for federal income tax purposes under Section 30 of the Internal Revenue Code as in effect on January 1, 1985.

A taxpayer may claim on the taxpayer's individual income tax return the pro rata share of the credit for qualifying research expenditures incurred in Iowa by a partnership, subchapter S corporation, or estate or trust. The portion of the credit claimed by the individual must be in the same ratio as the individual's pro rata share of the earnings of the partnership, subchapter S corporation, or estate or trust.

Any research credit in excess of the individual's tax liability, less the credits authorized in Iowa Code sections 422.11A, 422.11C, 422.12 and 422.12B may be refunded to the taxpayer or may be credited to the estimated tax of the taxpayer for the following year.

42.2(7) *New jobs credit.* A tax credit is available to an individual who has entered into an agreement under Iowa Code chapter 260E and has increased employment by at least 10 percent.

a. Definitions.

(1) The term “*new jobs*” means those jobs directly resulting from a project covered by an agreement authorized by Iowa Code chapter 260E (Iowa Industrial New Jobs Training Act) but does not include jobs of recalled workers or replacement jobs or other jobs that formerly existed in the industry in the state.

(2) The term “*jobs directly related to new jobs*” means those jobs which directly support the new jobs but does not include instate employees transferred to a position which would be considered to be a job directly related to new jobs unless the transferred employee’s vacant position is filled by a new employee.

EXAMPLE A. A taxpayer who has entered into a chapter 260E agreement to train new employees for a new product line, transfers an instate employee to be foreman of the new product line but does not fill the transferred employee's position. The new foreman's position would not be considered a job directly related to new jobs even though it directly supports the new jobs because the transferred employee's old position was not refilled.

EXAMPLE B. A taxpayer who has entered into a chapter 260E agreement to train new employees for a new product line transfers an instate employee to be foreman of the new product line and fills the transferred employee's position with a new employee. The new foreman's position would be considered a job directly related to new jobs because it directly supports the new jobs and the transferred employee's old position was filled by a new employee.

The burden of proof that a job is directly related to new jobs is on the taxpayer.

(3) The term "*taxable wages*" means those wages upon which an employer is required to contribute to the state unemployment fund as defined in Iowa Code subsection 96.19(37) for the year in which the taxpayer elects to take the new jobs tax credit. For fiscal year taxpayers, "taxable wages" shall not be greater than the maximum wage upon which an employer is required to contribute to the state unemployment fund for the calendar year in which the taxpayer's fiscal year begins.

(4) The term "*agreement*" means an agreement entered into under Iowa Code chapter 260E after July 1, 1985, an amendment to that agreement, or an amendment to an agreement entered into before July 1, 1985, if the amendment sets forth the base employment level as of the date of the amendment. The term "agreement" also includes a preliminary agreement entered into under Iowa Code chapter 260E provided the preliminary agreement contains all the elements of a contract and includes the necessary elements and commitments relating to training programs and new jobs.

(5) The term "*base employment level*" means the number of full-time jobs an industry employs at a plant site which is covered by an agreement under Iowa Code chapter 260E on the date of the agreement.

(6) The term "*project*" means a training arrangement which is the subject of an agreement entered into under Iowa Code chapter 260E.

(7) The term "*industry*" means a business engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products, conducting research and development, or providing services in interstate commerce, but excludes retail, health or professional services. Industry does not include a business which closes or substantially reduces its operations in one area of the state and relocates substantially the same operation in another area of the state. Industry is a business engaged in the above listed activities rather than the generic definition encompassing all businesses in the state engaged in the same activities. For example, in the meat-packing business, an industry is considered to be a single corporate entity or operating division, rather than the entire meat-packing business in the state.

(8) The term "*new employees*" means the same as new jobs or jobs directly related to new jobs.

(9) The term "*full-time job*" means any of the following:

1. An employment position requiring an average work week of 35 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 or job-sharing employment positions which equal one full-time employment position. For purposes of this subrule each part-time or job-sharing employment position shall be categorized with regard to the average number of hours worked each week as one-quarter, half, three-quarters, or full-time position, as set forth in the following table:

Average Number of Weekly Hours	Category
More than 0 but less than 15	1/4
15 or more but less than 25	1/2
25 or more but less than 35	3/4
35 or more	1 (full-time)

b. How to compute the credit. The credit is 6 percent of the taxable wages paid to employees in new jobs or jobs directly related to new jobs for the taxable year in which the taxpayer elects to take the credit.

EXAMPLE 1. A taxpayer enters into an agreement to increase employment by 20 new employees which is greater than 10 percent of the taxpayer's base employment level of 100 employees. In year one of the agreement the taxpayer hires 20 new employees but elects not to take the credit in that year. In year two of the agreement only 18 of the new employees hired in year one are still employed and the taxpayer elects to take the credit. The credit would be 6 percent of the taxable wages of the 18 remaining new employees. In year three of the agreement the taxpayer hires two additional new employees under the agreement to replace the two employees that left in year two and elects to take the credit. The credit would be 6 percent of the taxable wages paid to the two replacement employees. In year four of the agreement three of the employees for which a credit had been taken left employment and three additional employees were hired. No credit is available for these employees. A credit can only be taken one time for each new job or job directly related to a new job.

EXAMPLE 2. A taxpayer operating two plants in Iowa enters into a chapter 260E agreement to train new employees for a new product line at one of the taxpayer's plants. The base employment level on the date of the agreement at plant A is 300 and at plant B is 100. Under the agreement 20 new employees will be trained for plant B which is greater than a 10 percent increase of the base employment level for plant B. In the year in which the taxpayer elects to take the credit, the employment level at plant A is 290 and at plant B is 120. The credit would be 6 percent of the wages of 10 new employees at plant B as 10 new jobs were created by the industry in the state. A credit for the remaining 10 employees can be taken if the employment level at plant A increases back to 300 during the period of time that the credit can be taken.

c. When the credit can be taken. The taxpayer may elect to take the credit in any tax year which either begins or ends during the period beginning with the date of the agreement and ending with the date by which the project is to be completed under the agreement. However, the taxpayer may not take the credit until the base employment level has been exceeded by at least 10 percent.

EXAMPLE: A taxpayer enters into an agreement to increase employment from a base employment level of 200 employees to 225 employees. In year one of the agreement the taxpayer hires 20 new employees which is a 10 percent increase over the base employment level but elects not to take the credit. In year two of the agreement two of the new employees leave employment. The taxpayer elects to take the credit which would be 6 percent of the taxable wages of the 18 employees currently employed. In year three the taxpayer hires seven new employees and elects to take the credit. The credit would be 6 percent of the taxable wages of the seven new employees.

A taxpayer may claim on the taxpayer's individual income tax return the pro rata share of the Iowa new jobs credit from a partnership, subchapter S corporation, estate or trust. The portion of the credit claimed by the individual shall be in the same ratio as the individual's pro rata share of the earnings of the partnership, subchapter S corporation, or estate or trust. All partners in a partnership, shareholders in a subchapter S corporation and beneficiaries in an estate or trust shall elect to take the Iowa new jobs credit the same year.

Any Iowa new jobs credit in excess of the individual's tax liability less the credits authorized in Iowa Code sections 422.12 and 422.12B may be carried forward for ten years or until it is used, whichever is the earlier.

42.2(8) Tuition and textbooks credit for dependents in grades kindergarten through 12 in Iowa. For tax years beginning on or after January 1, 1987, but prior to January 1, 1996, individuals who elect the optional standard deduction may claim a tax credit of 5 percent of the qualifying expenditures. For tax years beginning on or after January 1, 1996, all taxpayers, including individuals that have net incomes of \$45,000 or more, may claim a tuition and textbook credit of 10 percent of qualifying expenditures. See rule 42.22(422), which provides detailed information on the tuition and textbook credit for tax years beginning on or after January 1, 1998. For purposes of this subrule, the qualifying expenditures for tax years beginning in 1996 and 1997 are the same as would have been eligible for the deduction allowed under 701—subrule 41.5(5) if the qualifying expenditures had been paid in a tax year when the deduction was applicable. All the qualifications, definitions, and criteria in 701—subrule 41.5(5) are equally applicable to the credit for amounts paid for tuition and textbooks for dependents attending grades kindergarten through 12 in Iowa. In the case of married taxpayers who are filing separate returns or separately on the combined return, the spouses can allocate the credit for tuition and textbooks between them in the same ratio as described in paragraph “g” of 701—subrule 41.5(5).

42.2(9) Earned income credit. Effective for tax years beginning on or after January 1, 1990, an individual is allowed a state earned income credit equal to a percentage of the earned income credit to which the taxpayer is entitled on the taxpayer’s federal income tax return as authorized in Section 32 of the Internal Revenue Code. The state earned income credit is nonrefundable so the credit may not exceed the remaining income tax liability of the taxpayer after the personal exemption credits and the other nonrefundable credits are deducted. The percentage of the earned income credit for tax years beginning in the 1990 calendar year is 5 percent. The percentage of the earned income credit for tax years beginning on or after January 1, 1991, is 6.5 percent.

For federal income tax purposes, the earned income credit is available for a low-income worker who maintains a household in the United States that is the principal place of abode of the worker and a child or children for more than one-half of the tax year or the worker must have provided a home for the entire tax year for a dependent parent. In addition, the worker must be (1) a married person who files a joint return and is entitled to a dependency exemption for a son or daughter, adopted child or stepchild; (2) a surviving spouse; or (3) an individual who qualifies as a head of household as described in Section 2(b) of the Internal Revenue Code. The federal earned income credit for a taxpayer is determined by computing the taxpayer’s earned income on a worksheet provided in the federal income tax return instructions and determining the allowable credit from a table included in the instructions for the 1040 or 1040A. For purposes of the credit, a taxpayer’s earned income includes wages, salaries, tips, or other compensation plus net income from self-employment.

In the case of married taxpayers who filed a joint federal return who elect to file separate state returns or separately on the combined return form, the state earned income credit is allocated between the spouses in the ratio that each spouse’s earned income relates to the earned income of both spouses.

Nonresidents and part-year residents are allowed the same earned income credits as resident taxpayers.

42.2(10) Investment tax credit.

a. General rule. An investment tax credit of up to 10 percent of the new investment which is directly related to new jobs created by the location or expansion of an eligible business is available for businesses approved by the Iowa department of economic development under the new jobs and income program and the enterprise zone program. The credit is available for machinery and equipment or improvements to real property placed in service after May 1, 1994. The credit is to be taken in the year the qualifying asset is placed in service. For business applications received by the Iowa department of economic development on or after July 1, 1999, purchases of real property made in conjunction with the location or expansion of an eligible business, the cost of land and any buildings and structures located on the land will be considered to be new investment which is directly related to new jobs for purposes of determining the amount of new investment upon which an investment tax credit may be taken.

For eligible businesses approved by the Iowa department of economic development on or after March 17, 2004, certain lease payments made by eligible businesses to a third-party developer will be considered to be new investment for purposes of computing the investment tax credit. The eligible business shall enter into a lease agreement with the third-party developer for a minimum of ten years. The investment tax credit is based on the annual base rent paid to a third-party developer by the eligible business for a period not to exceed ten years. The total costs of the annual base rent payments for the ten-year period cannot exceed the cost of the land and the third-party developer's cost to build or renovate the building used by the eligible business. The annual base rent is defined as the total lease payment less taxes, insurance and operating and maintenance expenses.

Any credit in excess of the tax liability for the tax year may be carried forward seven years or until used, whichever is the earlier.

If the business is a partnership, S corporation, limited liability company, or an estate or trust electing to have the income taxed directly to an individual, an individual may claim the credit. The amount of the credit claimed by the individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

b. Investment tax credit—value-added agricultural products. For tax years beginning on or after July 1, 2001, an eligible business whose project primarily involves the production of value-added agricultural products may elect to receive a refund for all or a portion of an unused investment tax credit. For tax years beginning on or after July 1, 2001, but before July 1, 2003, an eligible business includes a cooperative described in Section 521 of the Internal Revenue Code which is not required to file an Iowa corporation income tax return and whose project primarily involves the production of ethanol. For tax years beginning on or after July 1, 2003, an eligible business includes a cooperative described in Section 521 of the Internal Revenue Code which is not required to file an Iowa corporation income tax return.

Eligible businesses shall apply to the Iowa department of economic development for tax credit certificates between May 1 and May 15 of each fiscal year. Only those businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate. The Iowa department of economic development will not issue tax credit certificates for more than \$4 million during a fiscal year. If applications are received for more than \$4 million, the applicants shall receive certificates for a prorated amount.

The Iowa department of economic development will issue tax credit certificates within a reasonable period of time. Tax credit certificates are valid for the tax year following project completion. The tax credit certificate must be attached to the tax return for the tax year during which the tax credit is claimed. The tax credit certificate shall not be transferred, except for a cooperative described in Section 521 of the Internal Revenue Code which is required to file an Iowa corporation income tax return and whose project primarily involves the production of ethanol for tax years beginning on or after January 1, 2002, or for a cooperative described in Section 521 of the Internal Revenue Code which is required to file an Iowa corporation income tax return for tax years beginning on or after July 1, 2003.

For value-added agricultural projects, for a cooperative that is not required to file an Iowa income tax return because it is exempt from federal income tax, the cooperative must submit a list of its members and the share of each member's interest in the cooperative. The Iowa department of economic development will issue a tax credit certificate to each member on the list.

See subrule 52.10(4) for examples illustrating how this subrule is applied.

For tax years beginning on or after January 1, 2002, but before July 1, 2003, a cooperative described in Section 521 of the Internal Revenue Code which is required to file an Iowa corporation income tax return and whose project primarily involves the production of ethanol may elect to transfer all or a portion of its tax credit to its members. For tax years beginning on or after July 1, 2003, a cooperative described in Section 521 of the Internal Revenue Code which is required to file an Iowa corporation income tax return may elect to transfer all or a portion of its tax credit to its members. The amount of tax credit transferred and claimed by a member shall be based upon the pro-rata share of the member's earnings in the cooperative. The Iowa department of economic development will issue a tax credit certificate to each member of the cooperative to whom the credit was transferred provided that tax credit certificates which total no more than \$4 million are issued during a fiscal year. The tax credit certificate must be attached to the tax return for the tax year during which the tax credit is claimed.

c. Repayment of credits. If an eligible business fails to maintain the requirements of the new jobs and income program or the enterprise zone program, the taxpayer may be required to repay all or a portion of the tax incentives taken on Iowa returns. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the tax credits may have expired, the department may proceed to collect the tax incentives forfeited by failure to maintain the requirements of the new jobs and income program or the enterprise zone program because this is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability.

If the eligible business, within five years of purchase, sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other existing structures for which tax credit was claimed under this rule, the income tax liability of the eligible business for the year in which all or part of the property is sold, disposed of, razed, or otherwise rendered unusable shall be increased by one of the following amounts:

- (1) One hundred percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within one full year after being placed in service.
- (2) Eighty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within two full years after being placed in service.
- (3) Sixty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within three full years after being placed in service.
- (4) Forty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within four full years after being placed in service.
- (5) Twenty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within five full years after being placed in service.

42.2(11) Research activities credit. Effective for tax years beginning on or after January 1, 2000, the taxes imposed for individual income tax purposes will be reduced by a tax credit for increasing research activities in this state. See subrule 42.2(6) for the research activities credit that was applicable for individual income tax purposes for tax years beginning on or after January 1, 1985, but prior to January 1, 2000.

a. The credit equals the sum of the following:

- (1) Six and one-half percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities.
- (2) Six and one-half percent of the basic research payments determined under Section 41(e)(1)(A) of the Internal Revenue Code during the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research activities.

b. In lieu of the credit computed under paragraph “*a*” of this subrule, a taxpayer may elect to compute the credit amount for qualified research expenses incurred in this state in a manner consistent with the alternative incremental credit described in Section 41(c)(4) of the Internal Revenue Code. The taxpayer may make this election regardless of the method used by the taxpayer on the taxpayer’s federal income tax return. The election made under this paragraph is for the tax year and the taxpayer may use another method or this same method for any subsequent tax year. For purposes of this alternative research credit computation, the credit percentages applicable to qualified research expenses described in clauses (i), (ii), and (iii) of Section 41(c)(4)(A) of the Internal Revenue Code are 1.65 percent, 2.20 percent, and 2.75 percent, respectively.

For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph “*b*” of this subrule, such amounts are limited to research activities conducted within this state. For purposes of this subrule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 31, 2005.

c. An individual may claim a research activities credit incurred by a partnership, S corporation, limited liability company, estate, or trust electing to have the income of the business entity taxed to the individual. The amount claimed by an individual from the business entity is to be based upon the pro-rata share of the individual’s earnings from a partnership, S corporation, estate or trust. Any research credit in excess of the individual’s tax liability, less the credits authorized in Iowa Code sections 422.11A, 422.12 and 422.12B may be refunded to the individual or may be credited to the individual’s tax liability for the following tax year.

This rule is intended to implement Iowa Code sections 15.333, 422.10, 422.11A, 422.12, and 422.12B.

701—42.3(422) Nonresident and part-year resident credit. For tax years beginning on or after January 1, 1982, an individual who is a nonresident of Iowa for the entire tax year, or an individual who is an Iowa resident for a portion of the tax year, is allowed a credit against the individual's Iowa income tax liability for the Iowa income tax on the portion of the individual's income which was earned outside Iowa while the person was a nonresident of Iowa. This credit is computed on Schedule IA 126 which is included in the Iowa individual income tax booklet. The following subrules clarify how the nonresident and part-year resident credit is computed for nonresidents of Iowa and taxpayers who are part-year residents of Iowa during the tax year.

42.3(1) Nonresident/part-year resident credit for nonresidents of Iowa. A nonresident of Iowa is to complete the Iowa individual return by reporting the individual's total net income, including incomes earned outside Iowa, on the front of the IA 1040 return form similar to the way an Iowa resident completes the return form. A nonresident individual is allowed the same deduction for federal income tax and the same itemized deductions as an Iowa resident taxpayer with identical deductions for these expenditures. Thus, a nonresident with a taxable income of \$40,000 would have the same initial Iowa income tax liability as a resident taxpayer with a taxable income of \$40,000 before the nonresident/part-year resident credit is computed.

The nonresident/part-year resident credit is computed on Schedule IA 126. The lines referred to in this subrule are from Schedule IA 126 and Form IA 1040 for the 1997 tax year. Similar lines on the schedule and form may apply for subsequent tax years. The individual's Iowa source net income from lines 1 through 25 of the schedule is totaled on line 26 of the schedule. If the nonresident's Iowa source net income is less than \$1,000, the taxpayer is not subject to Iowa income tax and is not required to file an Iowa income tax return for the tax year. However, if the Iowa source net income amount is \$1,000 or more, the Iowa source net income is then divided by the person's all source net income on line 27 of Schedule IA 126 to determine the percentage of the Iowa net income to all source net income. This Iowa income percentage is inserted on line 28 of the schedule, and this percentage is then subtracted from 100 percent to arrive at the nonresident/part-year resident credit percentage or the percentage of the individual's total income which was earned outside Iowa. The nonresident/part-year resident credit percentage is entered on line 29 of Schedule IA 126. The Iowa income tax on total income from line 43 of the IA 1040 is entered on line 30 of Schedule IA 126. The total of nonrefundable credits from line 50 of the IA 1040 is then shown on line 31 of Schedule IA 126. The amount on line 31 is subtracted from the amount on line 30 which leaves the Iowa total tax after nonrefundable credits on line 32. This Iowa tax after credits amount is multiplied by the nonresident/part-year resident credit percentage from line 29 to compute the nonresident/part-year resident credit. The amount of the credit is inserted on line 33 of Schedule IA 126 and on line 52 of the IA 1040.

EXAMPLE A. A single resident of Nebraska had Iowa source net income of \$15,000 in 1997 from wages earned from employment in Iowa. The rest of this person's income was attributable to sources outside Iowa. This nonresident of Iowa had an all source net income of \$40,000 and a taxable income of \$30,000 due to a federal tax deduction of \$7,000 and itemized deductions of \$3,000. The Iowa income percentage is computed by dividing the Iowa source net income of \$15,000 by the taxpayer's all source net income of \$40,000, which results in a percentage of 37.5. This percentage is subtracted from 100 percent which leaves a nonresident/part-year resident credit percentage of 62.5.

The Iowa tax from line 43 of the IA 1040 is \$1,789. The total nonrefundable credit from line 50 is \$20, which leaves a tax amount of \$1,769 when the credit is subtracted from \$1,789. When \$1,769 is multiplied by the nonresident/part-year resident credit percentage of 62.5 percent, a nonresident credit of \$1,106 is computed which is entered on line 33 of Schedule IA 126 as well as on line 52 of the IA 1040 for 1997.

EXAMPLE B. A California resident, who was married, had \$20,000 of Iowa source income in 1997 from an Iowa farm. This individual had an additional \$80,000 in income that was attributable to sources outside Iowa, but the individual's spouse had no income. The taxpayers had paid \$18,000 in federal income tax in 1997 and had itemized deductions of \$12,000 in 1997.

The taxpayers' taxable income on their joint Iowa return was \$70,000. The taxpayers had an Iowa income tax liability of \$5,422 after application of the personal exemption credits of \$40. The taxpayers had an Iowa source income of \$20,000 and an all source net income of \$100,000. Therefore, the Iowa income percentage was 20 percent. Subtracting the Iowa income percentage of 20 percent from 100 percent leaves a nonresident/part-year resident credit percentage of 80 percent.

When the Iowa income tax liability of \$5,422 is multiplied by 80 percent, this results in a nonresident/part-year resident credit of \$4,338. This credit amount is entered on line 33 of the Schedule IA 126 and on line 52 of Form IA 1040.

42.3(2) Nonresident/part-year resident credit for part-year residents of Iowa. An individual who is a resident of Iowa for part of the tax year is to complete the front of the IA 1040 income tax return form as a resident taxpayer by showing the taxpayer's total income, including income earned outside Iowa, on the front of the IA 1040 return form. A part-year resident of Iowa is allowed the same federal tax deduction and itemized deductions as a resident taxpayer who has paid the same amount of federal income tax and has paid for the same deductions that can be claimed on Schedule A in the tax year. Therefore, a part-year resident would have the same initial Iowa income tax liability as an Iowa resident with the same taxable income before computation of the nonresident/part-year resident credit.

The nonresident/part-year resident credit for a part-year resident is computed on Schedule IA 126. The lines referred to in this subrule are from the IA 1040 income tax return form and the Schedule IA 126 for 1997. Similar lines may apply for tax years after 1997. The individual's Iowa source income is totaled on line 26 of this form and includes all the individual's income received while the taxpayer was a resident of Iowa and all the Iowa source income received during the period of the tax year when the individual was a resident of a state other than Iowa. Iowa source income includes, but is not limited to, wages earned in Iowa while a resident of another state as well as incomes from Iowa farms and other Iowa businesses that were earned during the portion of the year that the taxpayer was a nonresident of Iowa. In the case of interest from a part-year resident's account at an Iowa financial institution, only interest earned during the period of the individual's Iowa residence is Iowa source income unless the account is for an Iowa business. If the part-year resident's account at a financial institution is for an Iowa business, all interest earned in the year by the part-year resident from the account is taxable to Iowa.

Income earned outside Iowa by the part-year resident during the portion of the year the individual was an Iowa resident is taxable to Iowa and is part of the individual's Iowa source income. To compute the nonresident/part-year resident credit for a part-year resident, the taxpayer's Iowa source income on Schedule IA 126 is totaled. If the Iowa source income is less than \$1,000, the taxpayer is not subject to Iowa income tax and is not required to file an Iowa return. If the Iowa source income is \$1,000 or more, it is divided by the taxpayer's all source net income on line 27 of Schedule IA 126. The percentage computed by this procedure is the Iowa income percentage and is entered on line 28 of the IA 126. The Iowa income percentage is then subtracted from 100 percent to arrive at the nonresident/part-year resident credit percentage which is entered on line 29 of Schedule IA 126. The Iowa tax from line 43 of the IA 1040 is then shown on line 30 of Schedule IA 126. The total of the Iowa nonrefundable credits from line 50 of the IA 1040 is entered on line 31 of Schedule IA 126 and is subtracted from the Iowa tax amount on line 30. The tax after credits amount on line 32 is next multiplied by the nonresident/part-year resident credit percentage from line 28. The amount calculated from this procedure is the nonresident/part-year resident credit which is shown on line 33 of Schedule IA 126 and on line 52 of Form IA 1040.

EXAMPLE A. A single individual was a resident of Nebraska for the first half of 1997 and moved to Iowa on July 1, 1997, to accept a job in Des Moines. This individual earned \$20,000 from wages, \$200 from interest, and \$4,000 from a ranch in Nebraska from January 1, 1997, through June 30, 1997. In the last half of 1997, this person had wages of \$30,000, interest income of \$300, and \$4,000 from the Nebraska ranch. This part-year resident had federal income tax paid in 1997 of \$11,000 and had itemized deductions of \$3,000.

The part-year resident's all source net income was \$58,500 and the Iowa source net income was \$34,300, which includes the Iowa wages, the Nebraska ranch income of \$4,000 earned during the individual's period of Iowa residence, as well as the interest income of \$300 earned in that time of the tax year. The Iowa taxable income for the part-year resident for 1997 was \$44,500, which considered the federal income tax deduction of \$11,000 and itemized deductions of \$3,000. The individual's Iowa income percentage was 58.6 which was determined by dividing the Iowa source income of \$34,300 by the all source income of \$58,500. Subtracting the Iowa income percentage of 58.6 from 100 percent results in a nonresident/part-year resident credit percentage of 41.4 percent. The Iowa tax on total income was \$3,023 which was reduced to \$3,003 after subtraction of the personal exemption credit of \$20.

When \$3,003 is multiplied by the nonresident/part-year resident percentage of 41.4, a nonresident/part-year resident credit of \$1,243 is computed for this part-year resident.

EXAMPLE B. A single individual moved from Minnesota to Iowa on July 1, 1997. This person had received \$5,000 in income from an Iowa farm in March of the tax year and another \$10,000 from this farm in September of 1997. This person had \$10,000 in wages from employment in Minnesota in the first half of the year and another \$15,000 in wages from employment in Iowa in the last half of 1997. This person had \$2,000 in interest from a Minnesota bank in the first half of the year and \$2,000 in interest from an Iowa bank in the last six months of 1997. This taxpayer had \$8,000 in federal income tax withheld from wages in 1997 and claimed the standard deduction on both the Iowa and federal income tax returns.

The part-year resident's all source income was \$44,000 and the Iowa source income was \$32,000 which consisted of \$15,000 in wages, \$2,000 in interest income, and \$15,000 in income from the Iowa farm. Since the farm was in Iowa, the farm income received in the first half of 1997 was taxable to Iowa as well as the farm income received while the individual was an Iowa resident. The individual's Iowa taxable income was \$34,590 which was computed after subtracting the federal income tax deduction of \$8,000 and a standard deduction of \$1,410. The taxpayer's Iowa income tax liability was \$2,132 after subtraction of a personal exemption credit of \$20.

The taxpayer's Iowa income percentage was 72.7 percent which was computed by dividing the Iowa source income of \$32,000 by the all source income of \$44,000. The nonresident/part-year resident credit percentage was 27.3 percent which was arrived at by subtracting the Iowa income percentage of 72.7 percent from 100 percent. The taxpayer's nonresident/part-year resident credit is \$582. This was determined by multiplying the Iowa income tax liability after personal exemption credit amount of \$2,132 by the nonresident/part-year resident percentage of 27.3 percent.

This rule is intended to implement Iowa Code section 422.5.

701—42.4(422) Out-of-state tax credits.

42.4(1) General rule. Iowa residents are allowed an out-of-state tax credit for taxes paid to another state or foreign country on income which is also reported on the taxpayer's Iowa return. The out-of-state tax credit is allowable only if the taxpayer files an Iowa resident income tax return.

42.4(2) Limitation of out-of-state tax credit. If an Iowa resident taxpayer pays income tax to another state or foreign country on any of the taxpayer's income, the taxpayer is entitled to a net tax credit; that is, the taxpayer may deduct from the taxpayer's Iowa net tax (not from gross income) the amount of income tax actually paid to the other state or country, provided the amount deducted as a credit does not exceed the amount of Iowa net income tax on the same income which was taxed by the other state or foreign country.

42.4(3) Computation of tax credit.

a. For tax years beginning before January 1, 1983. The limitation on the tax credit must be computed according to the following formula: Income earned in another state or country and taxed by such other state or country shall be divided by the total income of the Iowa resident taxpayer. Said quotient multiplied times the net Iowa tax as determined on the total income of the taxpayer as if entirely earned in Iowa shall be the maximum tax credit against the Iowa net tax.

b. *For tax years beginning on or after January 1, 1983.* The limitation on the tax credit must be computed according to the following formula: Gross income taxed by another state or foreign country that is also taxed by Iowa shall be divided by the total gross income of the Iowa resident taxpayer. Said quotient multiplied by the net Iowa tax as determined on the total gross income of the taxpayer as if entirely earned in Iowa shall be the maximum tax credit against the Iowa net tax. This quotient should be computed as a percentage with a minimum of one decimal place. However, if the income tax paid to the other state or foreign country on the gross income taxed by the other state or foreign country is less than the maximum tax credit against the Iowa tax, the out-of-state credit allowed against the Iowa tax may not exceed the income tax paid to the other state or foreign country. The income tax paid to the other state or foreign country is the net state or foreign income tax actually paid for the tax year on the income taxed by the other state or foreign country and not the state or foreign income tax paid during the tax year, such as state income tax or foreign income tax withheld from the income taxed by the other state or foreign country.

c. *Out-of-state tax credit examples.* An individual who is an Iowa resident for the entire tax year can claim an out-of-state tax credit against the person's Iowa income tax liability for any income tax paid to another state or foreign country for the tax year on any gross income received by the individual for the year which was derived from sources outside of Iowa to the extent this gross income is also subject to Iowa income tax.

However, in the case of an individual who is a part-year resident of Iowa for the tax year, that individual can only claim an out-of-state tax credit against the person's Iowa income tax liability for income tax paid to another state or foreign country on gross income derived from sources outside of Iowa during the period of the tax year that the individual was an Iowa resident and only to the extent this gross income derived from sources outside of Iowa was also subject to Iowa income tax.

The taxpayer's out-of-state credit is computed on Schedule IA 130 which is to be filed with the taxpayer's Iowa individual income tax return. The taxpayer's income tax return or other document of the other state or foreign country supporting the income tax paid to the other state or foreign country shall be filed with the individual's Iowa income tax return to support the out-of-state tax credit claimed.

EXAMPLE 1. Gene Miller was an Iowa resident for the entire year 2002. Mr. Miller lived in Council Bluffs and worked the entire year for a company in Omaha, Nebraska. Mr. Miller had wages of \$30,000 and Nebraska income tax withheld of \$1,000. He also had income of \$10,000 from rental of an Iowa farm and another \$10,000 in interest income from a personal savings account in an Iowa bank. The amount of Mr. Miller's gross income that was taxed by Nebraska (the other state or foreign country) was \$30,000. His total gross income in 2002 was \$50,000. Thus, 60 percent of his income was earned in Nebraska. Mr. Miller's Iowa tax on line 55 of Form IA 1040 was \$917, which resulted in a potential out-of-state credit of 60 percent of the Iowa tax or \$550 because 60 percent of Mr. Miller's income was earned outside Iowa and was taxed by Nebraska. However, Mr. Miller's income tax liability on the Nebraska income tax return was only \$500. Thus, the out-of-state tax credit allowed was \$500, because that was less than the potential out-of-state tax credit of \$550.

EXAMPLE 2. Ben Smith was a part-year Iowa resident in 2002. He resided in Missouri for the first six months of the year until he moved to Keokuk, Iowa, on July 1. Mr. Smith was employed in Missouri for the entire year and had wages of \$30,000 and had Missouri income tax liability of \$1,000. Half of Mr. Smith's wages or \$15,000 of the wages was earned during the time Mr. Smith was an Iowa resident. Mr. Smith also had \$10,000 in farm rental income from farmland located in Iowa. The amount of gross income taxed by Missouri while Mr. Smith was an Iowa resident was \$15,000. Mr. Smith's gross income earned while an Iowa resident for the year was \$25,000. Thus, 60 percent of the gross income was earned in the other state while Mr. Smith was an Iowa resident. Mr. Smith's Iowa income tax on line 55 of the IA 1040 was \$1,292. This resulted in a potential out-of-state credit of \$775 because 60 percent of the gross income was earned in Missouri during the period Mr. Smith was an Iowa resident. However, since 50 percent of the income earned in Missouri was earned while Mr. Smith was a resident of Iowa and the Missouri income tax liability for the year was \$1,000, the out-of-state credit was \$500 or 50 percent of the Missouri income tax liability. The out-of-state credit allowed was \$500, because this was less than the Iowa income tax of \$775 that was applicable to the gross income earned in Missouri during the period Mr. Smith was an Iowa resident.

42.4(4) Proof of claim for tax credit. The credit may be deducted from Iowa net income tax if written proof of such payment to another state or foreign country is furnished to the department. The department will accept any one of the following as proof of such payment:

a. A photocopy, or other similar reproduction of either

(1) The receipt issued by the other state or foreign country for payment of the tax, or

(2) The canceled check (both sides) with which the tax was paid to the other state or foreign country together with a statement of the amount and kind (that is, whether wages, salaries, property or business) of total income on which such tax was paid.

b. A copy of the income tax return filed with the other state or foreign country which has been certified by the tax authority of that state or foreign country and showing thereon that the income tax assessed has been paid to them.

This rule is intended to implement Iowa Code section 422.8.

701—42.5(422) Withholding and estimated tax credits. An employee from whose wages tax is withheld shall claim credit for the tax withheld on the employee's income tax return for the year during which the tax was withheld. Credit will be allowed only if a copy of the withholding statement is attached to the return. Taxpayers who have made estimated income tax payments shall claim credit for the estimated tax paid for the taxable year.

This rule is intended to implement Iowa Code section 422.16.

701—42.6(422) Motor fuel credit. An individual, partnership, or S corporation may elect to receive an income tax credit in lieu of the motor fuel tax refund provided by Iowa Code chapter 452A. An individual, partnership, or S corporation which holds a motor fuel tax refund permit under Iowa Code section 452A.18 when it makes this election must cancel the permit within 30 days after the first day of the tax year. However, if the refund permit is not canceled within this period, the permit becomes invalid at the time the election to receive an income tax credit is made. The election will continue for subsequent tax years unless a new motor fuel tax refund permit is obtained.

The motor fuel income tax credit must be the amount of Iowa motor fuel tax paid on qualifying fuel purchases as determined by Iowa Code chapter 452A and Iowa Code section 422.110 less any state sales tax deductible under Iowa Code section 422.52(4). The credit must be claimed on the tax return covering the tax year in which the motor fuel tax was paid. If the motor fuel credit results in an overpayment of income tax, the overpayment may be refunded or may be credited to income tax due in the subsequent tax year.

The motor fuel tax credits for fuel taxes paid by partnerships and S corporations are not claimed on returns filed for the partnerships and S corporations. Instead, the pro rata shares of the motor fuel tax credits are allocated to the partners and shareholders in the same ratio as incomes are allocated to the partners and shareholders. A schedule must be attached to the individual's returns showing the distribution of gallons and the amount of credit claimed by each shareholder or partner.

The partnership or S corporation must attach to its return a schedule showing the allocation to each partner or shareholder of the motor fuel purchased by the corporation or partnership which qualifies for the credit.

This rule is intended to implement Iowa Code sections 422.110 and 422.111.

701—42.7(422) Out-of-state tax credit for minimum tax.

42.7(1) General rule. Iowa residents are allowed an out-of-state tax credit for minimum taxes or income taxes paid to another state or foreign country on preference items derived from sources outside of Iowa. Part-year residents who pay minimum tax to another state or foreign country on preference items derived from sources outside Iowa will be allowed an out-of-state tax credit only to the extent that the minimum tax paid to the other state or foreign country relates to preference items that occurred during the period the taxpayer was an Iowa resident. Taxpayers who were nonresidents of Iowa for the entire tax year are not eligible for an out-of-state tax credit on their Iowa returns for minimum taxes paid to another state or foreign country on preference items.

42.7(2) *Limitations of out-of-state tax credit for minimum tax.* The limitation on the out-of-state tax credit for minimum tax is that the credit shall not exceed the Iowa minimum tax that would have been computed on the same preference items which were taxed by the other state or foreign country. The limitation may be determined according to the following formula: The total of preference items earned outside of Iowa and taxed by another state or foreign country shall be divided by the total of preference items of the resident taxpayer. This quotient multiplied times the state minimum tax on the total of preference items as if entirely earned in Iowa shall be the maximum credit against the Iowa minimum tax. However, if the minimum tax imposed by the other state or foreign country is less than the minimum tax computed under the limitation formula, the out-of-state credit for minimum tax will not exceed the minimum tax imposed by the other state or foreign country.

No out-of-state credit will be allowed on the Iowa return for minimum tax paid to another state or foreign country to the extent that the minimum tax of the other state or foreign country is imposed on items of tax preference not subject to the Iowa minimum tax. In addition, no out-of-state credit will be allowed for minimum tax paid to another state or foreign country of capital gains or losses from distressed sales which are excluded from the Iowa minimum tax. Capital gains or losses from distressed sales are described in rule 701—40.27(422).

42.7(3) *Proof of claim for tax credit for minimum tax.* The out-of-state credit for minimum tax may be claimed on the return of a taxpayer if proof of payment of minimum tax to the state or foreign country is included with the return. Documents needed for proof of payment are a photocopy of the minimum tax form of the state or country to which minimum tax was paid as well as instructions from the minimum tax form or other information which specifies how the minimum tax is imposed and what preference items are subject to the minimum tax of that state or foreign country.

In the case of audit by the department of a taxpayer claiming an out-of-state tax credit for minimum tax paid, the department may require additional proof of payment of the out-of-state tax credit. The department will accept any of the following documents as verification of payment of the minimum tax:

- a.* A photocopy, or other similar reproduction of either
 - (1) The receipt issued by the other state or foreign country for payment of the tax, including the minimum tax or
 - (2) The canceled check (both sides) which was used for payment of the minimum tax to the other state or foreign country.
- b.* A copy of the return filed with the other state or foreign country which has been certified by the tax authority of that state or foreign country and which shows that the income tax, including the minimum tax, has been paid.

This rule is intended to implement Iowa Code section 422.8.

701—42.8(422) Alternative minimum tax credit for minimum tax paid in a prior tax year. Minimum tax paid in prior tax years commencing with tax years beginning on or after January 1, 1987, by a taxpayer can be claimed as a tax credit against the taxpayer's regular income tax liability in a subsequent tax year. Therefore, 1988 is the first tax year that the minimum tax credit is available and the credit is based on the minimum tax paid by the taxpayer for 1987. However, only the portion of the minimum tax which is attributable to those adjustments and tax preferences which are "deferral items" qualifies for the minimum tax credit. "Deferral items" are those tax preferences and adjustments which result in a temporary change in an individual's tax liability. An example of a "deferral item" is the tax preference for accelerated depreciation of real property placed in service before 1987. On the other hand, the portion of the minimum tax which is attributable to the "exclusion item" for appreciated property charitable deduction does not qualify for the minimum tax credit. The appreciated property charitable deduction tax preference is the only state "exclusion item," although there are several "exclusion items" which are used to compute federal minimum tax. The minimum tax credit may only be used against regular income tax for a tax year to the extent that the regular tax is greater than the minimum tax for the tax year. If the minimum tax credit is not used against the regular tax for a tax year the remaining credit is carried to the following tax year to be applied against the regular income tax liability for that period.

42.8(1) Computation of minimum tax credit on Form IA 8801. The minimum tax credit is computed on Form IA 8801 from information on Form IA 6251 for the prior tax year, Form IA 1040 and Form IA 6251 for the current year and from Form IA 8801 for the prior year (applies in 1989 and in subsequent tax years).

Form IA 8801 is in three parts. In the first part, a calculation is made to determine the portion of the minimum tax paid in the prior year, if any, which is attributable to the exclusion item for appreciated property charitable deduction. In the second portion of Form IA 8801, the minimum tax attributable to the appreciated property charitable deduction from Part I is subtracted from the total minimum tax paid for the prior year. The remaining amount of minimum tax is attributable to the deferral tax preference items and adjustment items. This remaining amount, if any, is added to the minimum tax carryover credit from the IA 8801 for the prior tax year, if any. This total is compared to the regular income tax liability less nonrefundable credits, less the tentative minimum tax for the current year and the lesser amount is the allowable minimum tax credit for the current year.

The final part of Form IA 8801 is used to compute the minimum tax credit, if any, which will be carried over to the next tax year. The carryover credit is computed by subtracting the allowable credit for the current tax year from the total of the minimum tax credit attributable to deferral items and the carryover credit from the prior tax year.

42.8(2) Examples of computation of the minimum tax credit and carryover of the credit.

EXAMPLE 1. Taxpayers are married with no dependents and are filing a joint Iowa return for 1989, with a taxable income of \$200,000. In 1988, the taxpayers had a taxable income of \$100,000. They had \$575,000 in tax preference in 1988. They had incentive stock options of \$475,000 and appreciated property charitable deduction of \$100,000. The taxpayers' regular income tax liability in 1988 after personal exemption credits was \$8,608. The taxpayers had a minimum tax carryover credit of \$5,000 from minimum tax paid in 1987 that was not applied against the regular tax liability in 1988. The minimum tax credit for 1989 was computed on Form IA 8801 using data from IA 6251 for 1988, IA 8801 for 1988, IA 6251 for 1989 and IA 1040 for 1989. Selected lines from this form are shown below:

Form IA 8801

Part I.	Computation of Minimum Tax on Exclusion Items	
Line 10 -	Gross tax on exclusion items.	\$13,313
Line 11 -	Less regular income tax minus credits (line 12 IA 6251 - 1988).	8,608
Line 12 -	Net minimum tax on exclusion item.	<u>\$ 4,705</u>
Part II.	Computation of Allowable Credit for 1989	
Line 13 -	Enter amount from line 13 IA 6251 for 1988.	\$42,017
Line 14 -	Enter amount from line 12 in Part I.	<u>4,705</u>
Line 15 -	Adjusted net minimum tax. Subtract amount on line 14 from amount on line 13.	\$37,312
Line 16 -	Enter credit carryforward for 1987.	5,000
Line 17 -	Total Add lines 15 and 16.	<u>\$42,312</u>
Line 18 -	Enter 1989 regular tax liability minus allowable credits. Line 46 less line 53 of IA 1040.	\$18,588
Line 19 -	Enter tentative minimum tax for 1989 from line 13 of IA 6251 for 1989.	0
Line 20 -	Subtract line 19 from line 18.	<u>\$18,588</u>
Line 21 -	Allowable minimum tax credit for 1989. Enter smaller of line 17 or line 20.	\$18,588
Part III.	Computation of Minimum Tax Credit Carryover	
Line 22 -	Enter amount from line 17 in Part II.	\$42,312
Line 23 -	Enter amount from line 21 in Part II.	18,588
Line 24 -	Carryforward of credit to next tax year, subtract line 23 from line 22.	<u>\$23,724</u>

EXAMPLE 2. All of the facts are the same as in Example 1 except that the taxpayers did not have the exclusion preference for appreciated property charitable deduction. Instead, the taxpayer had incentive stock options of \$575,000 as compared to stock options of \$475,000 in the prior example. If there were no exclusion tax preference items, the totals on lines 12 and 14 of IA 8801 would be zero. The total on line 15 would be \$42,017 and the total on line 17 would be \$47,017 (\$42,017 + \$5,000). The allowable minimum tax credit on line 21 would be the same as in Example 1 (\$18,588). The amount on line 22 would be \$47,017 (\$42,017 + \$5,000). The carryover credit is \$28,429 (\$47,017 - \$18,588).

EXAMPLE 3. The taxpayers have a minimum tax credit carryforward from the 1988 tax year of \$5,000. The taxpayers did not have any minimum tax in 1988. For 1989, the taxpayers regular tax less credits is \$3,000 and the minimum tax liability is \$2,000. Selected lines from Form IA 8801 follow, which show the allowable minimum tax credit for the taxpayers:

Line 17 - Total of available minimum tax credit.	\$5,000
Line 18 - 1989 Regular tax liability minus credits.	3,000
Line 19 - Tentative minimum tax liability for 1989.	2,000
Line 20 - Subtract line 19 from line 18.	<u>\$1,000</u>
Line 21 - Allowable minimum tax credit which is the smaller of line 17 or line 20.	\$1,000

The minimum tax credit is \$1,000 because although the taxpayers had a \$3,000 regular tax liability, the credit is allowed only to the extent that the regular tax exceeds the minimum tax. Since only \$1,000 of the carryover credit from 1988 was used, there is a \$4,000 carryover credit to 1990.

42.8(3) Minimum tax credit for nonresidents and part-year residents. Nonresident and part-year resident taxpayers who paid Iowa minimum tax in tax years beginning on or after January 1, 1987, are eligible for the minimum tax credit to the extent that the minimum tax they paid was attributable to tax preferences and adjustments other than the exclusion tax preference for appreciated property charitable deduction. Therefore, if a nonresident or part-year resident taxpayer had Iowa source tax preferences or adjustments, but no Iowa source tax preference for appreciated property charitable deduction, then all the minimum tax that was paid would qualify for the minimum tax credit. On the other hand, if the only Iowa source tax preference of a nonresident or part-year resident taxpayer was the tax preference for appreciated property charitable deduction, no portion of the minimum tax paid for the tax year would qualify for the minimum tax credit. The following formula can be used to compute the minimum tax credit for a nonresident or part-year resident where a portion of the minimum tax is attributable to the tax preference for appreciated property charitable deduction.

Minimum tax (line 17 IA 6251) 1988	×	*Iowa source tax pref. and adjustments <u>*Total tax preference and adjustments</u>	=	Minimum tax credit line 15 IA 8801
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*Excluding amount of tax preference for appreciated charitable deduction

The minimum tax credit for a tax year as computed above applied to the regular income tax liability less credits including the nonresident part-year credit to the extent this regular tax amount exceeds the minimum tax for the tax year. To the extent the credit is not used the credit can be carried over to the next tax year.

This rule is intended to implement Iowa Code section 422.11B.

701—42.9(422) Child and dependent care credit. Effective for tax years beginning on or after January 1, 1990, there is a child and dependent care credit which is refundable to the extent the amount of the credit exceeds the taxpayer's income tax liability less other applicable income tax credits.

42.9(1) *Computation of the child and dependent care credit.* The child and dependent care credit is computed as a percentage of the child and dependent care credit which is allowed for federal income tax purposes under Section 21 of the Internal Revenue Code. The credit is computed so that taxpayers with lower adjusted gross incomes (net incomes in tax years beginning on or after January 1, 1991) are allowed higher percentages of their federal child care credit than taxpayers with higher adjusted gross incomes (net incomes). The following is a schedule showing the percentages of federal child and dependent credits allowed on the taxpayers' state returns on the basis of the federal adjusted gross incomes (or net incomes) of the taxpayers.

*Federal Adjusted Gross Income (Net Income for Tax Years Beginning on or After January 1, 1991)	Percentage of Federal Child and Dependent Credit Allowed on 1991 or 1992 Iowa Return	Percentage of Federal Credit Allowed for 1993 and Later Tax Years
Less than \$10,000	75%	75%
\$10,000 or more but less than \$20,000	65%	65%
\$20,000 or more but less than \$25,000	55%	55%
\$25,000 or more but less than \$35,000	50%	50%
\$35,000 or more but less than \$40,000	40%	40%
\$40,000 or more but less than \$45,000	30%	No Credit
\$45,000 or more but less than \$50,000	20%	No Credit
\$50,000 or more	10%	No Credit

*Note that in the case of married taxpayers who have filed joint federal returns and elect to file separate returns or separately on the combined return form, the taxpayers must determine the child and dependent care credit by the schedule provided in this rule on the basis of the combined federal adjusted gross income of the taxpayers or their combined net income for tax years beginning on or after January 1, 1991. The credit determined from the schedule must be allocated between the married taxpayers in the proportion that each spouse's federal adjusted gross income relates to the combined federal adjusted gross income of the taxpayers or in the proportion that each spouse's net income relates to the combined net income of the taxpayers in the case of tax years beginning on or after January 1, 1991.

42.9(2) *Examples of computation of the state child and dependent care credit.* The following are examples of computation of the child and dependent care credit and the allocation of the credit between spouses in situations where married taxpayers have filed joint federal returns and are filing separate state returns or separately on the combined return form. Note that in the case of 1990 returns, taxpayers' federal adjusted gross incomes are used to compute the Iowa child and dependent credit and to allocate the credit between spouses. However, in the case of returns for tax years beginning on or after January 1, 1991, the taxpayers' net incomes are used to compute the Iowa child and dependent care credit and allocate the credit between spouses in situations where the taxpayers file separate state returns or separately on the combined return form:

EXAMPLE A. A married couple has filed a joint federal return on which they showed a federal adjusted gross income of \$40,000 or a combined net income of \$40,000 on their state return for tax years beginning on or after January 1, 1991. Both spouses were employed. They had a federal child and dependent care credit of \$600 which related to expenses incurred for care of their two small children. One of the spouses had a federal adjusted gross income of \$30,000 or a net income of \$30,000 and the second spouse had a federal adjusted gross income of \$10,000 or a net income of \$10,000.

The taxpayers' Iowa child and dependent care credit was \$180 since they were entitled to an Iowa child and dependent care credit of 30 percent of their federal credit of \$600. If the taxpayers elect to file separate Iowa returns, the \$180 credit would be allocated between the spouses on the basis of each spouse's net income (federal adjusted gross income for 1990) to the combined net income (federal adjusted gross income for 1990) of both spouses as shown below:

$$\$180 \times \frac{\$30,000}{\$40,000} = \$135 \quad \text{child and dependent care credit for spouse with \$30,000 adjusted gross income or net income for 1991 and 1992 tax years.}$$

$$\$180 \times \frac{\$10,000}{\$40,000} = \$45 \quad \text{child and dependent care credit for spouse with \$10,000 adjusted gross income or net income for 1991 and 1992 tax years.}$$

Note that for tax years beginning on or after January 1, 1993, the taxpayers are not eligible for an Iowa child and dependent care credit since their combined net income is \$40,000 or more.

EXAMPLE B. A married couple has filed a joint federal return with a net income (federal adjusted gross income for 1990) of \$60,000. The taxpayers had a federal child and dependent care credit of \$960 for care of the couple's three small children which enabled the taxpayers to work. One of the spouses had a net income (federal adjusted gross income for 1990) of \$40,000 and the other spouse had a net income (federal adjusted gross income for 1990) of \$20,000.

The taxpayers' Iowa child and dependent care credit was \$96, since they are allowed an Iowa child and dependent care credit of 10 percent of their federal credit. If the taxpayers elect to file separate Iowa returns or separately on the combined return form, the \$96 credit would be allocated between the spouses on the basis of the ratio of each spouse's respective federal adjusted gross income to the combined federal adjusted gross income of both spouses or for the 1991 and 1992 tax years on the basis of each spouse's respective net income to the combined net income of both spouses as shown below:

$$\$96 \times \frac{\$40,000}{\$60,000} = \$64 \quad \text{child and dependent care credit for spouse with \$40,000 adjusted gross income or net income of \$40,000 in 1991 and 1992.}$$

$$\$96 \times \frac{\$20,000}{\$60,000} = \$32 \quad \text{child and dependent care credit for spouse with \$20,000 adjusted gross income or net income of \$20,000 in 1991 and 1992.}$$

Note that for tax years beginning on or after January 1, 1993, the taxpayers are not eligible for an Iowa child and dependent care credit because their combined net income is \$40,000 or more.

EXAMPLE C. A married couple filed a joint federal return for 1993 and filed their 1993 Iowa return using the married filing separately on the combined return form filing status. Both spouses were employed. They had a federal child and dependent care credit of \$800 which related to expenses incurred for care of their children. One spouse had a net income of \$25,000 and the other spouse had a net income of \$12,500.

The taxpayers' Iowa child and dependent care credit was \$320, since they were entitled to an Iowa credit of 40 percent of their federal credit of \$800. The \$320 credit is allocated between the spouses on the basis of each spouse's net income to the combined net income of both spouses as shown below:

$$\$320 \times \frac{\$25,000}{\$37,500} = \$213 \quad \text{child and dependent care credit for spouse with net income of } \$25,000 \text{ for 1993.}$$

$$\$320 \times \frac{\$12,500}{\$37,500} = \$107 \quad \text{child and dependent care credit for spouse with net income of } \$12,500 \text{ for 1993.}$$

42.9(3) *Computation of the child and dependent care credit for nonresidents and part-year residents.* Nonresidents and part-year residents that have incomes from Iowa sources in the tax year may claim child and dependent care credits on their Iowa returns. To compute the amount of child and dependent care credit that can be claimed on the Iowa return by a nonresident or part-year resident, the following formula should be used:

Federal child and dependent care credit	×	Percentage of federal child and dependent credit allowed on Iowa return from table in subrule 42.9(1)	×	<u>*Iowa net income</u> Federal adjusted gross income or all source net income for tax years beginning on or after January 1, 1991
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*Iowa net income for purposes of determining the child care credit that can be claimed on the Iowa return by a nonresident or part-year resident taxpayer is the total of the Iowa source incomes less the Iowa source adjustments to income on Form IA 126. In the case of Form IA 126 for 1990, the Iowa net income is the total on line 27 and not the all source net income on line 28. For tax years beginning after 1990, the Iowa net income may be determined from a similar line of Form IA 126 as on line 27 of the 1990 IA 126 form. However, for tax years beginning after 1990, the all source net income is used in the denominator of the formula to determine the portion of the Iowa child and dependent care credit that can be claimed on the Iowa return by a nonresident of Iowa or a part-year resident of Iowa.

In cases where married taxpayers are nonresidents or part-year residents of Iowa and are filing separate Iowa returns or separately on the combined return form, the child and dependent credit allowable on the Iowa return should be allocated between the spouses in the ratio of the federal adjusted gross income of each spouse to the combined federal adjusted gross income of the couple. For tax years beginning on or after January 1, 1991, the child and dependent care credit is to be allocated between married nonresidents or part-year residents on the basis of the net income of each spouse to the combined net income of the taxpayers.

42.9(4) *Examples of computation of the child and dependent care credit for nonresidents and part-year residents.* The following are examples of computation of the child and dependent care credit for nonresidents and part-year residents.

EXAMPLE A. A married couple lives in Omaha, Nebraska. One of the spouses worked in Iowa in 1990 and had wages and other incomes from Iowa sources that resulted in an Iowa net income of \$15,000 in the tax year. That spouse had a federal adjusted gross income or all source net income of \$20,000. The other spouse had no Iowa net income, but a federal adjusted gross income or an all source net income of \$30,000. The couple's total federal adjusted gross income or all source net income in the tax year was \$50,000. The taxpayers had a federal child and dependent care credit of \$960 which related to the expenses incurred for the care of their two young children. The taxpayers' Iowa child and dependent care credit is calculated below:

Federal child and dependent care credit	×	Percentage of federal child and dependent care credit allowed on Iowa return	=	\$96	×	Iowa net income \$15,000 <hr style="width: 50px; margin: 0 auto;"/> \$50,000	=	\$29
						Federal adjusted gross income or all source net income		child and dependent care credit attributable to Iowa

The \$29 Iowa child and dependent care credit is allocated between the spouses as shown below for the 1990 tax year:

$$\begin{aligned}
 & \$29 \times \frac{\$20,000}{\$50,000} = \$12 \text{ credit for spouse with } \$20,000 \text{ adjusted gross income} \\
 & \$29 \times \frac{\$30,000}{\$50,000} = \$17 \text{ credit for spouse with } \$30,000 \text{ adjusted gross income}
 \end{aligned}$$

Note that for the 1991 and 1992 tax years, the entire \$29 child and dependent care credit would be allocated to the spouse with the Iowa source net income of \$15,000, since the other spouse had no income from Iowa sources and the credit is allocated on the basis of Iowa source net income. For tax years beginning on or after January 1, 1993, no child and dependent care credit would be available for these taxpayers because their all source net income was \$40,000 or more.

EXAMPLE B. A married couple lives in South Sioux City, Nebraska. One of the spouses had an Iowa net income of \$10,000 and \$25,000 in total federal adjusted gross income. The second spouse had an Iowa net income of \$5,000 and \$15,000 in total federal adjusted gross income. The taxpayers' combined federal adjusted gross income was \$40,000. Their federal child care credit was \$480. Their Iowa child care credit is computed as follows:

Federal child and dependent care credit	×	Percentage of federal child and dependent care credit allowed on Iowa return	=	\$144	×	Iowa net income $\frac{\$15,000}{\$40,000}$	=	\$54
\$480						Federal adjusted gross income or all source net income		child and dependent care credit attributable to Iowa

The child and dependent care credit attributable to Iowa is allocated between the spouses on the basis of each spouse's federal adjusted gross income to the total federal adjusted gross income of both individuals for the 1990 tax year as shown below:

$$\$54 \times \frac{\$25,000}{\$40,000} = \$34 \text{ credit for spouse with } \$25,000 \text{ of federal adjusted gross income}$$

$$\$54 \times \frac{\$15,000}{\$40,000} = \$20 \text{ credit for spouse with } \$15,000 \text{ of federal adjusted gross income}$$

For the 1991 and 1992 tax years, the \$54 child and dependent care credit is allocated between the spouses in the ratio of each spouse's Iowa source net income to the combined Iowa source net income of the taxpayers as follows:

$$\$54 \times \frac{\$10,000}{\$15,000} = \$36 \text{ for spouse with Iowa source net income of } \$10,000$$

$$\$54 \times \frac{\$5,000}{\$15,000} = \$18 \text{ for spouse with Iowa source net income of } \$5,000$$

The child and dependent care credit would not be allowed for tax years beginning on or after January 1, 1993, since the taxpayers' all source income was \$40,000 or more.

EXAMPLE C. A married couple lives in Omaha, Nebraska. One of the spouses worked in Iowa and had wages and other incomes from Iowa sources or an Iowa net income of \$15,000. That spouse had an all source net income of \$18,000. The second spouse had an Iowa net income of \$10,000 and an all source net income of \$12,000. The taxpayers had a federal child and dependent care credit of \$800 which related to expenses incurred for the care of their two young children. The taxpayers' Iowa child and dependent care credit is calculated below:

Federal child and dependent care credit		Percentage of federal child and dependent care credit allowed on Iowa return		Iowa net income
\$800	×	50%	=	\$400
				×
				$\frac{\$25,000}{\$30,000}$
				=
				\$333
				All source net income

The \$333 credit is allocated between the spouses as shown below for the 1993 tax year:

$$\begin{aligned}
 \$333 \times \frac{\$10,000}{\$25,000} &= \$133 \text{ for spouse with Iowa source} \\
 &\quad \text{net income of } \$10,000 \\
 \\
 \$333 \times \frac{\$15,000}{\$25,000} &= \$200 \text{ for spouse with Iowa source} \\
 &\quad \text{net income of } \$15,000
 \end{aligned}$$

This rule is intended to implement Iowa Code section 422.11B as amended by 1993 Iowa Acts, chapter 172.

701—42.10(422) Seed capital income tax credit. Rescinded IAB 2/18/04, effective 3/24/04.

701—42.11(422D) Emergency medical services income surtax. Effective July 1, 1992, a county board of supervisors may offer for voter approval a local option income surtax, an ad valorem property tax, or a combination of the two taxes to generate revenues for emergency medical services. However, this rule will deal only with the local option income surtax for emergency medical services. If a majority of those voting in the election approve the emergency medical services income surtax, the income surtax will be imposed for tax years beginning on or after January 1 of the fiscal year in which the election is held. Thus, if an election is held in the 1992-1993 fiscal year (July 1, 1992, through June 30, 1993) and the income surtax is approved in the election, the income surtax will be imposed on 1993 returns for individuals filing on a calendar-year basis. In the case of individuals filing on a fiscal-year basis, the income surtax will be imposed on returns for tax years beginning in the 1993 year. If an emergency medical services income surtax is imposed for a county, it can be imposed only for a maximum period of five years. When the emergency medical income surtax is repealed because the five-year imposition has expired, the income surtax is repealed as of December 31 for tax years beginning on or after that date.

42.11(1) *The rate of the income surtax imposed for emergency medical services.* After the income surtax is approved by an election of county voters, the board of supervisors will set the rate of tax to be imposed, which can be expressed in tenths of 1 percent or hundredths of 1 percent but cannot exceed 1 percent. In addition, because the cumulative total of the percents of income surtax imposed on any taxpayer in the county cannot exceed 20 percent, the rate of an emergency medical services income surtax may be limited, if a school district income surtax has been approved previously by a school district in the county and the surtax rate exceeds 19 percent. Therefore, assuming that a school district in the county had previously approved an income surtax rate of 19.4 percent, the medical emergency income surtax rate would be limited to six-tenths of 1 percent. If a school district income surtax and emergency medical income surtax are approved on or about the same date and the cumulative total of the income surtaxes is greater than 20 percent, the income surtax approved on the earlier of the two dates will be allowed at the rate approved and the second income surtax approved will be limited accordingly so the cumulative rate will not exceed 20 percent. If a school district income surtax and an emergency medical income surtax are approved on the same date with a proposed cumulative rate that exceeds 20 percent, each of the surtaxes will be reduced equally so the cumulative surtax rate will not exceed 20 percent. Assuming that a school district in a particular county approves an income surtax of 20 percent on November 3, 1992, and an emergency medical income surtax of 1 percent is approved on the same date, both surtaxes will be reduced by five-tenths of 1 percent so the cumulative rate of the two income surtaxes does not exceed 20 percent. The department of management can provide information about any income surtaxes that have been approved for the school districts in the county.

42.11(2) *Imposing the medical emergency income surtax.* The medical emergency income surtax will be imposed on the state income tax liability on each individual residing in the county at the end of the individual's tax year, whether the individual's tax year ends at the end of the calendar year or fiscal year. For purposes of the emergency medical income surtax, an individual's income tax liability is the aggregate of the state income taxes determined in Iowa Code section 422.5 less the credits against computed income tax which are authorized in Iowa Code sections 422.11A, 422.11B, 422.11C, 422.12, and 422.12B. The credits that are applied against the state income tax before the emergency medical income surtax is imposed are all the nonrefundable income tax credits and those tax credits that are carried over to the following tax year if the credits exceed the tax liability.

42.11(3) *Administering the emergency medical income surtax.* The director of revenue is to administer the emergency medical income surtax as nearly as possible as other state individual tax laws are administered. All powers and requirements related to administering the state income law apply to the administration of the emergency medical income surtax including, but not limited to, the provisions of Iowa Code sections 422.4, 422.20 to 422.31, 422.68, 422.70, and 422.72 to 422.75. The county board of supervisors and county officials should confer with the director for assistance in drafting the ordinance imposing the emergency medical income surtax. Certified copies of the ordinance should be filed with the department of revenue and the department of management within 30 days after the emergency medical income surtax is approved.

42.11(4) *Accounting for the emergency medical income surtax and paying the surtax.* The department should account for the medical emergency income surtax and any interest and penalties on the surtax so there is a separate accounting for each county where the income surtax is imposed. The accounting shall be applicable to those individual income tax returns filed on or before November 1 of the calendar year following the tax year for which the tax is imposed. The medical emergency income surtax and any penalties and interest should be credited to a "local income surtax fund" established in the office of the state treasurer. On or before December 15 of the year after the tax year, the director of revenue shall certify to the state treasurer the income surtax and any interest and penalties collected from returns filed on or before November 1.

This rule is intended to implement 1992 Iowa Acts, chapter 1226.

701—42.12(422) Franchise tax credit. For tax years beginning on or after January 1, 1997, a shareholder in a financial institution as defined in Section 581 of the Internal Revenue Code, which has elected to have its income taxed directly to the shareholders, may take a tax credit equal to the shareholder's pro-rata share of the Iowa franchise tax paid by the financial institution.

For tax years beginning on or after July 1, 2004, a member of a financial institution organized as a limited liability company that is taxed as a partnership for federal income tax purposes, which has elected to have its income taxed directly to its members, may take a tax credit equal to the member's pro-rata share of the Iowa franchise tax paid by the financial institution.

The credit must be computed by recomputing the amount of tax computed under Iowa Code section 422.5 by reducing the shareholder's or member's taxable income by the shareholder's or member's pro-rata share of the items of income and expenses of the financial institution and subtracting the credits allowed in Iowa Code section 422.12. The recomputed tax must be subtracted from the amount of tax computed under Iowa Code section 422.5 reduced by the credits allowed in Iowa Code section 422.12.

The resulting amount, not to exceed the shareholder's or member's pro-rata share of the franchise tax paid by the financial institution, is the amount of tax credit allowed the shareholder or member.

This rule is intended to implement Iowa Code section 422.11 as amended by 2004 Iowa Acts, House File 2484.

701—42.13(15E) Eligible housing business tax credit. An individual who qualifies as an eligible housing business may receive a tax credit of up to 10 percent of the new investment which is directly related to the building or rehabilitating of homes in an enterprise zone. The tax credit may be taken on the tax return for the tax year in which the home is ready for occupancy.

An eligible housing business is one which meets the criteria in Iowa Code section 15E.193B.

42.13(1) Computation of credit. New investment which is directly related to the building or rehabilitating of homes includes but is not limited to the following costs: land, surveying, architectural services, building permits, inspections, interest on a construction loan, building materials, roofing, plumbing materials, electrical materials, amounts paid to subcontractors for labor and materials provided, concrete, labor, landscaping, appliances normally provided with a new home, heating and cooling equipment, millwork, drywall and drywall materials, nails, bolts, screws, and floor coverings.

New investment does not include the machinery, equipment, hand or power tools necessary to build or rehabilitate homes.

A taxpayer may claim on the taxpayer's individual income tax return the pro-rata share of the Iowa eligible housing business tax credit from a partnership, S corporation, limited liability company, estate, or trust. The portion of the credit claimed by the individual shall be in the same ratio as the individual's pro-rata share of the earnings of the partnership, S corporation, limited liability company, or estate or trust, except for projects beginning on or after July 1, 2005, which used low-income housing tax credits authorized under Section 42 of the Internal Revenue Code to assist in the financing of the housing development. For these projects, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder.

Any Iowa eligible housing business tax credit in excess of the individual's tax liability, less the credits authorized in Iowa Code sections 422.12 and 422.12B, may be carried forward for seven years or until it is used, whichever is the earlier.

If the eligible housing business fails to maintain the requirements of Iowa Code section 15E.193B, to be an eligible housing business, the taxpayer may be required to repay all or a part of the tax incentives the taxpayer received. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the income tax credit may have expired, the department may proceed to collect the tax incentives forfeited by failure to maintain the requirements of Iowa Code section 15E.193B. This is because it is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability.

Prior to January 1, 2001, the tax credit cannot exceed 10 percent of \$120,000 for each home or individual unit in a multiple dwelling unit building. Effective January 1, 2001, the tax credit cannot exceed 10 percent of \$140,000 for each home or individual unit in a multiple dwelling unit building.

Effective for tax periods beginning on or after January 1, 2003, the taxpayer must receive a tax credit certificate from the Iowa department of economic development to claim the eligible housing business tax credit. The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the date the project was completed, the amount of the eligible housing business tax credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 42.13(2). The tax credit certificate must be attached to the income tax return for the tax period in which the home is ready for occupancy. The administrative rules for the eligible housing business tax credit for the Iowa department of economic development may be found under 261—Chapter 59.

42.13(2) *Transfer of the eligible housing business tax credit.* For tax periods beginning on or after January 1, 2003, the eligible housing business tax credit certificates may be transferred to any person or entity if low-income housing tax credits authorized under Section 42 of the Internal Revenue Code are used to assist in the financing of the housing development. In addition, the eligible housing business tax credit certificates may be transferred to any person or entity for projects beginning on or after July 1, 2005, if the housing development is located in a brownfield site as defined in Iowa Code section 15.291, or if the housing development is located in a blighted area as defined in Iowa Code section 403.17. No more than \$3 million of tax credits for housing developments located in brownfield sites or blighted areas may be transferred in a calendar year, with no more than \$1.5 million being transferred for any one eligible housing business in a calendar year.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the Iowa department of economic development, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the Iowa department of economic development will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company or S corporation, the transferee shall provide a list of the partners, members or shareholders and information on how the housing business tax credit should be divided among the partners, members or shareholders. The transferee shall also provide the tax identification numbers and addresses of the partners, members or shareholders. The replacement tax credit certificate must contain the same information that was on the original certificate and must have the same expiration date as the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax period for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credits shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

This rule is intended to implement Iowa Code section 15E.193B as amended by 2005 Iowa Acts, House File 857 and House File 882, sections 53 through 55.

701—42.14(422) Assistive device tax credit. Effective for tax years beginning on or after January 1, 2000, a taxpayer who is a small business that purchases, rents, or modifies an assistive device or makes workplace modifications for an individual with a disability who is employed or will be employed by the taxpayer may qualify for an assistive device tax credit, subject to the availability of the credit. The assistive device credit is equal to 50 percent of the first \$5,000 paid during the tax year by the small business for the purchase, rental, or modification of an assistive device or for making workplace modifications. Any credit in excess of the tax liability may be refunded or applied to the taxpayer's tax liability for the following tax year. If the taxpayer elects to take the assistive device tax credit, the taxpayer is not to deduct for Iowa income tax purposes any amount of the cost of an assistive device or workplace modification that is deductible for federal income tax purposes. A small business will not be eligible for the assistive device credit if the device is provided for an owner of the small business unless the owner is a bona fide employee of the small business.

42.14(1) Submitting applications for the credit. A small business wanting to receive the assistive device tax credit must submit an application for the credit to the Iowa department of economic development and provide other information and documents requested by the Iowa department of economic development. If the taxpayer meets the criteria for qualification for the credit, the Iowa department of economic development will issue the taxpayer a certificate of entitlement for the credit. However, the aggregate amount of assistive device tax credits that may be granted by the Iowa department of economic development to all small businesses during a fiscal year cannot exceed \$500,000. The certificate for entitlement of the assistive device credit is to include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the estimated amount of the tax credit, the date on which the taxpayer's application was approved, the date when it is anticipated that the assistive device project will be completed and a space on the application where the taxpayer is to enter the date that the assistive device project was completed. The certificate for entitlement will not be considered to be valid for purposes of claiming the assistive device credit on the taxpayer's Iowa income tax return until the taxpayer has completed the assistive device project and has entered the completion date on the certificate of entitlement form. The tax year of the small business in which the assistive device project is completed is the tax year for which the assistive device credit may be claimed. For example, in a case where taxpayer A received a certificate of entitlement for an assistive device credit on September 15, 2000, and completed the assistive device workplace modification project on January 15, 2001, taxpayer A could claim the assistive device credit on taxpayer A's 2001 Iowa return, assuming that taxpayer A is filing returns on a calendar-year basis.

The department of revenue will not allow the assistive device credit on a taxpayer's return if the certificate of entitlement or a legible copy of the certificate is not attached to the taxpayer's income tax return. If the taxpayer has been granted a certificate of entitlement and the taxpayer is a partnership, limited liability company, S corporation, estate, or trust, where the income of the taxpayer is taxed to the individual owner(s) of the business entity, the taxpayer must provide a copy of the certificate to each of the owners with a statement showing how the credit is to be allocated among the individual owners of the business entity. An individual owner is to attach a copy of the certificate of entitlement and the statement of allocation of the assistive device credit to the individual's state income tax return.

42.14(2) Definitions. The following definitions are applicable to this rule:

"Assistive device" means any item, piece of equipment, or product system which is used to increase, maintain, or improve the functional capabilities of an individual with a disability in the workplace or on the job. "Assistive device" does not mean any medical device, surgical device, or organ implanted or transplanted into or attached directly to an individual. "Assistive device" does not include any device for which a certificate of title is issued by the state department of transportation, but does include any item, piece of equipment, or product system otherwise meeting the definition of "assistive device" that is incorporated, attached, or included as a modification in or to such a device issued a certificate of title.

“*Business entity*” means partnership, limited liability company, S corporation, estate, or trust, where the income of the business is taxed to each of the individual owners of the business, whether the individual owner is a partner, member, shareholder, or beneficiary.

“*Disability*” means the same as defined in Iowa Code section 225C.46. Therefore, “disability” means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of the individual, a record of physical or mental impairment that substantially limits one or more of the major life activities of the individual, or being regarded as an individual with a physical or mental impairment that substantially limits one or more of the major life activities of the individual. “Disability” does not include any of the following:

1. Homosexuality or bisexuality;
2. Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders, or other sexual behavior disorders;
3. Compulsive gambling, kleptomania, or pyromania;
4. Psychoactive substance abuse disorders resulting from current illegal use of drugs;
5. Alcoholism.

“*Employee*” means an individual who is employed by the small business who meets the criteria in Treasury Regulation § 31.3401(c)-1(b), which is the definition of an employee for federal income tax withholding purposes. An individual who receives self-employment income from the small business is not to be considered an employee of the small business for purposes of this rule.

“*Small business*” means that the business either had gross receipts in the tax year before the current tax year of \$3 million or less or employed not more than 14 full-time employees during the tax year prior to the current tax year.

“*Workplace modifications*” means physical alterations to the office, factory, or other work environment where the disabled employee is working or is to work.

42.14(3) Allocation of credit to owners of a business entity. If the taxpayer that was entitled to an assistive device credit is a business entity, the business entity is to 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 to the total earnings of the entity. Therefore, if a partnership has an assistive device credit for a tax year of \$2,500 and one partner of the partnership receives 25 percent of the earnings of the partnership, that partner would receive an assistive device credit for the tax year of \$625 or 25 percent of the total assistive device credit of the partnership.

This rule is intended to implement Iowa Code section 422.11E.

701—42.15(422) Historic preservation and cultural and entertainment district tax credit. A historic preservation and cultural and entertainment district tax credit, subject to the availability of the credit, may be claimed against a taxpayer’s Iowa individual income tax liability for 25 percent of the qualified costs of rehabilitation of property to the extent the costs were incurred on or after July 1, 2000, for approved rehabilitation projects of eligible property in Iowa. The administrative rules for the historic preservation and cultural and entertainment district tax credit for the historical division of the department of cultural affairs may be found under 223—Chapter 48.

42.15(1) Eligible properties for the historic preservation and cultural and entertainment district tax credit. The following types of property are eligible for the historic preservation and cultural and entertainment district tax credit:

- a. Property verified as listed on the National Register of Historic Places or eligible for such listing through the state historic preservation office (SHPO).
- b. Property designated as of historic significance to a district listed in the National Register of Historic Places or eligible for such designation by being located in an area previously surveyed and evaluated as eligible for the National Register of Historic Places.
- c. Property or district designated as a local landmark by a city or county ordinance.
- d. Any barn constructed prior to 1937.

42.15(2) *Application and review process for the historic preservation and cultural and entertainment district tax credit.* Taxpayers who want to claim an income tax credit for completing a historic preservation and cultural and entertainment district project must submit an application for approval of the project. The application forms for the historic preservation and cultural and entertainment district tax credit may be requested from the State Tax Credit Program Manager, State Historic Preservation Office, Department of Cultural Affairs, 600 E. Locust, Des Moines, Iowa 50319-0290. The telephone number for this office is (515)281-4137. Applications for the credit will be accepted by the state historic preservation office on or after July 1, 2000, until such time as all the available credits allocated for each fiscal year are encumbered. For fiscal years beginning on or after July 1, 2000, \$2.4 million shall be appropriated for historic preservation and cultural and entertainment district tax credits for each year. For the fiscal years beginning July 1, 2005, and ending June 30, 2015, an additional \$4 million of tax credits is appropriated for projects located in cultural and entertainment districts which are certified by the department of cultural affairs. If less than \$4 million of tax credits is appropriated during a fiscal year, the remaining amount shall be applied to reserved tax credits for projects not located in cultural and entertainment districts in the order of original reservation by the department of cultural affairs. Tax credits shall not be reserved by the department of cultural affairs for more than five years except for tax credits issued for contracts entered into prior to July 1, 2005.

Applicants for the historic preservation and cultural and entertainment district tax credit must include all information and documentation requested on the application forms for the credit in order for the application to be processed.

The state historic preservation office (SHPO) is to establish selection criteria and standards for rehabilitation projects involving eligible property. The approval process is not to exceed 90 days from the date the application is received by SHPO. To the extent possible, the standards used by SHPO are to be consistent with the standards of the United States Secretary of the Interior for rehabilitation of eligible property that is listed on the National Register of Historic Places or is designated as of historic significance to a district listed in the National Register of Historic Places.

The selection standards are to provide that a taxpayer who qualifies for the rehabilitation investment credit under Section 47 of the Internal Revenue Code shall automatically qualify for the state historic preservation and cultural and entertainment district tax credit to the extent that all the historic preservation and cultural and entertainment district tax credits appropriated for the fiscal year have not already been awarded.

Once SHPO approves a particular historic preservation and cultural and entertainment district tax credit project application, the office will encumber an estimated historic preservation and cultural and entertainment district tax credit under the name of the applicant(s) for the year the project is approved.

42.15(3) *Computation of the amount of the historic preservation and cultural and entertainment district tax credit.* The amount of the historic preservation and cultural and entertainment district tax credit is 25 percent of the qualified rehabilitation costs made to an eligible property in a project. Qualified rehabilitation costs are those rehabilitation costs approved by SHPO for a project for a particular taxpayer to the extent those rehabilitation costs are actually expended by that taxpayer.

In the case of commercial property, rehabilitation costs must equal at least 50 percent of the assessed value of the property, excluding the value of the land, prior to rehabilitation. In the case of residential property or barns, the rehabilitation costs must equal at least \$25,000 or 25 percent of the fair market value, excluding the value of the land, prior to the rehabilitation, whichever amount is less. In computing the tax credit for eligible property that is classified as residential or as commercial with multifamily residential units, the rehabilitation costs are not to exceed \$100,000 per residential unit. In computing the tax credit, the only costs which may be included are the rehabilitation costs incurred between the period ending on the project completion date and beginning on the date two years prior to the project completion date, provided that any qualified rehabilitation costs incurred prior to the date of approval of the project must be qualified rehabilitation expenditures under the federal rehabilitation credit in Section 47 of the Internal Revenue Code.

For purposes of the historic preservation and cultural and entertainment district tax credit, qualified rehabilitation costs include those costs properly included in the basis of the eligible property for income tax purposes. Costs treated as expenses and deducted in the year paid or incurred and amounts that are otherwise not added to the basis of the property for income tax purposes are not qualified rehabilitation costs. Amounts incurred for architectural and engineering fees, site survey fees, legal expenses, insurance premiums, development fees, and other construction-related costs are qualified rehabilitation costs to the extent they are added to the basis of the eligible property for tax purposes. Costs of sidewalks, parking lots, and landscaping do not constitute qualified rehabilitation costs. Any rehabilitation costs used in the computation of the historic preservation and cultural and entertainment district tax credit are not added to the basis of the property for Iowa income tax purposes if the rehabilitation costs were incurred in a tax year beginning on or after January 1, 2000, but prior to January 1, 2001. Any rehabilitation costs incurred in a tax year beginning on or after January 1, 2001, are added to the basis of the rehabilitated property for income tax purposes except those rehabilitation expenses that are equal to the amount of the computed historic preservation and cultural and entertainment district tax credit for the tax year.

For example, the basis of a commercial building in a historic district was \$500,000, excluding the value of the land, before the rehabilitation project. During a project to rehabilitate this building, \$600,000 in rehabilitation costs were expended to complete the project and \$500,000 of those rehabilitation costs were qualified rehabilitation costs which were eligible for the historic preservation and cultural and entertainment district tax credit of \$125,000. Therefore, the basis of the building for Iowa income tax purposes was \$975,000, since the qualified rehabilitation costs of \$125,000, which are equal to the amount of the historic preservation and cultural and entertainment district tax credit for the tax year, are not added to the basis of the rehabilitated property. The basis of the building for federal income tax purposes was \$1,100,000. However, for tax years beginning only in the 2000 calendar year, the basis of the building for Iowa income tax purposes would have been \$600,000, since for those tax periods, any qualified rehabilitation expenses used to compute the historic preservation and cultural and entertainment district tax credit for the tax year could not be added to the basis of the property. It should be noted that this example does not consider any possible reduced basis for the building for federal income tax purposes due to the rehabilitation investment credit provided in Section 47 of the Internal Revenue Code. If the building in this example were eligible for the federal rehabilitation credit provided in Section 47 of the Internal Revenue Code, the basis of the building for Iowa tax purposes would not be affected by the federal credit.

42.15(4) *Completion of the historic preservation and cultural and entertainment district project and claiming the historic preservation and cultural and entertainment district tax credit on the Iowa return.* After the taxpayer completes an authorized rehabilitation project, the taxpayer must get a certificate of completion of the project from the state historic preservation office of the department of cultural affairs. After verifying the taxpayer's eligibility for the historic preservation and cultural and entertainment district tax credit, the state historic preservation office, in consultation with the Iowa department of economic development, is to issue a historic preservation and cultural and entertainment district tax credit certificate which is to be attached to the taxpayer's income tax return for the tax year in which the rehabilitation project is completed. The tax credit certificate is to include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the address or location of the rehabilitation project, the date the project was completed and the amount of the historic preservation and cultural and entertainment district tax credit. In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 42.15(6). In addition, if the taxpayer is a partnership, limited liability company, estate or trust, where the tax credit is allocated to the owners or beneficiaries of the entity, a list of the owners or beneficiaries and the amount of credit allocated to each owner or beneficiary should be provided with the certificate. The tax credit certificate should be attached to the income tax return for the period in which the project was completed. If the amount of the historic preservation and cultural and entertainment district tax credit exceeds the taxpayer's income tax liability for the tax year for which the credit applies, the taxpayer is entitled to a refund of the excess portion of the credit at a discounted value. However, the refund cannot exceed 75 percent of the allowable tax credit. The refund of the tax credit is to be computed on the basis of the following table:

Annual Interest Rate	Five-Year Present Value/Dollar Compounded Annually
5%	\$.784
6%	\$.747
7%	\$.713
8%	\$.681
9%	\$.650
10%	\$.621
11%	\$.594
12%	\$.567
13%	\$.543
14%	\$.519
15%	\$.497
16%	\$.476
17%	\$.456
18%	\$.437

EXAMPLE: The following is an example to show how the table can be used to compute a refund for a taxpayer. An individual has a historic preservation and cultural and entertainment district tax credit of \$800,000 for a project completed in 2001. The individual had an income tax liability prior to the credit of \$300,000 on the 2001 return, which leaves an excess credit of \$500,000. We will assume that the annual interest rate for tax refunds issued by the department of revenue in the 2001 calendar year is 11 percent. Therefore, to compute the five-year present value of the \$500,000 excess credit, \$500,000 is multiplied by the compound factor for 11 percent of .594 in the table, which results in a refund of \$297,000.

42.15(5) *Allocation of historic preservation and cultural and entertainment district tax credits to the individual owners of the entity.* When the taxpayer that has earned a historic preservation and cultural and entertainment district tax credit is a partnership, limited liability company, S corporation, estate or trust where the individual owners of the business entity are taxed on the income of the entity, the historic preservation and cultural and entertainment district tax credit is to be allocated to the individual owners. The business entity is to allocate the historic preservation and cultural and entertainment district tax credit to each individual owner on the same pro-rata basis as the earnings of the business are allocated to the owners for projects beginning prior to July 1, 2005. For example, if a partner of a partnership received 25 percent of the earnings or income of the partnership for the tax year in which the partnership had earned a historic preservation and cultural and entertainment district tax credit, 25 percent of the credit would be allocated to this partner.

For projects beginning on or after July 1, 2005, which used low-income housing credits authorized under Section 42 of the Internal Revenue Code to assist in the financing of the rehabilitation project, the credit does not have to be allocated based on the pro-rata share of earnings of the partnership, limited liability company or S corporation. For these projects, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder.

42.15(6) *Transfer of the historic preservation and cultural and entertainment district tax credit.* For tax periods beginning on or after January 1, 2003, the historic preservation and cultural and entertainment district tax credit certificates may be transferred to any person or entity.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the state historic preservation office of the department of cultural affairs, along with a statement which contains the transferee's name, address and tax identification number and amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the state historic preservation office shall issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company or S corporation, the transferee shall provide a list of the partners, members or shareholders and information on how the historic preservation and cultural and entertainment district tax credit should be divided among the partners, members or shareholders. The transferee shall also provide the tax identification numbers and addresses of the partners, members or shareholders. The replacement tax credit certificate must contain the same information that was on the original certificate and must have the same expiration date as the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax period for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

If the historic preservation and cultural and entertainment district tax credit of the transferee exceeds the tax liability shown on the transferee's return, the refund shall be discounted as described in subrule 42.15(4) just as the refund would have been discounted on the Iowa income tax return of the taxpayer.

This rule is intended to implement Iowa Code chapter 404A as amended by 2005 Iowa Acts, House File 868, sections 20 through 26, and Iowa Code section 422.11D as amended by 2005 Iowa Acts, House File 882, section 64.

701—42.16(422) Ethanol blended gasoline tax credit. Effective for tax years beginning on or after January 1, 2002, a retail gasoline dealer may claim an ethanol blended gasoline tax credit against that individual's individual income tax liability. The taxpayer must operate at least one service station at which more than 60 percent of the total gallons of gasoline sold and dispensed through one or more metered pumps by the taxpayer in the tax year is ethanol blended gasoline. The tax credit shall be calculated separately for each service station site operated by the taxpayer. The amount of the credit for each eligible service station is two and one-half cents multiplied by the total number of gallons of ethanol blended gasoline sold and dispensed through all metered pumps located at that service station during the tax year in excess of 60 percent of all gasoline sold and dispensed through metered pumps at that service station during the tax year.

For fiscal years ending in 2002, the tax credit is available for each eligible service station based on the total number of gallons of ethanol blended gasoline sold and dispensed through all metered pumps located at the taxpayer's service station from January 1, 2002, until the end of the taxpayer's fiscal year. Assuming a tax period that began on July 1, 2001, and ended on June 30, 2002, the taxpayer would be eligible for the tax credit based on the gallons of ethanol blended gasoline sold from January 1, 2002, through June 30, 2002. For taxpayers having a fiscal year ending in 2002, a claim for refund to claim the ethanol blended gasoline tax credit must be filed before October 1, 2003, even though the statute of limitations for refund set forth in 701—subrule 43.3(8) has not yet expired.

EXAMPLE: A taxpayer sold 100,000 gallons of gasoline at the taxpayer's service station site during the tax year, 70,000 gallons of which were ethanol blended gasoline. The taxpayer is eligible for the credit since more than 60 percent of the total gallons sold were ethanol blended gasoline. The number of gallons in excess of 60 percent of all gasoline sold is 70,000 less 60,000, or 10,000 gallons. Two and one-half cents multiplied by 10,000 equals a \$250 credit available.

The credit may be calculated on Form IA6478. The credit must be calculated separately for each service station operated by the taxpayer. Therefore, if the taxpayer operates more than one service station site, it is possible that one station may be eligible for the credit while another station may not. The credit can be taken only for those service station sites for which more than 60 percent of gasoline sales involve ethanol blended gasoline.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

42.16(1) Definitions. The following definitions are applicable to this rule:

"Ethanol blended gasoline" means the same as defined in Iowa Code section 452A.2.

"Gasoline" means gasoline that meets the specifications required by the department of agriculture and land stewardship pursuant to Iowa Code section 214A.2 that is dispensed through a metered pump.

"Metered pump" means a motor vehicle fuel pump licensed by the department of agriculture and land stewardship pursuant to Iowa Code chapter 214.

"Retail dealer" means a retail dealer as defined in Iowa Code section 214A.1 who operates a metered pump at a service station.

"Sell" means to sell on a retail basis.

"Service station" means each geographic location in this state where a retail dealer sells and dispenses gasoline on a retail basis.

42.16(2) Allocation of credit to owners of a business entity. If the taxpayer that was entitled to the ethanol blended gasoline tax credit is a partnership, limited liability company, S corporation, estate, or trust, the business 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 to the total earnings of the entity. Therefore, if a partnership has an ethanol blended gasoline tax credit of \$3,000 and one partner of the partnership receives 25 percent of the earnings of the partnership, that partner would receive an ethanol blended gasoline tax credit for the tax year of \$750 or 25 percent of the total ethanol blended gasoline tax credit of the partnership.

This rule is intended to implement 2001 Iowa Acts, chapter 123, section 6, subsection 2, as amended by 2003 Iowa Acts, House File 689.

701—42.17(15E) Eligible development business investment tax credit. Effective for tax years beginning on or after January 1, 2001, a business which qualifies as an eligible development business may receive a tax credit of up to 10 percent of the new investment which is directly related to the construction, expansion or rehabilitation of building space to be used for manufacturing, processing, cold storage, distribution, or office facilities.

An eligible development business must be approved by the Iowa department of economic development prior to March 17, 2004, and meet the qualifications of Iowa Code section 15E.193C. Effective March 17, 2004, the eligible development business program is repealed.

New investment includes the purchase price of land and the cost of improvements made to real property. The tax credit may be claimed by an eligible development business in the tax year in which the construction, expansion or rehabilitation is completed.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until used, whichever is the earlier.

If the business is a partnership, S corporation, limited liability company, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

If the eligible development business fails to meet and maintain any one of the requirements to be an eligible business, the business shall be subject to repayment of all or a portion of the amount of tax incentives received. For example, if within five years of project completion the development business sells or leases any space to any retail business, the development business shall proportionally repay the value of the investment credit. The proportion of the investment credit that would be due for repayment by an eligible development business for selling or leasing space to a retail business would be determined by dividing the square footage of building space occupied by the retail business by the square footage of the total building space.

An eligible business, which is not a development business, which operates in an enterprise zone cannot claim an investment tax credit if the property is owned, or was previously owned, by an approved development business that has already received an investment tax credit. An eligible business, which is not a development business, can claim an investment tax credit only on additional, new improvements made to real property that was not included in the development business's approved application for the investment tax credit.

This rule is intended to implement Iowa Code section 15E.193C.

701—42.18(15E,422) Venture capital credits.

42.18(1) *Investment tax credit for an equity investment in a qualifying business or community-based seed capital fund.* See rule 123—2.1(15E) for the discussion of the investment tax credit for an equity investment in a qualifying business or community-based seed capital fund, along with the issuance of tax credit certificates by the Iowa capital investment board.

The department of revenue will be notified by the Iowa capital investment board when the tax credit certificates are issued. The tax credit certificate must be attached to the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier.

For equity investments made in a community-based seed capital fund or equity investments made in a qualifying business on or after January 1, 2004, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

For equity investments made in a qualifying business prior to January 1, 2004, only direct investments made by an individual are eligible for the investment tax credit. Individuals receiving income from a revocable trust's investment in a qualifying business are eligible for the investment tax credit for the portion of the revocable trust's equity investment in a qualifying business.

42.18(2) *Investment tax credit for an equity investment in a venture capital fund.* See rule 123—3.1(15E) for the discussion of the investment tax credit for an equity investment in a venture capital fund, along with the issuance of tax credit certificates by the Iowa capital investment board.

The department of revenue will be notified by the Iowa capital investment board when the tax credit certificates are issued. The tax credit certificate must be attached to the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier.

For equity investments made in a venture capital fund, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

42.18(3) *Contingent tax credit for investments in Iowa fund of funds.* See rule 123—4.1(15E) for the discussion of the contingent tax credit available for investments made in the Iowa fund of funds organized by the Iowa capital investment corporation. Tax credit certificates related to the contingent tax credits will be issued by the Iowa capital investment board.

The department of revenue will be notified by the Iowa capital investment board when these tax credit certificates are issued and, if applicable, when they are redeemed. If the tax credit certificate is redeemed, the certificate must be attached to the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate.

If the tax credit certificate is redeemed, any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until used, whichever is the earlier.

If the tax credit certificate is redeemed, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

This rule is intended to implement Iowa Code section 15E.43 as amended by 2004 Iowa Acts, Senate File 443, and sections 15E.51, 15E.66, 422.11F and 422.11G.

701—42.19(15) New capital investment program tax credits. Effective for tax periods beginning on or after January 1, 2003, a business which qualifies under the new capital investment program is eligible to receive tax credits. An eligible business under the new capital investment program must be approved by the Iowa department of economic development and meet the qualifications of 2003 Iowa Acts, House File 677, section 4.

42.19(1) *Research activities credit.* A business approved under the new capital investment program is eligible for an additional research activities credit as described in 701—subrule 52.7(5). This credit for increasing research activities is in lieu of the research activities credit described in subrule 42.2(11).

42.19(2) Investment tax credit.

a. General rule. An eligible business can claim an investment tax credit equal to a percentage of the new investment directly related to new jobs created by the location or expansion of an eligible business. The percentage is equal to the amount provided in paragraph “*b.*” New investment directly related to new jobs created by the location or expansion of an eligible business includes the following:

- (1) The cost of machinery and equipment, as defined in Iowa Code section 427A.1(1), paragraphs “*e*” and “*j*,” purchased for use in the operation of the eligible business. The purchase price shall be depreciated in accordance with generally accepted accounting principles.
- (2) The purchase price of real property and any buildings and structures located on the real property.
- (3) The cost of improvements made to real property which is used in the operation of the eligible business.

For eligible businesses approved by the Iowa department of economic development on or after March 17, 2004, certain lease payments made by eligible businesses to a third-party developer will be considered to be new investment for purposes of computing the investment tax credit. The eligible business shall enter into a lease agreement with the third-party developer for a minimum of five years. The investment tax credit is based on the annual base rent paid to a third-party developer by the eligible business for a period not to exceed ten years. The total costs of the annual base rent payments for the ten-year period cannot exceed the cost of the land and the third-party developer’s cost to build or renovate the building used by the eligible business. The annual base rent is defined as the total lease payment less taxes, insurance and operating and maintenance expenses.

Any credit in excess of the tax liability for the tax period may be carried forward seven years or until used, whichever is the earlier.

If the business is a partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to an individual, an individual may claim the credit. The amount of the credit claimed by an individual must be based on the individual’s pro-rata share of the individual’s earnings of the partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 and filing as a partnership for federal tax purposes, or estate or trust.

b. Tax credit percentage. The amount of tax credit claimed shall be based on the number of high-quality jobs created as determined by the Iowa department of economic development:

- (1) If no high-quality jobs are created but economic activity within Iowa is advanced, the eligible business may claim a tax credit of up to 1 percent of the new investment.
- (2) If 1 to 5 high-quality jobs are created, the eligible business may claim a tax credit of up to 2 percent of the new investment.
- (3) If 6 to 10 high-quality jobs are created, the eligible business may claim a tax credit of up to 3 percent of the new investment.
- (4) If 11 to 15 high-quality jobs are created, the eligible business may claim a tax credit of up to 4 percent of the new investment.
- (5) If 16 or more high-quality jobs are created, the eligible business may claim a tax credit of up to 5 percent of the new investment.

c. Investment tax credit—value-added agricultural products or biotechnology-related processes. An eligible business whose project primarily involves the production of value-added agricultural products or uses biotechnology-related processes may elect to receive a refund for all or a portion of an unused investment tax credit. An eligible business includes a cooperative described in Section 521 of the Internal Revenue Code whose project primarily involves the production of ethanol.

Eligible businesses that elect to receive a refund shall apply to the Iowa department of economic development for tax credit certificates between May 1 and May 15 of each fiscal year. Only those businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate. The Iowa department of economic development shall not issue tax credit certificates for more than \$4 million during a fiscal year to eligible businesses for this program and eligible businesses described in subrule 42.2(10). If applications are received for more than \$4 million, the applicants shall receive certificates for a prorated amount.

The Iowa department of economic development shall issue tax credit certificates within a reasonable period of time. Tax credit certificates are valid for the tax year following project completion. The tax credit certificate must be attached to the tax return for the tax year during which the tax credit is claimed. The tax credit certificate shall not be transferred, except for a cooperative described in Section 521 of the Internal Revenue Code whose project primarily involves the production of ethanol, as provided in subrule 42.2(10). For value-added agricultural projects involving ethanol, the cooperative must submit a list of its members and the share of each member's interest in the cooperative. The Iowa department of economic development shall issue a tax credit certificate to each member on the list.

d. Repayment of benefits. If an eligible business fails to maintain the requirements of the new capital investment program, the taxpayer may be required to repay all or a portion of the tax incentives taken on Iowa returns. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the tax credits may have expired, the department may proceed to collect the tax incentives forfeited by failure to maintain the requirements of the new capital investment program. This is because it is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability.

An eligible business in the new capital investment program may also be required to repay all or a portion of the tax incentives received on Iowa returns if the eligible business experiences a layoff of employees in Iowa or closes any of its facilities in Iowa.

If, within five years of purchase, the eligible business sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other existing structures for which a tax credit was claimed under this subrule, the income tax liability of the eligible business shall be increased by one of the following amounts:

- (1) One hundred percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within one full year after being placed in service.
- (2) Eighty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within two full years after being placed in service.
- (3) Sixty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within three full years after being placed in service.
- (4) Forty percent of the tax credit claimed if the property ceases to be eligible for the tax credit within four full years after being placed in service.
- (5) Twenty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within five full years after being placed in service.

This rule is intended to implement Iowa Code sections 15.333 and 15.381 to 15.387.

701—42.20(15E) Endow Iowa tax credit. Effective for tax years beginning on or after January 1, 2003, a taxpayer who makes an endowment gift to an endow Iowa qualified community foundation may qualify for an endow Iowa tax credit, subject to the availability of the credit. The credit is equal to 20 percent of a taxpayer's endowment gift to an endow Iowa qualified community foundation approved by the Iowa department of economic development. The administrative rules for the endow Iowa tax credit for the Iowa department of economic development may be found under 261—Chapter 47.

The total amount of endow Iowa tax credits available is \$2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is \$2 million annually for the 2005-2008 calendar years, and \$200,000 of these tax credits on an annual basis is reserved for endowment gifts of \$30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed \$100,000. An endow Iowa tax credit shall not be authorized after December 31, 2008. The endow Iowa tax credit cannot be transferred to any other taxpayer.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier.

If a taxpayer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code section 15E.305 as amended by 2005 Iowa Acts, House File 868, sections 74 through 77.

701—42.21(422) Soy-based cutting tool oil tax credit. Effective for tax periods ending after June 30, 2005, and beginning before January 1, 2007, a manufacturer may claim a soy-based cutting tool oil tax credit. A manufacturer, as defined in Iowa Code section 428.20, may claim the credit equal to the costs incurred during the tax year for the purchase and replacement costs relating to the transition from using nonsoy-based cutting tool oil to using soy-based cutting tool oil.

All of the following conditions must be met to qualify for the tax credit.

1. The costs must be incurred after June 30, 2005, and before January 1, 2007.
2. The costs must be incurred in the first 12 months of the transition from using nonsoy-based cutting tool oil to using soy-based cutting tool oil.
3. The soy-based cutting tool oil must contain at least 51 percent soy-based products.
4. The costs of the purchase and replacement must not exceed \$2 per gallon of soy-based cutting tool oil used in the transition.
5. The number of gallons used in the transition cannot exceed 2,000 gallons.
6. The manufacturer shall not deduct for Iowa income tax purposes the costs incurred in the transition to using soy-based cutting tool oil which are deductible for federal tax purposes.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

If a taxpayer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to an individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement 2005 Iowa Acts, Senate File 389, section 1.

701—42.22(422) Tuition and textbook credit for expenses incurred for dependents attending grades kindergarten through 12 in Iowa. Effective for tax years beginning on or after January 1, 1998, taxpayers who pay tuition and textbook expenses of dependents who attend grades kindergarten through 12 in an Iowa school may receive a tax credit of 25 percent of up to \$1000 of qualifying expenses for each dependent attending an elementary or secondary school located in Iowa. In order for the taxpayer to qualify for the tax credit for tuition and textbooks, the elementary school or secondary school that the dependent is attending must meet the standards for accreditation of public and nonpublic schools in Iowa provided in Iowa Code section 256.11. In addition, the school the dependent is attending must not be operated for profit and must adhere to the provisions of the United States Civil Rights Act of 1964, and the provisions of Iowa Code chapter 216, which is known as the Iowa civil rights Act of 1965. The following definitions and criteria apply to the determination of the tax credit for amounts paid by the taxpayer for tuition and textbooks for a dependent attending an elementary or secondary school in Iowa:

42.22(1) Tuition. For purposes of the tuition and textbook tax credit, “tuition” means any charge made by an elementary or secondary school for the expense of personnel, buildings, equipment and materials other than textbooks, and other expenses of elementary or secondary schools which relate to the teaching of only those subjects that are legally and commonly taught in public elementary or secondary schools in Iowa. “Tuition” includes charges by a qualified school for summer school classes or for private instruction of a child who is physically unable to attend classes at the site of the elementary or secondary school.

“Tuition” does not include charges or fees which relate to the teaching of religious tenets, doctrines, or worship in cases where the purpose of the teaching is to inculcate the religious tenets, doctrines, or worship. In addition, “tuition” does not include amounts paid to an individual or other entity for private instruction of a dependent who attends an elementary or secondary school in Iowa. Amounts paid to a school for meals, lodging, or clothing for a dependent do not qualify for the tax credit for “tuition.”

Amounts paid to an individual or organization for “home schooling” of a dependent or the teaching of a dependent outside of an elementary or secondary school may not be claimed for purposes of the tuition and textbook tax credit.

42.22(2) Textbooks. For purposes of the tuition and textbook tax credit, “textbooks” means books and other instructional materials used in elementary and secondary schools in Iowa to teach only those subjects legally and commonly taught in public elementary and secondary schools in Iowa. “Textbooks” includes fees or charges by the elementary or secondary school for required supplies or materials for classes in art, home economics, shop or similar courses. “Textbooks” includes books and materials used for extracurricular activities, such as sporting events, musical events, dramatic events, speech activities, driver’s education, or programs of a similar nature.

“Textbooks” does not include amounts paid for books or other instructional materials used in the teaching of religious tenets, doctrines, or worship, in cases where the purpose of the teaching is to inculcate the religious tenets, doctrine, or worship. “Textbooks” also does not include amounts paid for books or other instructional materials used in teaching a dependent subjects in the home or outside of an elementary or secondary school.

42.22(3) Extracurricular activities. For purposes of the tuition and textbook tax credit, amounts paid for dependents to participate in or to attend extracurricular activities may be claimed as part of the tuition and textbook tax credit. “Extracurricular activities” includes sporting events, musical events, dramatic events, speech activities, and driver’s education if provided at a school, and programs of a similar nature.

a. The following are specific examples of expenditures related to a dependent’s participation in or attendance at extracurricular activities that may qualify for the tuition and textbook tax credit:

- (1) Fees for participation in school sport activities.
- (2) Fees for field trips.
- (3) Rental fees for instruments for school bands or orchestras but not rental fees in rent-to-own contracts.
- (4) Driver’s education fees, if paid to a school.
- (5) Cost of activity tickets or admission tickets to school sports, music and dramatic events.
- (6) Fees for events such as homecoming, winter formal, prom, or similar events.
- (7) Rental of costumes for school plays.
- (8) Purchase of costumes for school plays if the costumes are not suitable for street wear.
- (9) Purchase of track shoes, football shoes, or other athletic shoes with cleats, spikes, or other features that are not suitable for street wear.
- (10) Costs of tickets or other admission fees to attend banquets or buffets for school academic or athletic awards.
- (11) Trumpet grease, woodwind reeds, guitar picks, violin strings and similar types of items for maintenance of instruments used in school bands or orchestras.

(12) Band booster club or athletic booster club dues, but only if dues are for the dependent attending the school and not the parent or adult.

(13) Rental of formal gown or tuxedo for school dance or other school event.

(14) Dues paid to school clubs or school-sponsored organizations such as chess club, photography club, debate club, or similar organizations.

(15) Amounts paid for music that will be used in school music programs, including vocal music programs.

(16) Fees paid for general materials for shop class, agriculture class, home economics class, or auto repair class and general fees for equivalent classes.

(17) Fees for a dependent's bus trips to attend school if paid to the school.

b. The following are specific examples of expenditures related to a dependent's participation in or attendance at extracurricular activities that will not qualify for the tuition and textbook credit.

(1) Purchase of a musical instrument used in a school band or orchestra.

(2) Purchase of basketball shoes or other athletic shoes that are readily adaptable to street wear.

(3) Amounts paid for special testing such as SAT or PSAT, and for Iowa talent search tests.

(4) Payments for senior trips, band trips, and other overnight school activity trips which involve payment for meals and lodging.

(5) Fees paid to K-12 schools for courses for college credit.

(6) Amounts paid for T-shirts, sweatshirts and similar clothing that is appropriate for street wear.

(7) Amounts paid for special programs at universities and colleges for high school boys or girls.

(8) Payment for private instrumental lessons, voice lessons or similar lessons.

(9) Amounts paid for a school yearbook, annual or class ring.

(10) Fees for special materials paid for shop class, agriculture class, auto repair class, home economics class and similar classes. For purposes of this paragraph, "special materials" means materials used for personal projects of the dependents, such as materials to make furniture for personal use, automobile parts for family automobiles and other materials for projects for personal or family benefit.

This rule is intended to implement Iowa Code section 422.12.

701—42.23(422) Deduction of credits. The credits against computed tax set forth in Iowa Code sections 422.10 through 422.12C shall be deducted in the following sequence:

1. Personal exemption credits.
2. Tuition and textbook credit.
3. Iowa earned income credit.
4. Nonresident and part-year resident credit.
5. Franchise tax credit.
6. S corporation apportionment credit.
7. Venture capital credits.
8. Endow Iowa tax credit.
9. Investment tax credit.
10. New jobs credit.
11. Alternative minimum tax credit.
12. Historic preservation and cultural and entertainment district tax credit.
13. Ethanol blended gasoline tax credit.
14. Research activities credit.
15. Assistive device credit.
16. Motor fuel credit.
17. Claim of right credit (if elected in accordance with rule 701—38.18(422)).
18. Estimated tax payments, payment with vouchers and withholding tax.

This rule is intended to implement Iowa Code sections 422.10, 422.11, 422.11A, 422.11B, 422.11C, 422.11D, 422.11E, 422.11F, 422.11G, 422.12, 422.12B and 422.12C.

701—42.24(151,422) Wage-benefits tax credit. Effective for tax years ending on or after June 9, 2006, a wage-benefits tax credit equal to a percentage of the annual wages and benefits paid for a qualified new job created by the location or expansion of the business in Iowa is available for qualified businesses.

42.24(1) Definitions. The following definitions are applicable to this rule:

“Average county wage” means the annualized average hourly wage calculated by the Iowa department of economic development using the most current four quarters of wage and employment information as provided in the Quarterly Covered Wage and Employment Data report provided by the department of workforce development. Agricultural/mining and governmental employment categories are deleted in compiling the wage information.

“Benefits” means all of the following:

1. Medical and dental insurance plans.
2. Pension and profit-sharing plans.
3. Child care services.
4. Life insurance coverage.
5. Vision insurance plan.
6. Disability coverage.

“Department” means the Iowa department of revenue.

“Full-time” means the equivalent of employment of one person:

1. For 8 hours per day for a 5-day, 40-hour workweek for 52 weeks per year, including paid holidays, vacations, and other paid leave, or
2. The number of hours or days per week, including paid holidays, vacations, and other paid leave, currently established by schedule, custom or otherwise, as constituting a week of full-time work for the kind of service an individual performs for an employing unit.

“Grow Iowa values fund” means the grow Iowa values fund created in Iowa Code Supplement section 15G.108.

“Nonqualified new job” means any one of the following:

1. A job previously filled by the same employee in Iowa.
2. A job that was relocated from another location in Iowa.
3. A job that is created as a result of a consolidation, merger, or restructuring of a business entity if the job does not represent a new job in Iowa.

“Qualified new job” or *“job creation”* means a job that meets all of the following criteria:

1. Is a new full-time job that has not existed in the business within the previous 12 months in Iowa.
2. Is filled by a new employee for at least 12 months.
3. Is filled by a resident of the state of Iowa.
4. Is not created as a result of a change in ownership.
5. Was created on or after June 9, 2005.

“Retail business” means a business which sells its product directly to a consumer.

“Retained qualified new job” or *“job retention”* means the continued employment, after the first 12 months of employment, of the same employee in a qualified new job for another 12 months.

“Service business” means a business which is not engaged in the sale of tangible personal property, and which provides services to a local consumer market and does not have a significant proportion of its sales coming from outside the state.

42.24(2) Calculation of credit. A business which is not a retail or service business may claim the wage-benefits tax credit which is determined as follows:

a. If the annual wages and benefits for the qualified new job equal less than 130 percent of the average county wage, the credit is 0 percent of the annual wage and benefits paid.

b. If the annual wages and benefits for the qualified new job equal at least 130 percent but less than 160 percent of the average county wage, the credit is 5 percent of the annual wage and benefits paid for each qualified new job.

c. If the annual wages and benefits for the qualified new job equal at least 160 percent of the average county wage, the credit is 10 percent of the annual wage and benefits paid for each qualified new job.

If the business is a partnership, S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit. The amount claimed by the individual shall be based upon the pro-rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

42.24(3) Application for the tax credit, tax credit certificate and amount of tax credit available.

a. In order to claim the wage-benefits tax credit, the business must submit an application to the department along with information on the qualified new job or retained qualified new job. The application cannot be submitted until the end of the twelfth month after the qualified job was filled. For example, if the new job was created on June 9, 2005, the application cannot be submitted until June 9, 2006. The following information must be submitted in the application:

- (1) Name, address and federal identification number of the business.
- (2) A description of the activities of the business. If applicable, the proportion of the sales of the business which come from outside Iowa should be included.
- (3) The amount of wages and benefits paid to each employee for each new job for the previous 12 months.
- (4) A computation of the amount of credit being requested.
- (5) The address and state of residence of each new employee.
- (6) The date that the qualified new job was filled.
- (7) An indication of whether the job is a qualified new job or a retained qualified new job for which an application was filed for a previous year.
- (8) The type of tax for which the credit will be applied.
- (9) If the business is a partnership, S corporation, limited liability company, or estate or trust, a schedule of the partners, shareholders, members or beneficiaries. This schedule shall include the names, addresses and federal identification number of the partners, shareholders, members or beneficiaries, along with their percentage of the pro-rata share of earnings of the partnership, S corporation, limited liability company, or estate or trust.

b. Upon receipt of the application, the department has 45 days either to approve or disapprove the application. If the department does not act on the application within 45 days, the application is deemed to be approved. If the department disapproves the application, the business may appeal the decision to the Iowa economic development board within 30 days of the notice of disapproval.

c. If the application is approved, or if the Iowa economic development board approves the application that was previously denied by the department, a tax credit certificate will be issued by the department to the business, subject to the availability of the amount of credits that may be issued. The tax credit certificate will contain the name, address and tax identification number of the business (or individual, estate or trust, if applicable), the date of the qualified new job(s), the wage and benefits paid for each job(s) for the 12-month period, the amount of the credit, the tax period for which the credit may be applied, and the type of tax for which the credit will be applied.

d. The tax credit certificates that are issued in a fiscal year cannot exceed \$10 million. The tax credit certificates are issued on a first-come, first-served basis. Therefore, if tax credit certificates have already been issued for the \$10 million limit for a particular fiscal year, any applications for tax credit certificates received after the \$10 million limit has been reached will be denied. If a business failed to receive all or a part of the tax credit due to the \$10 million limitation, the business may reapply for the tax credit for the retained new job for a subsequent tax period.

e. A business which qualifies for the tax credit is eligible to receive the tax credit certificate for each of the four subsequent tax years if the business retains the qualified new job during each of these subsequent tax years. The business must reapply each year for the tax credit, and the percentage of the wages and benefits allowed for the credit set forth in subrule 42.24(2) for the first year are applicable for each subsequent period. Preference will be given in issuing tax credit certificates for those businesses that retain qualified new jobs. Therefore, if a business received a tax credit for the first year in which the qualified job was created, the business will automatically receive a tax credit for a subsequent year as long as the qualified job is retained and an application is completed.

f. After the first fiscal year, if the \$10 million limit is reached, but credits become available because the jobs were not retained by other businesses, an application which was originally denied will be considered in the order in which it was originally received.

g. A business may apply in writing to the Iowa economic development board for a waiver of the average wage and benefit requirement. See 261—subrule 68.3(2) for more detail on the procedures to apply for a waiver of the wage and benefit requirement. If a waiver is granted, the business must provide the department with the waiver and it must be attached to the application.

h. A business may receive other federal, state, and local incentives and tax credits in addition to the wage-benefits tax credit. However, a business that receives a wage-benefits tax credit cannot receive tax incentives under the high quality job creation program set forth in Iowa Code chapter 15 as amended by 2005 Iowa Acts, chapter 150, or moneys from the grow Iowa values fund.

42.24(4) Examples. The following noninclusive examples illustrate how this rule applies:

EXAMPLE 1: Business A operates a grocery store and hires five new employees, each of whom will earn wages and benefits in excess of 130 percent of the average county wage. Business A would not qualify for the wage-benefits tax credit because Business A is a retail business.

EXAMPLE 2: Business B operates an accounting firm and hires two new accountants, each of whom will earn wages and benefits in excess of 160 percent of the average county wage. The accounting firm provides services to clients wholly within Iowa. Business B would not qualify for the wage-benefits tax credit because it is a service business. The majority of its sales are generated from within the state of Iowa and thus Business B, because it is a service business, is not eligible for the credit.

EXAMPLE 3: Business C operates a software development business and hires two new programmers, each of whom will earn wages and benefits in excess of 160 percent of the average county wage. Over 50 percent of the customers of Business C are located outside Iowa. Business C would qualify for the wage-benefits tax credit because a majority of its sales are coming from outside the state, even though Business C is engaged in the performance of services.

EXAMPLE 4: Business D is a manufacturer that hires a new employee in Clayton County, Iowa, on July 8, 2005. The average county wage for Clayton County for the third quarter of 2005 is \$11.86 per hour. If the average county wage per hour for Clayton County is \$11.95 for the fourth quarter of 2005, \$12.05 for the first quarter of 2006, and \$12.14 for the second quarter of 2006, the annualized average county wage for this 12-month period is \$12.00 per hour. This wage equates to an average annual wage of \$24,960 ($\$12.00 \times 40 \text{ hours} \times 52 \text{ weeks}$). In order to qualify for the 5 percent wage-benefits tax credit, the new employee must receive wages and benefits totaling \$32,448 (130 percent of \$24,960) for the 12-month period from July 8, 2005, through July 7, 2006. In order to qualify for the 10 percent wage-benefits tax credit, the new employee must receive wages and benefits totaling \$39,936 (160 percent of \$24,960) for the 12-month period from July 8, 2005, through July 7, 2006.

EXAMPLE 5: Business E is a manufacturer that hires three new employees in Grundy County, Iowa, on July 1, 2005. If the average county wage for the 12-month period from July 1, 2005, through June 30, 2006, is \$13.75 per hour in Grundy County, this wage equates to an average county wage of \$28,600. The wages and benefits for each of these three new employees is \$40,000 for the period from July 1, 2005, through June 30, 2006, which is 140 percent of the average county wage. Business E is entitled to a wage-benefits tax credit of \$2,000 for each employee ($\$40,000 \times 5$ percent), for a total wage-benefits tax credit of \$6,000. If Business E files on a calendar-year basis, the \$6,000 wage-benefits tax credit can be claimed on the tax return for the period ending December 31, 2006.

EXAMPLE 6: Business F is a manufacturer that hires ten new employees on July 1, 2005, and qualifies for the wage-benefits tax credit because the wages and benefits paid exceed 130 percent of the average county wage. Business F receives a wage-benefits tax credit in July 2006 for these ten employees, which can be used on the tax return for the period ending December 31, 2006. On August 31, 2006, two of the employees leave the business and are replaced by two new employees. Business F is entitled to a wage-benefits tax credit for only eight employees in July 2007 because only eight employees continued employment for the subsequent 12 months, which meets the definition of a retained qualified new job. Business F cannot request a wage-benefits tax credit for the two employees hired on August 31, 2006. Business F cannot request the wage-benefits tax credit because these two full-time jobs existed in the business within the previous 12 months in Iowa, and these jobs do not meet the definition of a qualified new job or retained qualified new job.

EXAMPLE 7: Business G is a manufacturer that hires ten new employees on July 1, 2005, and qualifies for the wage-benefits tax credit because the wages and benefits paid exceed 130 percent of the average county wage. Business G receives a wage-benefits tax credit in July 2006 for these ten employees equal to 5 percent of the wages and benefits paid. On October 1, 2006, Business G hires an additional five employees, each of whom receives wages and benefits in excess of 130 percent of the average county wage. Business G can apply for the wage-benefits tax credit on October 1, 2007, for these five employees, since these employees have now been employed for 12 months.

EXAMPLE 8: Assume the same facts as Example 6, except that the \$10 million limit of tax credits has already been met for the fiscal year ending June 30, 2007, and Business F hired five new employees on August 31, 2006. Business F can apply for the wage-benefits tax credit for the three employees on August 31, 2007, a number which is above the ten full-time jobs originally created, but Business F may not receive the tax credit if all other applicants for tax credit certificates retained the qualified new jobs because the \$10 million limit has been met prior to this new application.

EXAMPLE 9: Assume the same facts as Example 7, except that the ten employees hired on July 1, 2005, by Business G received wages and benefits equal to 155 percent of the average county wage, and the five employees hired on October 1, 2006, by Business G received wages equal to 161 percent of the average county wage. Business G can apply for the tax credit on October 1, 2007, equal to 10 percent of the wages and benefits paid for the employees hired on October 1, 2006. On July 1, 2007, Business G can reapply for the tax credit equal to 5 percent of the wages and benefits paid only for the ten employees originally hired on July 1, 2005, even if the wages and benefits for these ten employees exceed 160 percent of the average county wage for the period from July 1, 2006, through June 30, 2007.

This rule is intended to implement Iowa Code Supplement chapter 151.

701—42.25(422,476B) Wind energy production tax credit. Effective for tax years beginning on or after July 1, 2006, an owner of a qualified wind energy production facility that has been approved by the Iowa utilities board may claim a wind energy production tax credit for qualified electricity sold by the owner against a taxpayer's Iowa individual income tax liability. The administrative rules for the certification of eligibility for the wind energy production tax credit for the Iowa utilities board may be found in rule 199—15.18(476,81GA,SF390,HF882).

42.25(1) *Application and review process for the wind energy production tax credit.* An owner of a wind energy production facility must be approved by the Iowa utilities board in order to qualify for the wind energy production tax credit. The facility must be an electrical production facility that produces electricity from wind, is located in Iowa, and must be placed in service on or after July 1, 2005, but before July 1, 2008. In addition, the facility must also be approved by the board of supervisors of the county in which the facility is located. Once the owner receives the approval from the board of supervisors, approval is not required for subsequent tax periods.

The wind energy production tax credit cannot be allowed for a facility for which the owner has claimed an exemption from property tax under Iowa Code section 427B.26 or 441.21(8) or claimed an exemption from sales tax under Iowa Code section 423.3(54). The facility will be subject to the assessment of property tax in accordance with rule 701—80.13(427B).

The maximum amount of nameplate generating capacity for all qualified wind energy production facilities cannot exceed 450 megawatts of nameplate generating capacity. An owner shall not own more than two qualified facilities. A facility that is not operational within 18 months after issuance of the approval from the Iowa utilities board will no longer be considered a qualified facility.

An owner of the qualified facility must apply to the Iowa utilities board for the wind energy production tax credit. The application for the tax credit must be filed no later than 30 days after the close of the tax year for which the credit is applied. The application must include the following information:

- a. A copy of the determination from the utilities board that the facility was approved.
- b. A copy of the executed power purchase agreement or other agreement to purchase electricity.
- c. Documentation that the electricity has been generated by the facility and sold to a purchaser.
- d. The date that the facility was placed in service.
- e. The number of kilowatt-hours of electricity generated and purchased from the facility during the tax year.
- f. The name, address, and tax identification number of the owner.
- g. The type of tax for which the credit will be applied, and the first tax year in which the credits will be applied.
- h. If the application is filed by a partnership, limited liability company, S corporation, or estate or trust requesting a tax credit for individual or corporation income tax, a list of the partners, members, shareholders or beneficiaries of the entity. This list shall include the name, address, tax identification number and pro-rata share of earnings from the entity for each of the partners, members, shareholders or beneficiaries.

42.25(2) *Computation of the credit.* The wind energy production credit equals one cent multiplied by the number of kilowatt-hours of qualified electricity sold by the owner during the tax year. For the first tax year in which the credit is applied, the kilowatt-hours of qualified electricity sold may exceed 12 months.

EXAMPLE: A qualified facility was placed in service on April 1, 2006, and the taxpayer files on a calendar-year basis. The first year for which the credit can be claimed is the period ending December 31, 2007, since that is the first tax year that began on or after July 1, 2006. The credit for the 2007 tax year can include electricity sold between April 1, 2006, and December 31, 2007.

The credit is not allowed for any kilowatt-hours of electricity sold to a related person. The definition of “related person” uses the same criteria set forth in Section 45(e)(4) of the Internal Revenue Code relating to the federal renewable electricity production credit. Persons shall be treated as related to each other if such persons are treated as a single employer under Treasury Regulation §1.52-1. In the case of a corporation that is a member of an affiliated group of corporations filing a federal consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to the person by another member of the affiliated group.

The utilities board will notify the department of the number of kilowatt-hours of electricity sold by the qualified facility during the tax year. The department will calculate the credit and issue a tax credit certificate to the owner. The tax credit certificate will include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit certificate, as provided in subrule 42.25(3). If the department refuses to issue the tax credit certificate, the taxpayer shall be notified in writing and the taxpayer will have 60 days from the date of denial to file a protest in accordance with rule 701—7.41(17A). The department will not issue a tax credit certificate if the facility is not operational within 18 months after approval was given by the utilities board.

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on the partner's, member's, shareholder's or beneficiary's pro-rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust.

The credit can be allowed for a ten-year period beginning on the date the qualified facility was originally placed in service. For example, if a facility was placed in service on April 1, 2006, the credit can be claimed for kilowatt-hours of electricity sold between April 1, 2006, and March 31, 2016.

To claim the tax credit, the taxpayer must attach the tax credit certificate to the tax return for the tax year set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for seven years or until it is used, whichever is the earlier.

42.25(3) *Transfer of the wind energy production tax credit certificate.* The wind energy production tax credit certificate may be transferred once to any person or entity.

Within 30 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the wind energy production tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year and the same expiration date as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

This rule is intended to implement Iowa Code Supplement section 422.11J and Iowa Code Supplement chapter 476B.

701—42.26(422,476C) Renewable energy tax credit. Effective for tax years beginning on or after July 1, 2006, a purchaser or producer of renewable energy whose facility has been approved by the Iowa utilities board may claim a renewable energy tax credit for qualified renewable energy against a taxpayer's Iowa individual income tax liability. The administrative rules for the certification of eligibility for the renewable energy tax credit for the Iowa utilities board may be found in rule 199—15.18(476,81GA,SF390,HF882).

42.26(1) *Application and review process for the renewable energy tax credit.* A producer or purchaser of a renewable energy facility must be approved by the Iowa utilities board in order to qualify for the renewable energy credit. The eligible renewable energy facility can be a wind energy conversion facility, biogas recovery facility, biomass conversion facility, methane gas recovery facility or a solar energy conversion facility. The facility must be located in Iowa and placed in service on or after July 1, 2005, and before January 1, 2011.

The maximum amount of nameplate generating capacity of all wind energy conversion facilities cannot exceed 90 megawatts of nameplate generating capacity. The maximum amount of energy production capacity for biogas recovery facilities, biomass conversion facilities, methane gas recovery facilities and solar energy conversion facilities cannot exceed 10 megawatts of nameplate generating capacity. A facility that is not operational within 18 months after issuance of approval from the utilities board will no longer be considered a qualified facility. A producer of renewable energy, which is the person who owns the renewable energy facility, cannot own more than two eligible renewable energy facilities.

A producer or purchaser of a renewable energy facility must apply to the utilities board for the renewable energy tax credit. The application for the tax credit must be filed no later than 30 days after the close of the tax year for which the credit is applied. The application must include the following information:

- a. A copy of the determination from the utilities board that the facility was approved.
- b. A copy of the power purchase agreement or other agreement to purchase from the facility electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose. The agreement shall designate whether the producer or the purchaser of renewable energy will be eligible to apply for the renewable energy tax credit.
- c. Documentation that the electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose has been generated by the facility and sold to a purchaser.
- d. The date that the facility was placed in service.
- e. The number of kilowatt-hours of electricity, standard cubic feet of hydrogen fuel, British thermal units of methane gas or other biogas used to generate electricity, or British thermal units of heat for a commercial purpose generated and purchased from the facility during the tax period.
- f. The name, address and tax identification number of the purchaser or producer.
- g. The type of tax for which the credit will be applied, and the first tax year in which the credits will be applied.
- h. If the application is filed by a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, a list of the partners, members, shareholders or beneficiaries of the entity. This list shall include the name, address, tax identification number and pro-rata share of earnings from the entity for each of the partners, members, shareholders or beneficiaries.

42.26(2) *Computation of the credit.* The renewable energy tax credit equals 1½ cents per kilowatt-hour of electricity, or 44 cents per 1000 standard cubic feet of hydrogen fuel, or \$4.50 per 1 million British thermal units of methane gas or other biogas used to generate electricity, or \$4.50 per 1 million British thermal units of heat for a commercial purpose generated by and purchased from an eligible renewable energy facility during the tax year. For the first tax year in which the credit is applied, the kilowatt-hours, standard cubic feet or British thermal units generated by and purchased from the facility may exceed 12 months.

EXAMPLE: A qualified wind energy production facility was placed in service on April 1, 2006, and the taxpayer files on a calendar-year basis. The first year for which the credit can be claimed is the year ending December 31, 2007, since that is the first tax year that began on or after July 1, 2006. The credit for the 2007 tax year can include electricity generated and purchased between April 1, 2006, and December 31, 2007.

The credit is not allowed for any kilowatt-hours, standard cubic feet or British thermal units that are purchased from an eligible facility by a related person. Persons shall be treated as related to each other if either person owns an 80 percent or more equity interest in the other person.

The utilities board will notify the department of the number of kilowatt-hours, standard cubic feet or British thermal units that are generated and purchased from an eligible facility during the tax year. The department will calculate the credit and issue a tax credit certificate to the purchaser or producer. The tax credit certificate will include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit certificate, as provided in subrule 42.26(3). If the department refuses to issue the tax credit certificate, the taxpayer shall be notified in writing and the taxpayer will have 60 days from the date of denial to file a protest in accordance with rule 701—7.41(17A). The department will not issue a tax credit certificate if the facility is not operational within 18 months after approval was given by the utilities board. In addition, the department will not issue a tax credit certificate to any person who received a wind energy production tax credit in accordance with Iowa Code chapter 476B.

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on the partner's, member's, shareholder's or beneficiary's pro-rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust.

The credit can be allowed for a ten-year period beginning on the date the qualified facility was originally placed in service. For example, if a renewable energy facility was placed in service on April 1, 2006, the credit can be claimed for kilowatt-hours, standard cubic feet or British thermal units generated and purchased between April 1, 2006, and March 31, 2016. Tax credit certificates cannot be issued for renewable energy purchased after December 31, 2020.

To claim the tax credit, the taxpayer must attach the tax credit certificate to the tax return for the tax period set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for seven years or until it is used, whichever is the earlier.

42.26(3) *Transfer of the renewable energy tax credit certificate.* The renewable energy tax credit certificate may be transferred once to any person or entity. A decision between a producer and purchaser of renewable energy regarding who may claim the tax credit is not considered a transfer.

Within 30 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the renewable energy tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year and the same expiration date as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

This rule is intended to implement Iowa Code Supplement section 422.11J and Iowa Code Supplement chapter 476C.

[Filed 12/12/74]

- [Filed 12/10/76, Notice 9/22/76—published 12/29/76, effective 2/2/77]
- [Filed 10/28/77, Notice 9/21/77—published 11/16/77, effective 12/21/77]
- [Filed 12/7/79, Notice 10/31/79—published 12/26/79, effective 1/30/80]
- [Filed emergency 7/17/80—published 8/6/80, effective 7/17/80]
- [Filed 12/3/82, Notice 10/27/82—published 12/22/82, effective 1/26/83]
- [Filed 12/16/83, Notice 11/9/83—published 1/4/84, effective 2/8/84]
- [Filed 5/31/85, Notice 4/24/85—published 6/19/85, effective 7/24/85]
- [Filed 8/23/85, Notice 7/17/85—published 9/11/85, effective 10/16/85]
- [Filed 9/6/85, Notice 7/31/85—published 9/25/85, effective 10/30/85]
- [Filed 1/24/86, Notice 12/18/85—published 2/12/86, effective 3/19/86]
- [Filed 6/27/86, Notice 5/7/86—published 7/16/86, effective 8/20/86]
- [Filed 8/22/86, Notice 7/16/86—published 9/10/86, effective 10/15/86]
- [Filed 10/3/86, Notice 8/27/86—published 10/22/86, effective 11/26/86]
- [Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]
- [Filed emergency 12/23/87—published 1/13/88, effective 12/23/87]
- [Filed 12/23/87, Notice 11/18/87—published 1/13/88, effective 2/17/88]
- [Filed 2/19/88, Notice 1/13/88—published 3/9/88, effective 4/13/88]
- [Filed 8/19/88, Notice 7/13/88—published 9/7/88, effective 10/12/88]
- [Filed 1/19/90, Notice 12/13/89—published 2/7/90, effective 3/14/90]
- [Filed 8/30/90, Notice 7/25/90—published 9/19/90, effective 10/24/90]
- [Filed 10/26/90, Notice 9/19/90—published 11/14/90, effective 12/19/90]
- [Filed 11/9/90, Notice 10/3/90—published 11/28/90, effective 1/2/91]
- [Filed 11/7/91, Notice 10/2/91—published 11/27/91, effective 1/1/92]
- [Filed 10/23/92, Notice 9/16/92—published 11/11/92, effective 12/16/92]
- [Filed 11/20/92, Notice 10/14/92—published 12/9/92, effective 1/13/93]
- [Filed 9/10/93, Notice 8/4/93—published 9/29/93, effective 11/3/93]
- [Filed 5/20/94, Notice 4/13/94—published 6/8/94, effective 7/13/94]
- [Filed 9/23/94, Notice 8/17/94—published 10/12/94, effective 11/16/94]
- [Filed 1/12/96, Notice 12/6/95—published 1/31/96, effective 3/6/96]
- [Filed 8/23/96, Notice 7/17/96—published 9/11/96, effective 10/16/96]
- [Filed 10/17/97, Notice 9/10/97—published 11/5/97, effective 12/10/97]
- [Filed 7/10/98, Notice 6/3/98—published 7/29/98, effective 9/2/98]
- [Filed 10/2/98, Notice 8/26/98—published 10/21/98, effective 11/25/98]
- [Filed 11/13/98, Notice 10/7/98—published 12/2/98, effective 1/6/99]
- [Filed 12/23/99, Notice 11/17/99—published 1/12/00, effective 2/16/00]
- [Filed 1/5/01, Notice 11/29/00—published 1/24/01, effective 2/28/01]
- [Filed 5/24/01, Notice 4/18/01—published 6/13/01, effective 7/18/01]
- [Filed 12/7/01, Notice 10/31/01—published 12/26/01, effective 1/30/02]
- [Filed 2/1/02, Notice 12/26/01—published 2/20/02, effective 3/27/02]
- [Filed 3/15/02, Notice 1/23/02—published 4/3/02, effective 5/8/02]
- [Filed 3/15/02, Notice 2/6/02—published 4/3/02, effective 5/8/02]

[Filed 10/11/02, Notice 9/4/02—published 10/30/02, effective 12/4/02]∅
[Filed 11/8/02, Notice 10/2/02—published 11/27/02, effective 1/1/03]
[Filed 1/17/03, Notice 12/11/02—published 2/5/03, effective 3/12/03]
[Filed 9/26/03, Notice 8/20/03—published 10/15/03, effective 11/19/03]∅
[Filed 10/24/03, Notice 9/17/03—published 11/12/03, effective 12/17/03]∅
[Filed 11/6/03, Notice 10/1/03—published 11/26/03, effective 12/31/03]
[Filed 12/5/03, Notice 10/15/03—published 12/24/03, effective 1/28/04]∅
[Filed 12/31/03, Notice 11/26/03—published 1/21/04, effective 2/25/04]
[Filed 1/30/04, Notice 12/24/03—published 2/18/04, effective 3/24/04]∅
[Filed 8/12/04, Notice 7/7/04—published 9/1/04, effective 10/6/04]
[Filed 9/24/04, Notice 8/18/04—published 10/13/04, effective 11/17/04]
[Filed 10/22/04, Notice 9/15/04—published 11/10/04, effective 12/15/04]
[Filed 11/4/04, Notice 9/29/04—published 11/24/04, effective 12/29/04]
[Filed 12/3/04, Notice 10/27/04—published 12/22/04, effective 1/26/05]
[Filed 1/14/05, Notice 12/8/04—published 2/2/05, effective 3/9/05]
[Filed 9/22/05, Notice 8/3/05—published 10/12/05, effective 11/16/05]∅
[Filed 10/20/05, Notice 9/14/05—published 11/9/05, effective 12/14/05]
[Filed 12/30/05, Notice 11/23/05—published 1/18/06, effective 2/22/06]∅