

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 421.14, 422.16, and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 46, “Withholding,” Iowa Administrative Code.

Iowa will now require W-2 and 1099 forms to be filed electronically with the Department on an annual basis. The Department will use the W-2 and 1099 forms to combat tax fraud. The Internal Revenue Service (IRS) already requires withholding agents to file W-2s at the federal level, and with these amendments Iowa is conforming with federal practice. Because withholding agents or employers are already required to file W-2s with the IRS, this is not an additional burden on withholding agents or employers. In addition, by reinstating a requirement to file W-2 and 1099 forms with the Department, Iowa will join most other states that have withholding requirements. For tax year 2016, only withholding agents with at least 50 employees are required to electronically file W-2 and 1099 forms with the Department. For tax year 2017, all withholding agents will be required to electronically file W-2 and 1099 forms with the Department. In addition, annual verified summary of payment reports will be due on or before the last day of January following the tax year. A withholding agent may request in writing an extension to electronically file due to hardship.

Interested persons may make written comments on the proposed amendments on or before July 26, 2016. Written comments on the proposed amendments should be directed by mail to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306-0457; or by e-mail to theresa.dvorak@iowa.gov. Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, by telephone at (515)281-8450, or in person 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 July 26, 2016.

After analysis and review of this rule making, the Department finds that there is no fiscal impact.

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, pursuant to rule 701—7.28(17A).

After analysis and review of this rule making, the Department finds that the amendments to these rules are not likely to have a significant impact on jobs.

These amendments are intended to implement Iowa Code section 422.16(2)“b.”

The following amendments are proposed.

ITEM 1. Amend paragraph **46.3(3)“e”** as follows:

e. Annual verified summary of payments reports.

(1) Every withholding agent required to withhold Iowa income tax under subrules 46.1(1), 46.1(2), 46.1(3), and 46.4(1) is to furnish to the department of revenue on or before the last day of ~~February~~ January following the tax year an annual “Verified Summary of Payments Report” (VSP).

The withholding agent completing the VSP form must enter the total Iowa income tax withheld that is shown on the W-2 forms and 1099 forms for the year, the new jobs credits, supplemental jobs credits, accelerated career education credits and housing assistance credits claimed on withholding returns for the year. In addition, the withholding agent must enter on the VSP the withholding payments made for the year. If the amount of Iowa income tax withholding remitted to the department of revenue for the

year is less than the withholding tax and withholding credits claimed, the withholding agent is to report the additional withholding tax due on an amended return and submit payment to the department.

If the Iowa income tax shown as withheld on the W-2s and 1099s issued for the tax year is less than the amount of withholding tax remitted to the department of revenue by the withholding agent, the agent should file an amended return with the department reflecting the excess tax paid.

(2) For Verified Summary of Payments Report forms filed with the department of revenue for the year 2000 ~~and subsequent years through the year 2016~~, the withholding agents are not to submit W-2 forms and 1099 forms with the reports. However, the withholding agents should supply W-2 forms or 1099 forms as requested by personnel of the department of revenue if the request for the forms is made within three years from the end of the year for which the W-2 forms or 1099 forms apply. Therefore, if a request is made to a withholding agent for a W-2 form or a 1099 form for the year ~~2000~~ 2013, the request is valid if the request is postmarked, faxed or made on or before December 31, ~~2003~~ 2016.

ITEM 2. Reletter paragraphs **46.3(3)“f”** to **“h”** as **46.3(3)“g”** to **“i.”**

ITEM 3. Adopt the following **new** paragraph **46.3(3)“f”**:

f. W-2 forms and 1099 forms.

(1) Beginning in 2017 for tax year 2016, withholding agents with at least 50 employees are required to electronically file W-2 forms and 1099 forms with the department of revenue on or before the last day of January following the tax year. Withholding agents with fewer than 50 employees may, but are not required to, electronically file W-2 forms and 1099 forms with the department of revenue on or before the last day of January following the tax year.

(2) Beginning in 2018 for tax year 2017, all withholding agents are required to electronically file W-2 forms and 1099 forms with the department of revenue on or before the last day of January following the tax year.

(3) The department of revenue may, in a case involving a hardship, extend the requirement to electronically file to the 2019 tax year. No extension of time shall be granted unless the withholding agent makes a written request to the department of revenue for such action.

(4) Penalty. Failure to meet the filing requirements set out in this paragraph will subject withholding agents to the penalties under Iowa Code section 422.16(10).