

REVENUE DEPARTMENT[701]

Regulatory Analysis

Notice of Intended Action to be published: 701—Chapters 300, 305, 306, 500, 600, and 603
“Income Tax Administration; Individual Income Tax Checkoffs;
Penalty and Interest; Assessments, Refunds, Appeals”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 422.5, 422.8, 422.15, 422.21, and 422.25

State or federal law(s) implemented by the rulemaking: Iowa Code sections 422.2, 422.3, 422.4, 422.5, 422.7, 422.8, 422.9, 422.15, 422.16, 422.17, 422.21, 422.25, 422.30, 422.35, 422.66, 422.70, 422.71, and 422.73

Public Hearing

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

November 18, 2026
9 to 10 a.m.

Via videoconference call:
meet.google.com/sbm-ihix-ere

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:

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Purpose and Summary

The purpose of this proposed rulemaking is to rescind and readopt Chapters 300 and 305, and rescind and reserve Chapters 306, 500, 600, and 603 (Chapter 603 is also proposed to be repromulgated with new subject matter in **RA 26-377**, IAB 10/28/26). The Department determined that some of the chapters governing separate areas of income tax were duplicative of each other and could be combined into one uniform chapter for the administration of all income tax types under Chapter 300. Additionally, rules related to individual income tax checkoffs are proposed to be repromulgated under Chapter 305. The Department proposes revisions to these rules in order to provide better organization and clarification and to remove portions of the rules that the Department determined unnecessary, obsolete, 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:**

There are no costs to the proposed rulemaking beyond those that are imposed by the underlying statutes.

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

The public will benefit from the proposed rulemaking because including an updated version of rules on the administration of income tax in one chapter will provide easier accessibility to those rules and reduce confusion related to income tax.

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 are no significant quantitative impacts known to be associated with these rules.

- **Qualitative description of impact:**

The proposed rulemaking will reduce uncertainty about which administrative rules apply to each respective area of income tax since the rules will all be contained within a single chapter.

3. Costs to the State:

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

There are no costs to the Department to implement the proposed rulemaking beyond what would otherwise be required to administer the underlying statutes.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues, although the revised, repromulgated rules and the elimination of rules that are no longer necessary or are obsolete will provide clarity to the public.

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

There is no benefit to retaining 701—Chapters 500, 600, and 603. The cost of inaction would be confusion and frustration. The benefits to the proposed rulemaking are to eliminate unnecessary and obsolete language and rules and to make it easier for the public to find guidance on income tax by placing rules in the proper chapter.

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

No less costly or intrusive methods have been identified.

6. Alternative methods considered by the agency:

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

The Department considered rescinding any and all of the rules in these chapters but determined that the proposed rulemaking was necessary to provide guidance and clarification to the public beyond what is provided in the underlying statutes.

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

The Department determined that retention of rules in the proposed amendments will reduce confusion about the subjects of those rules. Proceeding without these rules could negatively impact the public by complicating good-faith taxpayers' ability to comply with Iowa tax law in a proper and timely manner.

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 and does not impose any additional requirements on businesses other than what is imposed by the underlying statutes.

Text of Proposed Rulemaking

ITEM 1. Rescind 701—Chapter 300 and adopt the following new chapter in lieu thereof:

CHAPTER 300
INCOME TAX ADMINISTRATION

701—300.1(422) Definitions. Except as otherwise provided, all words and phrases that are defined under Iowa Code sections 422.3, 422.4, and 422.16 have the same meaning as provided to them under that Iowa Code section. For purposes of this chapter and subsequent chapters governing the administration of income tax, the following definitions apply unless context indicates otherwise.

“*Association*” means any organization created for the transaction of designated affairs or the attainment of some object that, like a corporation, continues notwithstanding that its members or participants change and the affairs of which, like corporate affairs, are conducted by a single individual, a committee, a board, or some other group acting in a representative capacity.

“*Computed tax*” means, for purposes of the individual and fiduciary income tax, the amount of tax remaining before deductions of the personal exemption credit and other credits in Iowa Code chapter 422 and before the computation of the school district surtax and the emergency medical services income surtax.

“*Corporation*” means the same as defined in Iowa Code chapter 422. “Corporation” is not limited to the artificial entity usually known as a corporation, but also an association, a trust classed as an association because of its nature or its activities, a joint stock company, and certain kinds of partnerships. Any association or organization that is required to report as a corporation, for federal income tax purposes under the Internal Revenue Code (IRC) as amended, will be considered a corporation for the purposes of Iowa income tax on corporations. “Corporation” includes publicly traded partnerships, limited liability companies, and partnerships taxed as corporations under the Internal Revenue Code.

“*Employee*” means and includes every individual who is a resident or is domiciled in Iowa, or any nonresident or corporation performing services within the state of Iowa, the performance of which services constitutes, establishes, and determines the relationship between the parties as that of employer and employee. This includes officers of corporations, individuals, including elected officials performing services for the United States government or any agency or instrumentality thereof, or the state of Iowa, or any county, city, municipality or political subdivision thereof.

This rule is intended to implement Iowa Code sections 422.3, 422.4 and 422.16.

701—300.2(422) Statute of limitations. Iowa Code section 422.25 sets forth the applicable statute of limitations.

300.2(1) Waiver of statute of limitations. When the taxpayer and the department enter into an agreement to extend the period of limitation, interest continues to accrue on any deficiency or overpayment during the period of the waiver. The taxpayer may claim a refund during the period of the waiver.

300.2(2) *Amended returns filed within 60 days of the expiration of the statute of limitations for assessment.* If a taxpayer files an amended return within 60 days prior to the expiration of the statute of limitations for assessment, the department has 60 days from the date the amended return is received to issue an assessment for applicable tax, interest, or penalty.

This rule is intended to implement Iowa Code sections 422.25, 422.30, 422.35, and 422.66.

701—300.3(422) Retention of records.

300.3(1) *Applicability.* Every individual subject to the tax imposed by Iowa Code section 422.5 and every withholding agent subject to the provisions of Iowa Code section 422.16 shall retain those books and records pursuant to the Internal Revenue Code, including the federal income tax return and all supporting federal schedules.

300.3(2) *Retention.* Records relating to other deductions or additions to federal taxable income and Iowa tax credits shall be retained so long as the contents may be material in the administration of the Iowa Code under the statutes of limitations for audit specified in Iowa Code section 422.25.

300.3(3) *Corporation income tax.*

a. Every corporation subject to the tax imposed by Iowa Code section 422.33 shall retain its books and records pursuant to IRC Section 6001 and Treasury Regulation Section 1.6001-1(e).

b. Records relating to the computation of the Iowa apportionment factor, allocable income, other deductions or additions to federal taxable income and Iowa tax credits shall be retained so long as the contents may be material in the administration of the Iowa Code under the statutes of limitation for audit specified in Iowa Code section 422.25.

This rule is intended to implement Iowa Code sections 422.25 and 422.70.

701—300.4(422) Delegations to audit and examine. The director delegates to authorized assistants and employees the power to examine returns and make audits and to determine the correct amount of tax due, subject to review by or appeal to the director.

This rule is intended to implement Iowa Code sections 422.66, 422.70, and 422.71.

701—300.5(422) Federal rulings and regulations. In determining whether taxable income, or any other deductions, are computed for federal tax purposes under, or have the same meaning as provided by, the Internal Revenue Code, the department will use applicable rulings and regulations that have been duly promulgated by the commissioner of internal revenue unless the director has created rules and regulations or has exercised discretionary powers as prescribed by statute that call for an alternative method for determining taxable income, net operating loss deduction, or any other deduction or unless the department finds that an applicable internal revenue ruling or regulation is unauthorized according to the Iowa Code.

This rule is intended to implement Iowa Code sections 422.7 and 422.9.

701—300.6(422) Bonding procedure for income tax withholding. Pursuant to Iowa Code section 422.16, the director has determined that the following procedures will be instituted with regard to bonds.

300.6(1) *When required.*

a. New applications by withholding agents. A new withholding agent applicant will be requested to post a bond or security if:

(1) It is determined upon a complete investigation of the applicant's financial status that the applicant would be unable to timely remit the tax,

(2) The new applicant held a withholding agent's identification number for a prior business and the remittance record of the tax under the prior identification number falls within one of the conditions in paragraph 300.6(1) "b," or

(3) The department experienced collection problems while the applicant was engaged in business under the prior identification number.

b. Existing withholding agents. Existing withholding agents are to post a bond or security upon request when they have had two or more delinquencies in remitting the withholding tax during the last 24 months if remitting payments on a quarterly basis. The simultaneous late filing of the return and late payment of the tax will count as one delinquency. However, the late filing of the return or the late payment of the tax will not count as a delinquency if the withholding agent can satisfy one of the conditions set forth in Iowa Code section 421.27.

c. Waiver of bond. Upon the filing of the bond or security, if the withholding agent maintains a good filing record for a period of two years, the withholding agent may request that the department waive the continued bond or security requirement.

300.6(2) *Type of security or bond.* When it is determined that a withholding agent or withholding agent applicant (applicant) is required to post collateral to secure the collection of income tax withholding, the following types of collateral will be considered as sufficient: surety bonds, securities, or certificates of deposit. When the withholding agent is a corporation, an officer or employee of the corporation may assume personal liability as security for the payment of the withholding tax. The officer or employee will be evaluated as provided in paragraph 300.5(1) “a” as if the officer or employee applied as the withholding agent as an individual.

300.6(3) *Amount of bond or security.* If the withholding agent or applicant is or will be a semi-monthly depositor, a bond or securities in an amount sufficient to cover three months’ income tax withholding liability will be required. If the withholding agent or applicant is or will be a monthly depositor, a bond or securities in an amount sufficient to cover five months’ income tax withholding liability will be required. If the withholding agent or applicant is or will be a quarterly depositor, the bond or securities will be required is an amount sufficient to cover nine months’ or three quarters of tax liability. If the withholding agent or applicant is or will be an annual depositor, a bond or securities in an amount sufficient to cover one year’s withholding liability will be required.

300.6(4) *Penalty for failure of a withholding agent to file bond.* If the withholding agent is requested by the department to file a bond to secure collection of the state income tax withholding and fails to file the bond, the withholding agent is subject to a penalty as provided in Iowa Code section 422.16.

This rule is intended to implement Iowa Code section 422.16.

701—300.7(422) Reciprocal tax agreements.

300.7(1) *Applicability.* The department may enter into reciprocal agreements with tax administration agencies of other states pursuant to Iowa Code section 422.8(4). Rule 701—303.5(422) provides more information on the treatment of deferred compensation, pensions, or annuities received by a nonresident of Iowa related to the documented retirement of a participant in a deferred compensation plan, a pensioner, or an annuitant. The provisions of rule 701—303.5(422) supersede the definition of “income earned from personal services” under any reciprocal agreement as it relates to deferred compensation, pensions, or annuities.

300.7(2) *Reciprocal tax agreement with Illinois.* The Iowa-Illinois reciprocal tax agreement cannot be terminated by the Iowa department of revenue unless the termination is authorized by a constitutional majority of each house of the general assembly and is approved by the governor. The Iowa-Illinois reciprocal tax agreement includes the following terms:

a. No Illinois or Iowa employer is required to withhold Illinois income tax from compensation paid to an Iowa resident for personal services in Illinois.

b. No Illinois or Iowa employer is required to withhold Iowa income tax from compensation paid to an Illinois resident for personal services in Iowa.

c. Every Iowa employer who is subject to the jurisdiction of Illinois is liable to the state of Illinois for withholding of Illinois income tax from compensation paid to Illinois residents.

d. Every Illinois employer who is subject to the jurisdiction of Iowa is liable to the state of Iowa for the withholding of Iowa income tax from compensation paid to Iowa residents.

e. The Illinois department of revenue will encourage Illinois employers that are not subject to the jurisdiction of Iowa to withhold and remit Iowa income tax from wages paid to Iowa residents employed in Illinois.

f. The Iowa department of revenue will encourage Iowa employers that are not subject to the jurisdiction of Illinois to withhold and remit Illinois income tax from compensation paid to Illinois residents from employment in Iowa.

g. For purposes of the agreement, “compensation” means wages, salaries, commissions, tips, deferred compensation, pensions, and annuities and any other remuneration paid for personal services. In the case of deferred compensation, pensions, and annuities, those incomes are deemed to have been earned at the time of employment. Therefore, if an Illinois resident receives a pension or annuity from employment in Iowa at the time the reciprocal agreement was in effect, the pension or annuity income is not taxable to Iowa since it is “compensation” covered by the reciprocal agreement. Rule 701—303.5(422) provides more information on the treatment of deferred compensation, pensions, or annuities received by an Illinois resident related to the documented retirement of a participant in a deferred compensation plan, a pensioner, or an annuitant. The provisions of rule 701—303.5(422) supersede the definition of “compensation” under the reciprocal agreement with Illinois. “Compensation” does not include unemployment compensation benefits that an Illinois resident receives due to employment in Iowa.

h. No Iowa resident is required to pay Illinois income tax or file an Illinois return from compensation paid from personal services in Illinois.

i. No Illinois resident is required to pay Iowa income tax or to file an Iowa return on compensation for personal services in Iowa.

j. For purposes of the agreement, “Iowa resident” means an individual who is a resident under the laws of the state of Iowa and “Illinois resident” means an individual who is a resident as defined in the Illinois income tax Act.

This rule is intended to implement Iowa Code sections 422.8 and 422.15.

701—300.8(422) Information returns for reporting income payments to the department. Every person, corporation, or agent of a person or corporation, lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the state or of any political subdivision of the state having control, receipt, custody, or disposal of any income shall file information returns with the department by February 15 following the end of the year in which the payments were made.

This rule is intended to implement Iowa Code section 422.15.

701—300.9(422) Relief from joint and several liability under Iowa Code section 422.21(7) for substantial understatement of tax attributable to nonrequesting spouse or former spouse. Under Iowa Code section 422.21(7), a person eligible for relief under the criteria established in IRC Section 6015 may be relieved of liability for an understatement of Iowa tax that is attributable to erroneous items of the nonrequesting spouse or former spouse. For state income tax purposes, the requirements set forth in this rule shall control to the extent that they conflict with IRC Section 6015.

300.9(1) Filing status required for relief from joint and several liability. For state income tax purposes, a married or formerly married taxpayer may qualify for relief from joint and several liability under Iowa Code section 422.21(7) only if the taxpayer filed a joint return.

300.9(2) Scope of relief for Iowa income tax purposes. An understatement of the tax is the excess of the tax required to be shown over the tax actually shown on the return. An erroneous item is any item resulting in an understatement or deficiency in Iowa taxes to the extent that the item is omitted from, or improperly reported or characterized on, an Iowa tax return, including Iowa deductions and tax credits that would not be included on a federal return.

300.9(3) IRS determination or other evidence of eligibility.

a. If the person seeking relief from joint and several liability under Iowa Code section 422.21(7) also applied for tax relief from the federal government under IRC Section 6015 and received a final

determination letter or other document issued by the Internal Revenue Service in connection with relief requested under IRC Section 6015, the person is to provide the department with a copy of such letter or document within the time frame set forth in subrule 300.9(6). Failure to provide this information, if it exists, will result in the denial of the request for relief from joint and several liability under Iowa Code section 422.21(7).

b. If the person seeking relief from joint and several liability under Iowa Code section 422.21(7) also applied for federal relief under IRC Section 6015 but did not receive a final determination letter or other document issued by the Internal Revenue Service in connection with the requested relief, the person must provide the department with other evidence to support the position that the taxpayer is eligible for relief under Iowa Code section 422.21(7).

c. If the person seeking relief under Iowa Code section 422.21(7) did not apply for federal relief under IRC Section 6015, the person must submit a written statement to the department detailing the reason for not applying for relief under IRC Section 6015 as well as evidence to support the position that the taxpayer is eligible for relief under Iowa Code section 422.21(7).

300.9(4) *Burden of proof; evaluation of criteria listed under IRC Section 6015.* The burden is on the person seeking relief from joint and several liability to show that the person is eligible for relief under Iowa Code section 422.21(7). In determining whether the person seeking relief from joint and several liability is eligible for relief under Iowa Code section 422.21(7), the department shall apply this rule and the relevant criteria set forth in IRC Section 6015 and the related federal regulations.

300.9(5) *Appealing a denied request for relief from joint and several liability.* If the department denies a claim for relief from joint and several liability under Iowa Code section 422.21(7), the person seeking relief may appeal the department's determination under 701—Chapter 7. The department will evaluate the appeal by applying the criteria set forth in this rule and IRC Section 6015 and the related regulations. In appeal proceedings, the burden is on the person seeking relief from joint and several liability to show that the person meets the criteria for relief under this rule and IRC Section 6015.

300.9(6) *Time period for requesting relief from joint and several liability.* Relief from joint and several liability must be requested within two years after the date of the notice of assessment. However, an applicant who fails to meet this deadline may be granted equitable relief if the applicant satisfies applicable criteria listed under IRC Section 6015(f).

300.9(7) *Notice to nonrequesting spouse or former spouse.* On or before 60 days from the date the person seeking relief from joint and several liability files a request with the department, the department may notify the nonrequesting spouse or former spouse of the request for relief. The notice will advise the nonrequesting spouse or former spouse of the right to intervene by filing a notice of intervention with the department in accordance with subrules 300.9(8) and 300.9(9). The notice shall not include the current address or contact information of the spouse or former spouse requesting relief. The department will use the last-known address of the nonrequesting spouse when sending the notice.

300.9(8) *Intervention by nonrequesting spouse or former spouse.* If the nonrequesting spouse or former spouse desires to intervene, such individual shall file a notice of intervention with the department not later than 60 days after the date the notice of the request for relief from joint and several liability is sent by the department to the nonrequesting spouse or former spouse, unless the department directs otherwise.

300.9(9) *Contents of notice of intervention.*

a. A notice of intervention must be in the following format:

DEPARTMENT OF REVENUE

Name of Intervenor

**NOTICE OF
INTERVENTION**

Address of Intervenor

Docket No. _____

b. A notice of intervention must contain all of the following, where applicable and known to the intervenor:

(1) The name, address, telephone number, and identification number of the taxpayer (i.e., social security number (SSN); federal identification number (FEIN); or individual tax identification number (ITIN) of the person who is requesting intervention);

(2) The docket number of the proceeding initiated by the person seeking relief from joint and several liability under Iowa Code section 422.21(7);

(3) A copy of a determination letter or other document, if any, issued by the Internal Revenue Service showing that the person seeking relief from joint and several liability under IRC Section 6015 has been granted or denied relief for the relevant tax years;

(4) A clear and concise statement of the grounds for intervention, all relevant facts, and the reasons why the intervenor agrees or disagrees with the person seeking relief from joint and several liability as to that person's entitlement to such relief;

(5) A citation to any specific statutes, rules, policies, decisions, or orders that may be relevant in the department's determination of the applicability of relief from joint and several liability to the person seeking such relief;

(6) Any information known to the petitioner relating to the department's treatment of similar cases; and

(7) The signature of the intervenor at the conclusion of the notice of intervention attesting to the accuracy and truthfulness of the information set forth in the notice of intervention.

This rule is intended to implement Iowa Code section 422.21.

701—300.10(422) Preparation of taxpayers' returns by department employees. A department employee can assist a taxpayer in the preparation and completion of the taxpayer's individual income tax returns and other state tax returns during the employee's hours of employment for the department in either of the following situations:

300.10(1) When the department employee is conducting an audit of the taxpayer.

300.10(2) When the department employee is requested to prepare a taxpayer's individual income tax return or other tax returns by the taxpayer, the taxpayer's spouse, or the taxpayer's authorized representative.

This rule is intended to implement Iowa Code section 421.17.

701—300.11(422) Resident determination. For Iowa individual income tax purposes, an individual is a "resident" if: (1) the individual maintains a permanent place of abode within the state or (2) the individual is domiciled in the state. An individual who is determined to be a resident of Iowa is subject to Iowa income tax on all the individual's income for the taxable year, no matter whether the income is earned within Iowa or outside of Iowa, except when an item of income is specifically exempted from taxation by a provision of federal or Iowa law.

300.11(1) *Permanent place of abode.*

a. The establishment of a permanent place of abode requires the maintenance of a place of abode over a sufficient period of time to create a well-settled physical connection with a given locality. Significant factors, among others, to be considered in determining whether an individual maintains such a permanent place of abode are:

(1) The amount of time the individual spends in the locality;

(2) The nature of the individual's place of abode;

(3) The individual's activities in the locality; and

(4) The individual's intentions with regard to the length and nature of the individual's stay.

b. There is a rebuttable presumption that an individual is maintaining a "permanent place of abode" if the individual maintains a place of abode within this state and spends more than 183 days of the tax year within this state. "Place of abode" includes a house, apartment, condominium, mobile home, or other dwelling place maintained or occupied by the individual whether or not owned or rented by the individual. Situations where presence in the state for 183 days of the tax year may not

cause an individual to be considered to be maintaining a “permanent place of abode” would include situations where presence in the state is not voluntary, such as confinement to a correctional facility or an extended hospital stay.

300.11(2) Domicile.

a. An individual is “domiciled” in this state if the individual intends to permanently or indefinitely reside in Iowa and intends to return to Iowa whenever the individual may be absent from this state. Individuals who have moved into this state are domiciled in Iowa if the following three elements exist: (1) a definite abandonment of a former domicile, (2) actual removal to and physical presence in this state, and (3) a bona fide intention to change domicile and to remain in this state permanently or indefinitely.

(1) Every person has only one domicile. “Domicile,” for purposes of determining when an individual is “domiciled in this state,” is largely a matter of intention that must be freely and voluntarily exercised. The intention to change one’s domicile must be present and fixed and not dependent upon the happening of some future or contingent event. Because it is essentially a matter of intent, precedents are of slight assistance and the determination of the place of domicile depends upon all the facts and circumstances in each case.

(2) Once an individual is domiciled in Iowa, that status is retained until such time as the individual takes positive action to become domiciled in another state or country, relinquishes the rights and privileges of residency in Iowa, and meets the criteria set forth from *Julson v. Julson*, 255 Iowa 301, 122 N.W.2d, 329, 331 (1963). The director may require an individual claiming domicile outside the state of Iowa to provide documentation supporting establishment of another domicile. Absence from the state for 183 days of the tax year or for any other extended period of time does not alone show abandonment of an Iowa domicile.

b. There is a rebuttable presumption that an individual is domiciled in Iowa if the individual meets the following conditions:

- (1) Maintains a residence or place of abode in Iowa, whether owned, rented, or occupied, even if the individual is in Iowa less than 183 days of the tax year, and either
- (2) Claims a homestead or military tax exemption, or both, on a home in Iowa, or
- (3) Is registered to vote in Iowa, or
- (4) Maintains an Iowa driver’s license, or
- (5) Does not reside in an abode in any other state for more days of the tax year than the individual resides in Iowa.

c. There is a rebuttable presumption that an individual is not domiciled in Iowa if the individual meets all of the following conditions:

- (1) Does not claim a homestead or military exemption on a home in Iowa,
- (2) Is not registered to vote in Iowa,
- (3) Does not maintain an Iowa driver’s license,
- (4) Is in Iowa less than 183 days of the tax year; and
- (5) Maintains a place of abode outside of Iowa where the individual resides for at least 183 days of the tax year.

d. In addition to the conditions listed for the above rebuttable presumptions for “permanent place of abode” or “domicile,” some of the nonexclusive conditions to consider in determining whether an individual is a resident of Iowa are as follows:

- (1) Maintains a place of abode in Iowa, whether owned, rented, or occupied.
- (2) Maintains an Iowa driver’s license.
- (3) Maintains active membership in an Iowa church, club, or professional organization and participates as a result of such membership.
- (4) Documents, such as tax forms, legal documents, and correspondence, initiated during tax periods use an Iowa address. Legal documents could include wills, deeds, or other contracts.
- (5) Immediate family members residing in Iowa are claimed as dependents or rely, in whole or in part, on the taxpayer for their support.

- (6) Vehicles registered in Iowa.
- (7) Location of employment or active participation in a business within Iowa.
- (8) Active checking or savings accounts or use of safe deposit boxes located in Iowa.
- (9) Claims a benefit on the federal income tax return based upon an Iowa home being the principal place of residence. Examples include mortgage interest on principal residence and travel expenses while away from the principal place of residence.

(10) Receives a number of services in Iowa from doctors, dentists, attorneys, CPAs or other professionals.

e. Unless shown to the contrary, married persons are presumed to have the same residence. Ordinarily, the residence of a minor is that of the person who has permanent custody over the minor.

f. An individual may qualify as a part-year resident of Iowa by: (1) not maintaining a permanent place of abode; and (2) not having a domicile in Iowa for the entire tax year. In determining part-year resident status, whether an individual is in or out of Iowa for 183 days may not be a factor.

300.11(3) *Resident determination for individuals on active duty military service.* Rule 701—302.10(422) contains more information regarding the exemption of active duty pay for both resident and nonresident members of the armed forces, armed forces military reserve, or the national guard.

a. Members of the armed forces of the United States shall not be deemed to have lost a residence or domicile in any state solely by being absent from that state in compliance with military or naval orders or to have acquired a residence or domicile in another state while being absent from the state of residence. Thus, residents of Iowa who enter military service will retain their Iowa residence during the tenure of their military service or until they take positive action to change their state of residence.

b. Residents of Iowa in military service will have Iowa income tax withheld from their military pay except when the military pay is earned in a combat zone and is totally or partially exempt from both federal and state income tax. An Iowa resident in military service can change state of residence for purposes of withholding of state income tax by completing Form DD2058 and designating a state other than Iowa as the individual's new state of residence. The military payroll officer of the service person will accept the DD2058 form and stop withholding Iowa income tax from the service person's military pay and start withholding the state income tax of the state of new residence of the service person. However, the completion of the DD2058 form by the "former Iowa resident" will not be considered as a valid change of residence for Iowa income tax purposes unless the service person was physically residing in the new state of residence at the time the DD2058 form was completed and the service person took other actions to show intent to change state of residence. Other actions to show intent to change state of residence would include:

- (1) Registering to vote in the new state;
- (2) Purchasing real property in the new state;
- (3) Titling and registering vehicles in the new state;
- (4) Notifying the state of previous residence of the state of residence change;
- (5) Preparing a new last will and testament that indicates the new residence; and
- (6) Complying with the tax laws of the state of new residence.

c. Military personnel who are residents of other states and who come to Iowa as a result of military or naval orders, but who later decide to become legal or actual residents of Iowa, or military personnel who purchase residential property in Iowa and claim the homestead exemption or the military exemption for the property for property tax purposes are presumed to be residents of Iowa for income tax purposes.

d. Military personnel who are not residents of the state of Iowa and who receive military pay for service in Iowa shall not be considered to have received this income for services performed within Iowa or from sources within Iowa. These nonresidents of Iowa will be taxable on nonmilitary wages for personal services in Iowa they receive while stationed in Iowa. These individuals will also be

taxable to Iowa on incomes they receive from businesses, trades, professions, or occupations operated in Iowa during the time they are stationed in Iowa as well as on nonmilitary incomes from any other sources within Iowa.

(1) Since military nonresidents of Iowa cannot be taxed on their military pay while they are stationed in Iowa, the military pay cannot be considered for purposes of Iowa's taxation of nonresidents in accordance with the Servicemembers Civil Relief Act, Public Law 108-189.

(2) The military pay of the nonresident of Iowa must be excluded from the computation of the nonresident credit set forth in rule 701—800.4(422). This exclusion from the computation of the nonresident credit applies to military pay of nonresident servicemembers who are in an active duty status as defined under Title 10 of the United States Code.

e. Spouses of military personnel who earn wages and other incomes from Iowa sources are taxed on these incomes similarly to other nonresidents of Iowa. Spouses of Iowa resident military personnel who were nonresidents of Iowa at the time of the marriages with the Iowa residents will not be considered to be residents of Iowa until they actually reside in Iowa with their spouses. Spouses who earn wages from Iowa sources are not subject to Iowa income tax on these wages if one spouse who is present in Iowa is a member of the armed forces, the other spouse is present in Iowa solely to be with the military spouse, and the spouse who is a member of the armed forces maintains a domicile in another state.

300.11(4) *Examples of resident determination.*

EXAMPLE 1: Fred and Mary were domiciled in Iowa when Fred retired in 2025. They have a house in Iowa and a condominium in Florida. Prior to 2025, Fred and Mary spent four months in Florida and eight months in Iowa. Fred owned a small business when he retired and was retained as a consultant and remained a member of the board of directors after retirement. Fred and Mary have friends and family in both Iowa and Florida. They are also involved in the activities of the local country club as well as other civic and service organizations in both locations. When Fred retired, he and Mary decided to spend more time in Florida, especially during the winter months. They usually leave for Florida in late October and return to Iowa in early April. They have transferred their automobile registrations to Florida and have acquired Florida driver's licenses. They have registered to vote in Florida and have voted in Florida elections. They visit doctors and dentists in both locations. They maintain bank accounts in both locations and have mail sent to the location at which they are physically residing. Fred and Mary usually return to Iowa for holidays, and Fred returns once a month to attend board meetings. They do not claim a homestead exemption or military tax exemption on their Iowa home, but they do use their Iowa address on most of their legal documents and on their federal tax return. They also travel and vacation during the winter months and oftentimes leave Florida to vacation.

Fred and Mary would be considered Iowa residents because they have retained a permanent abode in Iowa.

EXAMPLE 2: Susan rents an apartment in Des Moines when her employer assigns her to the regional office for a temporary period. She spends more than 183 days in Iowa, but she returns to her apartment in Ohio once a month to visit her friends and to check her mail. She intends to return to Ohio when her assignment in Des Moines is terminated. She has retained her Ohio driver's license and is registered to vote in Ohio.

Susan would not be considered to be an Iowa resident because she has not established a permanent place of abode in Iowa, even though she is present in Iowa for more than 183 days. Also, she has not had a definite abandonment of her former domicile. Susan would be taxed on her Iowa income as a nonresident. However, if Susan were assigned to Des Moines on a permanent basis, she may be considered an Iowa resident even though she retains her apartment in Ohio.

EXAMPLE 3: John is a truck driver, and his job takes him out of Iowa for approximately 240 days a year. His wife, Veronica, lives in Marshalltown, Iowa. His two children attend school in that community, and Veronica has a part-time job as a nurse. John is home for most weekends and for the holidays. He is registered to vote in Iowa and utilizes the Iowa homestead and military tax

exemptions. He does not own any other real property, except a lakeside cabin in Minnesota where the family vacations during the summer.

John would be considered an Iowa resident even though he is not present in the state for more than 183 days because John intends to return to Iowa whenever he is absent and has not taken any steps to establish residency in any other state.

EXAMPLE 4: Wilber, who is a resident of Idaho, is hospitalized in a hospital in Iowa. While there, the doctors discover that he has a blood disorder and Wilber is confined to the hospital for nearly nine months receiving treatment.

Wilber's presence in Iowa is for a medical emergency. When an individual suffers a medical emergency while present in this state for other purposes and cannot be realistically moved from the state or in situations where an individual is confined to an institution as a result of seeking treatment, the time spent in Iowa would not count toward the 183-day rule. Also, Wilber's hospital room would not be considered a permanent place of abode.

EXAMPLE 5: Chuck and Linda both worked for a company in Iowa, and both of them decided to take advantage of an early retirement package offered by their employer. They do not have any children, but Chuck has a brother who lives in Davenport, Iowa, and Linda has a sister who lives in Phoenix, Arizona. After retirement, Chuck and Linda sell their house and purchase a motor home. They spend their time traveling the United States and Canada. They do not have a place of abode in any state as they live in their new vehicle. They do not spend more than 183 days in any state during the year. They retain their Iowa driver's licenses, and their motor home is registered in Iowa. They also have bank accounts in both Iowa and Arizona, and they have their mail sent to Chuck's brother and Linda's sister. They show Iowa as their state of residence for federal income tax purposes. They are not registered to vote in any state. Chuck and Linda would be considered residents of Iowa. They have not shown an intention to change domicile and remain in another state permanently or indefinitely.

This rule is intended to implement Iowa Code sections 422.3, 422.4 and 422.16.

701—300.12(422) Tax treatment of income repaid in current tax year that had been reported on prior Iowa individual income tax return.

300.12(1) Administration. If a taxpayer repays in the current tax year an amount of income that had been reported on the taxpayer's Iowa individual income tax return for a prior year that had been filed with the department and the taxpayer would have been eligible for a tax benefit under similar circumstances under IRC Section 1341, the taxpayer will be eligible for a tax benefit on the Iowa return for the current tax year. The tax benefit will be either the reduced tax on the Iowa return for the current tax year due to the deduction of the repaid income or the reduction in tax on the Iowa return or returns for the prior year(s) due to the exclusion of the repaid income. The reduction in tax from the return for the prior year may be claimed as a refundable credit on the return for the current tax year.

300.12(2) Examples.

EXAMPLE 1: A taxpayer reported \$7,000 in unemployment benefits on the taxpayer's 2025 Iowa return that the taxpayer had received in 2025. In early 2026, the taxpayer was notified that \$4,000 of the unemployment benefits had to be repaid. The benefits were repaid by the end of 2026. The taxpayer claimed a deduction on the 2026 Iowa return for the amount of unemployment benefits repaid during 2026 that had been reported on the taxpayer's 2025 Iowa return because that action gave the taxpayer a greater reduction in Iowa income tax liability than the taxpayer would have received from a reduction in tax on the 2025 return by recomputing the liability by excluding the repaid income.

EXAMPLE 2: A taxpayer had received a \$5,000 bonus in 2025 that was reported on the taxpayer's 2025 Iowa return. In 2026, the taxpayer's employer advised the employee that the bonus was awarded in error and to be repaid. The \$5,000 bonus was repaid to the employer by the end of 2026. The taxpayer claimed a credit of \$440 on the 2026 Iowa return for repayment of the bonus in 2026. This represented the reduction in tax for 2025 from recomputing the tax liability for that year without the

\$5,000 bonus. This provided the taxpayer a greater tax benefit than the taxpayer would have received from claiming a deduction on the 2026 Iowa return from repayment of the bonus.

This rule is intended to implement Iowa Code section 422.5.

701—300.13(422) Notice of discrepancies.

300.13(1) *Notice of adjustments.* A department employee designated by the director to examine returns and make audits who discovers discrepancies in returns or learns that the income of the taxpayer may not have been listed, in whole or in part, or that no return was filed when one was due is authorized to notify the taxpayer of this discovery by mail. The notice is not an assessment but may inform the taxpayer what amount would be due if the information discovered is correct.

300.13(2) *Right of taxpayer upon receipt of notice of adjustment.* A taxpayer who has received notice of an adjustment in connection with a return may pay the additional amount stated to be due. If payment is made and the taxpayer wishes to contest the matter, the taxpayer should then file a claim for refund. However, payment will not be required until assessment has been made (although interest will continue to accrue if payment is not made).

This rule is intended to implement Iowa Code sections 422.25 and 422.30.

701—300.14(422) Notice of assessment, supplemental assessments and refund adjustments. If no agreement is reached and the taxpayer does not pay the amount determined to be correct, a notice of assessment shall be sent to the taxpayer by mail. If the period in which the correct amount of tax can be determined is nearly at an end, either a notice of assessment or a jeopardy assessment may be issued. All notices of assessment shall bear the signature of the director.

300.14(1) The department 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.

300.14(2) If an assessment or refund adjustment is appealed and is resolved, whether by informal proceedings or by adjudication, the department and the taxpayer are precluded from making a supplemental assessment or refund adjustment concerning the same issue involved in the appeal for the same tax period unless there is a showing of mathematical or clerical error or a showing of fraud or misrepresentation. Nothing in this rule prevents the making of an assessment or refund adjustment for the purpose of taking into account the impact upon Iowa net income of federal audit adjustments.

This rule is intended to implement Iowa Code sections 422.25 and 422.30.

701—300.15(422) Overpayments of tax. The following are provisions for refunding or crediting to the taxpayer's deposits or payments for tax in excess of amounts legally due.

300.15(1) *Claims for refund.* A claim for refund is a formal request made by the taxpayer or the taxpayer's personal representative to the department for repayment of state income tax that was paid. In order for a claim for refund to be valid, the taxpayer or representative must file the claim on an Amended Form IA 1040 Income Tax Return for the appropriate tax year and include an Amended Return Schedule.

a. Claims for refund must be filed within one of the time periods specified in Iowa Code section 422.73(1) in order for the refund claim to be timely so that the claim may be considered on its merits by the department.

b. If the department determines the taxpayer's claim is without merit and the claim for refund should be rejected, the department will notify the taxpayer or representative by mail that the claim for refund has been rejected and of the reason for rejection. In addition, the rejection letter will advise that the taxpayer has 60 days from the date of the letter to file an appeal of the department's rejection of the claim for refund.

300.15(2) *Offsetting refunds.* A taxpayer shall not offset a refund or overpayment of tax for one year as a prior payment of tax of a subsequent year on the return of a subsequent year without authorization in writing by the department. The department may, however, apply an overpayment, or a refund otherwise due the taxpayer, to any tax due or to become due from the taxpayer.

300.15(3) *Setoff of qualifying debts.* Before any refund or rebate from a taxpayer's individual income tax return is considered for purposes of setoff, the refund or rebate will be applied first to any outstanding tax liability of that taxpayer with the department. After all outstanding tax liabilities are satisfied, any remaining balance of refund or rebate will be set off against any debt of the taxpayer in accordance with Iowa Code section 421.65.

300.15(4) *Overpayment credited to estimated tax.* Any remaining balance of overpayment, at the election of the taxpayer, will be refunded to the taxpayer or credited as a first payment of the taxpayer's estimated tax for the following year. However, a taxpayer may elect to credit an overpayment from a return to the estimated tax for the following tax year only in cases when the return is filed in the same calendar year that the return is due, including extensions. For example, a taxpayer's 2024 return is due on April 30, 2025. If the taxpayer files that return on or before December 31, 2025, the taxpayer can elect to credit an overpayment on that return to estimated tax for 2025 and this election will be honored by the department.

a. If an overpayment of income tax is shown as a credit to estimated tax for the succeeding taxable year, the amount will be considered as a payment of the income tax for the succeeding taxable year and no claim for credit or refund of the overpayment will be allowed on the return where the overpayment arose.

b. When a taxpayer elects to have an overpayment credited to estimated tax for the succeeding year, interest may properly be assessed on a deficiency of income tax for the year in which the overpayment arose. If a taxpayer elects to have all or part of an overpayment shown on the return applied to the estimated income tax for the succeeding taxable year, the election is binding to the taxpayer.

c. An overpayment of tax may be used to offset any outstanding tax liability owed by the taxpayer, but once an elected amount is credited as a payment of estimated tax for the succeeding year, it loses its character as an overpayment for the year in which it arose and thereafter cannot offset any subsequently determined tax liability.

300.15(5) *Refunds—statute of limitations for taxpayers who paid 90 percent of the tax by the due date and filed the original return in the six-month extended period.* If a taxpayer has paid 90 percent of the income tax due by the original due date of the return and has filed the original income tax return sometime in the six-month extended period after the original due date, the taxpayer may file an amended return within three years of the extended due date for the original return.

EXAMPLE 1: Joe Barnes had paid at least 90 percent of the tax shown due on his 2024 Iowa income tax return by the April 30 original due date and filed his original 2024 Iowa return on May 15, 2025. Joe determined that he had failed to claim several deductions on the original 2024 Iowa return, so he filed an amended 2024 return on October 31, 2028. The amended return was filed within the three-year statute of limitations for refund since it was filed within three years of the extended due date of the return, October 31, 2025. The six-month extended due date applied in this case because the original return was filed within the six-month extended period.

EXAMPLE 2: Deshaun Jones paid 90 percent of the tax shown due on his 2024 return by the April 30 original due date and filed the original return on or before the April 30, 2025, original due date for this return. Deshaun determined that when he filed the original 2024 Iowa return, he failed to claim the Iowa income tax withheld from a part-time job he held in 2024. Deshaun filed an amended 2024 Iowa return on May 15, 2028, to claim the Iowa tax withheld that he had failed to claim on the original return. This claim for refund was rejected by the department because the amended return was not filed within three years of the due date of the return. Although Deshaun had paid 90 percent of the tax by the due date, the due date was not extended because the original return had been filed by the due date of April 30, 2025.

This rule is intended to implement Iowa Code sections 421.17, 422.2, 422.16 and 422.73.

ITEM 2. Rescind 701—Chapter 305 and adopt the following **new** chapter in lieu thereof:

CHAPTER 305
INDIVIDUAL INCOME TAX CHECKOFFS

701—305.1(422) Optional designations of funds by taxpayer.

305.1(1) *Iowa fish and game protection fund.*

a. A taxpayer filing an individual income tax return may designate a checkoff to be donated to any checkoff fund provided Iowa Code chapter 422. If the overpayment shown on the return or the payment remitted with the return is insufficient to pay the amount designated to the checkoff fund, the amount credited to the fund will be reduced accordingly. The designation to the fund is irrevocable and cannot be made on an amended return.

EXAMPLE 1: Overpayment as shown on the return is \$50, and \$25 is designated to the fund. Due to an error on the return, only \$20 is an overpayment. The taxpayer would not receive any refund, and all \$20 of the overpayment would be credited to the fund.

EXAMPLE 2: Overpayment as shown on the return is \$50, and \$25 is designated to the fund. Due to an error on the return, no overpayment occurred but instead the taxpayer owes \$20. No money would be credited to the fund.

EXAMPLE 3: Amount shown due on the return is \$30, and \$20 is designated to the fund. A \$50 payment was made with the return. Due to an error on the return, the taxpayer owes \$40. Only \$10 would be credited to the fund.

b. A designation to a checkoff fund may be allowed only after the taxpayer's obligations to the department of revenue, the child support recovery unit of the department of health and human services, the foster care recovery unit of the department of health human services, the college student aid commission, the office of investigations of the department of health human services, the district courts, and other state agencies are satisfied.

c. On or before January 31 of the year following each year in which returns with a fund checkoff are due, the department of revenue shall certify the amount designated to the checkoff fund and report this amount to the state treasurer.

305.1(2) *Child abuse prevention program fund checkoff.*

a. A taxpayer filing an individual income tax return may designate a checkoff to be donated to the child abuse prevention program fund. If the overpayment shown on the return or the payment remitted with the return is insufficient to pay the amount designated by the taxpayer to the child abuse prevention program fund, the amount credited to the child abuse prevention program fund will be reduced accordingly. The designation to the child abuse prevention program fund is irrevocable and cannot be made on an amended return.

b. A designation to the child abuse prevention program fund may be allowed only after the taxpayer's obligations to the department of revenue, the child support recovery unit of the department of health and human services, the foster care recovery unit of the department of health and human services, the college student aid commission, the office of investigations of the department of health and human services, the district courts, other state agencies, the Iowa fish and game protection fund checkoff, and the state fair foundation fund checkoff are satisfied.

c. On or before January 31 of the year following each year in which returns with the child abuse prevention program fund checkoff are due, the department of revenue shall transfer the total amount designated to the child abuse prevention program fund.

305.1(3) *Limitation of checkoffs on the individual income tax return.*

a. Only four checkoffs may be included on the individual income tax return for a given tax year. If the same four checkoffs have been listed on the individual income tax return for two consecutive years, the two checkoffs that, in the aggregate, have received the lowest contribution amounts are repealed effective December 31 after the end of the second tax year and will be removed from the individual income tax return. To determine contribution amounts, the department will consider the contributions made to each fund for the first tax year and contributions made to each fund up to and including March 15 after the end of the second tax year. The department will notify the Iowa Code

editor of the checkoffs that are repealed under this paragraph by July 1 after the end of the second tax year.

EXAMPLE: Checkoffs A, B, C, and D are included on the individual income tax return for tax years 2021 and 2022. Taxpayers begin filing their 2021 tax returns in January 2022. To determine which two checkoffs received the lowest contribution amounts, the department will review the contributions received in the period January 1, 2022, through March 15, 2023 (March 15 after the end of the second tax year).

b. If the general assembly, in the same legislative session, enacts more checkoffs than may be included on the individual income tax form, only the earliest enacted checkoffs will be listed on the form. The department will determine which enacted checkoffs will be included on the form pursuant to Iowa Code section 3.7. If it is indeterminable which checkoffs were first enacted under Iowa Code section 3.7, the director of revenue shall determine the checkoffs that will be included on the individual income tax form. The department will notify the Iowa Code editor of any checkoffs that must be repealed under this paragraph by September 1 of any applicable year.

This rule is intended to implement Iowa Code sections 422.12E, 422.12H, and 422.12K.

ITEM 3. Rescind and reserve **701—Chapter 306**.

ITEM 4. Rescind and reserve **701—Chapter 500**.

ITEM 5. Rescind and reserve **701—Chapter 600**.

ITEM 6. Rescind and reserve **701—Chapter 603**.