

REVENUE DEPARTMENT[701]

Adopted and Filed

Rulemaking related to retirement income exclusion

The Revenue Department hereby amends Chapter 301, “Filing Return and Payment of Tax,” Chapter 302, “Determination of Net Income,” and Chapter 307, “Withholding,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 421.14 and 422.68.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 422.5, 422.7, 422.13 and 422.16.

Purpose and Summary

This rulemaking implements the statutory change to the retirement income exclusion from a partial to a full exclusion for qualifying taxpayers receiving distributions from qualifying plans. This rulemaking identifies certain plans that do and do not qualify for the exclusion, as well as defines how survivors with an insurable interest may qualify for the exclusion. This rulemaking also updates what items of income are and are not required to be added back to Iowa taxable income to determine whether a taxpayer has a filing requirement, including eliminating excluded retirement income from the required add backs. Finally, this rulemaking updates rules related to withholding to implement the full exclusion for retirement income described above.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 1, 2023, as **ARC 7109C**. A public hearing was held on November 21, 2023. The Department received public comments at the hearing. The Department also received written comments.

In response to comments and further review, the following changes from the Notice have been made:

1. Revised subrules 301.1(1), 301.1(2), 301.1(3), 301.5(10), 301.5(11) and 301.5(13) to clarify what should be included in the net income calculation for determining a filing requirement.
2. Revised rule 701—302.47(422) to clarify the time the individual must be eligible for the exclusion for a surviving spouse or survivor with an insurable interest to be eligible for the exclusion with respect to income received as a result of their death.
3. Revised paragraph 302.47(1)“a” to clarify the qualifying retirement plans.

Adoption of Rulemaking

This rulemaking was adopted by the Department on December 14, 2023.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa beyond that of the legislation it implements.

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).

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).

Effective Date

This rulemaking will become effective on February 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Amend rule 701—301.1(422) as follows:

701—301.1(422) Who must file.

301.1(1) Residents of Iowa.

a. Tax years beginning on or after January 1, 1993 Residents under 65 years of age. For each taxable year, every resident of Iowa, except any resident claimed as a dependent on another person's return, whose net income is greater than \$13,500 in the case of married persons ~~filing jointly, filing separately on a combined return or filing separate returns,~~ heads of household, and surviving spouses or greater than \$9,000 in the case of single persons or married persons filing separately must make, sign, and file a return. In the case of married persons filing separately, if the combined net income of both spouses exceeds \$13,500, both spouses must make, sign, and file a return even if one of the spouse's net income is \$9,000 or less. Each resident who is claimed as a dependent on another person's return and whose net income is ~~\$4,000 or more, or whose net income is \$5,000 or more for tax years beginning on or after January 1, 2001,~~ must make, sign, and file a return. For purposes of this subrule, the portion of a lump-sum distribution subject to separate federal tax, ~~along with the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422),~~ is the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover are included in net income to determine if a person must file a return. ~~In addition, for tax years beginning on or after January 1, 2007, the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) for residents who are younger than 65 years of age on December 31 of the tax year is included in net income to determine if a person must file a return.~~

b. Tax years beginning on or after January 1, 2007, but before January 1, 2009, for residents 65 years of age or older. For these taxable years, every resident of Iowa, except any resident claimed as a dependent on another person's return, who is at least 65 years of age or older on December 31 of the tax year, whose net income is greater than \$24,000 in the case of married persons ~~filing jointly, filing separately on a combined return or filing separate returns,~~ heads of household and surviving spouses or greater than \$18,000 in the case of single persons ~~must make, sign, and file a return.~~ For married persons ~~filing jointly, filing separately on a combined return or filing separate returns,~~ only one spouse is required to be 65 years of age or older on December 31 of the tax year. Each resident who is claimed as a dependent on another person's return and whose net income is ~~\$5,000 or more must make, sign, and file a return.~~

~~For purposes of this subrule, the portion of a lump-sum distribution subject to separate federal tax, the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), and~~

~~the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) are included in net income to determine if a person must file a return.~~

e. b. Tax years beginning on or after January 1, 2009, for residents Residents 65 years of age or older. For each taxable year, every resident of Iowa, except any resident claimed as a dependent on another person's return, who is at least 65 years of age or older on December 31 of the tax year, whose net income is greater than \$32,000 in the case of married persons ~~filing jointly, filing separately on a combined return or filing separate returns,~~ heads of household, and surviving spouses or greater than \$24,000 in the case of single persons ~~or married persons filing separately~~ must make, sign, and file a return. In the case of married persons filing separately, if the combined net income of both spouses exceeds \$32,000, both spouses must make, sign, and file a return even if one of the spouse's net income is \$24,000 or less. For married persons ~~filing jointly, filing separately on a combined return or filing separate returns,~~ for purposes of this paragraph, only one spouse is required to be at least 65 years of age or older on December 31 of the tax year. Each resident who is claimed as a dependent on another person's return and whose net income is \$5,000 or more must make, sign, and file a return.

For purposes of this subrule, the portion of a lump-sum distribution subject to separate federal tax, ~~the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3)~~ the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover taken for federal purposes are included in net income to determine if a person must file a return.

301.1(2) Nonresidents of Iowa.

a. Tax years beginning on or after January 1, 1993 Nonresidents under 65 years of age. For each taxable year, every nonresident of Iowa must make, sign, and file an Iowa return if the nonresident has a net income of \$1,000 or more from Iowa sources and meets one or more of the following conditions: (1) has a net income from all sources that is greater than \$13,500 in the case of married persons ~~filing jointly, filing separately on a combined return or filing separate returns,~~ heads of household, and surviving spouses, (2) has a net income from all sources greater than \$9,000 in the case of single persons, (3) has a net income from all sources greater than \$9,000 in the case of married persons filing separately; however, if the combined net income of both spouses exceeds \$13,500, both spouses must make, sign, and file a return even if one of the spouse's net income is \$9,000 or less, or (3) (4) is claimed as a dependent on another person's return and has a net income from all sources of \$4,000 or more or has a net income from all sources of at least \$5,000 or more if the tax year begins on or after January 1, 2001. For purposes of this paragraph, the portion of a lump-sum distribution subject to separate federal tax that is allocable to Iowa is included in net income to determine if the nonresident has sufficient net income from Iowa sources to make and file a return. In determining net income from all sources, the portion of a lump-sum distribution subject to separate federal tax, ~~along with the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422),~~ is the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover are included in net income to determine if a person must file a return. ~~In addition, for tax years beginning on or after January 1, 2007, the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) for nonresidents who are under 65 years of age on December 31 of the tax year is included in determining net income from all sources to determine if a person must file a return.~~

b. Tax years beginning on or after January 1, 2007, but before January 1, 2009, for nonresidents 65 years of age or older. For these taxable years, every nonresident of Iowa must make, sign, and file an Iowa return if the nonresident has a net income of \$1,000 or more from Iowa sources and meets one or more of the following conditions: (1) has a net income from all sources that is greater than \$24,000 in the case of married persons ~~filing jointly, filing separately on a combined return or filing separate returns,~~ heads of household and surviving spouses, (2) has a net income from all sources greater than \$18,000 in the case of single persons, or (3) ~~is claimed as a dependent on another person's return and has a net income from all sources of at least \$5,000.~~ For married persons ~~filing jointly, filing separately on a~~

combined return or filing separate returns, only one spouse is required to be 65 years of age or older on December 31 of the tax year. For purposes of this subrule, the portion of a lump-sum distribution subject to separate federal tax that is allocable to Iowa is included in net income to determine if the nonresident has sufficient net income from Iowa sources to make and file a return. In determining net income from all sources, the portion of a lump-sum distribution subject to separate federal tax, the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) are included in net income to determine if a person must file a return.

e. b. Tax years beginning on or after January 1, 2009, for nonresidents Nonresidents 65 years of age or older. For these taxable years, every nonresident of Iowa must make, sign, and file an Iowa return if the nonresident has a net income of \$1,000 or more from Iowa sources and meets one or more of the following conditions: (1) has a net income from all sources that is greater than \$32,000 in the case of married persons ~~filing jointly, filing separately on a combined return or filing separate returns,~~ heads of household, and surviving spouses, (2) has a net income from all sources greater than \$24,000 in the case of single persons, (3) has a net income from all sources greater than \$24,000 in the case of married persons filing separately; however, if the combined net income of both spouses exceeds \$32,000, both spouses must make, sign, and file a return even if one of the spouse's net income is \$24,000 or less, or ~~(3)~~ (4) is claimed as a dependent on another person's return and has a net income from all sources of at least \$5,000. For married persons ~~filing jointly, filing separately on a combined return or filing separate returns,~~ for the purposes of this paragraph, only one spouse is required to be 65 years of age or older on December 31 of the tax year. For purposes of this subrule, the portion of a lump-sum distribution subject to separate federal tax that is allocable to Iowa is included in net income to determine if the nonresident has sufficient net income from Iowa sources to make and file a return. In determining net income from all sources, the portion of a lump-sum distribution subject to separate federal tax, ~~the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) are~~ the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover are included in net income to determine if a person must file a return.

d.—Nonresidents with net incomes of less than \$1,000 that are subject to Iowa alternative minimum tax. For tax years beginning on or after January 1, 2000, every nonresident of Iowa who has a net income from Iowa sources of less than \$1,000 must make, sign, and file a return if the nonresident is subject to Iowa alternative minimum tax.

301.1(3) Part-year residents of Iowa.

a. Tax years beginning on or after January 1, 1993 Part-year residents under 65 years of age. For each taxable year, every part-year resident of Iowa must make, sign, and file a return if the individual has a net income of \$1,000 or more from Iowa sources and meets one or more of the following conditions: (1) has a net income from all sources that is greater than \$13,500 in the case of married persons ~~filing jointly, filing separately on a combined return form or filing separate returns,~~ heads of household, and surviving spouses, (2) has a net income from all sources that is greater than \$9,000 in the case of a single person, (3) has a net income from all sources greater than \$9,000 in the case of married persons filing separately; however, if the combined net income of both spouses exceeds \$13,500, both spouses must make, sign, and file a return even if one of the spouse's net income is \$9,000 or less, or ~~(3)~~ (4) is claimed as a dependent on another person's return and had a net income from all sources of \$4,000 or more or has a net income from all sources of \$5,000 or more if the tax year begins on or after January 1, 2001. For purposes of this paragraph, the portion of a lump-sum distribution that is allocable to Iowa is included in net income to determine if the person has sufficient net income from Iowa sources to make and file a return. In determining net income from all sources, the portion of a lump-sum distribution subject to separate federal tax, ~~along with the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), is~~ the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover

are included in net income to determine if a person must file a return. In addition, for tax years beginning on or after January 1, 2007, the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) for part-year residents who are younger than 65 years of age on December 31 of the tax year is included in determining net income from all sources to determine if a person must file a return.

b. Tax years beginning on or after January 1, 2007, but before January 1, 2009, for nonresidents 65 years of age or older. For these taxable years, every part-year resident of Iowa must make, sign, and file an Iowa return if the part-year resident has a net income of \$1,000 or more from Iowa sources and meets one or more of the following conditions: (1) has a net income from all sources that is greater than \$24,000 in the case of married persons filing jointly, filing separately on a combined return or filing separate returns, heads of household and surviving spouses, (2) has a net income from all sources greater than \$18,000 in the case of single persons, or (3) is claimed as a dependent on another person's return and has a net income from all sources of at least \$5,000. For married persons filing jointly, filing separately on a combined return or filing separate returns, only one spouse is required to be 65 years of age or older on December 31 of the tax year. For purposes of this subrule, the portion of a lump-sum distribution subject to separate federal tax that is allocable to Iowa is included in net income to determine if the part-year resident has sufficient net income from Iowa sources to make and file a return. In determining net income from all sources, the portion of a lump-sum distribution subject to separate federal tax, the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) are included in net income to determine if a person must file a return.

e. b. Tax years beginning on or after January 1, 2009, for part-year Part-year residents 65 years of age or older. For these taxable years, every part-year resident of Iowa must make, sign, and file an Iowa return if the part-year resident has a net income of \$1,000 or more from Iowa sources and meets one or more of the following conditions: (1) has a net income from all sources that is greater than \$32,000 in the case of married persons filing jointly, filing separately on a combined return or filing separate returns, heads of household, and surviving spouses, (2) has a net income from all sources greater than \$24,000 in the case of single persons, (3) has a net income from all sources greater than \$24,000 in the case of married persons filing separately; however, if the combined net income of both spouses exceeds \$32,000, both spouses must make, sign, and file a return even if one of the spouse's net income is \$24,000 or less, or (3) (4) is claimed as a dependent on another person's return and has a net income from all sources of at least \$5,000. For married persons filing jointly, filing separately on a combined return or filing separate returns, for the purposes of this paragraph, only one spouse is required to be 65 years of age or older on December 31 of the tax year. For purposes of this subrule, the portion of a lump-sum distribution subject to separate federal tax that is allocable to Iowa is included in net income to determine if the part-year resident has sufficient net income from Iowa sources to make and file a return. In determining net income from all sources, the portion of a lump-sum distribution subject to separate federal tax, the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover are included in net income to determine if a person must file a return.

d. Part year residents with net incomes of less than \$1,000 that are subject to Iowa alternative minimum tax. For tax years beginning on or after January 1, 2000, every part-year resident of Iowa who has a net income from Iowa sources of less than \$1,000 must make, sign, and file a return if the part-year resident is subject to Iowa alternative minimum tax.

301.1(4) Returns of the handicapped Incapacity to file a return. If a taxpayer is physically or mentally unable to make a return, the return shall be made by a duly authorized agent, guardian or other person charged with the care of the person or property of such taxpayer. A power of attorney must accompany a return made by an agent or guardian.

301.1(5) and 301.1(6) No change.

301.1(7) Returns filed for refund. A taxpayer whose Iowa source net income or all source net income is less than the amount for which the filing of an Iowa individual income tax return is required must file a return to receive a refund of Iowa income tax withheld or Iowa estimated tax paid in the tax year or to receive a refund from an Iowa refundable tax credit. ~~Refundable tax credits include the child and dependent care credit, the early childhood development tax credit, the research activities credit, the motor vehicle fuel tax credit, the claim of right credit (if elected in accordance with rule 701—300.18(422)), the assistive device credit, the historic preservation and cultural and entertainment district tax credit, the ethanol blended gasoline tax credit, the investment tax credit for value-added agricultural products or biotechnology-related processes, the soy-based cutting tool oil tax credit, the wage benefit tax credit, the soy-based transformer fluid tax credit, the E-85 gasoline promotion tax credit, the biodiesel blended fuel tax credit, the ethanol promotion tax credit, and the E-15 plus gasoline promotion tax credit.~~

~~**301.1(8) Returns filed by out-of-state business or out-of-state employee performing disaster and emergency-related work during a disaster response period.** On or after January 1, 2016, see 701—Chapter 276 for filing requirements of an out-of-state business or out-of-state employee as defined in Iowa Code section 29C.24 who enters Iowa to perform disaster and emergency-related work during a disaster response period as those terms are defined in Iowa Code section 29C.24.~~

This rule is intended to implement Iowa Code sections 422.5 and 422.13.

ITEM 2. Amend rule 701—301.5(422) as follows:

701—301.5(422) Payment of tax.

301.5(1) to 301.5(7) No change.

301.5(8) and 301.5(9) Reserved.

301.5(10) Thirteen thousand five hundred dollar exemption. ~~For tax years beginning on or after January 1, 1993, all~~ All taxpayers, except single taxpayers described in subrule 301.4(1) or taxpayers filing married filing separately, whose net income as computed under Iowa Code section 422.7, plus the amount of a lump-sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes, the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3), the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover is \$13,500 or less are exempt from paying Iowa individual income tax subject to the following conditions:

a. In the case of married taxpayers, the incomes of both spouses are considered in order to determine if the taxpayers qualify for exemption from tax. However, in the case of married taxpayers where one spouse has a net operating loss and the taxpayers file separate Iowa returns ~~or separately on the combined return form~~, the taxpayers cannot receive the benefit of the exemption from tax if the spouse with the loss elects to carry back or carry forward that loss.

b. An individual claimed as a dependent on another person's return with an income of at least \$5,000 ~~(\$4,000 for tax years beginning in 1993 but before 2001)~~ but not more than \$13,500 will be exempt from Iowa tax if:

(1) The person on whose return the dependent is claimed is filing as a single individual and has a net income of \$9,000 or less, or

(2) The person on whose return the dependent is claimed and the person's spouse have a combined net income of \$13,500 or less.

(3) The person on whose return the dependent is claimed is filing as a head of household or as a surviving spouse and has a net income of \$13,500 or less.

c. If the payment of tax would reduce the net income to less than \$13,500, the tax shall be reduced to an amount which would allow the taxpayer to retain a net income of \$13,500. Example: If a taxpayer's net income was \$13,600 and the computed tax after personal exemptions and other credits was \$300, the payment of \$300 would reduce the income below \$13,500; therefore, the amount of tax is reduced to \$100 so the taxpayer can retain a net income of \$13,500.

301.5(11) *Nine thousand dollar exemption.* For tax years beginning on or after January 1, 1993, ~~single~~ Single taxpayers described in subrule 301.4(1) and taxpayers filing married filing separately whose net income as computed under Iowa Code section 422.7, plus the amount of a lump-sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes, the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3), the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover is \$9,000 or less are exempt from paying Iowa individual income tax subject to the following conditions:

a. An individual claimed as a dependent on another person's return with an income of at least \$5,000 (~~\$4,000 for tax years beginning in 1993 but before 2001~~) but not more than \$9,000 will be exempt from tax if:

- (1) The person on whose return the dependent is claimed has a net income of \$9,000 or less, or
- (2) The person on whose return the dependent is claimed and the person's spouse have a combined net income of \$13,500 or less.
- (3) The person on whose return the dependent is claimed is filing as a head of household or as a surviving spouse and has a net income of \$13,500 or less.

b. If the payment of tax would reduce the net income to less than \$9,000, the tax is reduced to an amount which will allow the taxpayer to retain a net income of \$9,000.

c. For taxpayers that file married filing separately, the combined net income of both spouses must be less than \$13,500 for either of them to qualify for this exemption.

301.5(12) *Exemptions for taxpayers 65 years of age or older for tax years beginning on or after January 1, 2007, but before January 1, 2009.*

a. ~~All taxpayers except single taxpayers described in subrule 301.4(1) who are 65 years of age or older on December 31 of the tax year and whose net income as computed under Iowa Code section 422.7, plus the amount of a lump-sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes, the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) is \$24,000 or less are exempt from paying Iowa individual income tax subject to the conditions set forth below:~~

~~(1) In the case of married taxpayers, the incomes of both spouses are considered in order to determine if the taxpayers qualify for exemption from tax. For purposes of this subrule, only one spouse is required to be 65 years of age or older by December 31 of the tax year. However, in the case of married taxpayers when one spouse has a net operating loss and the taxpayers file separate Iowa returns or separately on the combined return, the taxpayers cannot receive the benefit of the exemption from tax if the spouse with the loss elects to carry back or carry forward that loss.~~

~~(2) An individual claimed as a dependent on another person's return with an income of at least \$5,000, but not more than \$24,000, will be exempt from Iowa tax if:~~

~~1. The person on whose return the dependent is claimed is filing as a single individual and has a net income of \$9,000 or less (\$18,000 or less if the person is 65 years of age or older); or~~

~~2. The person on whose return the dependent is claimed and the person's spouse have a combined net income of \$13,500 or less (\$24,000 or less of the combined income of the person and the person's spouse if at least one spouse is 65 years of age or older); or~~

~~3. The person on whose return the dependent is claimed is filing as a head of household or as a surviving spouse and has a net income of \$13,500 or less (\$24,000 or less if the person is 65 years of age or older).~~

~~(3) If the payment of tax would reduce the net income to less than \$24,000, the tax shall be reduced to an amount which would allow the taxpayer to retain a net income of \$24,000.~~

~~EXAMPLE: If a taxpayer's net income was \$24,100 and the computed tax after personal exemptions and other credits was \$300, the payment of \$300 would reduce the income below \$24,000; therefore, the amount of tax is reduced to \$100 in order for the taxpayer to retain a net income of \$24,000.~~

~~b. Single taxpayers described in subrule 301.4(1) whose net income, as computed under Iowa Code section 422.7, plus the amount of a lump-sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes, the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) is \$18,000 or less are exempt from paying Iowa individual income tax subject to the conditions set forth in paragraphs “c” and “d” below:~~

~~e. An individual claimed as a dependent on another person’s return with an income of at least \$5,000, but not more than \$18,000, will be exempt from tax if:~~

~~(1) The person on whose return the dependent is claimed has a net income of \$9,000 or less (\$18,000 or less if the person is 65 years of age or older); or~~

~~(2) The person on whose return the dependent is claimed and the person’s spouse have a combined net income of \$13,500 or less (\$24,000 or less of the combined income of the person and the person’s spouse if at least one spouse is 65 years of age or older); or~~

~~(3) The person on whose return the dependent is claimed is filing as a head of household or as a surviving spouse and has a net income of \$13,500 or less (\$24,000 or less if the person is 65 years of age or older).~~

~~d. If the payment of tax would reduce the net income to less than \$18,000, the tax is reduced to an amount which will allow the taxpayer to retain a net income of \$18,000.~~

~~**301.5(13) Exemptions for taxpayers 65 years of age or older for tax years beginning on or after January 1, 2009.**~~

~~a. All taxpayers except single taxpayers described in subrule 301.4(1) or taxpayers filing married filing separately who are at least 65 years of age or older on December 31 of the tax year and whose net income as computed under Iowa Code section 422.7, plus the amount of a lump-sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes, the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover is \$32,000 or less are exempt from paying Iowa individual income tax subject to the conditions set forth below:~~

~~(1) In the case of married taxpayers, the incomes of both spouses are considered in order to determine if the taxpayers qualify for exemption from tax. For purposes of this subrule, only one spouse is required to be 65 years of age or older by December 31 of the tax year. However, in the case of married taxpayers when one spouse has a net operating loss and the taxpayers file separate Iowa returns or separately on the combined return form, the taxpayers cannot receive the benefit of the exemption from tax if the spouse with the loss elects to carry back or carry forward that loss.~~

~~(2) An individual claimed as a dependent on another person’s return with an income of at least \$5,000, but not more than \$32,000, will be exempt from Iowa tax if:~~

~~1. The person on whose return the dependent is claimed is filing as a single individual and has a net income of \$9,000 or less (\$24,000 or less if the person is 65 years of age or older); or~~

~~2. The person on whose return the dependent is claimed and the person’s spouse have a combined net income of \$13,500 or less (\$32,000 or less of the combined income of the person and the person’s spouse if at least one spouse is 65 years of age or older); or~~

~~3. The person on whose return the dependent is claimed is filing as a head of household or as a surviving spouse and has a net income of \$13,500 or less (\$32,000 or less if the person is 65 years of age or older).~~

~~(3) If the payment of tax would reduce the net income to less than \$32,000, the tax shall be reduced to an amount which would allow the taxpayer to retain a net income of \$32,000.~~

~~EXAMPLE: If a taxpayer’s net income was \$32,100 and the computed tax after personal exemptions and other credits was \$300, the payment of \$300 would reduce the income below \$32,000; therefore, the amount of tax is reduced to \$100 in order for the taxpayer to retain a net income of \$32,000.~~

~~b. Single taxpayers described in subrule 301.4(1) or taxpayers filing married filing separately whose net income, as computed under Iowa Code section 422.7, plus the amount of a lump-sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes, the partial exclusion of pension and other retirement benefits described in rule 701—302.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 302.23(3) the federal standard deduction or itemized deductions to the extent it does not exceed federal adjusted gross income, the personal exemption allowed for federal purposes, the qualified business income deduction allowed for federal purposes, and any net operating loss carryover is \$24,000 or less are exempt from paying Iowa individual income tax subject to the conditions set forth in paragraphs “c,” “d,” and “e” below:~~

~~c. An individual claimed as a dependent on another person’s return with an income of at least \$5,000, but not more than \$24,000, will be exempt from tax if:~~

~~(1) The person on whose return the dependent is claimed has a net income of \$9,000 or less (\$24,000 or less if the person is 65 years of age or older); or~~

~~(2) The person on whose return the dependent is claimed and the person’s spouse have a combined net income of \$13,500 or less (\$32,000 or less of the combined income of the person and the person’s spouse if at least one spouse is 65 years of age or older); or~~

~~(3) The person on whose return the dependent is claimed is filing as a head of household or as a surviving spouse and has a net income of \$13,500 or less (\$32,000 or less if the person is 65 years of age or older).~~

~~d. If the payment of tax would reduce the net income to less than \$24,000, the tax is reduced to an amount which will allow the taxpayer to retain a net income of \$24,000.~~

~~e. For taxpayers that file married filing separately, the combined net income of both spouses must be less than \$32,000 for either of them to qualify for this exemption.~~

~~This rule is intended to implement Iowa Code section 422.5 as amended by 2006 Iowa Acts, Senate File 2408, and sections 422.16, 422.17, 422.21, 422.24, and 422.25.~~

ITEM 3. Amend rule 701—302.47(422) as follows:

701—302.47(422) Partial exclusion Exclusion of pensions and other retirement benefits for disabled individuals, individuals who are 55 years of age or older, surviving spouses, and survivors. For tax years beginning on or after January 1, 1995 ~~2023~~, an individual who is disabled, is 55 years of age or older, is a surviving spouse, or is a survivor with an insurable interest in an individual who would have qualified for the exclusion at the time of death is eligible for a ~~partial an~~ exclusion of retirement benefits received in the tax year. ~~For tax years beginning on or after January 1, 2001, the partial exclusion of retirement benefits received in the tax year is increased up to a maximum of \$6,000 for a person other than a husband or wife who files a separate state return and up to a maximum of \$12,000 for a husband and wife who file a joint Iowa return. For tax years beginning on or after January 1, 1998, the partial exclusion of retirement benefits received in the tax year was increased up to a maximum of \$5,000 for a person, other than a husband or wife who files a separate state income tax return, and up to a maximum of \$10,000 for a husband and wife who file a joint state income tax return. A husband and wife filing separate state income tax returns or separately on a combined state return are allowed a combined exclusion of retirement benefits of up to a maximum of \$10,000 for tax years beginning in 1998, 1999 and 2000 and a combined exclusion of up to a maximum of \$12,000 for tax years beginning on or after January 1, 2001. The \$10,000 or \$12,000 exclusion shall be allocated to the husband and wife in the proportion that each spouse’s respective pension and retirement benefits received bear to the total combined pension and retirement benefits received by both spouses. See More information can be found in rule 701—302.80(422) for the exclusion of military retirement pay for tax years beginning on or after January 1, 2014 and rule 701—302.23(422) for the exclusion of Social Security benefits.~~

~~EXAMPLE 1. A married couple elected to file separately on the combined return form. Both spouses were 55 years of age or older. The wife received \$95,000 in retirement benefits and the husband received \$5,000 in retirement benefits. Since the wife received 95 percent of the retirement benefits, she would~~

be entitled to 95 percent of the \$10,000 retirement income exclusion or a retirement income exclusion of \$9,500. The husband would be entitled to 5 percent of the \$10,000 retirement income exclusion or an exclusion of \$500.

EXAMPLE 2. A married couple elected to file separately on the combined return form. Both spouses were 55 years of age or older. The husband had \$15,000 in retirement benefits from a pension. The wife received no retirement benefits. In this situation, the husband can use the entire \$10,000 retirement income exclusion to exclude \$10,000 of his pension benefits since the spouse did not use any of the \$10,000 retirement income exclusion for the tax year.

EXAMPLE 3. A married couple elected to file separately on the combined return form. One spouse was 52 years of age and received a pension income of \$20,000. The other spouse was 55 years of age and received no pension income. Since the spouse receiving the pension income was not 55 years of age, no exclusion is allowed on the Iowa return.

EXAMPLE 4. A married couple elected to file separately on the combined return form. One spouse was 52 years of age and received a pension income of \$10,000. The other spouse was 55 years of age and received a pension income of \$8,000. Since only one spouse receiving the pension income was 55 years of age, an exclusion of \$8,000 is allowed on the Iowa return. The exclusion of \$8,000 is allowed since a married couple is allowed a combined exclusion of up to \$12,000.

For tax years beginning on or after January 1, 1995, but prior to January 1, 1998, the retirement income exclusion was up to \$3,000 for single individuals, up to \$3,000 for each married person filing a separate Iowa return, up to \$3,000 for each married person filing separately on the combined return form, and up to \$6,000 for married taxpayers filing joint Iowa returns. For example, a married couple elected to file separately on the combined return form and both spouses were 55 years of age or older. One spouse had \$2,000 in pension income that could be excluded, since the pension income was \$3,000 or less. The other spouse had \$6,000 in pension income and could exclude \$3,000 of that income due to the retirement income exclusion. This second spouse could not exclude an additional \$1,000 of the up to \$3,000 retirement income exclusion that was not used by the other spouse.

302.47(1) Retirement income.

a. Qualifying retirement income. Generally, distributions from documented retirement plans meeting the qualification requirements in the Internal Revenue Code qualify for the retirement income exclusion. The following is a nonexclusive list of plans that qualify for the retirement income exclusion:

- (1) Traditional individual retirement account (IRA) authorized under Internal Revenue Code Section 408(a).
- (2) Roth individual retirement account (Roth IRA) authorized under Internal Revenue Code Section 408A.
- (3) Roth conversion income.
- (4) Simplified employee pension individual retirement arrangement (SEP-IRA) defined in Internal Revenue Code Section 408(k).
- (5) Savings incentive match plan for employees (SIMPLE IRA) defined under Internal Revenue Code Section 408(p).
- (6) Qualified deferred compensation plans including those authorized under Internal Revenue Code Section 401(k).
- (7) Eligible deferred compensation plans including those authorized under Internal Revenue Code Section 457(b).
- (8) A defined benefit plan, pension plan, profit-sharing plan, or stock bonus plan qualified under Internal Revenue Code Section 401 including IPERS and employee stock ownership plans (ESOPs).
- (9) Keogh plans or HR 10 plans.
- (10) Eligible combined plans described in Internal Revenue Code Section 414(x).

b. Retirement income that does not qualify. Generally, distributions from retirement plans that do not meet the qualification requirements in the Internal Revenue Code do not qualify for the retirement income exclusion. The following nonexclusive list of plans does not qualify for the retirement income exclusion:

- (1) Nonqualified deferred compensation plans described in Internal Revenue Code Section 409A.

(2) Nonqualified annuities.

302.47(2) Survivors having an insurable interest.

a. *Insurable interest.* “Insurable interest” is a term used in life insurance which also applies to this rule and is defined to be “such means an interest in the life of the person insured, arising from the relations of the party obtaining the insurance, either as credit of or surety for the assured insured, or from the ties of blood or marriage to him the insured, as would justify a reasonable expectation of advantage or benefit from the continuance of his the life of the insured.” *Warnock v. Davis*, 104 U.S. 775, 779, 26 L.Ed. 924; *Connecticut Mut. Life Ins. Co. v. Luhrs*, 2 S.Ct. 949, 952, 108 U.S. 498, 27 L.Ed. 800; Appeal of Corson, 6 A. 213, 215, 113 Pa. 438, 57 Am. Rep. 479; *Adams’ Adm’r v. Reed*, Ky., 36 S.W. 568, 570; *Trinity College v. Travelers’ Co.*, 18 S.E. 175, 176, 113 N.C. 244, 22 L.R.A. 291; *Opitz v. Karel*, 95 N.W. 948, 951, 118 Wis. 527, 62 L.R.A. 982. It is not necessary that the expectation of advantage or profit should always be capable of pecuniary estimation, for a parent has an insurable interest in the life of his child, and a child in the life of his parent, a husband in the life of his wife, and a wife in the life of her husband. The natural affection in cases of this kind is considered as more powerful, as operating the more efficaciously, to protect the life of the insured than any other consideration, but in all cases there must be a reasonable ground, founded on relations to each other, either pecuniary or of blood or affinity, to expect some benefit or advantage from the continuance of the life of the assured. *Warnock v. Davis*, 104 U.S. 775, 26 L.Ed. 924; Appeal of Corson, 6 A. 213, 215, 113 Pa. 438, 57 Am. Rep. 479; *Connecticut Mut. Life Ins. Co. v. Luhrs*, 2 S.Ct. 949, 952, 108 U.S. 498, 27 L.Ed. 800. For purposes of this rule, the term “insurable interest” applies to a beneficiary receiving retirement benefits due to the death of a decedent under the same circumstances as if the beneficiary were receiving life insurance benefits as a result of the death of the decedent. Case law related to an insurable interest in the life insurance context is relevant in determining whether a beneficiary is a survivor with an insurable interest.

b. *Survivors with an insurable interest must be natural persons.* Only natural persons may be a survivor with an insurable interest for purposes of this exclusion.

c. *Parties deemed to have an insurable interest by relationship.* Some relationships are deemed so close that the individual will have an insurable interest in the decedent. These are spouses in each other’s lives, parents in the lives of their children, and children in the lives of their parents.

d. *Individuals other than close relations may be a survivor with an insurable interest.* Individuals other than those with a relationship with the decedent described in paragraph 302.47(2) “c” must establish that they had a pecuniary interest in the continuation of the life of the decedent at the time of death to be considered a survivor with an insurable interest. The beneficiary has the burden of proof to show that the beneficiary had a reasonable expectation of an advantage or benefit that the beneficiary would have received with the continuance of the life of the decedent. Being named a beneficiary of the retirement plan alone does not establish that an individual is a survivor with an insurable interest.

EXAMPLE: A grandson was receiving college tuition regularly from his grandfather and received the grandfather’s pension as a beneficiary of the grandfather after the grandfather’s death. The grandson would be deemed to have an insurable interest in the benefits and would be eligible for the retirement income exclusion.

For purposes of this rule, the term “insurable interest” will be considered to apply to a beneficiary receiving retirement benefits due to the death of a pensioner or annuitant under the same circumstances as if the beneficiary were receiving life insurance benefits as a result of the death of the pensioner or annuitant.

For purposes of this rule, the term “survivor” is a person other than the surviving spouse of an annuitant or pensioner who is receiving the annuity or pension benefits because the person was a beneficiary of the pensioner or annuitant at the time of death of the pensioner or annuitant. In addition, in order for this person to qualify for the partial exclusion of pensions or retirement benefits, this survivor must have had an insurable interest in the pensioner or annuitant at the time of death of the annuitant or pensioner.

A survivor other than the surviving spouse will be considered to have an insurable interest in the pensioner or annuitant if the survivor is a son, daughter, mother, or father of the annuitant or pensioner. The relationship of these individuals to the pensioner or annuitant is considered to be so close that no

~~separate pecuniary or monetary interest between the pensioner or annuitant and any of these relatives must be established.~~

~~A survivor may include relatives of the pensioner or annuitant other than those relatives that were mentioned above. However, before any of these relatives can be considered to be a survivor for purposes of this rule, the relative must have had some pecuniary interest in the continuation of the life of the pensioner or annuitant. That is, the relative must establish a relationship with the pensioner or annuitant that shows there was a reasonable expectation of an advantage or benefit which the person would have received with the continuance of the life of the pensioner or annuitant.~~

~~The fact that a niece of the pensioner or annuitant was named beneficiary of an uncle's pension where the uncle had no closer relatives does not in itself establish that the niece had an insurable interest in the pension benefits, if the niece was not receiving monetary benefits or the niece did not have some special relationship to the uncle at the time of the uncle's death.~~

~~If a grandson was receiving college tuition regularly from his grandfather and received the grandfather's pension as a beneficiary of the grandfather after the grandfather's death, the grandson would be deemed to have an insurable interest in the benefits and would be eligible for the partial retirement benefit exclusion.~~

~~A person who is not related to the pensioner or annuitant, such as a partner in a business or a creditor, may have an insurable interest in the pensioner or annuitant. However, the burden of proof is on a nonrelated person to show that the person had an insurable interest in the pensioner or the annuitant at the time of death of the pensioner or annuitant.~~

~~There are numerous court cases which deal with whether a person had established an insurable interest in the life of an individual that was insured. These cases may be used as a guideline to determine whether or not a person receiving a pension or annuity due to the death of an annuitant or pensioner had an insurable interest in the annuitant or pensioner at the time of death of the pensioner or annuitant. Thus, if a person would have met criteria for an insurable interest for purposes of an interest in a person's life insurance policy, the person would also be considered to be qualified for an insurable interest in a pensioner or annuitant.~~

~~Retirement benefits subject to the retirement income exclusion include, but are not limited to: benefits from defined benefit or defined contribution pension and annuity plans, benefits from annuities, incomes from individual retirement accounts, benefits from pension or annuity plans contributed by an employer or maintained or contributed by a self-employed person and benefits and earnings from deferred compensation plans. However, the exclusion does not apply to social security benefits. A surviving spouse who is not disabled or is not 55 years of age or older can only exclude retirement benefits received as a result of the death of the other spouse and on the basis that the deceased spouse would have been eligible for the exclusion in the tax year. In order for a survivor other than the surviving spouse to qualify for the partial exclusion of retirement benefits, the survivor must have received the retirement benefits as a result of the death of a pensioner or annuitant who would have qualified for the exclusion in the tax year on the basis of age or disability. In addition, the survivor other than the surviving spouse would have had to have an insurable interest in the pensioner or annuitant at the time of the death of the pensioner or annuitant.~~

302.47(3) Disabled individuals. For purposes of this rule, a disabled individual is a person who is receiving benefits as a result of retirement from employment or self-employment due to disability. In addition, a person is considered to be a disabled individual if the individual is determined to be disabled in accordance with criteria established by the Social Security Administration or other federal or state governmental agency.

~~Note that the pension or other retirement benefits that are excluded from taxation for certain individuals are to be considered as a part of net income for purposes of determining whether or not a particular individual's income is low enough to exempt that taxpayer from tax. In addition, the pension or other retirement benefits that are excluded from taxation for certain individuals are to be considered as a part of net income for the alternative tax computation, which is available to all taxpayers except those taxpayers filing as single individuals.~~

Finally, the pension or other retirement benefits are to be considered as a part of net income for individuals using the single filing status whose tax liabilities are limited so the liabilities cannot reduce the person's net income plus exempt benefits below \$9,000, or below \$18,000 for taxpayers 65 years of age or older for the 2007 and 2008 tax years, or below \$24,000 for taxpayers 65 years of age or older for the 2009 and subsequent tax years.

This rule is intended to implement Iowa Code sections 422.5 and 422.7.

ITEM 4. Amend rule 701—302.80(422) as follows:

701—302.80(422) Exemption for military retirement pay. For tax years beginning on or after January 1, 2014, retirement Retirement pay received by taxpayers from the federal government for military service performed in the armed forces, armed forces reserves, or national guard is exempt from state income tax. In addition, amounts received by a surviving spouse, former spouse, or other beneficiary of a taxpayer who served in the armed forces, armed forces reserves, or national guard under the Survivor Benefit Plan are also exempt from state income tax for tax years beginning on or after January 1, 2014. The retirement pay is only deductible to the extent it is included in the taxpayer's federal adjusted gross taxable income.

302.80(1) Coordination with pension exclusion. The exclusion of retirement pay is in addition to the partial exclusion, provided in rule 701—302.47(422), of pensions and other retirement benefits for disabled individuals, individuals who are 55 years of age or older, surviving spouses and survivors. In addition, taxpayers who do not qualify for the exclusion in rule 701—302.47(422) and who receive retirement pay under federal law that combines retirement pay for both uniformed service and the federal civil service retirement system or federal employees' retirement system must prorate the retirement pay based on years of service.

EXAMPLE 1: A married individual who is 60 years of age receives \$20,000 of federal retirement pay from military service and \$30,000 in retirement pay from the Iowa public employees' retirement system during the 2014 tax year. The taxpayer can exclude \$20,000 of military retirement pay and \$12,000 as a pension exclusion under rule 701—302.47(422), for a total exclusion of \$32,000 on the taxpayer's Iowa individual income tax return for the 2014 tax year.

EXAMPLE 2: A single taxpayer who is 65 years of age receives \$60,000 as a federal pension during the 2014 tax year. The taxpayer has 20 years of military service and 27 years of civilian employment with the federal government. The military retirement pay portion is \$25,532 (20 years divided by 47 years multiplied by \$60,000). The taxpayer can exclude \$25,532 of military retirement pay and \$6,000 as a pension exclusion under rule 701—302.47(422), for a total exclusion of \$31,532 on the taxpayer's Iowa individual income tax return for the 2014 tax year.

EXAMPLE: A single taxpayer who is not disabled and is 50 years of age receives \$60,000 as a federal pension during the tax year. The taxpayer has 20 years of military service and 10 years of civilian employment with the federal government. The military retirement pay portion is \$40,000 (20 years, divided by 30 years, multiplied by \$60,000). The taxpayer can exclude \$40,000 of military retirement pay. The taxpayer may not exclude the \$20,000 of civilian retirement pay since it does not qualify for the exclusion in rule 701—302.47(422) because the taxpayer is under 55 years of age and is not disabled.

302.80(2) Coordination with filing threshold and alternate tax. The military retirement pay is excluded from the calculation of income used to determine whether an Iowa income tax return is required to be filed pursuant to 701—subrules 301.1(1) and 301.5(10) through 301.5(13). In addition, the military retirement pay is excluded from the calculation of the special tax computation for all low-income taxpayers except single taxpayers pursuant to rule 701—301.9(422) and is excluded from the calculation of the special tax computation for taxpayers who are 65 years of age or older under rule 701—301.15(422).

302.80(3) Iowa withholding. The amount of military retirement pay is excluded from the calculation of payments used to determine whether Iowa tax should be withheld from pension and annuity payments as determined pursuant to 701—subrule 307.3(4).

This rule is intended to implement Iowa Code sections 422.5 and 422.7 as amended by 2014 Iowa Acts, Senate File 303.

ITEM 5. Amend subrule 307.1(2) as follows:

307.1(2) *Withholding on pensions, annuities and other nonwage payments to Iowa residents.* State income tax is required to be withheld from payments of pensions, annuities, supplemental unemployment benefits and sick pay benefits and other nonwage income payments made to Iowa residents in those circumstances mentioned in the following paragraphs. This subrule covers those nonwage payments described in Sections 3402(o), 3402(p), 3402(s), 3405(a), 3405(b), and 3405(c) of the Internal Revenue Code. This includes, but is not limited to, payments from profit-sharing plans, stock bonus plans, deferred compensation plans, individual retirement accounts, lump-sum distributions from qualified retirement plans, other retirement plans, and annuities, endowments and life insurance contracts issued by life insurance companies. These payments are subject to Iowa withholding tax if they are also subject to federal withholding tax. However, no state income tax withholding is required from nonwage payments to residents to the extent those payments are not subject to state income tax. ~~See paragraph 307.1(2) "h" for threshold amounts for withholding from payments of pensions, annuities, individual retirement accounts, deferred compensation plans, and other retirement incomes which are made on or after January 1, 2001.~~ In the case of some nonwage payments to residents, such as payments of pensions and annuities, no state income tax is required to be withheld if no federal income tax is being withheld from the payments of the pensions and annuities. ~~The rate of withholding on the nonwage payments described in this subrule is 5 percent of the payment amounts or 5 percent of the taxable amounts unless specified otherwise.~~

For purposes of this subrule, an individual receiving nonwage payments will be considered to be an Iowa resident and subject to this subrule if the individual's permanent residence is in Iowa. The fact that a nonwage payment is deposited in a recipient's account in a financial institution located outside Iowa does not mean that the recipient's permanent residence is established in the place where the financial institution is situated.

Payers of pension and annuity benefits and other nonwage payments have the option of either withholding Iowa income tax from these payments on the basis of tables and formulas included in the Iowa withholding tax guide of the department of revenue or withholding Iowa income tax from these payments at the rate of 5 percent. ~~State income tax is required to be withheld by payers in situations when federal income tax is being withheld from the nonwage payments.~~

a. Withholding from pension and annuity payments to residents. Withholding of state income tax is required from payments of pensions and annuities to Iowa residents to the extent that the recipients of the payments have not filed with the payers of the benefits election forms which specify that no federal income tax is to be withheld. Therefore, state income tax is to be withheld when federal income tax is being withheld from the pensions or annuities. ~~See paragraph 307.1(2) "h" for threshold amounts for withholding from payments of pensions, annuities, and other retirement incomes which are made on or after January 1, 2001.~~

However, although Iowa income tax is ordinarily required to be withheld from pension and annuity payments made to Iowa residents if federal income tax is being withheld from the payments, no state income tax is required to be withheld if pension and annuity payments are not subject to Iowa income tax, as in the case of railroad retirement benefits which are exempt from Iowa income tax by a provision of federal law or retirement distributions subject to the retirement income exclusion described in rule 701—302.47(422).

b. Withholding from payments to residents from profit-sharing plans, stock bonus plans, deferred compensation plans, individual retirement accounts and from annuities, endowments and life insurance contracts issued by life insurance companies. Payments to Iowa residents from profit-sharing plans, stock bonus plans, deferred compensation plans, individual retirement accounts and payments from life insurance companies for contracts for annuities, endowments or life insurance benefits are subject to withholding of state income tax if federal income tax is withheld from the benefits. However, no state income tax is to be withheld from the income tax payments described above to the extent those income tax payments are exempt from Iowa income tax. ~~See paragraph 307.1(2) "h" for thresholds for withholding from payments of pensions, annuities, individual retirement accounts, deferred compensation plans, and~~

~~other retirement incomes which are made on or after January 1, 2001. Rule 701—302.47(422) provides more information about the retirement income exclusion.~~

In cases where the recipients elect withholding of state income tax from the income payments, the payers are to withhold from the payments at a rate of 5 percent on the taxable portion of the payment, if that can be determined by the payer or on the entire income payment if the payer does not know how much of the payment is taxable. Once a recipient makes an election for state income tax withholding, that election will remain in effect until a later election is made.

c. Withholding from payments to residents for supplemental unemployment compensation benefits and sick pay benefits. Income payments made for supplemental unemployment compensation benefits described in Section 3402(o)(2)(a) of the Internal Revenue Code and for sick pay benefits are subject to withholding of state income tax. In the case of supplemental unemployment compensation benefits, those benefits are treated as wages for purposes of state income tax withholding. Therefore, state income tax should be withheld from these payments when federal income tax is withheld. The amount of state income tax withholding should be determined by the withholding tables provided in the Iowa employers' "Withholding Tax Guide."

In the case of state income tax withholding for sick pay benefits paid by third-party payers in accordance with Section 3402(o)(1) of the Internal Revenue Code, state income tax is to be withheld from the benefits by the payer only if state income tax withholding is requested by the payee of the benefits. ~~However, payees of sick pay benefits should probably not request withholding from the benefits if the payees are eligible for the disability income exclusion authorized in Iowa Code section 422.7 and described in rule 701—302.22(422).~~ If withholding is requested by the payee, the withholding should be done at a 5 percent rate on the sick pay benefits. Once withholding is started, it should continue until such time as the payee requests that no state income tax be withheld. For sick pay benefits not paid by third-party payers, state income tax is required to be withheld since federal income tax is required to be withheld.

d. Voluntary state income tax withholding from unemployment benefit payments. Recipients of unemployment benefit payments described in Section 3402(p)(2) of the Internal Revenue Code may elect to have state income tax withheld from the benefit payments at a rate of 5 percent. An individual's election to have state income tax withheld from unemployment benefits is separate from any election to have federal income tax withheld from the benefits.

e. Withholding on lump-sum distributions from qualified retirement plans. For lump-sum distribution payments from qualified retirement plans made to Iowa residents, state income tax is required to be withheld under the conditions described in this paragraph. No state income tax is required to be withheld from a lump-sum distribution payment to an Iowa resident in a situation where the payment is not subject to Iowa income tax. ~~See paragraph 307.1(2)“h” for thresholds for withholding on lump-sum distributions issued on or after January 1, 2001. Rule 701—302.47(422) provides more information about the retirement income exclusion.~~ Iowa income tax is to be withheld from a lump-sum distribution made to an Iowa resident to the extent that federal income tax is being withheld from the distribution. The rate of withholding of state income tax from the lump-sum distribution is 5 percent from the total distribution or 5 percent from the taxable amount if that amount is known by the payer. Note that in the case of a lump-sum distribution, the Iowa income tax imposed on the taxable amount of the distribution is 25 percent of the federal income tax on the distribution.

f. Withholding of state income tax from nonwage payments to residents on the basis of tax tables and tax formulas. State income tax from the nonwage payments made to Iowa residents may be withheld on the basis of formulas and tables included in the Iowa withholding tax guide of the department of revenue. ~~See paragraph 307.1(2)“h” for threshold amounts for withholding from payments of pensions, annuities, individual retirement accounts, deferred compensation plans, and other retirement incomes which are made on or after January 1, 2001.~~ When state income tax is being withheld based upon the formulas or tables in the withholding guide, the amounts of the nonwage payments are treated as wage payments for purposes of the tables or the formulas.

The frequency of the nonwage payments determines which of the withholding tables to use or the number of pay periods in the calendar year to use in the formula. For example, if the nonwage payment is

made on a monthly basis, the monthly wage bracket withholding table should be utilized for withholding or 12 should be utilized in the formula to indicate that there will be 12 nonwage payments in the year.

The payers of nonwage payments should withhold state income tax from the nonwage payments to Iowa residents when federal income tax is being withheld from the nonwage payments. The payers should withhold from the nonwage payments to Iowa residents from tables or the formulas in the Iowa withholding guide on the basis of the number of withholding exemptions claimed on Form IA W-4 which has been completed by the payees of the payments. However, if a payee of a nonwage payment has not completed an IA W-4 form (Iowa employee's withholding allowance certificate) by the time a nonwage payment is to be made by the payer of the nonwage payment, the payer is to withhold state income tax on the basis that the payee has claimed one withholding allowance or exemption.

In a situation when a payee of a nonwage payment completes Form IA W-4 and claims exemption from state income tax withholding when federal income tax is being withheld from the nonwage payment, the payer of the nonwage payment should withhold state income tax using one withholding allowance or exemption unless the payee has verified exemption from state income tax.

g. Withholding on distributions from qualified retirement plans that are not directly rolled over. State Other than distributions to payees who qualify for the retirement income exclusion, state income tax is to be withheld at a rate of 5 percent from the gross amount or taxable amount if known by the payer of the distribution made to Iowa residents if the distributions are not transferred directly to an IRA, Section 403(a) annuity or another qualified retirement plan. The distributions that are subject to state income tax withholding are those distributions that are subject to 20 percent withholding for federal income tax purposes. See paragraph 307.1(2)“h” for thresholds for withholding from payments of pensions, annuities, individual retirement accounts, deferred compensation plans, and other retirement plans which are made on or after January 1, 2001. Rule 701—302.47(422) provides more information about the retirement income exclusion.

h. Withholding from distributions made on or after January 1, 2001, from pensions, annuities, individual retirement accounts, deferred compensation plans, and other retirement plans. Effective for distributions made on or after January 1, 2001, from pension plans, annuities, individual retirement accounts, deferred compensation plans, and other retirement plans, state income tax is generally required to be withheld from the distributions when federal income tax is being withheld from the distributions, unless one of the exceptions for withholding in this paragraph applies. For purposes of this paragraph, the term “pensions and other retirement plans” includes all distributions of retirement benefits covered by the partial exemption described in rule 701—302.47(422).

State income tax is not required to be withheld from a distribution from a pension or other retirement plan if the distribution is an income which is not subject to Iowa income tax, such as a distribution of railroad retirement benefits. State income tax is also not required to be withheld from a pension plan or other retirement plan if the amount of the distribution is \$500 per month or less or if the taxable amount is \$500 or less and the person receiving the distribution is eligible for the partial exemption of retirement benefits described in rule 701—302.47(422), if the state taxable amount can be determined by the payee of the distribution. There is also no requirement for withholding state income tax from a pension or other retirement plan if the distribution is \$1,000 per month or less or if the taxable amount is \$1,000 or less and the person receiving the distribution is eligible for the partial exemption of retirement benefits described in rule 701—302.47(422) and that person has indicated an intention to file a joint state income tax return for the year in which the distribution is made. In instances where the distribution amount or the taxable amount is more than \$500 per month but less than \$6,000 for the year, no state income tax will be required to be withheld, if the person receiving the distribution is eligible for the partial exemption of retirement benefits.

Finally, there is no requirement for withholding from a lump-sum payment from a qualified retirement plan if the lump-sum payment is \$6,000 or less, the recipient is eligible for the partial exemption of distributions from pensions and other retirement plans, and the lump-sum payment is the only distribution from the retirement plan in the year.

ITEM 6. Amend rule ~~701—307.1(422)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 96.3, ~~99B.24~~ 99B.8, 99D.16, ~~99E.19~~, 99F.18, ~~99G.31~~, 422.5, 422.7, and 422.16.

ITEM 7. Amend subrule 307.3(5) as follows:

307.3(5) *Iowa W-4P—withholding certificate for pension or annuity payments.*

a. For payments made from pension plans, annuity plans, individual retirement accounts, or deferred compensation plans to residents of Iowa, payers of these retirement benefits are to use Form IA W-4P for withholding of state income tax from the benefits. ~~Generally, state income tax is required to be withheld from payments of distributions from the retirement incomes described above when federal income tax is being withheld from the payments. However, no state income tax is required to be withheld to the extent the monthly payment amount is \$500 or less or the taxable amount per month is \$500 or less if the payee is eligible for the retirement benefits exclusion described in rule 701—302.47(422). In addition, no state income tax is required to be withheld to the extent the monthly payment amount is \$1,000 or less or the taxable amount per month is \$1,000 or less if the payee is married and eligible for the retirement benefits exclusion described in rule 701—302.47(422). Iowa income tax withholding is not required on payments of distributions from qualifying retirement plans if the payee is eligible for the retirement income exclusion described in rule 701—302.47(422). However, withholding at a rate of 5 percent is required if the payee is not eligible for the retirement income exclusion or if the distribution is from a plan that does not qualify for the retirement income exclusion.~~

b. ~~Form IA W-4P is available from the department for payers of retirement benefits that intend to withhold at a rate of 5 percent from the payment amount or taxable payment amount after the \$6,000 to \$12,000 exclusion is considered. Note that the \$6,000 to \$12,000 exclusion is to be allocated to all retirement benefit payments made in the year and not just the first \$6,000 to \$12,000 in payments made in the year to an individual. If an individual receives retirement benefits and has not completed Form IA W-4P, the payer is directed to withhold Iowa income tax from the retirement benefit payment after a \$6,000 exclusion is allowed on an annual basis.~~

c. b. Payers of retirement benefits taxable in Iowa that want to use withholding formulas or tables to withhold state income tax instead of at the 5 percent rate may design their own IA W-4P withholding certificate form without approval of the department.

d. ~~The payers are not responsible for improper choices made by a payee in completion of the IA W-4P. However, payers cannot accept a request for exemption from the withholding of state income tax made by a payee if federal income tax is being withheld unless the payee is eligible for exemption from withholding.~~

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