

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 421.17, the Department of Revenue hereby amends Chapter 151, “Collection of Debts Owed to the State of Iowa or a State Agency,” Iowa Administrative Code.

The new rule is intended to implement Iowa Code section 421.17(32), the Director’s authority to subpoena certain records from utility companies. These records will be used to assist the Department in locating individuals who have a debt or obligation placed with the centralized collection unit of the Department. Subpoenas for these records will be issued when the Department, through reasonable efforts, has been unable to locate these individuals.

The new rule provides more specific guidance on the procedures to be followed by both the Department and the utility company when such a subpoena is issued. This rule ensures consistency in Department procedures for issuing such subpoenas. The rule also provides better guidance to utilities about their rights and obligations with regard to such subpoenas. Finally, the prescribed procedures help ensure that account information is handled in a secure and confidential manner.

The amendment will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions. Any person who believes that the application of the discretionary provisions of this amendment would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 21, 2012, as **ARC 0052C**. The Department received written comments from the Iowa Telecommunications Association. After meeting with a representative from the Association, the Department has incorporated many of the Association’s suggestions and made additional clarifications as follows:

1. Added a definition of “utility” so that it can be used in the rule instead of repeatedly using the term “public or private utility company.”
2. Added the term “data transfer” to the catchwords for subrule 151.9(2) to better reflect the content of the subrule.
3. Provided a better description of the actual process and procedures of the Department and utilities by adding new paragraph 151.9(2)“a” and amending relettered paragraphs “b” and “c” of subrule 151.9(2).

After review, the Department has determined this rule will not have an impact on jobs.

This amendment is intended to implement Iowa Code section 421.17(32).

This amendment will become effective June 20, 2012.

The following amendment is adopted.

Adopt the following new rule 701—151.9(421):

701—151.9(421) Subpoena of records from public or private utility companies. The director may, to the extent permissible by federal law, subpoena certain records held by a public or private utility company with respect to an individual who has a debt or obligation placed with the centralized collection unit of the department. This authority may be used only after reasonable efforts have been made by the centralized collection unit of the department to locate the individual.

151.9(1) Definitions.

a. “Public or private utility company” means a public utility, cable, video, or satellite television company, cellular telephone company, or Internet service provider.

b. “Reasonable efforts,” for purposes of this rule, will be considered complete when the following procedures have been performed by the department:

- (1) The department has received returned and undeliverable mail sent to the individual’s most recent address known to the department; and

(2) The department has attempted to reach the individual at the listed telephone number and discovered that the telephone number is incorrect or the telephone has been disconnected.

c. “Utility” means the same as “public or private utility company” as defined in paragraph 151.9(1)“a.”

151.9(2) Procedure for issuing a subpoena; data transfer.

a. The department will contact the utility to obtain agreement upon the subpoena process; the form, format and transmission method of a secure data file; and the schedule for both the subpoena and the data.

b. The department shall submit the subpoena to the utility’s designated recipient on or before the date a secure data file is submitted for processing. The subpoena will include the director’s authority to make the request, the name of the file submitted for processing, the information to be provided for each individual, the expected response date, and the department’s contact information. The data file provided to the utility by the department will include social security numbers, names, and last-known addresses in the mutually agreed-upon format.

c. Upon receipt of the department’s data file, the utility will match the data file against its current customer information and return to the department the current last name, first name, middle name, address 1, address 2, city, state, ZIP code and telephone number for any current customer information that matches the social security number and designated characters of the last name as provided by the department. The department will not request or require any information from the utility other than the current address and telephone number.

d. Within 30 days of receiving the department’s data file, the utility will process and return the data file to the department using the agreed-upon secure file transfer process.

e. When the data file is returned, the department will match the returned data with the social security number and designated characters of the current customer’s last name before updating its collections system with the new address or telephone number.

f. The department will use the address and telephone number received from the utility to contact the individual for collection purposes.

151.9(3) Confidentiality. The utility must keep confidential all records received from the department. After the department has received the requested information from the utility, the utility must delete the data files it received in a secure manner. The department must keep confidential all records received from the utility in compliance with all applicable state and federal laws regarding individual privacy and the privacy rights of public and private utility companies.

This rule is intended to implement Iowa Code section 421.17(32).

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