

**REVENUE DEPARTMENT[701]**

**Notice of Intended Action**

**Proposing rule making related to fiduciary income tax returns  
and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 700, “Fiduciary Income Tax,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 421.14 and 422.68.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 422.21.

*Purpose and Summary*

This proposed rule making is intended to provide updates and clarifications for the Department’s automatic extension of time for filing fiduciary income tax returns. The current rule includes detailed, outdated information relevant to tax years 1986 through 1991. The automatic filing extension applicable to current tax years is incorporated by reference to the automatic extension for individual income tax. This proposed rule making removes the outdated information and provides the relevant extension language that was previously incorporated by reference.

*Fiscal Impact*

This rule making has no 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).

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 14, 2023. Comments should be directed to:

Kurt Konek  
Department of Revenue  
Hoover State Office Building  
P.O. Box 10457  
Des Moines, Iowa 50306  
Phone: 515.587.0440  
Email: [kurt.konek@iowa.gov](mailto:kurt.konek@iowa.gov)

### *Public Hearing*

If requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

March 21, 2023  
2 to 3 p.m.

Via video/conference call

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

### *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).

The following rule-making action is proposed:

Rescind rule 701—700.5(422) and adopt the following new rule in lieu thereof:

#### **701—700.5(422) Extension of time to file.**

##### **700.5(1) Automatic extension of time to file.**

*a.* If the taxpayer has paid at least 90 percent of the tax required to be shown due by the due date and has not filed a return by the due date, the director will consider that the taxpayer has requested an extension of time to file the return and will automatically grant an extension of up to six months to file the return. The taxpayer does not have to file an application for extension form with the department to get the automatic extension to file the return within the six-month period after the due date and not be subject to penalty. However, if the taxpayer wants to make a tax payment to ensure that at least 90 percent of the tax has been paid on or before the due date, the payment should be made with the Iowa fiduciary income tax payment voucher form. This form can be found on the department's website at [tax.iowa.gov](http://tax.iowa.gov); requested by mail from the Taxpayer Services Section, P.O. Box 10457, Des Moines, Iowa 50306; or requested by telephone at (515)281-3114.

*b.* To determine whether or not at least 90 percent of the tax was paid on or before the due date, the aggregate amount of tax credits applicable on the return plus the tax payments made on or before the due date are divided by the tax required to be shown due on the return. The tax required to be shown on the return is the sum of the income tax, lump-sum tax, minimum tax, and the trust portion of the ESBT tax. The tax credits applicable are the credits set out in Iowa Code chapter 422, division II, and Iowa Code section 422.111. The tax payments to be considered for purposes of determining whether 90 percent of the tax was paid are the withholding tax payments, estimate payments, composite tax payments, and payments made with the Iowa fiduciary income tax voucher form to ensure that 90 percent of the tax was paid timely.

*c.* If the aggregate of the tax credits and the tax payments is equal to or greater than 90 percent of the tax required to be shown due, the taxpayer will have met the "90 percent" test and no penalty will be assessed. However, the taxpayer will still be subject to statutory interest on any tax due when the return is filed.

*d.* Any tax elections will be considered to be valid in instances when the return is filed within the six-month extended period after the due date. The fact that the taxpayer has paid less than 90 percent of

the tax required to be shown due will not invalidate any tax elections made on the return, if the return is filed within the six-month extended period.

**700.5(2)** *Extension of time to file due to illness, death, absence, or other legitimate reason.* The taxpayer is required to file the taxpayer's fiduciary income tax return on or before the due date of the return with payment in full of the amount required to be shown due with the return. However, in any instance where the taxpayer is unable to file the return by the due date because of illness or death in the taxpayer's immediate family, unavoidable absence of the taxpayer, or other legitimate reason, the director may grant a six-month extension of time to file the return.

**700.5(3)** *Extension of time for the decedent's final tax return.* 701—subrule 300.2(4), which provides for extensions of time to file individual income tax returns, will apply to the decedent's final tax return. This rule is intended to implement Iowa Code section 422.21.