

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rulemaking related to refunds for eligible businesses under economic development authority programs and providing an opportunity for public comment

The Revenue Department hereby proposes to rescind Chapter 278, “Refunds for Eligible Businesses Under Economic Development Authority Programs,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 421.14, 422.68 and 423.42.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 15.

Purpose and Summary

The purpose of this proposed rulemaking is to readopt Chapter 278, which consists solely of rule 701—278.1(15). This proposed rule interprets the underlying statutes and provides the scope and methods for obtaining a refund of sales and use tax paid for eligible businesses approved under programs by the Iowa Economic Development Authority. The Department proposes to revise the rule for clarification and to remove portions that the Department has determined are unnecessary and duplicative of statutory language.

A Regulatory Analysis, including the proposed rule text, was published on October 4, 2023. A public hearing was held on October 25, 2023. No public comments on the Regulatory Analysis were received at the hearing or in writing. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on November 9, 2023.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking 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 rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 2, 2024. Comments should be directed to:

Nick Behlke
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306-3457
Phone: 515.336.9025
Email: nick.behlke@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 3, 2024 9 to 11 a.m.	Via video/conference call
January 3, 2024 1 to 3 p.m.	Via video/conference call

Persons who wish to participate in a video/conference call should contact Nick Behlke before 4:30 p.m. on January 2, 2024, to facilitate an orderly hearing. A video link will be provided to participants prior to the hearing.

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

Any persons who intend to attend a 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking action is proposed:

ITEM 1. Rescind 701—Chapter 278 and adopt the following **new** chapter in lieu thereof:

CHAPTER 278 REFUNDS FOR ELIGIBLE BUSINESSES UNDER ECONOMIC DEVELOPMENT AUTHORITY PROGRAMS

701—278.1(15) Sales and use tax refund for eligible businesses. For eligible businesses approved under the high quality jobs program or workforce housing tax incentives program by the economic development authority, a refund of sales and use tax is available.

278.1(1) Sales and use tax eligible for refund. Eligible businesses can receive a refund of the sales and use tax paid for those items listed in Iowa Code section 15.331A to the extent applicable for purposes of the particular program.

278.1(2) Sales and use tax ineligible for refund. The sales and use tax for which the eligible business cannot receive a refund consists of the following:

a. Any local option sales tax paid is not eligible for the refund. The refund is limited to the state sales and use tax paid.

b. Any sales and use tax attributable to intangible property, furniture, or furnishings is not eligible for the refund. “Furnishings” means any furniture, appliances, equipment, and accessories that are movable and with which a room or building is furnished for comfort, convenience, or aesthetic value.

Examples include rugs, décor, and window coverings. “Furnishings” does not include installed flooring such as hardwood, carpet, ceramic, stone, laminate, or vinyl.

278.1(3) When to claim the refund. To receive a refund, the eligible business must file a claim for refund within the following period of time:

a. High quality jobs program. The first date the eligible business may file a claim for refund is after the contract completion as defined in Iowa Code section 15.331A. The last date the eligible business may file a claim for refund is one year after the project completion date as defined in Iowa Code section 15.329.

b. Workforce housing tax incentives program. The first date the eligible business may file a claim for refund is after the agreement completion date as defined in Iowa Code section 15.355. The last date the eligible business may file a claim for refund is one year after the agreement completion date as defined in Iowa Code section 15.355.

278.1(4) How to claim the refund.

a. Gas, electric, water, or sewer utility services. To request a refund of the sales and use tax paid for gas, electric, water, or sewer utility services used during construction, the eligible business must file Form IA 843, Refund Return, with the department of revenue. The claim shall include the tax credit certificate number given by the Iowa economic development authority, along with copies of invoices or a schedule to support the refund amount.

b. Contractor or subcontractor. To request a refund of the sales and use tax paid on tangible personal property, or on services rendered to, furnished to, or performed for a contractor or subcontractor relating to the construction or equipping of a facility, the eligible business must file the Construction Contract Claim for Refund form, along with the Iowa Contractor’s Statement, with the department of revenue. The Construction Contract Claim for Refund form shall include the tax credit certificate number given by the Iowa economic development authority. It is not necessary to attach invoices to the Construction Contract Claim for Refund form, but the department of revenue reserves the right to request invoices when reviewing the refund claim.

c. Racks, shelving, and conveyor equipment. To request a refund of the sales and use tax attributable to racks, shelving, and conveyor equipment, the eligible business must file Form IA 843, Refund Return, with the department of revenue. The claim shall include the tax credit certificate number given by the Iowa economic development authority, along with copies of invoices or a schedule to support the refund amount.

This rule is intended to implement Iowa Code chapter 15.