

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3 and 421.17, the Department of Revenue hereby gives Notice of Intended Action to adopt new Chapter 237, “Reinvestment Districts Program,” Iowa Administrative Code.

The subject matter of proposed Chapter 237 is the administration of the state reinvestment district fund for the Reinvestment Districts Program. In 2013 Iowa Acts, House File 641, the General Assembly authorized the Economic Development Authority to establish and administer the Iowa Reinvestment Act, a program that provides certain state hotel and motel and sales tax revenues to be reinvested into designated reinvestment districts. The Department of Revenue is charged with administering the calculation of state sales tax and hotel and motel tax funding under the program and with remitting that funding to governmental entities with eligible districts.

The proposed chapter will necessitate additional expenditures by the Department of Revenue; however, the Department is statutorily required to administer the sales tax increment fund for the Reinvestment Districts Program pursuant to 2013 Iowa Acts, House File 641.

Any person who believes that the application of the discretionary provisions of these rules would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than April 7, 2014, to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 14457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on the proposed rules on or before March 25, 2014. Such written comments should be directed to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 14457, Des Moines, Iowa 50306. Electronic submissions may be directed to Alana Stamas at idrpolicy@iowa.gov. Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by March 25, 2014.

After analysis and review of this rule making, no negative impact on jobs has been found, and the Department finds that the new program is likely to benefit the Iowa economy by investing up to \$100 million of future tax revenue in economically distressed areas of the state and by increasing private investment in those areas.

These rules are intended to implement Iowa Code chapter 15J.

The following amendment is proposed.

Adopt the following **new** 701—Chapter 237:

CHAPTER 237
REINVESTMENT DISTRICTS PROGRAM

701—237.1(15J) Purpose. The economic development authority board is authorized by the general assembly and the governor to oversee the implementation and administration of certain provisions of a new economic development program known as the Iowa Reinvestment Act, which was enacted in 2013 Iowa Acts, House File 641. The program provides for as much as \$100 million in state hotel and motel and state sales tax revenues from new revenue-generating projects in certain districts to be reinvested within those districts. In general, the economic development authority has the responsibility to evaluate projects and make funding decisions, while the department of revenue has the responsibility for collecting the tax revenues used to fund projects under the program and making payments to municipalities. This chapter sets forth the department of revenue’s administration of the calculation of the state sales tax and hotel and motel tax funding and the remittance of such funding to governmental entities. The administrative rules for other aspects of the Iowa reinvestment Act may be found in the economic development authority’s rules at 261—Chapter 200.

This rule is intended to implement Iowa Code chapter 15J.

701—237.2(15J) Definitions.

“*Board*” means the economic development authority board established pursuant to Iowa Code section 15.105.

“*Commencement date*” means the date established for each district by the board under Iowa Code section 15J.4, subsection 3, upon which the calculation of new state sales tax and new state hotel and motel tax revenue for deposit in the fund shall begin.

“*Department*” means the department of revenue.

“*District*” means the area within a municipality that is designated a reinvestment district pursuant to Iowa Code section 15J.4.

“*Fund*” means the state reinvestment district fund created in Iowa Code section 15J.6.

“*Governing body*” means the county board of supervisors, city council, or other body in which the legislative powers of the municipality are vested.

“*Municipality*” means a county or an incorporated city.

“*New lessor*” means a lessor, as defined in Iowa Code section 423A.2, operating a business in the district that was not in operation in the area of the district before the effective date of the ordinance establishing the district, regardless of ownership. “*New lessor*” also includes any lessor, as defined in Iowa Code section 423A.2, operating a business in the district if the place of business for that business is the subject of a project that was approved by the board.

“*New retail establishment*” means a business operated in the district by a retailer, as defined in Iowa Code section 423.1, that was not in operation in the area of the district before the effective date of the ordinance establishing the district, regardless of ownership. “*New retail establishment*” also includes any business operated in the district by a retailer, as defined in Iowa Code section 423.1, if the place of business for that retail establishment is the subject of a project that was approved by the board.

“*Project*” means a vertical improvement constructed or substantially improved within a district using sales tax revenues and hotel and motel tax revenues received by a municipality pursuant to this chapter. “*Project*” does not include any of the following:

1. A building, structure, or other facility that is in whole or in part used or intended to be used to conduct gambling games under Iowa Code chapter 99F.
2. A building, structure, or other facility that is in whole or in part used or intended to be used as a hotel or motel if such hotel or motel is connected to or operated in conjunction with a building, structure, or other facility described in paragraph “1” above.

“*State hotel and motel tax*” means the state-imposed tax under Iowa Code section 423A.3.

“*State reinvestment district fund*” means the fund created in Iowa Code section 15J.6, pursuant to Iowa Code section 423.2, subsection 11, paragraph “b,” and Iowa Code section 423A.6, and described in rule 701—237.4(15J).

“*State sales tax*” means the sales and services tax imposed pursuant to Iowa Code section 423.2.

“*Substantially improved*” means that the cost of the improvements are equal to or exceed 50 percent of the assessed value of the property, excluding the land, prior to such improvements.

“*Vertical improvement*” means a building that is wholly or partially above grade and all appurtenant structures to the building.

This rule is intended to implement Iowa Code section 15J.2.

701—237.3(15J) New state tax revenue calculations.

237.3(1) State sales tax calculation. The department shall calculate quarterly the amount of new state sales tax revenues for each district established in the state to be deposited in the state reinvestment district fund, subject to remittance limitations established by the board.

The amount of new state sales tax revenue for purposes of this subrule shall be the product of the amount of sales subject to the state sales tax in the district during the quarter from “new retail establishments,” as defined in rule 701—237.2(15J), multiplied by 4 percent.

237.3(2) State hotel and motel tax calculation. Pursuant to Iowa Code section 423A.6, the department shall calculate quarterly the amount of new state hotel and motel tax revenues for each district established in the state to be deposited in the state reinvestment district fund created in Iowa Code section 15J.6, subject to remittance limitations established by the board pursuant to Iowa Code section 15J.4, subsection 3.

The amount of new state hotel and motel tax revenue for purposes of this subrule shall be the product of the amount of sales subject to the state hotel and motel tax in the district during the quarter from “new lessors,” as defined in rule 701—237.2(15J), multiplied by the state hotel and motel tax rate imposed under Iowa Code section 423A.3.

237.3(3) Identification of new retail establishments and new lessors. Each municipality that has established a district under this chapter shall assist the department in identifying new retail establishments in the district that are collecting state sales tax and new lessors in the district that are collecting state hotel and motel tax. This process shall be ongoing until the municipality ceases to utilize state sales tax revenue or state hotel and motel tax revenue under this chapter or the district is dissolved.

This rule is intended to implement Iowa Code sections 15J.5, 423.2(11) and 423A.6.

701—237.4(15J) State reinvestment district fund.

237.4(1) Establishment of the fund. A state reinvestment district fund is established in the state treasury under the control of the department consisting of the new state sales tax revenues collected within each district and deposited in the fund pursuant to Iowa Code section 423.2, subsection 11, paragraph “b,” and the new state hotel and motel tax revenues collected within each district and deposited in the fund pursuant to Iowa Code section 423A.6. Moneys deposited in the fund are appropriated to the department for the purposes of remittance of moneys to municipalities as set forth in subrule 237.4(3). Moneys in the fund shall only be used as set forth in economic development authority rule 261—200.8(15J).

237.4(2) District accounts. A district account is created within the fund for each district created by a municipality under Iowa Code chapter 15J.

237.4(3) Timing of deposits. The department shall deposit the moneys described in subrule 237.4(1) that were collected in a quarter beginning on or after the district’s commencement date into the appropriate district account in the fund. However, moneys shall not be deposited in the fund before the period for processing returns for the quarter is complete.

237.4(4) Late-filed returns. Moneys described in subrule 237.4(1) that are collected from late-filed returns shall be deposited in the fund. Such moneys shall be deposited following the period for processing returns for the quarter in which the late return is received, subject to the limitations of Iowa Code chapter 15J.

237.4(5) Reinvestment project fund deposits. All moneys in each district account within the fund shall be remitted quarterly by the department to the municipality that established the district for deposit in the municipality’s reinvestment project fund described in rule 701—237.5(15J).

237.4(6) Refund claims. If the moneys described in subrule 237.4(1) are the subject of a refund claim and that claim is granted by the department, the department may offset any refund at a later date against

funds remitted to the district in which the new retail establishment or new lessor that had remitted the refunded tax amount is located.

This rule is intended to implement Iowa Code section 15J.6.

701—237.5(15J) Reinvestment project fund.

237.5(1) *Reinvestment project fund deposits.* State sales tax revenue and state hotel and motel tax revenue remitted by the department to a municipality pursuant to Iowa Code section 15J.6 shall be deposited in a reinvestment project fund of the municipality and shall be used to fund projects within the district from which the revenues were collected. If the municipality determines that the revenue accruing to the reinvestment project fund exceeds the amount necessary for these purposes, the excess moneys that are remittances received under Iowa Code section 15J.6 and all interest in the fund attributable to such excess amounts shall be remitted by the municipality to the department for deposit in the general fund of the state.

237.5(2) *Other funds.* In addition to the moneys received pursuant to subrule 237.4(1), a municipality may deposit in the reinvestment project fund any other moneys lawfully at the municipality's disposal, including but not limited to local sales and services tax receipts collected under Iowa Code chapter 423B if such use is a purpose authorized for the municipality under Iowa Code chapter 423B.

237.5(3) *Use of funds.* Moneys from any source deposited into the reinvestment project fund shall not be expended for or otherwise used in connection with a project that includes the relocation of a commercial or industrial enterprise not presently located within the municipality.

For the purposes of this subrule, "relocation" means the closure or substantial reduction of an enterprise's existing operations in one area of the state and the initiation of substantially the same operation in the same county or a contiguous county in the state. "Relocation" does not include an enterprise expanding its operations in another area of the state provided that existing operations of a similar nature are not closed or substantially reduced.

237.5(4) *Remittance of unused funds.* Upon dissolution of a district pursuant to rule 701—237.6(15J), if moneys remitted to the municipality pursuant to subrule 237.4(1) remain in the municipality's reinvestment project fund and those moneys are not necessary to support completion of a project in the dissolved district, such amounts and all interest remaining in the fund that was earned on such amounts shall be remitted by the municipality to the department for deposit in the general fund of the state.

Upon dissolution of a district pursuant to rule 701—237.6(15J), moneys remaining in the reinvestment project fund that were deposited pursuant to subrule 237.5(2) and all interest remaining in the fund that was earned on such amounts shall be deposited in the general fund of the municipality.

237.5(5) *Audit of records.* The records of the municipality related to the district and the reinvestment project fund are subject to audit by the department or the auditor of state.

This rule is intended to implement Iowa Code section 15J.7.

701—237.6(15J) End of deposits—district dissolution.

237.6(1) *Cessation of deposits.* As of the date 20 years after the district's commencement date, the department shall cease to deposit state sales tax revenues and state hotel and motel tax revenues into the district's account within the fund, unless the municipality dissolves the district by ordinance prior to that date. Once the maximum benefit amount approved by the board for the district has been reached, the department will cease to deposit new tax revenues into the district's account within the fund. If a district reaches the maximum benefit amount, the department shall notify the municipality and the board within a reasonable amount of time.

237.6(2) *District dissolution.* If the municipality dissolves the district by ordinance prior to the expiration of the 20-year period, the municipality shall notify the director of revenue of the dissolution by certified mail as soon as practicable after adoption of the ordinance, and the department shall, as of the effective date of dissolution, cease to deposit state sales tax revenues and state hotel and motel tax revenues into the district's account within the fund. If a municipality is notified that its maximum

benefit amount has been reached, the municipality shall dissolve the district by ordinance as soon as practicable after notification.

This rule is intended to implement Iowa Code section 15J.8.