RA 26-354

REVENUE DEPARTMENT[701]

Regulatory Analysis

Notice of Intended Action to be published: 701—Chapters 101 and 108
"Replacement Tax and Statewide Property Tax; Replacement Tax and Statewide Property Tax on Rate-Regulated Water Utilities"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 437A.25 and 437B.21

State or federal law(s) implemented by the rulemaking: Iowa Code chapters 437A and 476B through 476D

Public Hearing

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

November 18, 2026 2 to 3 p.m.	Via videoconference call: meet.google.com/egs-ucjg-frv

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which 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:

Nick Behlke
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306-3457
Phone: 515.336.9025
Email: nick.behlke@iowa.gov

Purpose and Summary

The purpose of this proposed rulemaking is to rescind and adopt a new Chapter 101 and rescind Chapter 108. The regulations regarding replacement tax and statewide property tax on rate-regulated water utilities are being folded into Chapter 101 so that all replacement tax and statewide property tax regulations are under one chapter. These proposed rules describe the Department's interpretation of the underlying statutes on the utility replacement tax and statewide property tax. The Department proposes changes to these rules to help the public understand these tax types. The Department also proposes changes to remove portions of the rules that the Department determined are obsolete or unnecessary or duplicative of statutory language as required by Executive Order 10.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

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

This proposed rulemaking does not create costs for any classes of persons.

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

Taxpayers will benefit from a greater understanding of how these concepts could apply to their properties.

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 rulemaking beyond what is contained in statute.

- **Qualitative description of impact:**

The qualitative benefits of this proposed rulemaking beyond what is already provided in statute is the value of having a clear understanding of how to apply the concepts of utility replacement tax and statewide property tax in order to ensure consistent application of the law.

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 already required to administer the relevant statutes.

- **Anticipated effect on State revenues:**

A greater understanding of utility replacement tax and statewide property tax will ensure that the correct amount of property taxes are collected.

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

The cost of inaction is greater confusion about how to apply utility replacement tax and statewide property tax to properties in the State. There are no costs associated with this proposed rulemaking.

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

This proposed rulemaking is not costly or intrusive.

6. **Alternative methods considered by the agency:**

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

The Department did not consider any alternative methods.

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

Failing to have rules on utility replacement tax and statewide property tax could lead to greater confusion about the application of those taxes. The proposed rules were updated to remove outdated and duplicative language.

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 consolidates all of the utility replacement tax and statewide property tax rules into one chapter.

Text of Proposed Rulemaking

ITEM 1. Rescind 701—Chapter 101 and adopt the following **new** chapter in lieu thereof:

CHAPTER 101
REPLACEMENT TAX AND STATEWIDE PROPERTY TAX

DIVISION I

701—101.1(437A,437B) Filing the return. Taxpayers required to file a return should file the return in GovConnectIowa. A taxpayer whose replacement tax liability before credits is $300 or less is not required to file a return. If the taxpayer was inactive or ceased the conduct of any activity subject to the replacement tax during the tax year, the taxpayer must notify the department in writing on or before the return due date.

701—101.2(437A,437B) Payment of tax. Payment of tax shall not accompany the filing of the replacement tax return with the director. Payment of the tax due shall be made to the appropriate county treasurer upon notification to the taxpayer of the taxpayer's replacement tax liability.

701—101.3(437A,437B) Statute of limitations. The director has three years after a return is filed to determine the tax due if the return is found to be incorrect and to give notice to the taxpayer of the determination. If a taxpayer fails to file a return, the three-year period of limitations does not begin to run until the return is filed with the director.

701—101.4(437A,437B) Billings.

101.4(1) *Notice of adjustments.*

a. If the department discovers discrepancies in returns or learns that items subject to tax may not have been listed or included as taxable, in whole or in part, or that no return was filed when one was due, the department may notify the person of this discovery. This notice is not an assessment. It informs the person what amount would be due if the information discovered is correct.

b. A person who has received notice of an adjustment in connection with a return has 20 days from the date of the notice to file a correct, sufficient return. If payment is made, and the person wishes to contest the matter, the person should file a timely claim for refund. However, payment will not be required until an assessment has been made. Interest will continue to accrue if timely payment is not made. This person may also ask for a conference with the department.

101.4(2) *Notice of assessment.*

a. If, after following the procedure outlined in paragraph 101.4(1)*"b"* no agreement is reached and the person does not pay the amount determined to be correct to the appropriate county treasurer, a notice of the amount of tax due shall be sent to the taxpayer. This notice of assessment shall be signed by the director and will be sent by ordinary mail to the taxpayer with a copy sent to the appropriate county treasurer.

b. A taxpayer has 60 days from the date of the notice of assessment to file an appeal according to the provisions of rule 701—7.8(17A), or if the taxpayer fails to timely appeal a notice of assessment, the taxpayer may make payment pursuant to rule 701—7.8(17A) to the appropriate county treasurer and file a refund claim with the director within the applicable period provided in Iowa Code section 437A.14(1)*"b"* for filing such claims.

101.4(3) *Supplemental assessments and refund adjustments.* The director may, at any time within the period prescribed for assessment or refund adjustment, make a supplemental assessment or refund adjustment whenever it is ascertained that any assessment or refund adjustment is imperfect or incomplete in any respect. If an assessment or refund adjustment is appealed and is resolved whether by informal proceedings or by adjudication, the director shall notify the appropriate county treasurer.

701—101.5(437A,437B) Refunds.

101.5(1) A claim for refund of replacement tax should be made in GovConnectIowa. All claims for refund should be filed with the director, not with the county treasurer. In the case of a refund claim filed by an agent or representative of the taxpayer, a power of attorney must accompany the claim.

101.5(2) A taxpayer shall not offset a refund or overpayment of tax for one tax year as a prior payment of tax of a subsequent tax year on the tax return of a subsequent year.

101.5(3) The taxpayer responsible for paying the tax, or the taxpayer's successors, are the only persons eligible to file claims for refund or credit of the tax with the director and are the only persons eligible to receive such refunds or credits.

101.5(4) The director will notify the appropriate county treasurer of the acceptance or denial of any refund claim or credit. The county treasurer shall pay the refund claim or portion thereof accepted by the director.

101.5(5) A taxpayer has 60 days from the date of the notice of denial of a refund or credit, in whole or in part, to file an appeal according to the provisions of rule 701—7.8(17A).

701—101.6(437A,437B) Audit of records.

101.6(1) The department shall have the right to examine or cause to be examined the books, papers, records, memoranda or documents of a taxpayer for the purpose of verifying the correctness of a tax return filed or of information presented or for estimating the tax liability of a taxpayer. Taxpayers must maintain records as described in Iowa Code section 437A.24. When a taxpayer fails or refuses to produce the records for examination upon request, the director shall have authority to require, by a subpoena, the attendance of the taxpayer and any other witness(es) whom the director deems necessary or expedient to examine and compel the taxpayer and witness(es) to produce books, papers, records, memoranda or documents relating in any manner to the replacement tax.

101.6(2) Tax credits.

a. Application for credit. A person in possession of a renewable energy tax credit certificate issued pursuant to Iowa Code chapter 476C or a wind energy tax credit issued pursuant to Iowa Code chapter 476B may apply to the director for a reimbursement of the amount of taxes imposed and paid by the person pursuant to Iowa Code chapter 437A in an amount not more than the person received in renewable energy tax credit certificates or wind energy tax credit certificates. To obtain the reimbursement, the person shall include with the return required under Iowa Code section 437A.8 the renewable energy tax credit certificates or the wind energy tax credit certificates and provide any other information the director may require.

b. Credit in excess of liability. The director shall direct that a warrant be issued to the person for an amount equal to the tax imposed and paid by the person. Any credit in excess of the person's tax liability may be claimed as a refund for the following seven years. Pursuant to Iowa Code section 437A.14, a taxpayer may file a claim for refund with the director within three years after the replacement tax became due. If the renewable energy or wind energy tax credit claim exceeds the replacement tax due in a year, the taxpayer has seven years to carry over the excess credit.

c. Multiple credits not permissible. Pursuant to Iowa Code section 476C.4(6), a person cannot receive both a renewable energy tax credit and a wind energy tax credit. For the wind energy tax credit, the reimbursement applies to a qualified facility placed in service on or after July 1, 2005, but before July 1, 2012. For the renewable energy tax credit, the reimbursement applies to a qualified facility placed in service on or after July 1, 2005, but before January 1, 2018.

d. Calculating credit amount. The utilities board shall notify the department of the amount of kilowatt hours of electricity purchased from a renewable energy facility or the amount of kilowatt hours generated and purchased from a qualified wind energy facility or generated and used on site by the qualified wind energy facility. The department shall calculate the amount of the tax credit and issue the tax credit certificate. Wind energy and renewable energy tax credit certificates may be transferred, and a replacement tax credit certificate may reflect a different type of tax than the type of tax noted on the original tax credit certificate.

These rules are intended to implement Iowa Code chapters 476B and 476C and section 437A.17B.

DIVISION II
STATEWIDE PROPERTY TAX

701—101.7(437A,437B) Inactive taxpayers. If the taxpayer was inactive or ceased the conduct of any activity for which the taxpayer's property was subject to the statewide property tax during the tax year, the taxpayer must notify the department in writing on or before the return due date.

701—101.8(437A,437B) Time and place for filing return. Taxpayers required to file a return should file the return on GovConnectIowa.

701—101.9(437A,437B) Payment of tax. Payment of the tax required to be shown due on the statewide property tax return shall be made to the department. Payment of the tax shall be made on or before the due date of the return.

701—101.10(437A,437B) Statute of limitations. Rule 701—101.3(437A) is incorporated herein by reference.

701—101.11(437A,437B) Billings.

101.11(1) *Notice of adjustments.* Subrule 101.6(1) is incorporated herein by reference.

101.11(2) *Notice of assessment.*

a. If, after following the procedure outlined in paragraph 101.4(1)*"b,"* no agreement is reached and the person does not pay the amount determined to be correct to the director, a notice of the amount of tax due shall be sent to the taxpayer. This notice of assessment shall be signed by the director and will be sent by ordinary mail to the taxpayer.

b. A taxpayer has 60 days from the date of the notice of assessment to file an appeal according to the provisions of rule 701—7.8(17A), or if the taxpayer fails to timely appeal a notice of assessment, the taxpayer may make payment pursuant to rule 701—7.8(17A) to the director and file a refund claim with the director within the applicable period provided in Iowa Code sections 437A.22 and 437A.14(1)*"b"* for filing such claims.

101.11(3) *Supplemental assessments.* Subrule 101.4(3), except for the requirement to notify the county treasurer, is incorporated herein by reference.

701—101.12(437A,437B) Refunds. Subrules 101.5(1) through 101.5(3) and 101.5(5) are incorporated herein by reference.

701—101.13(437A,437B) Abatement of tax. The abatement provisions of 701—Chapter 19 are applicable to the statewide property tax.

701—101.14(437A,437B) Audit of records. Rule 701—101.6(437A) is incorporated herein by reference.

These rules are intended to implement Iowa Code chapters 437A and 437B.

ITEM 2. Rescind and reserve **701—Chapter 108**.