

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 chapter 426C, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 80, “Property Tax Credits and Exemptions,” Iowa Administrative Code.

The subject matter of rule 701—80.30(426C) is the business property tax credit. The rule implements Iowa Code chapter 426C. The amendment updates the rule to reflect several legislative changes that occurred during the Eighty-Sixth General Assembly, Second Session.

Any interested person may make written suggestions or comments on the proposed amendment on or before February 9, 2016. Such written comments should be directed to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue at (515)281-8450 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 February 9, 2016.

After analysis and review of this rule making, no fiscal impact has been found.

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.

After analysis and review of this rule making, no adverse impact on jobs has been found.

This amendment is intended to implement Iowa Code chapter 426C.

The following amendment is proposed.

Amend rule 701—80.30(426C) as follows:

701—80.30(426C) Business property tax credit.

80.30(1) Definitions. For purposes of this rule, the following definitions shall govern.

“*Contiguous parcels*” means any of the following:

1. Parcels that share a common boundary. There is a rebuttable presumption that parcels separated by a roadway, alley, or waterway do not share a common boundary. The burden of proof shall be upon the property owners to provide evidence or verification that parcels separated by a roadway, alley, or waterway share a common boundary. Parcels owned to the middle of a road, waterway, alley, or railway in fee simple title are considered to share a common boundary.

2. Parcels within the same building or structure regardless of whether the parcels share a common boundary.

3. Permanent improvements to the land that are situated on one or more parcels of land that are assessed and taxed separately from the permanent improvements if the parcels of land upon which the permanent improvements are situated share a common boundary. This arrangement is more commonly referred to as buildings or permanent improvements that are taxed as buildings upon leased land.

“*Dwelling unit*” means an apartment, group of rooms, or single room that is occupied as separate living quarters, or, if vacant, is intended for occupancy as separate living quarters, in which a tenant can live and sleep separately from any other persons in the building. A vacant dwelling unit that does not have active utility services is not considered to be intended for occupancy. Dwelling units do not include hotels, motels, inns, or other buildings where rooms are rented for less than one month.

~~“Multiresidential property” means, for valuations established on or after January 1, 2015, any of the following types of property:~~

- ~~1. Mobile home park as defined in Iowa Code section 435.1.~~
- ~~2. Manufactured home community and land-leased community as defined in Iowa Code sections 335.30A and 414.28A and 2013 Iowa Acts, chapter 123, section 28.~~
- ~~3. Assisted living facility as defined in Iowa Code section 231C.2. Assisted living facility also includes:~~
 - ~~● A health care facility as defined in Iowa Code section 135C.1;~~
 - ~~● A child foster care facility under Iowa Code chapter 237; or~~
 - ~~● Property used for a hospice program as defined in Iowa Code section 135J.1.~~
- ~~4. Property primarily used or intended for human habitation containing three or more separate dwelling units.~~
- ~~5. That portion of a building that is used or intended for human habitation and a proportionate share of the land upon which the building is situated, regardless of the number of dwelling units located in the building, if the use for human habitation is not the primary use of the building and such building is not otherwise classified as residential property.~~

~~Multiresidential property does not include hotels, motels, inns, or other buildings where rooms or dwelling units are usually rented for less than one month.~~

~~“Parcel” means each separate item shown on the tax list, manufactured or mobile home tax list, schedule of assessment, or schedule of rate change or charge. For fiscal years beginning on or after January 1, 2016, “parcel” also means that each portion of a parcel assigned to be commercial property, industrial property, or railway property pursuant to 2013 Iowa Acts, chapter 123, section 28 a distinct classification as set forth in rule 701—71.1(405,427A,428,441,499B).~~

~~“Person” means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.~~

~~“Property unit” means contiguous parcels all of which are located within the same county, with the same property tax classification, are owned by the same person, and are operated by that person for a common use and purpose.~~

80.30(2) No change.

80.30(3) *Application for credit.*

a. No change.

b. For a business property tax credit against property taxes due and payable during fiscal years beginning on and after July 1, 2015, and before July 1, 2017, no business property tax credit shall be allowed unless the first application for business property tax credit is received in the office of the applicable city or county assessor on or before March 15 preceding the fiscal year during which the credit first is claimed. For example, the first application for a business property tax credit against property taxes due and payable during the fiscal year beginning July 1, 2016, must be received in the office of the applicable city or county assessor on or before March 15, 2016.

c. For a business property tax credit against property taxes due and payable during fiscal years beginning on or after July 1, 2017, no business property tax credit shall be allowed unless the first application for the business property tax credit is received in the office of the applicable city or county assessor on or before July 1 preceding the fiscal year during which the credit is first claimed. For example, the first application for a business property tax credit against property taxes due and payable during the fiscal year beginning July 1, 2017, must be received in the office of the applicable city or county assessor on or before July 1, 2016.

e. d. A claim filed after the filing deadlines set forth in paragraphs 80.30(3) “*a*,” and 80.30(3) “*b*,” and 80.30(3) “*c*” will be applied against property taxes due and payable for the following year.

d. e. Once filed, the claim for credit is applicable to subsequent years, and no further filing shall be required as long as the parcel or property unit satisfies the requirements of the credit. If the parcel or property unit ceases to qualify for the credit, the owner shall provide written notice to the assessor by the date for filing claims in ~~paragraph~~ paragraphs 80.30(3) “*b*” and 80.30(3) “*c*,” as applicable, following the date on which the parcel or property unit ceases to qualify for the credit. When all or a portion of a

parcel or property unit that is allowed a credit is sold or transferred or ownership otherwise changes, the buyer, transferee, or new owner who wishes to receive the credit shall refile the claim for credit. When a portion of a parcel or property unit that is allowed a credit is sold or transferred or ownership otherwise changes, the owner of the portion of the parcel or property unit for which ownership did not change shall refile the claim for credit. A transfer entered in the auditor’s transfer books under 2015 Iowa Code section 558.57 shall be prima facie evidence of a change in ownership of the parcel or property unit. The burden shall be on the claimant to prove that a transfer entered in the auditor’s transfer books did not result in a change in ownership. The deadline for refiling the claim shall be the same as the deadline for filing the claim.

~~e. f.~~ In the event ~~March 15~~ the application deadline falls on either a Saturday or Sunday, applications for the business property tax credit may be received in the office of the applicable city or county assessor the following Monday.

~~f. g.~~ In the event ~~March 15~~ the application deadline falls on a state holiday, applications for the business property tax credit may be received in the office of the applicable city or county assessor the following business day.

~~g. h.~~ For assessment years 2013, 2014, and 2015, Table 1 shows the applicable claim receipt deadlines and the taxes toward which the claim applies.

Table 1

	Assessment Year 2013	Assessment Year 2014	Assessment Year 2015	Assessment Year <u>2016</u>	Assessment Year <u>2017</u>
Claim Receipt Deadline	January 15, 2014	March 16, 2015* ¹	March 15, 2016	<u>July 1, 2016</u>	<u>July 3, 2017²</u>
For Taxes Payable	September 2014 & March 2015	September 2015 & March 2016	September 2016 & March 2017	<u>September 2017 & March 2018</u>	<u>September 2018 & March 2019</u>

*¹ March 15, 2015, falls on a Sunday.

² July 1, 2017, falls on a Saturday.

~~h. i.~~ An assessor may not refuse to accept an application for business property tax credit. Assessors shall remit claims for credit to the county auditor with a recommendation to allow or disallow the claim. If it is the opinion of the assessor that a business property tax credit should not be allowed, the assessor’s recommendation to the county auditor shall include in writing the reasons for recommending disallowance.

~~i. j.~~ Upon receipt from the assessor of the claims and recommendations, the county auditor shall forward the claims to the board of supervisors. The board shall allow or disallow the claims. If the board disallows a claim for credit, the board shall send written notice by mail to the claimant at the claimant’s last-known address. The written notice shall state the reasons for disallowing the claim for the credit. Notwithstanding the foregoing, the board is not required to send notice that a claim for credit is disallowed if the claimant voluntarily withdraws the claim.

80.30(4) Appeals.

a. No change.

b. *Reversal.* If the board of supervisors’ disallowance of the claim for credit is reversed upon appeal, the credit shall be allowed on the applicable parcel or property unit. The ~~director~~ department of revenue, the county auditor, and the county treasurer shall provide the credit and change their books and records accordingly. If the claimant has paid one or both of the installments of the tax payable in the year or years in question, the county treasurer shall remit the amount of the credit to the claimant and submit a request to the department for reimbursement from the business property tax credit fund. The amounts payable as credits awarded on appeal shall be allocated and paid from the balance remaining in the business property tax credit fund established in Iowa Code section 426C.2.

80.30(5) Audit.

a. *Authority and period.* The ~~director~~ department of revenue may audit any credit provided under ~~2013 Iowa Acts, chapter 123~~ Iowa Code section 426C.4. However, the ~~director~~ department shall not adjust a credit allowed more than three years from October 31 of the year in which the claim for credit was filed.

b. *Recalculation or denial.* If an audit reveals that the amount of the credit was incorrectly calculated or that the credit should not have been allowed, the ~~director~~ department shall recalculate the credit, if applicable, and notify both the claimant and the county auditor of the recalculation and the reasons it is being made.

c. *Recapture.* If the credit has already been paid, the ~~director~~ department shall notify the claimant, the county treasurer, and the applicable assessor of the recalculation or denial of the credit. If the claimant still owns the parcel or property unit for which the credit was claimed, the county treasurer shall collect the tax owed in the same manner as other due and payable property taxes are collected. If the claimant no longer owns the parcel or property unit for which the credit was claimed, the department may recover the amount of tax owed by filing a lien under Iowa Code section 422.26 or by issuing a jeopardy assessment under Iowa Code section 422.30. Upon collection, the amount of the erroneously allowed credit shall be deposited in the business property tax credit fund.

d. *Appeal of recalculation or denial.* The claimant or the board of supervisors may appeal any decision of the ~~director~~ department to the ~~state board of tax review~~ director of revenue. The ~~state board~~ director shall review the ~~director's~~ department's decision ~~in accordance with Iowa Code section 421.1, subsection 5~~ within 30 days from the date of the notice of recalculation or denial provided to the claimant and county auditor. The director shall grant a hearing, at which the director shall determine the correct credit, if any. The director shall notify the claimant, board of supervisors, county auditor, and county treasurer of the decision by mail. The claimant, ~~or the board of supervisors, and the director~~ may all seek judicial review of the ~~state board of tax review's~~ director's decision pursuant to the provisions of Iowa Code chapter 17A.

e. No change.

80.30(6) Property eligible for credit.

a. *Eligible parcels and property units.*

(1) ~~Except as provided in subrule 80.30(8), individual parcels or multiple parcels that comprise a property unit that is~~ Parcels and property units classified and taxed as commercial property, industrial property, or railway property under Iowa Code chapter 434 are eligible for the business property tax credit for the unit. The assessor shall keep a permanent file of all eligible property units in the assessor's jurisdiction. Each assessment year, the assessor shall update the file based on transfers of property from the auditor's transfer book.

(2) ~~Parcels that, in part, would satisfy the requirements for classification as multiresidential property as defined in 2013 Iowa Acts, chapter 123, section 28, where the primary use of the building is not for human habitation with three or more units and the building is not otherwise classified as a residential property are eligible for the business property tax credit against valuations established prior to January 1, 2015.~~

b. *Eligible property units.* Except as provided in subrule 80.30(8), only property units made up of property assessed and taxed as commercial property, industrial property, or railway property under Iowa Code chapter 434 are eligible for the business property tax credit. To be eligible as a property unit, all of the parcels that make up the property unit must be:

- (1) ~~Located within the same county;~~
- (2) ~~The same property classification;~~
- (3) ~~Owned by the same person;~~
- (4) ~~Contiguous as defined in subrule 80.30(1); and~~
- (5) ~~Operated by that person for a common use and purpose.~~

e. b. *Taxable status of parcels and property units.*

~~(1) A parcel that is fully exempt from property tax is not eligible to receive the business property tax credit. A property unit that is comprised of one or more parcels that are Property that is fully exempt from property tax is not eligible to receive the business property tax credit.~~

~~(2) to (5) No change.~~

~~**80.30(7)** No change.~~

~~**80.30(8)** *Property ineligible for credit.* ~~All of the~~ The following are not eligible to receive a business property tax credit or to be part of a property unit that receives the business property tax credit:~~

~~a. No change.~~

~~b. Mobile home park as defined in Iowa Code section 435.1 Property classified as multiresidential under 701—subrule 71.1(5).~~

~~c. Manufactured home community and land-leased community as defined in Iowa Code sections 335.30A and 414.28A and 2013 Iowa Acts, chapter 123, section 28.~~

~~d. Assisted living facility as defined in Iowa Code section 231C.2. Assisted living facility also includes:~~

~~(1) A health care facility as defined in Iowa Code section 135C.1;~~

~~(2) A child foster care facility under Iowa Code chapter 237; or~~

~~(3) Property used for a hospice program as defined in Iowa Code section 135J.1.~~

~~e. Property primarily used or intended for human habitation with three or more separate dwelling units.~~

~~**80.30(9)** *Application of credit.*~~

~~a. No change.~~

~~b. A person may claim and receive one business property tax credit for each property unit. A claim for credit on a parcel that is part of a property unit constitutes a claim for credit on the entire unit.~~

~~c. and d. No change.~~

~~e. Once filed and allowed, the credit shall continue to be allowed on the parcel or property unit for successive years without further filing of an application unless the parcel or property unit ceases to qualify for the credit under Iowa Code chapter 421C 426C.~~

~~f. When all or a portion of a parcel or property unit is sold or transferred or ownership otherwise changes, the new owner must reapply for the credit. The owner of the portion of a parcel or property unit that did not change shall also reapply for the credit. When the composition of a property unit changes as the result of a sale, transfer, or change in ownership, the owner of the property unit must reapply for the credit on the entire unit.~~

~~g. The following noninclusive examples illustrate the application of the business property tax credit under various circumstances.~~

~~EXAMPLE 1. No change.~~

~~EXAMPLE 2. Same facts as in EXAMPLE 1, but Mr. Jones files his application on ~~March 17,~~ July 3, 2016. Mr. Jones' application should be approved, but the credit will be against taxes due and payable in the fiscal year beginning July 1, ~~2016~~ 2018.~~

~~EXAMPLE 3. and EXAMPLE 4. No change.~~

~~**80.30(10)** *Calculation of credit.*~~

~~a. No change.~~

~~b. *Department process and methodology.*~~

~~(1) Department of management information. The department shall obtain from the department of management tax district and applicable consolidated rates. The department shall calculate the credit using the estimated consolidated levy rates obtained from the department of management. The department shall modify the credit accordingly upon certification by the auditor of the actual consolidated levy rates.~~

~~(2) to (5) No change.~~

~~This rule is intended to implement Iowa Code chapter 426C.~~