

REVENUE DEPARTMENT[701]

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 701—Chapter 277
“Sales and Use Tax Refund for Biodiesel Production”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 421.14, 422.68, and 423.4(9)
State or federal law(s) implemented by the rulemaking: 423.4(9)

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

October 25, 2023
9 a.m. to 12 noon

Via video/conference call:
meet.google.com/cox-brcn-tok?hs=122&authuser=0

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Department of Revenue no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Alana Stamas
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306-3457
Phone: 515.350.3932
Email: alana.stamas@iowa.gov

Purpose and Summary

The purpose of this proposed rulemaking is to readopt Chapter 277, which provides and describes the process for taxpayers to obtain a refund of sales or use tax paid by biodiesel producers. The Department proposes revisions to this chapter to remove portions of the rules that the Department determined were unnecessary and duplicative of statutory language.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

The proposed rulemaking may impose some costs on biodiesel producers by requiring them to submit a specific form to obtain the refund.

- Classes of persons that will benefit from the proposed rulemaking:

The public, including biodiesel producers, will benefit from the proposed rulemaking as the rules provide information on the form and manner in which qualified producers may apply for a refund of the sales or use tax paid. The rules provide guidance for biodiesel producers on how to apply for and understand what information to provide in order to obtain the refund.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

There is no economic impact associated with these proposed rules beyond what is provided in statute. There may be some quantitative impact on biodiesel producers to fill out the form to seek a refund. However, seeking a refund is voluntary. The rules prescribe forms for obtaining the refund. However, these forms do not have an application fee or any other costs. The forms may have a positive quantitative impact on biodiesel producers by clearly explaining the information required to obtain the refund and reducing the likelihood of confusion or uncertainty when applying for the refund.

- Qualitative description of impact:

The qualitative benefit of this proposed rulemaking beyond what is already provided by the statute is the value of having rules that describe the refund process, applicability, and limitations to reduce confusion about the scope and applicability of the refund so that qualified taxpayers have access to the information in the rules.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

There are no costs to the State beyond what is required to administer the relevant statute. This refund program is already ongoing; this proposed rulemaking does not provide any significant changes to this process, other than removing unnecessary and duplicative statutory language. The Department has tax administration expenses with administering any tax statute that provides for a refund, including return processing and enforcement program work.

- Anticipated effect on state revenues:

There are no anticipated effects on state revenues beyond what is already contained in the statute. The rules clarify the scope and identify the process for biodiesel producers to obtain refunds, making it more likely the correct amount of tax is refunded.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The cost of inaction would be the failure to comply with the statute's mandate that the Department adopt rules to administer this tax refund. The benefit of this proposed rulemaking is to provide qualified taxpayers with information about the process, requirements, and limitations of obtaining the refund for biodiesel producers so taxpayers can efficiently apply for and obtain a refund.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The proposed rulemaking is not costly or intrusive. The Department has considered the information to provide in the rules and what could be provided on the forms used for this process. The Department concluded that utilizing the forms in conjunction with these rules will help guide taxpayers to provide information needed to process these refund requests in an efficient manner.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

Because the statute mandates rulemaking, the Department did not consider proceeding without rules.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

Proceeding without rules would put the Department out of compliance with the statute and harm biodiesel producers by not providing helpful information about the process for obtaining a refund.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

This proposed rulemaking does not have a substantial impact on small business. The rule describes a refund that qualified taxpayers may seek voluntarily and the form and manner in which to do so. The rules are the same for taxpayers of different sizes and do not make a distinction for smaller businesses.

Text of Proposed Rulemaking

ITEM 1. Rescind 701—Chapter 277 and adopt the following **new** chapter in lieu thereof:

CHAPTER 277
SALES AND USE TAX REFUND FOR BIODIESEL PRODUCTION

701—277.1(423) Biodiesel production refund. A refund of sales or use tax is available for certain producers of biodiesel for calendar year 2012 to the ending year specified in Iowa Code section 423.4(9)“e.”

277.1(1) *Qualifications for the refund.* To be eligible for the refund, a biodiesel producer that produces biodiesel in Iowa must meet the criteria listed in Iowa Code section 423.4(9)“a.”

277.1(2) *Calculation of the refund.* The amount of refund is calculated as described in Iowa Code section 423.4(9)“b” and up to the number of gallons identified in Iowa Code section 423.4(9)“c.” No refund will be allowed for gallons produced at a facility on or after the date identified in Iowa Code section 423.4(9)“e.”

277.1(3) *Claiming the refund.* In order to claim a refund for each calendar quarter, a biodiesel producer must file Form IA 843, Refund Return, on which the biodiesel producer will include the number of biodiesel gallons produced during the quarter, the calculation of the biodiesel production refund, and the amount of biodiesel production refund claimed. The biodiesel producer must also timely file all sales and use tax returns due and timely pay all sales and use taxes owed on the biodiesel producer’s purchases, even when the amount of the biodiesel production refund due exceeds the amount of sales and use taxes owed for the quarter. The department will reduce the amount of the refund issued by the amount of any sales and use taxes owed by the biodiesel producer.

EXAMPLE: A biodiesel producer produced 5 million gallons during the first quarter of 2023. The producer also owes \$10,000 of Iowa use tax based on purchases made during the first quarter of 2023. In order to claim a refund, the producer must timely file an Iowa sales and use tax return and pay \$10,000 of use tax with the return and file Form IA 843, Refund Return, to request a refund of \$200,000 (5 million gallons multiplied by 4 cents per gallon) for the first quarter of 2023.

This rule is intended to implement Iowa Code section 423.4(9).