

**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.

In 2016, pursuant to **ARC 2739C**, the Department implemented new filing requirements for W-2 and 1099 forms in order to combat tax refund fraud. The adopted rules phased in the new filing requirements over two years. For tax year 2016, only withholding agents with at least 50 employees were required to electronically file W-2 forms with the Department. For tax year 2016, any withholding agents could voluntarily file 1099 forms and withholding agents with fewer than 50 employees could voluntarily file W-2 forms. For tax year 2017, the rule required all withholding agents to electronically file W-2 and 1099 forms with the Department.

To allow additional time to implement these new requirements, the Department is extending the phase-in for one year as described in the proposed amendment below. As proposed, the amendment will only require withholding agents with at least 50 employees to file W-2 forms electronically for tax years 2016 and 2017. The requirement that all withholding agents file W-2 and 1099 forms electronically will take effect with tax year 2018 rather than 2017.

Interested persons may make written comments on the proposed amendment on or before September 19, 2017. Written comments on the proposed amendment should be directed by mail to Legal Services, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306-0457; or by e-mail to [alana.stamas@iowa.gov](mailto:alana.stamas@iowa.gov). Persons who want to convey their views orally should contact the 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 September 19, 2017.

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 amendment to these rules is not likely to have a significant impact on jobs.

This amendment is intended to implement Iowa Code section 422.16(2)“b.”

The following amendment is proposed.

Amend paragraphs **46.3(3)“f”** and **“g”** as follows:

*f. W-2 forms.*

(1) Beginning in 2017 for tax ~~year~~ years 2016 and 2017, withholding agents with at least 50 employees are required to electronically file W-2 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 with the department of revenue on or before the last day of January following the tax year.

(2) Beginning in ~~2018~~ 2019 for tax year ~~2017~~ 2018 and all subsequent tax years, all withholding agents are required to electronically file W-2 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~~ 2020 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).

*g. 1099 forms and W-2G forms.*

(1) Beginning in 2017 for tax ~~year~~ years 2016 and 2017, withholding agents with at least fifty 1099 forms and W-2G forms may file 1099 forms and W-2G forms with the department of revenue on or before the last day of January following the tax year.

(2) Beginning in ~~2018~~ 2019 for tax year ~~2017~~ 2018 and all subsequent tax years, all withholding agents are required to electronically file all 1099 forms and W-2G forms 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~~ 2020 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).