

**REVENUE DEPARTMENT[701]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby amends Chapter 38, "Administration," Chapter 40, "Determination of Net Income," and Chapter 41, "Determination of Taxable Income"; rescinds Chapter 42, "Adjustments to Computed Tax," and adopts a new Chapter 42, "Adjustments to Computed Tax and Tax Credits"; and amends Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues," and Chapter 89, "Fiduciary Income Tax," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXII, No. 17, p. 1907, on February 10, 2010, as **ARC 8512B**.

New Chapter 42 reorganizes the rules by providing a separate rule for each tax credit. In addition, the following changes are adopted:

- Subrule 42.11(3) includes federal revisions made in 2008 to the research activities credit for individual income tax and provides for additional research activities credits for companies eligible under the enterprise zone program for expenses related to the development and deployment of innovative renewable energy generation.
- Subrule 42.11(4) provides for an annual report of certain research activities claims, which report is due by February 15 of each year.
- Rule 701—42.18(422) provides for the repeal of the assistive device credit for individual income tax.
- Rule 701—42.19(422) provides for changes to the historic preservation and cultural and entertainment district tax credit for individual income tax.
- Rule 701—42.24(15E) provides for changes to the endow Iowa tax credit for individual income tax.
- Rule 701—42.27(422,476B) provides for changes to the wind energy production tax credit for individual income tax.
- Rule 701—42.28(422,476C) provides for changes to the renewable energy tax credit for individual income tax, including new subrule 42.28(4), which provides that owners of small wind energy systems operating within a small wind innovation zone are eligible for the renewable energy tax credit.
- Rule 701—42.29(15) provides, for individual income tax, that the high quality job creation program has been replaced by the high quality jobs program effective July 1, 2009.
- Rule 701—42.36(175,422) provides for a cap in the agricultural assets transfer tax credit effective with the fiscal year beginning July 1, 2009.
- Rule 701—42.37(15,422) provides for changes to the film qualified expenditure tax credit for individual income tax.
- Rule 701—42.38(15,422) provides for changes to the film investment tax credit for individual income tax.
- New individual income tax rules are adopted as follows: 701—42.41(15,422) for the redevelopment tax credit, 701—42.42(15) for credits related to the high quality jobs program, 701—42.43(16,422) for the disaster recovery housing project tax credit, 701—42.44(422) for the sequence of deducting tax credits, and 701—42.45(15) for the aggregate tax credit limit on certain economic development program tax credits.
- Amendments to subrules 38.17(3), 40.16(5), 41.5(14), 41.5(15), 52.7(4), 52.7(5) and 89.8(1) correct cross references related to the reorganization of Chapter 42.
- The titles of Chapters 42, 52 and 58 are changed to reflect that tax credits are an integral part of the content of these chapters.

These amendments are identical to those published under Notice of Intended Action with one exception. Subrule 40.70(1) is amended to correct cross references related to the reorganization of Chapter 42. Subrule 40.70(1) now reads as follows:

**“40.70(1) Projects registered on or after January 1, 2007, but before July 1, 2009.** For tax years beginning on or after January 1, 2007, a taxpayer who is a resident of Iowa may exclude, to the extent included in federal adjusted gross income, income received from the sale, rental or furnishing of tangible personal property or services directly related to the production of film, television, or video projects that are registered with the film office of the Iowa department of economic development.

“Income which can be excluded on the Iowa return must meet the criteria of a qualified expenditure for purposes of the film qualified expenditure tax credit as set forth in rule 701—42.37(15,422). See rule 701—38.17(422) for the determination of Iowa residency.

“However, if a taxpayer claims this income tax exclusion, the same taxpayer cannot also claim the film qualified expenditure tax credit as described in rule 701—42.37(15,422). In addition, any taxpayer who claims this income tax exclusion cannot have an equity interest in a business which received a film qualified expenditure tax credit. Finally, any taxpayer who claims this income tax exclusion cannot participate in the management of the business which received the film qualified expenditure tax credit.

“Example: A production company which registers with the film office for a project is a limited liability company with three members, all of whom are Iowa residents. If any of the three members receives income that is a qualified expenditure for purposes of the film qualified expenditure tax credit, such member(s) cannot exclude this income on the Iowa income tax return because the member(s) has an equity interest in the business which received the credit.”

These amendments will become effective May 26, 2010, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code chapter 422.

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 [amend 38.17(3), 40.16(5), 40.70(1), 41.5, Ch 52 title, 52.7, Ch 58 title, 89.8(11)“b”; adopt Ch 42] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 8512B**, IAB 2/10/10.

[Filed 4/2/10, effective 5/26/10]

[Published 4/21/10]

[For replacement pages for IAC, see IAC Supplement 4/21/10.]