

*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: Income taxed by another 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.

**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.**

**42.6(1) Motor fuel credit for tax years beginning on or after January 1, 1975, but before July 1, 1986.** An individual may elect to receive an income tax credit in lieu of the motor fuel tax refund provided by Iowa Code chapter 452A. An individual who holds a motor fuel refund permit under Iowa Code section 452A.18 must cancel the permit before the taxpayer becomes eligible to take a motor fuel credit on the individual's income tax return. The permit must be canceled within 30 days after the first day of the individual's tax year. Once an election is made, it will continue for subsequent tax years unless a new motor fuel tax refund permit is obtained.

The amount of income tax credit shall 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 shall be deducted on the tax return filed for the 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 credited to income tax due in subsequent years.

The motor fuel credit option is available on individual income tax returns filed for tax years beginning on or after January 1, 1975.

Effective for tax returns which are timely filed after January 1, 1980, members of partnerships or S corporations may claim a credit for their respective shares of the motor vehicle fuel tax paid by the partnership or S corporation. The credit is to be shared in the same ratio as the person's pro rata share of the earnings from the partnership or S corporation. In order to be eligible for the tax credit, the partnership or S corporation must not hold a valid motor vehicle fuel refund permit during the tax year or the permit must have been canceled within 30 days after the beginning of the tax year. A schedule must be attached to the individual's return showing the distribution of gallons and the amount of credit claimed by each partner or shareholder.

**42.6(2) Motor fuel credit for tax years beginning on or after July 1, 1986.** 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 qualify 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 701—subrule 39.6(2), paragraph "b."

**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.  | 4,705           |
| Line 15 - | Adjusted net minimum tax. Subtract amount on line 14 from amount on line 13.                  | <u>\$37,312</u> |
| 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.<br>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.  | \$18,588        |
| 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<br>(line 17<br>IA 6251)<br>1988 | × | *Iowa source tax pref.<br>and adjustments<br><u>*Total tax preference<br/>and adjustments</u> | = | Minimum<br>tax credit<br>line 15<br>IA 8801 |
|---|---|---|---|---|

\*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. This refundable child and dependent care credit is in lieu of the nonrefundable child and dependent care credit which was applicable for tax years beginning on or after January 1, 1977, but before January 1, 1990, and is described in subrule 42.2(3).

**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<br>Gross Income<br>(Net Income for Tax Years Beginning<br>on or After January 1, 1991) | Percentage of Federal<br>Child and Dependent<br>Credit Allowed on 1991<br>or 1992 Iowa Return | Percentage of<br>Federal Credit<br>Allowed for 1993<br>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:

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

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

**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:

|   |   |   |   |  |
|---|---|---|---|--|
|   |   |   |   | <u>*Iowa net income</u>  |
| Federal child and dependent care credit | × | Percentage of federal child and dependent credit allowed on Iowa return from table in subrule 42.9(1) | × | Federal adjusted gross income or all source net income for tax years beginning on or after January 1, 1991 |

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

$$\begin{array}{r}
 \text{Federal} \\
 \text{child and} \\
 \text{dependent} \\
 \text{care credit} \\
 \\
 \$800
 \end{array}
 \times
 \begin{array}{r}
 \text{Percentage of} \\
 \text{federal child and} \\
 \text{dependent care} \\
 \text{credit allowed} \\
 \text{on Iowa return} \\
 \\
 50\%
 \end{array}
 = \$400
 \times
 \begin{array}{r}
 \text{Iowa net income} \\
 \\
 \frac{\$25,000}{\$30,000}
 \end{array}
 = \$333$$

All source  
net income

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

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

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.** An individual taxpayer making an investment in an initial offer of securities by a qualified business or a qualified seed capital fund is allowed an income tax credit of 10 percent of the amount of the investment provided the investment is made on or after April 26, 1990, but prior to January 1, 1996. In instances where a partnership, subchapter S corporation, or estate or trust makes an investment that would be eligible for the seed capital credit, the investment is allocated to the individuals who are partners, shareholders, or beneficiaries of the entities on the basis of the individuals' pro rata shares of the earnings of the partnership, subchapter S corporation, or estate or trust.

**42.10(1) Definitions.**

*a.* For the purposes of this rule, the term “*agricultural processing*” means the processing of agricultural products. Agricultural products are things which have a situs of their production upon the farm and which are brought into condition for uses of society by labor of those engaged in agricultural pursuits as contradistinguished from manufacturing or other industrial pursuits. In re *Rodgers*, 134 Neb. 832, 279 N.W. 800, 803, 1988 O.A.G. 51.

b. For the purposes of this rule, the term “*assembling products*” means collection or gathering together parts and placing them in their proper relation to each other. *Citizen’s Nat. Bank v. Bucheit*, 71 So 82.

c. For the purposes of this rule, the term “*fishery processing*” means the processing of fish. Fish are animals which inhabit the water, breathe by means of gills, swim by the aid of fins, and are oviparous. The term includes crabs, *State v. Savage*, 96 Or. 53, 184 P. 567, 570; scallops, *State v. Dudley*, 182 N.C. 822, 109 S.E. 63, 65; and mussels and other shellfish, *Gratz v. McKee*, C.C.A. MO., 258 F. 335, 336.

d. For the purposes of this rule, the term “*forest processing*” means the processing of timber. Timber means trees, felled or standing, that are suitable to be used for building. *Feneley v. Kimmell*, 29, N.W.2d 289.

e. For the purposes of this rule, the term “*manufacturing*” is the creation of a new and different article which has a distinctive name, character, and use, but construction of a building is not considered manufacturing, nor is engineering; and manufacturing is nearly always associated with the use of manual or mechanical energy and the word is not ordinarily used to describe products of labor entirely or mainly intellectual or clerical in character. *Hazen Engineering Co. v. City of Pittsburgh*, 151 A.2d 855.

f. For the purposes of this rule, the term “*person*” includes individual, corporation, business trust, estate, trust, partnership, association, or any other legal entity.

g. For the purposes of this rule, the term “*processing*” means an operation or a series of operations whereby tangible personal property is subjected to some special treatment by artificial or natural means which changes its form, context, or condition, and results in marketable tangible personal property. These operations are commonly associated with fabricating, compounding, germinating, or manufacturing. Quarrying is not processing, but crushing and screening of limestone after quarrying is processing. *Linwood Stone Products v. State Department of Revenue*, 175 N.W.2d 393 (Iowa 1970).

“Processing” begins when the “form, context, or condition” of tangible personal property is changed with the intent of eventually transforming the property into a salable finished product. The severance of raw material from real estate is not processing, even if this severance results in a change in the form, context, or condition of the real estate. *Linwood Stone Products Co. v. State Department of Revenue*, 175 N.W.2d 393 (Iowa 1970). Furthermore, transportation of raw material after it is severed from real estate, but prior to the time the initial change in the form, context, or condition of the raw material occurs, is not processing. *Southern Sioux County Rural Water System, Inc. v. Iowa Department of Revenue*, 383 N.W.2d 585 (Iowa 1986).

“Processing” ends when the property being processed is in the form in which it is ultimately intended to be sold at retail, *Hy-Vee Food Stores v. Iowa Department of Revenue*, 379 N.W.2d 37 (Iowa 1985). The storage or transport of property after that property is transformed into a finished product is not a part of processing.

h. For the purposes of this rule, the term “*research and development*” means not only fundamental research but also applied research such as testing and experimental construction and production.

i. For the purposes of this rule, the term “*unaffiliated and nonrelated person, partnership, or corporation*” means that the taxpayer does not have one or more of the following relationships with the entity in which the investment is made:

(1) Members of a family which include only wife or husband; brother or sister (including half-brother and half-sister); father, mother, grandparent, or any other ancestor; and children, grandchildren, or any other descendants.

(2) An individual and a corporation more than 50 percent in value of the outstanding stock of which is owned, directly or indirectly, by or for the individual.

(3) Two corporations which are members of the same controlled group of corporations as defined in Section 267(f) of the Internal Revenue Code.

(4) A grantor and a fiduciary of any trust.

(5) A fiduciary of a trust and the fiduciary of another trust if the same person is the grantor of both trusts.

(6) A fiduciary of a trust and a beneficiary of the trust.

(7) A fiduciary of a trust and a beneficiary of another trust if the same person is the grantor of both trusts.

(8) A fiduciary of a trust and a corporation more than 50 percent in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust.

(9) A corporation and a partnership if the same persons own more than 50 percent in value of the outstanding stock of the corporation, and more than 50 percent of the capital interest or the profits interest in the partnership.

(10) An S corporation and another S corporation if the same persons own more than 50 percent in value of the outstanding stock of each corporation.

(11) An S corporation and a C corporation if the same persons own more than 50 percent in value of the outstanding stock of each corporation.

*j.* For the purposes of this rule, the constructive ownership of stock will be determined as follows:

(1) Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust will be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries;

(2) An individual will be considered as owning the stock owned, directly or indirectly, by or for the individual's family;

(3) An individual owning (otherwise than by application of (2) above) any stock in a corporation will be considered as owning the stock owned, directly or indirectly, by or for the individual's partner;

(4) The family of an individual includes the individual's brothers and sisters (including half-brothers and half-sisters), spouse, ancestors, lineal descendants, and persons related to each other by blood, marriage, or adoption; and

(5) Stock constructively owned by a person by reason of the application of (1) above will, for the purpose of applying (1), (2), or (3) above be treated as actually owned by the person, but stock constructively owned by an individual by reason of the application of (2) or (3) above will not be treated as owned by the individual for the purpose of again applying either of (2) or (3) above in order to make another the constructive owner of the stock.

*k.* For the purposes of this rule, to determine the constructive ownership of a capital interest or profits interest of a partnership the principles of "*j*" above will apply, except:

(1) Subparagraph (3) of "*j*" above will not apply; and

(2) Interests owned (directly or indirectly) by or for a C corporation will be considered as owned by or for any shareholder only if the shareholder owns (directly or indirectly) 5 percent or more in value of the stock of the corporation.

**42.10(2)** *Seed capital fund.*

a. In order to qualify, investors in the fund for the seed capital credit must meet all of the following conditions.

(1) The investments must be in shares or other equity interests, which are purchased for money consideration and carry voting rights, and

(2) The issue of shares or other equity interests must be registered under an expedited registration by a filing system as provided in Iowa Code section 502.207A.

b. Its capital base must be used to make investments exclusively in the following types of businesses:

(1) Interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products,

(2) Agricultural, fishery, or forestry processing, or

(3) Research and development of products and processes associated with any of the activities enumerated in (1) and (2).

c. Its capital base must be used to make qualified investments according to the following schedule:

(1) Invest at least 30 percent of its capital base, raised through investments for which tax credits were taken, within three years of the fiscal year in which tax credits were claimed.

(2) Invest at least 50 percent of its capital base, raised through investments for which tax credits were taken, within four years of the fiscal year in which tax credits were claimed.

(3) Invest at least 70 percent of its capital base, raised through investments for which tax credits were claimed, within five years of the fiscal year in which tax credits were claimed.

(4) More than 20 percent of the total funds raised for which tax credits were claimed must not be invested in any one qualified business.

**42.10(3)** *Qualified business.* In order to be a qualified business for purposes of qualifying investments in the business for the seed capital credit, all of the following conditions must be met:

a. The business must be engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products; agricultural, fishery, or forest processing; research and development of products and processes associated with the above activities;

b. The shares offered by the business for purposes of the seed capital credit must be purchased by the taxpayer investor for money consideration and the shares must carry full voting rights;

c. The shares must be offered in an offering registered under an expedited registration by filing system as provided in Iowa Code section 502.207A.

**42.10(4)** *Tax treatment for disposal of investment within two years.* If during the tax year the investment or a portion of the investment in the seed capital fund or the qualified business is disposed of prior to having been owned by the taxpayer for two years, the tax is increased by the amount of the credit taken on the investment or portion of the investment. For example, an individual made a \$10,000 investment for 100 shares in a qualified seed capital fund in December 1991 and claimed a \$1,000 seed capital income tax credit on the 1991 return of the taxpayer. In August 1992, the taxpayer sold 50 of the shares for \$4,000. On the taxpayer's 1992 return, the taxpayer must increase the tax liability by \$500 to account for the credit that is recaptured because of the taxpayer's failure to hold the seed capital shares for the two-year holding period.

If a taxpayer makes an investment in a seed capital fund or a qualified business in a tax year and disposes of the investment during the tax year, no tax credit will be allowed and recapture of the credit will not be necessary.

**42.10(5) *Carryover of the seed capital credit.*** If the seed capital credit for which the taxpayer qualifies is greater than the state income tax liability of the taxpayer for the tax year in which the investment was made, the portion of the credit which exceeds the liability may be carried over to the subsequent tax year. If the remaining seed capital is not used in the subsequent tax year, the credit may be carried over to the income tax returns for the following four tax years or until the credit is exhausted. In a situation where a taxpayer's seed capital credit is greater than the taxpayer's liability for the year the credit arises and the next five years, the unused portion of the credit expires.

**42.10(6) *Investments eligible for the seed capital credit.*** If a taxpayer makes an investment in securities offered by a seed capital fund or a qualified business, the taxpayer will be eligible for the seed capital income tax credit only if the investment is in an unaffiliated and unrelated person, partnership, or corporation.

**42.10(7) *Statement of qualified investment to be included in income tax return.*** A taxpayer who wants to claim a seed capital income tax credit for an investment in a qualified seed capital fund or qualified business must include a copy of a signed statement from a corporate officer or designated agent of the seed capital fund or qualified business with the individual income tax return to attest to the investment in the fund or qualified business. The signed statement must provide a statement to the effect that the signer of the statement is subject to the penalty of perjury if the statement on the form is not accurate.

**42.10(8) *Seed capital or qualified businesses may be subject to audit.*** Seed capital funds or qualified businesses which qualify investors for the seed capital income tax credit will be subject to audit by department of revenue and finance employees to ascertain if all qualifications and conditions for the credit have been met.

**42.10(9) *Filing annual reports with the department.*** The issuer of shares qualifying for the seed capital fund income tax credit must file a copy of its annual report with the department for the first year in which the shares are offered as well as annual reports for the following two years. These reports are to be sent to the address shown below:

Iowa Department of Revenue and Finance  
Audit and Compliance Division  
Hoover State Office Building  
P.O. Box 10456  
Des Moines, Iowa 50306

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

**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 and finance 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 finance 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 and finance 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.

The credit must be computed by recomputing the amount of tax computed under Iowa Code section 422.5 by reducing the shareholder's taxable income by the shareholder'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 pro-rata share of the franchise tax paid by the financial institution, is the amount of tax credit allowed the shareholder.

This rule is intended to implement Iowa Code section 422.11 created by 1997 Iowa Acts, Senate File 553.

**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 1998 Iowa Acts, chapter 1179.

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.

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 1998 Iowa Acts, chapter 1179, 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 1998 Iowa Acts, chapter 1179. This is because it is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability.

This rule is intended to implement 1998 Iowa Acts, chapter 1179.

**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 and finance 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.

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