

REVENUE DEPARTMENT[701]

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 701—Chapter 278
“Refunds for Eligible Businesses Under Economic Development Authority Programs”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 421.14, 422.68 and 423.42
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 15

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:

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Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306-3457
Phone: 515.350.3932
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Purpose and Summary

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

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 eligible businesses by requiring them to submit specific forms and information in order to obtain the refund.

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

The public, including eligible businesses, will benefit from the proposed rulemaking because the proposed rule provides information on the applicability, scope, form, and manner in which eligible businesses may apply for a refund of sales or use tax paid. The proposed rule provides guidance for eligible businesses on how to apply and to help them 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 this proposed rule beyond what is provided in statute. There may be some quantitative impact on eligible businesses to fill out the forms to seek a refund. However, seeking a refund is voluntary. The rule prescribes the forms for obtaining the refund, but these forms do not have an application fee or any other costs.

The forms may have a positive quantitative impact on eligible businesses 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 benefits of this proposed rulemaking beyond what is already provided by the statute is the value of having a rule that describes the refund process, applicability, and limitations to reduce confusion about the scope and applicability of refunds and that is accessible to qualified businesses.

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 since the proposed rule is a procedural rule required to implement the underlying statutes. The refund program is already ongoing, and this proposed rulemaking does not provide any significant changes to this process. Rather, this proposed rulemaking removes unnecessary and duplicative statutory language.

- Anticipated effect on state revenues:

There are no anticipated effects on state revenues beyond what is already contained in statute. The proposed rule clarifies the applicability and process for eligible businesses to obtain refunds of sales and use tax paid, making it more likely that 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 failure to comply with the statute's requirement that the Department establish procedures as to the application process, which this proposed rule describes. The benefit of this proposed rulemaking is providing eligible businesses with information about the process, requirements, and limitations of obtaining the refund of sales and use tax paid so they can efficiently apply and obtain their 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 what information to provide in the rule and what could be provided on the forms used for the refund process and concluded that utilizing the forms in conjunction with this rule will help guide eligible businesses to provide the needed information to process the refund requests in an efficient and accurate manner.

6. Alternative methods considered by the agency:

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

The Department considered the option of not providing this rule but determined that the rule provides useful information to eligible businesses about the scope and process to obtain the refund of sales and use tax paid.

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

Proceeding without this rule could harm eligible businesses by limiting their understanding of the scope and process related to 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?

The proposed rulemaking does not have a substantial impact on small business because it does not differentiate based on the size of an eligible business.

Text of Proposed Rulemaking

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

CHAPTER 278
REFUNDS FOR ELIGIBLE BUSINESSES UNDER ECONOMIC DEVELOPMENT
AUTHORITY PROGRAMS

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

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

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

- a. Any local option sales tax paid is not eligible for the refund. The refund is limited to the state sales and use tax paid.
- b. Any sales and use tax attributable to intangible property, furniture, or furnishings is not eligible for the refund. “Furnishings” means any furniture, appliances, equipment, and accessories that are movable and with which a room or building is furnished for comfort, convenience, or aesthetic value. Examples include rugs, décor, and window coverings. “Furnishings” does not include installed flooring such as hardwood, carpet, ceramic, stone, laminate, or vinyl.

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

- a. *High quality jobs program.* The first date the eligible business may file a claim for refund is after the contract completion as defined in Iowa Code section 15.331A. The last date the eligible business may file a claim for refund is one year after the project completion date as defined in Iowa Code section 15.329.
- b. *Workforce housing tax incentives program.* The first date the eligible business may file a claim for refund is after the agreement completion date as defined in Iowa Code section 15.355. The last date the eligible business may file a claim for refund is one year after the agreement completion date as defined in Iowa Code section 15.355.

278.1(4) How to claim the refund.

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

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

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

This rule is intended to implement Iowa Code chapter 15.