

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 10, “Interest, Penalty, Exceptions to Penalty, and Jeopardy Assessments,” Chapter 38, “Administration,” Chapter 40, “Determination of Net Income,” Chapter 41, “Determination of Taxable Income,” Chapter 43, “Assessments and Refunds,” Chapter 46, “Withholding,” Chapter 48, “Composite Returns,” Chapter 50, “Apportionment of Income for Resident Shareholders of S Corporations,” Chapter 52, “Filing Returns, Payment of Tax and Penalty and Interest,” Chapter 54, “Allocation and Apportionment,” Chapter 59, “Determination of Net Income,” Chapter 86, “Inheritance Tax,” Chapter 88, “Generation Skipping Transfer Tax,” Chapter 89, “Fiduciary Income Tax,” and Chapter 104, “Hotel and Motel—Filing Returns, Payment of Tax, Penalty, and Interest,” Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXI; No. 19, p. 1992, on March 11, 2009, as **ARC 7632B**.

These amendments clarify existing rules and remove obsolete rules or rule provisions.

Item 1 amends rule 701—10.3(422,450,452A) and the implementation clause to provide that interest due on unpaid tax is not subject to waiver.

Item 2 amends subrule 10.8(1) to provide for an additional exception to the penalty for failure to file relating to Iowa inheritance tax if a disclaimer is filed by a beneficiary.

Item 3 amends subrule 10.8(2) to provide for an additional exception to the penalty for failure to pay relating to Iowa inheritance tax if a disclaimer is filed by a beneficiary.

Item 4 rescinds and reserves rules 701—10.20(422,423) and 701—10.21(422,423), which are obsolete rules regarding penalty for retail sales tax.

Item 5 rescinds and reserves rule 701—10.30(423), which is an obsolete rule regarding penalty for use tax.

Item 6 rescinds and reserves rule 701—10.85(422), which is an obsolete rule regarding penalty for inheritance tax.

Item 7 rescinds and reserves rule 701—10.90(451), which is an obsolete rule regarding penalty for estate tax.

Item 8 rescinds and reserves rule 701—10.96(450A), which is an obsolete rule regarding penalty for generation skipping tax. Rule 701—10.97(422) is also rescinded, but the content is adopted as subrule 88.3(15) in Item 45.

Item 9 rescinds and reserves rules 701—10.101(422) and 701—10.102(422), which are obsolete rules regarding penalty for fiduciary income tax. Rule 701—10.103(422) is also rescinded, but the content is adopted as subrule 89.7(1) in Item 47.

Item 10 rescinds and reserves rules 701—10.110(423A) and 701—10.111(423A), which are obsolete rules regarding penalty for hotel and motel tax.

Items 11 and 12 amend subrule 10.115(2) and the implementation clause for rule 701—10.115(421) by citing an Iowa Supreme Court case regarding the application of payments and to provide guidance for the application of payments in situations where more than one tax period is involved.

Item 13 amends rule 701—38.12(422) to remove obsolete provisions regarding the indexation of the standard deduction for inflation for tax years ending prior to January 1, 1996, for individual income tax.

Item 14 amends the introductory paragraph in rule 701—38.14(422) to remove a reference to a Department publication that no longer exists.

Item 15 amends subrule 38.14(2) to remove an obsolete provision regarding tax information that the Department can obtain from the Internal Revenue Service.

Item 16 amends paragraph 40.2(1)“a” to provide that original issue discount on United States Treasury obligations are exempt from Iowa income tax.

Item 17 amends paragraph 40.2(2)“a” to provide that interest from Federal Agricultural Mortgage Corporation obligations is subject to Iowa income tax.

Item 18 amends subrule 40.16(2) to provide that nonresidents of Iowa who earn compensation in Iowa and at least one other state for an airline company or merchant marine company are only subject to the income tax laws of their state of residence.

Item 19 amends subrule 40.16(5) by adding an example regarding how nonresidents of Iowa are taxed on income from intangible personal property for individual income tax.

Item 20 amends subrule 40.21(6) to correct a reference from corporation income tax to individual income tax.

Item 21 amends rule 701—40.30(422) to remove an obsolete provision regarding percentage depletion for tax years beginning before January 1, 1987, and to include the current provision for percentage depletion for tax years beginning on or after January 1, 1987, for individual income tax.

Item 22 amends rule 701—40.31(422) to remove an obsolete provision regarding away-from-home expenses for state legislators for tax years beginning before January 1, 1987, and to include the current provision for away-from-home expenses for state legislators for tax years beginning on or after January 1, 1987, for individual income tax.

Item 23 amends subrule 40.38(8) by citing an Iowa Supreme Court case regarding the capital gains exclusion for individual income tax.

Item 24 amends rule 701—40.43(422) by striking the last unnumbered paragraph.

Item 25 amends subrule 40.46(4) to correct a reference that has changed due to Department reorganization.

Item 26 amends rule 701—40.53(422), introductory paragraph, to provide that the College Savings Iowa Plan and the Iowa Advisor 529 Plan are eligible for deductions related to contributions to the Iowa Educational Savings Plan Trust for individual income tax.

Item 27 rescinds and reserves subrule 41.5(5), which is an obsolete subrule regarding the deduction for payments of tuition and textbooks for individual income tax.

Item 28 amends rule 701—43.8(422), introductory paragraph, to remove an obsolete provision regarding the livestock production credit for individual income tax.

Item 29 rescinds and adopts new subrule 43.8(1) to remove obsolete provisions regarding the livestock production tax credit for individual income tax.

Item 30 rescinds and reserves paragraph 43.8(2)“i,” which is an obsolete provision regarding the livestock production tax credit for individual income tax.

Item 31 amends subrule 46.4(2) to add two new provisions that provide that nonresidents of Iowa who earn compensation in Iowa and at least one other state for an airline company or merchant marine company are not subject to Iowa withholding tax.

Items 32 and 33 amend subrules 48.9(1) and 48.9(2) to clarify the due date of composite returns.

Item 34 amends rule 701—50.1(422), introductory paragraph, to remove obsolete provisions regarding the S corporation apportionment credit.

Item 35 rescinds and reserves rule 701—50.8(422), which is an obsolete subrule regarding the S corporation apportionment credit.

Item 36 amends paragraph 52.1(1)“d” to cite additional court cases and provide additional examples regarding intangible property located or having a situs within Iowa which would create a filing requirement for corporation income tax.

Item 37 amends subrule 52.1(4) to add an additional example regarding the taxation of corporations having only intangible property located or having a situs in Iowa for corporation income tax.

Items 38 and 39 amend subrule 52.5(4), introductory paragraph and paragraphs “a” and “b,” to remove obsolete provisions regarding the alternative minimum tax credit for corporation income tax.

Item 40 amends subrule 52.18(4), introductory paragraph, to provide clarification on what tax period the historic preservation and cultural and entertainment district tax credit can be claimed for corporation income tax.

Items 41 to 43 amend paragraph 54.6(1)“f,” rule 701—54.9(422) and rule 701—59.29(422) to correct references that have changed due to Department reorganization. This is similar to the change in Item 25.

Item 44 adopts new subrules 86.2(11) and 86.2(12) to set forth the penalty and interest provisions for unpaid Iowa inheritance tax.

Item 45 adopts new subrules 88.3(14) and 88.3(15) to set forth the penalty and interest provisions for unpaid Iowa generation skipping transfer tax.

Item 46 adopts new rule 701—89.6(422) to set forth the penalty provisions for unpaid Iowa fiduciary income tax.

Item 47 adopts new subrule 89.7(1) to set forth the interest provisions for unpaid Iowa fiduciary income tax.

Item 48 adopts new rule 701—104.8(423A) to set forth the penalty and interest provisions for unpaid Iowa hotel and motel tax.

Item 49 adopts new rule 701—104.9(423A) to set forth the provisions for waiver of penalty for Iowa hotel and motel tax.

One change has been made since the Notice of Intended Action. Implementation sentences have been added to rules 701—104.8(423A) and 701—104.9(423A).

These amendments will become effective June 10, 2009, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code chapters 421, 422, 423, and 423A.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 10, 38, 40, 41, 43, 46, 48, 50, 52, 54, 59, 86, 88, 89, 104] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 7632B**, IAB 3/11/09.

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