

**REVENUE DEPARTMENT[701]**

**Adopted and Filed**

**Rule making related to farm to food donation tax credit**

The Revenue Department hereby amends Chapter 304, “Adjustments to Computed Tax and Tax Credits,” and Chapter 501, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 190B.102, 421.14, 421.17 and 422.68.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 190B and sections 422.11R and 422.33.

*Purpose and Summary*

This rule making modifies the process for claiming the Farm to Food Donation Tax Credit. Under current Department rules and processes, taxpayers are required to receive approval from the Department prior to making a tax credit claim. Taxpayers submit their qualifying donation receipts issued by registered feeding organizations directly to the Department by January 15 each year and receive a tax credit award certificate for the verified tax credit amount. For tax years beginning on or after January 1, 2022, taxpayers who wish to claim the Farm to Food Donation Tax Credit will no longer be required to submit donation receipts issued by registered feeding organizations directly to the Department prior to making a tax credit claim. Further, the Department will no longer issue to taxpayers tax credit certificates that indicate the verified tax credit amount taxpayers may claim. Instead, this rule making permits taxpayers to make a tax credit claim directly on their Iowa income tax returns by utilizing a tax credit form provided by the Department. The Department will review tax credit claims after they are received with the Iowa income tax returns and will request substantiation of qualifying donations and donation receipts from taxpayers as appropriate.

This rule making does not remove the requirement that registered feeding organizations issue Department-approved donation receipts to donors or the requirement that registered feeding organizations report donation information to the Department by January 15 each year. However, it does modify the reporting requirements to permit registered feeding organizations to provide information through the Department’s modernized tax administration system, GovConnectIowa.

This rule making also strikes language that allows a taxpayer to transfer a Farm to Food Donation Tax Credit to the taxpayer’s estate or trust upon death. The Iowa Code does not provide that the Farm to Food Donation Tax Credit is transferable.

Finally, this rule making strikes and replaces rule 701—501.45(422,85GA,SF452) so that the process for claiming the Farm to Food Donation Tax Credit applicable to corporate income taxpayers mirrors the process described in rule 701—304.51(422,85GA,SF452).

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 30, 2022, as **ARC 6699C**. No public comments were received. No changes from the Notice have been made.

### *Adoption of Rule Making*

This rule making was adopted by the Department on January 4, 2023.

### *Fiscal Impact*

This rule making has no known fiscal impact to the State of Iowa.

### *Jobs Impact*

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

### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making 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).

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

### *Effective Date*

This rule making will become effective on March 29, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 701—304.51(422,85GA,SF452) as follows:

**701—304.51(422,85GA,SF452) From farm to food donation tax credit.** ~~Effective for tax years beginning on or after January 1, 2014, a~~ A taxpayer that donates a food commodity that the taxpayer produces may claim a tax credit for Iowa individual income tax. The credit is equal to 15 percent of the value of the commodities donated during the tax year for which the credit is claimed or \$5,000, whichever is less. The value of the commodities shall be determined in the same manner as a charitable contribution of food for federal tax purposes under Section 170(e)(3)(C) of the Internal Revenue Code.

**304.51(1)** To qualify for the tax credit, the taxpayer (1) must produce the donated food commodity; (2) must transfer title to the donated food commodity to an Iowa food bank or Iowa emergency feeding organization recognized by the department; and (3) shall not receive remuneration for the transfer. The donated food commodity cannot be damaged or out-of-condition and declared to be unfit for human consumption by a federal, state, or local health official. A food commodity that meets the requirements for donated foods pursuant to the federal Emergency Food Assistance Program satisfies this requirement.

**304.51(2)** To be recognized by the department, a food bank or emergency feeding organization must either be a recognized affiliate of one of the eight partner food banks with the Iowa Food Bank Association or must register with the department. To register with the department, the organization must meet the definition of “emergency feeding organization,” “food bank,” or “food pantry” as defined by the department of human services in 441—66.1(234). ~~The department of revenue will make registration forms available on the department’s website.~~ A food bank or emergency feeding organization that seeks recognition by the department shall register with the department in the form and manner prescribed by the department. The department will maintain a list of recognized organizations on the department’s website.

**304.51(3)** Food banks and emergency feeding organizations that receive eligible donations shall be required to issue receipts in a format prescribed by the department for all donations received and must

annually submit to the department a receipt log of all the receipts issued during the ~~tax~~ calendar year. The receipt log must be submitted in the form of a spreadsheet with column specifications as provided by the department. Receipt logs showing the donations for the previous calendar year must be delivered electronically or mailed to the department postmarked by January 15 of each year. If a receipt for a taxpayer's claim is not provided by the organization, the taxpayer's claim will be denied.

**304.51(4)** To claim the credit for tax years beginning before January 1, 2022, a taxpayer shall submit to the department the original receipts that were issued by the food bank or emergency feeding organization. The receipt must include quantity information completed by the food bank or emergency feeding organization, taxpayer information, and a donation valuation consistent with Section 170(e)(3)(C) of the Internal Revenue Code completed by the taxpayer. Claims must be postmarked on or before January 15 of the year following the tax year for which the claim is requested. Once the department verifies the amount of the tax credit, a letter will be sent to the taxpayer providing the amount of the tax credit and a tax credit certificate number.

**304.51(5)** To claim the credit for tax years beginning on or after January 1, 2022, a taxpayer shall complete the required tax credit form provided by the department and shall submit the form with the taxpayer's income tax return for the tax year the taxpayer made the qualifying donations. The required tax credit form shall be available on the department's website.

**304.51(6)** Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is earlier. The tax credit shall not be carried back to a tax year prior to the year in which the owner redeems the credit. The credit is not transferable to any other person ~~other than the taxpayer's estate or trust upon the death of the taxpayer.~~

**304.51(7)** If the producer is a partnership, limited liability company, S corporation, estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement ~~2013 Iowa Acts, Senate File 452, division XVIII~~ Iowa Code chapter 190B, subchapter I, and section 422.11R.

ITEM 2. Rescind rule 701—501.45(422,85GA,SF452) and adopt the following **new** rule in lieu thereof:

**701—501.45(422) From farm to food donation tax credit.** A taxpayer that donates a food commodity that the taxpayer produces may claim a tax credit against Iowa corporation income tax according to the same requirements, conditions, and limitations as described in rule 701—304.51(422).

This rule is intended to implement Iowa Code chapter 190B, subchapter I, and section 422.33.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/22/23.