

REVENUE DEPARTMENT[701]

Regulatory Analysis

Notice of Intended Action to be published: 701—Chapter 307
“Withholding”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 422.16

State or federal law(s) implemented by the rulemaking: Iowa Code section 422.16

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 the proposed rulemaking is to rescind Chapter 307 and adopt a new Chapter 307 in its place. This chapter contains rules focused on the administration and collection of income tax via the withholding of earnings under Iowa Code section 422.16. After review, the Department determined the chapter aids the public’s understanding of this topic and provides guidance and direction to the public of the administration and application of the law. The Department proposes revisions to the text of the chapter for clarification and organization and to remove portions of the chapter that the Department determined are unnecessary, obsolete, or 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 of the proposed rulemaking beyond what is imposed by the underlying statute; therefore, no classes of persons have been identified to bear the costs.

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

The public will benefit from the proposed rulemaking because the rulemaking will reduce confusion and provide guidance aiding the public’s understanding on the imposition and administration of individual income tax and the withholding thereof.

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 the proposed rulemaking beyond what is already contained in statute.

- **Qualitative description of impact:**

The proposed rulemaking will reduce uncertainty about when or whether the underlying statutes and any administrative rules are applicable. Without the proposed rulemaking, confusion could occur, which could lead to potential errors.

3. Costs to the State:

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

There are no costs to the agency to implement the proposed rulemaking beyond those that would otherwise be required to administer the underlying statutes.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues. However, the proposed rulemaking provides guidance on the imposition and administration of fiduciary income tax, making it more likely that the correct amount of tax will be collected and remitted.

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 keep this chapter updated through the continued existence of unnecessary, obsolete, or duplicative statutory language. The benefit of the proposed rulemaking is reducing confusion and aiding the public's understanding on this topic.

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

The proposed rulemaking is neither costly nor intrusive. The Department considered the option of not having rules explaining the imposition and administration of the laws related to withholding but determined that the rules provide useful guidance to the public.

6. Alternative methods considered by the agency:

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

The Department considered not providing the rules in this chapter, but it ultimately determined the public would be served best by the guidance within the proposed chapter.

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

The absence of rules on the imposition and administration of the laws related to withholding would lead to confusion in the remittance of withholding for those affected, as would leaving the rules in this chapter as they currently are. This would likely lead to the overcollection or collection of the wrong amount of tax.

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 make any distinctions based upon size. The rules do not impose any requirements beyond what is imposed by the underlying statutes.

Text of Proposed Rulemaking

ITEM 1. Rescind 701—Chapter 307 and adopt the following new chapter in lieu thereof:

CHAPTER 307
WITHHOLDING

701—307.1(422) Definitions.

“*Income statement*” means a statement that conforms to the requirements of Iowa Code section 422.16(87)“a.” An income statement includes but is not limited to Internal Revenue Service (IRS) Form W-2, IRS Form 1099, and IRS Form W-2G.

“*Payee*” means an employee or other person who had Iowa income tax withheld pursuant to Iowa Code section 422.16.

“*Payer*” means an employer or other person required to withhold and remit Iowa income tax pursuant to Iowa Code section 422.16.

“*Payroll period*” means the same as described in IRC Section 3401 and includes “miscellaneous payroll period” as that term is defined and used in that section and the associated regulations.

“*Semimonthly period*” means the period from the first day of a calendar month through the fifteenth day of a calendar month, or the period from the sixteenth day of a calendar month through the last day of a calendar month.

This rule is intended to implement Iowa Code section 422.16.

701—307.2(422) Who must withhold.

307.2(1) Requirement of withholding.

a. *General rule.* Every employer maintaining an office or transacting business within Iowa and required under provisions of IRC Section 3401 through §3404 to withhold and pay federal income tax on compensation paid for services performed in Iowa to an individual is required to deduct and withhold from such compensation for each payroll period an amount computed in accordance with rule 701—307.4(422). Iowa income tax need not be withheld on any compensation paid in Iowa that is not subject to federal income tax withholding (whether or not such compensation is subject to withholding for federal taxes other than income tax, e.g., FICA taxes), except as provided in rule 701—307.6(422).

EXAMPLE 1: Temporary help. A has worked at B corporation regularly for two months. However, A is supplied to B corporation by C, a temporary help agency located in Iowa. C renders a weekly bill to B corporation for A’s services, and C then pays A. B corporation is not A’s employer within IRC Section 3401(d), and B corporation is therefore not required by the Internal Revenue Code to withhold a tax on A’s compensation. Since B corporation is not required to withhold a tax for federal purposes on A’s compensation, B is not required to do so for Iowa purposes. C, the temporary help agency, is required to withhold from A’s compensation for federal purposes and must also do so for Iowa purposes.

EXAMPLE 2: Domestic help. A is employed by the B family. The Bs are required to withhold FICA (i.e., Social Security) tax from compensation paid to A but are not required to withhold income tax from such compensation under the Internal Revenue Code, because under IRC Section 3401(a)(3), A’s compensation does not constitute “wages.” Since the Bs are not required to withhold income tax for federal purposes, they are not required to do so for Iowa purposes.

EXAMPLE 3: Executives. A is a corporate executive. On January 1, 2010, A entered into an agreement with B corporation under which he was to be employed by B in an executive capacity for a period of five years. Under the contract, A is entitled to a stated annual salary and to additional compensation of \$10,000 for each year. The additional compensation is to be credited to a bookkeeping reserve account and deferred, accumulated, and paid in annual installments of \$5,000 on A's retirement beginning January 1, 2015. In the event of A's death prior to exhaustion of the account, the balance is to be paid to A's personal representative. A is not required to render any service to B after December 31, 2014. During 2015, A is paid \$5,000 while a resident of Iowa. The \$5,000 is not excluded from "wages" under IRC Section 3401(a); therefore, B is required to withhold federal income tax, and, since it is compensation paid in this state, B must withhold Iowa income tax on A's deferred compensation.

b. Exemption from withholding.

(1) An employer may be relieved of the responsibility to withhold Iowa income tax on an employee who does not anticipate an Iowa income tax liability for the current tax year.

(2) An employee who anticipates no Iowa income tax liability for the current tax year shall file with the employer a withholding allowance certificate claiming exemption from withholding. An employee who meets this criterion may claim an exemption from withholding at any time; however, this exemption from withholding must be renewed by February 15 of each tax year that the criterion is met. If the employee wishes to discontinue or is required to revoke the exemption from withholding, the employee must file a new withholding allowance certificate within ten days from the date the employee anticipates a tax liability or on or before December 31 if a tax liability is anticipated for the next tax year. Subrule 307.5(2) contains more information.

c. Withholding from gambling winnings. The tax shall be deducted and withheld upon payment of the winnings to a payee by the person or payer making this payment. Any person or payee receiving a payment of winnings subject to withholding must furnish the payer with a statement as is required under 26 CFR §31.3402(q)-1, paragraph "e," with the information required by that paragraph. Payers of winnings subject to withholding must file Form W-2G with the Internal Revenue Service, the department, and the payee of the winnings by the dates specified in the Internal Revenue Code and in Iowa Code section 422.16. The W-2G form shall include the information described in 26 CFR §31.3402(q)-1, paragraph "f." The rules for determining the amount of proceeds from a wager under 26 CFR §31.3402(q)-1, paragraph "c," shall apply when determining whether the proceeds from Iowa lottery winnings meet the threshold for withholding.

d. Winnings from lottery, games of skill, games of chance, or raffles. Every person making any payment of winnings from the Iowa Lottery or gambling activities provided in Iowa Code chapter 99B that exceed \$600 must withhold state income tax. This rule does not include winnings from tickets from multistate lottery games, or any other similar games, purchased outside of Iowa.

e. Winnings from pari-mutuel wagers. If winnings are in an amount sufficient to require that an information return be filed pursuant to 26 U.S.C. §6041 as amended to July 4, 2025, state income tax shall be withheld on the winnings.

f. Withholding from winnings from slot machines authorized under Iowa Code chapter 99F. Withholding of state income tax is required if the winnings from slot machines are in an amount sufficient to require that an information return be filed pursuant to 26 U.S.C. §6041 as amended to July 4, 2025.

g. Withholding from winnings from sports wagering. For winnings from sports wagering activities provided in Iowa Code chapter 99F, if federal income tax is required to be withheld from the winnings, state income tax must also be withheld from the same winnings.

307.2(2) *Withholding on pensions, annuities, similar periodic payments, and other nonwage payments to Iowa residents.* State income tax is to be withheld from payments of pensions, annuities, supplemental unemployment benefits, sick pay benefits, and other nonwage income payments made to Iowa residents in those circumstances mentioned in the following paragraphs. This includes but is not limited to payments from profit-sharing plans, stock bonus plans, deferred compensation

plans, individual retirement accounts, lump-sum distributions from qualified retirement plans, other retirement plans, and annuities, endowments and life insurance contracts issued by life insurance companies. These payments are subject to Iowa withholding tax if they are also subject to federal withholding tax. However, no state income tax withholding needs to be remitted from nonwage payments to residents to the extent those payments are not subject to state income tax. In the case of payments to residents such as payments of pensions and annuities, no state income tax is to be withheld if no federal income tax is being withheld from the payments of the pensions and annuities. Payers of pension and annuity benefits and other nonwage payments must withhold Iowa income tax from these payments at the rate of 3.8 percent.

EXAMPLE: A, an Iowa resident, deposits a nonwage payment from an Iowa corporation in an account at a bank located outside of Iowa. The fact that the payment was deposited at a bank located outside of Iowa does not change A's permanent residence status to the location of the bank.

a. Withholding from payments to residents from profit-sharing plans, stock bonus plans, deferred compensation plans, individual retirement accounts and from annuities, endowments and life insurance contracts issued by life insurance companies. In cases where the recipients elect withholding of state income tax from the income payments, the payers are to withhold from the payments at a rate of 3.8 percent on the taxable portion of the payment, if that can be determined by the payer or on the entire income payment if the payer does not know how much of the payment is taxable. Once a recipient makes an election for state income tax withholding, that election will remain in effect until a later election is made.

b. Withholding from payments to residents for supplemental unemployment compensation benefits and sick pay benefits.

(1) Income payments made for supplemental unemployment compensation benefits described in IRC Section 3402(o)(2)(a) and for sick pay benefits are subject to withholding of state income tax. In the case of supplemental unemployment compensation benefits, those benefits are treated as wages for purposes of state income tax withholding. Therefore, state income tax should be withheld from these payments when federal income tax is withheld.

(2) In the case of state income tax withholding for sick pay benefits paid by third-party payers in accordance with IRC Section 3402(o)(1), state income tax is to be withheld from the benefits by the payer only if state income tax withholding is requested by the payee of the benefits. If withholding is requested by the payee, the withholding should be done at a 3.8 percent rate on the sick pay benefits. Once withholding is started, it should continue until such time as the payee requests that no state income tax be withheld. For sick pay benefits not paid by third-party payers, state income tax is to be withheld since federal income tax is to be withheld.

c. Voluntary state income tax withholding from unemployment benefit payments. Recipients of unemployment benefit payments described in IRC Section 3402(p)(2) may elect to have state income tax withheld from the benefit payments at a rate of 3.8 percent. An individual's election to have state income tax withheld from unemployment benefits is separate from any election to have federal income tax withheld from the benefits.

d. Withholding on lump-sum distributions from qualified retirement plans. For lump-sum distribution payments from qualified retirement plans made to Iowa residents, state income tax is to be withheld under the conditions described in this paragraph. No state income tax is to be withheld from a lump-sum distribution payment to an Iowa resident in a situation where the payment is not subject to Iowa income tax. The rate of withholding of state income tax from the lump-sum distribution is 3.8 percent from the total distribution or 3.8 percent from the taxable amount if that amount is known by the payer. Note that in the case of a lump-sum distribution, the Iowa income tax imposed on the taxable amount of the distribution is 25 percent of the federal income tax on the distribution.

e. Withholding of state income tax from nonwage payments to residents on the basis of tax tables and tax formulas. State income tax from the nonwage payments made to Iowa residents may be withheld on the basis of formulas and tables included in the Iowa withholding tax guide of the department. When state income tax is being withheld based upon the formulas or tables in the

withholding guide, the amounts of the nonwage payments are treated as wage payments for purposes of the tables or the formulas.

(1) The frequency of the nonwage payments determines which of the withholding tables to use or the number of payroll periods in the calendar year to use in the formula. For example, if the nonwage payment is made on a monthly basis, the monthly wage bracket withholding table should be utilized for withholding or 12 should be utilized in the formula to indicate that there will be 12 nonwage payments in the year.

(2) The payers of nonwage payments should withhold state income tax from the nonwage payments to Iowa residents when federal income tax is being withheld from the nonwage payments. The payers should withhold from the nonwage payments to Iowa residents from tables or the formulas in the Iowa withholding guide on the basis of the number of withholding exemptions claimed on Form IA W-4 that has been completed by the payees of the payments. However, if a payee of a nonwage payment has not completed an IA W-4 form (Iowa employee's withholding allowance certificate) by the time a nonwage payment is to be made by the payer of the nonwage payment, the payer is to withhold state income tax on the basis that the payee has claimed an allowance amount of \$40.

(3) In a situation when a payee of a nonwage payment completes Form IA W-4 and claims exemption from state income tax withholding when federal income tax is being withheld from the nonwage payment, the payer of the nonwage payment should withhold state income tax with no amount of withholding allowance or exemptions unless the payee has verified exemption from state income tax.

f. Withholding on distributions from qualified retirement plans that are not directly rolled over. Other than distributions to payees who qualify for the retirement income exclusion, state income tax is to be withheld at a rate of 3.8 percent from the gross amount or taxable amount if known by the payer of the distribution made to Iowa residents if the distributions are not transferred directly to an individual retirement account (IRA), Section 403(a) annuity, or another qualified retirement plan. The distributions that are subject to state income tax withholding are those distributions that are subject to 20 percent withholding for federal income tax purposes.

This rule is intended to implement Iowa Code sections 96.3, 99B.8, 99D.16, 99F.18, 99G.31, 422.5, 422.7, and 422.16.

701—307.3(422) Computation of amount withheld.

307.3(1) Amount withheld.

a. General. Every employer required to deduct and withhold a tax on compensation paid in Iowa to an individual shall deduct and withhold for each payroll period an amount the total of which will approximate the employee's annual tax liability.

b. Methods of computations. Employers required to withhold Iowa income tax on compensation paid in this state shall compute the amount of tax to be withheld for each payroll period pursuant to the methods and rules provided herein.

(1) Tables. An employer may elect to use the withholding tables provided in the Iowa employers' withholding tax guide and withholding tables, which are available from the department.

(2) Formulas. An employer may elect to use the formulas that are provided in the Iowa employers' withholding tax guide and tax tables.

(3) Other methods. An employer may request and be granted the use of an alternate method for computing the amount of Iowa tax to be deducted and withheld for each payroll period so long as the alternate proposal approximates the employee's annual Iowa tax liability. When submitting an alternate formula, the withholding agent should explain the formula and show examples comparing the amount of withholding under the proposed formula with the department's tables or formula at various income levels and by using various numbers of personal exemptions.

c. Supplemental wage payments. A supplemental wage payment is the payment of a bonus, commission, overtime pay, or other special payment that is made in addition to the employee's regular wage payment in a payroll period. If supplemental wages are paid at the same time as regular wages,

the regular withholding tables or formulas are used in determining the amount of tax to be withheld as if the total of the supplemental and regular wages were a single wage payment for the regular payroll period. If supplemental wages are paid at any other time, the regular withholding tables or formulas are used in determining the amount of tax to be withheld as if the supplemental wage were a single wage payment for the regular payroll period. When a withholding agent makes a payment of supplemental wages to an employee and the employer withholds federal income tax on a flat-rate basis, pursuant to 26 CFR §31.3402(g)-1, state income tax shall be withheld from the supplemental wages at a rate of 3.8 percent without consideration for any withholding allowance or exemptions.

d. Vacation pay. Amounts of so-called “vacation allowance” shall be subject to withholding as though they were regular wage payments made for the period covered by the vacation. If the vacation allowance is paid in addition to the regular wage payment for such period, the allowance shall be treated as supplemental wage payments.

307.3(2) Correction of underwithholding or overwithholding.

a. Underwithholding. If an employer erroneously underwithholds an amount of Iowa income tax required to be withheld from compensation paid to an employee within a payroll period, the employer should correct the error within the same calendar year by deducting the difference between the amount withheld and the amount required to be withheld from any compensation still owed the employee, whether or not such compensation is subject to withholding. If the error is discovered in a subsequent calendar year, no correction may be made by the employer.

b. Overwithholding. If an employer erroneously overwithholds an amount of tax required to be withheld from compensation paid to an employee, repayment of such overwithheld amount shall be made in the same calendar year. Repayment may be made in either of two ways: (1) the amount of overwithholding may be repaid directly to the employee, in which case the employer must obtain written receipt showing the date and amount of the repayment, or (2) the employer may reimburse the employee by applying the overcollection against the tax required to be withheld on compensation to be paid in the same calendar year in which the overcollection occurred. If the error is discovered in a subsequent calendar year, no repayment shall be made.

This rule is intended to implement Iowa Code section 422.16.

701—307.4(422) Forms, returns, and reports.

307.4(1) Withholding registration.

a. Every payer required to deduct and withhold Iowa income tax must register with the department by filing an Iowa Business Tax Registration Form either on a paper form or through GovConnectIowa. The form shall indicate the payer’s federal employer identification number. If a payer fails to provide the payer’s federal employer identification number within 90 days of the registration filing, the department will consider the payer’s withholding registration invalid.

b. If a payer deducts and withholds Iowa income tax but does not file the Iowa Business Tax Registration Form, the department may register the payer using the best information available. If a payer uses a service provider to report and remit Iowa withholding tax on behalf of the payer, the department may use information obtained from the service provider to register the payer if an Iowa Business Tax Registration Form is not filed. This information would include but is not limited to the name, address, federal employer identification number, filing frequency, and withholding contact of the payer.

307.4(2) Allowance certificate.

a. General. On or before the date on which a payee commences employment with an employer, the payee shall furnish the employer with a signed Iowa employee withholding allowance certificate (IA W-4) indicating the amount of withholding allowance that the individual claims, which in no event shall exceed the number to which the individual is entitled. The employer must request a withholding allowance certificate from each employee. If the employee fails to furnish a certificate, the employee shall be considered as claiming no withholding allowance. The employer must submit to the department a copy of a withholding allowance certificate received from an employee if:

- (1) The employee claimed more than \$880 withholding allowance for dependents, or
- (2) The employee is claiming an exemption from withholding, and it is expected that the employee's wages from that employer will normally exceed \$200 per week.

Employers required to submit withholding certificates should be submitted as specified on the department website. The department may notify the employer whether to honor the withholding certificate or to withhold as though the employee is claiming no withholding allowance.

b. Form and content. The Iowa "Employee Withholding Allowance Certificate" (IA W-4) must be used to determine the amount of allowance that may be claimed by an employee for Iowa income tax withholding purposes. Generally, the greater amount of allowance an employee is entitled to claim, the lower the amount of Iowa income tax to be withheld for the employee. The following withholding allowance may be claimed on the IA W-4 form:

(1) Personal allowance.

1. An employee can claim a \$40 personal allowance or \$80 if the individual is eligible to claim head of household status. The employee can claim an additional \$20 allowance if the employee is 65 years of age or older and another additional \$20 allowance if the employee is blind.

2. If the employee is married and the spouse either does not work or is not claiming an allowance on a separate W-4 form, the employee can claim a \$40 allowance for the spouse. The employee may also claim an additional \$20 allowance if the spouse is 65 years of age or older and still another \$20 allowance if the spouse is blind.

(2) Dependent allowance. The employee can claim a \$40 allowance for each dependent that the employee will be able to claim on the employee's Iowa return.

(3) Allowance for itemized deductions. The employee can claim allowance for itemized deductions to the extent the total amount of estimated itemized deductions for the tax year for the employee exceeds the applicable standard deduction amount by \$200. In instances where an employee is married and the employee's spouse is a wage earner, the total allowance for itemized deductions for the employee and spouse should not exceed the aggregate amount of itemized deduction allowance to which both taxpayers are entitled.

(4) Allowance for the child/dependent care credit. Employees who expect to be eligible for the child/dependent care credit for the tax year can claim withholding allowance for the credit. The allowance is determined from a chart included on the IA W-4 form on the basis of net income shown on the Iowa return for the employee. If the employee is married and has filed a joint federal return with a spouse who earns Iowa wages subject to withholding, the withholding allowance claimed by both spouses for the child/dependent care credit should not exceed the aggregate amount of allowance to which both taxpayers are entitled. Taxpayers that expect to have a net income of \$45,000 or more should not claim withholding allowance for the child and dependent care credit, since these taxpayers are not eligible for the credit.

(5) Allowance for adjustments to income. Employees can claim allowance for adjustments to income that are set forth in 26 CFR §31.3402(m)-1, paragraph "b." This includes adjustments to income such as alimony, deductible IRA contributions, student loan interest and moving expenses that are allowed as deductions in computing income subject to Iowa income tax. In instances where an employee is married and the employee's spouse is a wage earner, the withholding allowance claimed by both spouses for adjustments to income for the employee and spouse should not exceed the aggregate amount of allowance to which both taxpayers are entitled.

c. Change in allowance.

(1) Decrease. If, on any day during the calendar year, the amount of withholding allowance to which an employee is entitled is less than the amount of withholding allowance claimed by the individual on a withholding certificate then in effect, the employee must furnish the employer with a new Iowa withholding allowance certificate relating to the amount of withholding allowance that the employee then claims, which may in no event exceed the amount to which the employee is entitled on such day.

(2) Increase. If, on any day during the calendar year, the amount of withholding allowance to which an employee is entitled is more than the amount of withholding allowance claimed by the employee on the withholding allowance certificate then in effect, the employee may furnish the employer with a new Iowa withholding allowance certificate on which the employee may in no event claim more than the amount of withholding allowance to which the employee is entitled on such day.

d. Duration of allowance certificate. An Iowa withholding allowance certificate that is in effect pursuant to these regulations continues in effect until another withholding allowance certificate takes effect. Employers are to retain copies of the IA W-4 forms for at least four years after the certificate is no longer in effect.

307.4(3) Reports and payments of income tax withheld.

a. Returns of income tax withheld from wages.

(1) Quarterly returns. Every payer required to withhold tax on compensation shall file an Iowa Withholding Tax Quarterly Return for the first calendar quarter in which tax is withheld and for each subsequent calendar quarter, whether or not compensation is paid, until a final return is filed. A payer need not list the name(s) of the payee(s) when filing quarterly returns. If a payer's payroll is not constant, and the payer finds that no income was paid during the current quarter, the payer shall enter "zero" for total tax withheld this quarter on the return and submit the return as usual.

(2) Monthly deposits. Every payer who withholds more than \$500 monthly but no more than \$5,000 per semimonthly period must file a monthly tax deposit. The monthly deposit for the third month is due on the same day as the quarterly return. Payments shall be based upon the tax required to be withheld and must be remitted in full.

(3) Semimonthly deposits. Every payer who withholds more than \$5,000 in a semimonthly period must file a semimonthly tax deposit. Payments shall be based upon the tax required to be withheld and must be remitted in full. When semimonthly deposits are required, a payer must still file a quarterly return.

(4) Final returns. A payer who in any return period permanently ceases doing business shall file the returns required by subparagraph 307.4(3)"a"(1) as final returns for such period. The payer shall cancel the withholding registration by submitting the Iowa Business Tax Cancellation Form.

b. Time for filing returns.

(1) Quarterly returns. Each return required by subparagraph 307.4(3)"a"(1) shall be filed on or before the last day of the first calendar month following the calendar quarter for which such return is made.

(2) Monthly tax deposits. Monthly deposits required by subparagraph 307.4(3)"a"(2) shall be remitted on or before the fifteenth day of the second and third months of each calendar quarter for the first and second months of each calendar quarter, respectively. The monthly deposit for the third month of each calendar quarter shall be paid on the same day as the quarterly return is due.

(3) Semimonthly tax deposits. Semimonthly deposits required by subparagraph 307.4(3)"a"(3) for the semimonthly period from the first day of the month through the fifteenth day of the month shall be remitted on or before the twenty-fifth day of the same month. The semimonthly deposits required by subparagraph 307.4(3)"a"(3) for the semimonthly period from the sixteenth day of the month through the last day of the month shall be remitted with payment of the tax on or before the tenth day of the month following the month in which the tax is withheld.

c. Electronic filing. Quarterly returns, amended returns, monthly deposits and semimonthly deposits shall be made electronically in a format and by means specified by the department. Tax payments are considered to have been made on the date that the tax is transmitted and released to the department. Tax payments shall be made using GovConnectIowa.

d. Determination of payment frequency. The department and the department of management have the authority to change payment thresholds by department rule. This paragraph sets forth the payment thresholds and frequencies for each payer based on the amount withheld. The following criteria will be used to determine if a change in payment frequency is warranted.

<u>Payment Frequency</u>	<u>Threshold</u>
Semimonthly	Greater than \$120,000 in annual withholding (more than \$5,000 in a semimonthly period)
Monthly	Between \$6,000 and \$120,000 in annual withholding (more than \$500 in a monthly period, less than \$5,000 in a semimonthly period)
Quarterly	Less than \$6,000 in annual withholding and no more than \$500 in any monthly period
Annual	Fewer than three employees

(1) Payment on a less frequent basis.

1. To request to pay on a less frequent basis than required, the request must be in writing and submitted to the department. A payer's written request to be allowed to pay less frequently will be reviewed by the department, and a written determination will be issued to the payer who made the request. A change in payment frequency to pay on a less frequent basis will be granted in only two instances:

- Incorrect historical data was used to determine the current payment frequency. A business may meet payment frequency criteria based on the original filing data, but, upon investigation, the filing history may prove that the business does not meet the dollar criteria because of adjustments, amended returns, or requests for refunds.
- Data available reflected an unusual pattern in tax collection. The factors causing such a distortion must be documented and made available to the department.

2. If a payer is permitted to pay on a less frequent basis, the payer must begin to pay on the less frequent basis at the start of the next quarter unless the payer is permitted to pay annually, in which case the payer must submit future payments in accordance with paragraph 307.4(3) "f."

(2) A payer may pay more frequently than required. No request is required to be made to pay on a more frequent basis.

e. Amended return. If the amount of Iowa income tax withheld and remitted to the department for the year is different than the withheld tax and withholding credits claimed, the payer must report the difference on an amended return and, if the return shows less tax withheld and remitted than shown due, the payer must submit payment of the difference to the department.

f. Reporting annual withholding.

(1) Any payer who does not have employee withholding but who is required to withhold state income tax from other distributions is exempted from the provisions of subparagraphs 307.4(3) "a"(2) and "a"(3) if these distributions are made annually in one calendar quarter. These payers need only comply with the reporting requirements of the one calendar quarter in which the tax is withheld.

(2) Every payer employing not more than two individuals and who expects to employ either or both for the full calendar year may pay the full amount of tax required to be withheld for the calendar year with the Iowa Withholding Tax Quarterly Return due for the first calendar quarter of the year. The payer shall advise the department that annual reporting is contemplated and also state the number of persons employed. The payer shall compute the annual withholding from wages by determining the normal withholding for one payroll period and multiply this amount by the total number of payroll periods within the calendar year. The payer is entitled to recover from the employee(s) any part of such lump-sum payment that represents an advance to the employee(s). If a payer pays a lump sum with the first quarterly return, the payer is excused from filing further quarterly returns for the calendar year involved unless the payer hires other or additional employees.

g. Furnishing income statements to payee.

(1) General rule. Every payer required to deduct and withhold income tax of a payee must furnish to each payee with respect to the income paid in Iowa by such payer during the calendar year an income statement containing the following information: the name, address, and taxpayer identification number of the payer; the name, address, and taxpayer identification number of the

payee; the total amount of taxable income paid in Iowa; the total amount deducted and withheld as tax under subrule 307.2(1); and the total amount of federal income tax withheld.

(2) Form of income statement. The information required to be furnished to a payee under the preceding paragraph shall be furnished on the appropriate IRS form, including but not limited to IRS Form W-2 and IRS Form 1099. Any reproduction, modification, or substitution for an IRS form by the payer must be approved by the department. Payers should keep copies of income statements for four years from the end of the year for which the income statements apply.

(3) Time for furnishing an income statement. Each income statement required by paragraph 307.4(3)“g” to be furnished for a calendar year and each corrected income statement required for any prior year shall be furnished to the payee on or before January 31 of the year succeeding such calendar year, or if an employee’s employment is terminated before the close of a calendar year without expectation that it will resume during the same calendar year, within 30 days from the day on which the last payment of compensation is made, if requested by such employee, but not later than January 31 of the following year.

(4) Corrections. A payer must furnish a corrected income statement to a payee if, after the original statement has been furnished, an error is discovered in either the amount of income shown to have been paid in Iowa for the prior year or the amount of tax shown to have been deducted and withheld in the prior year. The corrected statement shall be marked “corrected.”

(5) Undelivered income statements. Any payee’s copy of the income statement that, after reasonable effort, cannot be delivered to a payee shall be transmitted to the department with a letter of explanation.

(6) Lost or destroyed. If the income statement is lost or destroyed, the payer shall furnish a substitute copy to the payee. The copy shall be clearly marked “Reissued.”

h. Filing income statements with the department.

(1) All payers are required to electronically file all W-2 forms, W-2G forms, and 1099 forms, using GovConnectIowa, for payees from whom Iowa income tax was withheld with the department on or before February 15 following the tax year.

(2) Corrections. A payer must electronically file a corrected income statement with the department if, after the original statement has been filed, an error is discovered in either the amount of income shown to have been paid in Iowa for the prior year or the amount of tax shown to have been deducted and withheld in the prior year. The corrected statement shall be marked “corrected.”

(3) Other income statements. Any income statement not listed in this paragraph that cannot be submitted electronically must be filed with the department by mail on or before February 15 following the tax year.

(4) Extension. The director or director’s designee may allow a 30-day extension of time for filing income statements with the department in the case of illness, disability, absence, or if good cause is shown. To apply for an extension, a payer shall use the form available on the department website.

i. Withholding deemed to be held in trust. Funds withheld from income for Iowa income tax purposes are deemed to be held in trust for payment to the department. The state and the department shall have a lien upon all the assets of the payer and all the property used in the conduct of the payer’s business to secure the payment of the tax as withheld under the provisions of this rule. An owner, conditional vendor, or mortgagee of property subject to such lien may exempt the property from the lien granted to Iowa by requiring the payer to obtain a certificate from the department, certifying that such payer has posted with the department security for the payment of the amounts withheld under this rule.

j. Correction of underpayment or overpayment of taxes withheld.

(1) Underpayment. If a return is filed for a return period under rule 701—307.4(422) and less than the correct amount of tax is reported on the return and paid to the department, the payer shall report and pay the additional amount due by filing an amended Iowa Withholding Tax Quarterly Return.

(2) Overpayment. If a payer remits more than the correct amount of tax for a return period, the payer may file an amended Iowa Withholding Tax Quarterly Return and request a refund.

307.4(4) Iowa W-4P—withholding certificate for pension or annuity payments.

a. For payments made from pension plans, annuity plans, individual retirement accounts, deferred compensation plans, or other income payments contemplated under Iowa Code section 422.16(2)“c” to residents of Iowa, payers of these retirement benefits are to use Form IA W-4P for withholding of state income tax from the benefits. Iowa income tax withholding is not required on payments of distributions from qualifying retirement plans if the payee is eligible for the retirement income exclusion described in rule 701—302.47(422). However, withholding at a rate of 3.8 percent is required if the payee is not eligible for the retirement income exclusion or if the distribution is from a plan that does not qualify for the retirement income exclusion.

b. Payers of retirement benefits taxable in Iowa that want to use withholding formulas or tables to withhold state income tax instead of at the 3.8 percent rate may design their own IA W-4P withholding certificate form without approval of the department.

This rule is intended to implement Iowa Code sections 422.7, 422.12C, and 422.16.

701—307.5(422) Withholding on nonresidents.

307.5(1) General. Withholding agents should use the following methods and rates in withholding for nonresidents.

a. *Wages or salaries.* Use the same withholding procedures, tables, formulas, and rates as are used for residents, except for nonresidents engaged in film production or television production in this state. In addition, in accordance with the reciprocal tax agreement between Iowa and Illinois, Iowa withholding tax is not withheld on wages of Illinois residents who perform personal services in Iowa.

b. *Payments to nonresidents other than wages, salaries, and other compensation for personal services.* In lieu of using withholding tables or computer formulas to determine the amount of Iowa income tax to be withheld from payments made to nonresidents other than for salaries, wages, or other compensation for personal services, or income payments to nonresidents for agricultural commodities or products, Iowa income tax should be withheld at a rate of 3.8 percent of the amount of the payment.

307.5(2) Income of nonresidents subject to withholding. Listed below are various types of income paid to nonresidents that are subject to withholding. The list is for illustrative purposes and is not all-inclusive.

a. Personal service, including salaries, wages, commissions and fees for personal service wholly performed within this state and such portions of similar income of nonresident traveling salespersons or agents as may be derived from services rendered in this state.

b. Rents and royalties from real or personal property located within this state.

c. Interest or dividends derived from securities or investments within this state, when such interests or dividends constitute income of any business, trade, profession or occupation carried on within this state and subject to taxation.

d. Income derived from any business of a temporary nature carried on within this state by a nonresident, such as contracts for construction and similar contracts.

e. Income derived from sources within this state by attorneys, physicians, engineers, accountants, and similar sources as compensation for services rendered to clients in this state.

f. Compensation received by nonresident actors, singers, performers, entertainers, and wrestlers for performances in this state, except as described in subrule 307.5(5).

g. The gross income from commissions earned by a nonresident traveling salesperson, agent or other employee for services performed or sales made whose compensation depends directly on volume of business transacted by the nonresident, includes that proportion of the total compensation received that the volume of business or sales by the employee within this state bears to the total volume of business or sales within and without the state.

h. Payments made to landlords by agents, including elevator operators, for grain or other commodities that have been received by the landlord as rent constitute taxable income of the landlord when sold by the landlord, except as described in subrule 307.5(6).

307.5(3) *Income of nonresidents not subject to withholding.* Listed below are various types of income paid to nonresidents not subject to withholding. The list is for illustrative purposes only and is not deemed to be all-inclusive.

a. Wages paid to nonresidents of Iowa who earn compensation from regularly assigned duties in Iowa and one or more other states for a railway company or for a motor carrier are not taxable to Iowa. Pursuant to 49 U.S.C. §11502, the nonresidents in this situation are subject only to the income tax laws of their states of residence. Thus, when an Iowa resident performs regularly assigned duties in two or more states for a railroad or a motor carrier, the only state income tax that should be withheld from the wages paid for these duties is Iowa income tax.

b. Wages paid to nonresidents of Iowa who earn compensation from regularly assigned duties in Iowa and one or more states for an airline company. In accordance with 49 U.S.C. §40116, airline employees who are nonresidents of Iowa are subject only to the income tax laws of their states of residence or the state in which they perform 50 percent or more of their duties.

c. Wages paid to nonresidents of Iowa who earn compensation from regularly assigned duties in Iowa for a merchant marine company. In accordance with 46 U.S.C. §11108, interstate waterway workers who are nonresidents of Iowa are subject only to the income tax laws of their states of residence.

307.5(4) *Recovering excess tax withheld.* A nonresident payee may recover any excess Iowa income tax withheld from income of the payee by filing an Iowa income tax return after the close of the tax year and reporting income from Iowa sources in accordance with the income tax return instructions.

307.5(5) *Exemption from withholding of nonresidents engaged in film production or television production in this state.*

a. Nonresidents engaged in film production or television production in this state are not subject to state withholding on wages earned from this activity if the nonresidents' employer has applied to the department for exemption from withholding of state income tax and the employer's application includes the following information about the nonresident employees:

- (1) The employees' names.
- (2) The employees' permanent mailing addresses.
- (3) The employees' social security numbers.
- (4) The estimated amounts the employees are to be paid for services provided by the employees in this state.

b. The employer's application for exemption from withholding for the nonresident employees will not be approved by the department if the employer fails to provide all the necessary information. Only those nonresident employees described in the application for exemption from withholding will be covered if the application is approved by the department. If additional nonresident employees are hired after the initial application for exemption is filed, those employees should be described in an amendment to the application for exemption which must be filed with the department in the same manner as the original application. Applications for exemption from withholding for nonresident employees engaged in film production or television production should be submitted as specified on the form.

307.5(6) *Exemption from withholding for the sale of agricultural commodities or products.* Withholding agents are not required to withhold state income tax from income payments made to nonresidents or representatives of the nonresidents for the sales of agricultural commodities or products, if the withholding agents provide certain information to the department about the sales. The following paragraphs describe the agricultural commodities and products that are included in the exemption from withholding, specify the information needed on the sales and clarify other issues related to the exemption from withholding.

a. Agricultural commodities or products included in the exemption from withholding. Withholding agents are not required to withhold state income tax from income payments they make to nonresidents or representatives of the nonresidents for the sale of commodity credit certificates, grain (corn, soybeans, wheat, oats, etc.), livestock (cattle, hogs, sheep, horses, etc.), domestic fowl (chickens, ducks, turkeys, geese, etc.), or any other agricultural commodities or products, if the withholding agents provide the department with the information specified in paragraph 307.5(6)“b.” A withholding agent is not exempt from withholding of state income tax on income payments to nonresidents on sales of agricultural commodities or products if the withholding agent does not provide the department with information on income payments made during the year by April 1 of the subsequent year.

b. Information to be provided to the department by withholding agents claiming exemption from withholding on income payments made to nonresidents for the sales of agricultural items. The following information is to be provided to the department by withholding agents electing exemption from withholding of state income tax on income payments made in the calendar year to nonresidents or representatives of the nonresidents on the sales of agricultural commodities or products made in the year:

- (1) Name of the nonresident (last name, first name, and middle initial).
- (2) Home address of the nonresident.
- (3) Social security number of the nonresident.
- (4) Aggregate payments made in the calendar year for the nonresident (includes payments made to a representative of the nonresident on behalf of the nonresident).
- (5) Two-digit Iowa county code number of the first one of the following that applies to the nonresident:
 1. County in which the nonresident owns real property or personal property.
 2. County in which the nonresident leases real property or personal property.
 3. County in which the nonresident has agricultural products stored or in which livestock is located.
 4. County where the nonresident has performed custom farming activities in the year.
 5. County where the nonresident has other business activities in Iowa other than merely sales activities.

c. If a nonresident does not own or lease property in Iowa and does not have another connection with Iowa as described in subparagraph 307.5(6)“b”(5), the nonresident is not subject to Iowa income tax on the income payments for agricultural commodities or products, and the nonresident’s income payments should not be included on the listing.

NOTE: In a situation where a withholding agent is unable to get all the information that is to be provided to the department on income payments on sales of agricultural items, the agent is relieved of the requirement to withhold if the agent can provide written evidence showing an attempt was made to acquire all the information.

d. The listing of aggregate income payments to nonresidents with an Iowa connection for sales of agricultural commodities and products in the calendar year should be sent to the department by the withholding agent on or before April 1 of the year following the year in which the income payments were made. In lieu of the listing, the withholding agent may compile the information on aggregate income payments to nonresidents in a format described in 701—subrule 8.3(1).

e. Information must be submitted electronically via GovConnectIowa or other approved electronic submission vendor.

307.5(7) *Exemption from withholding of payments made to nonresidents for deferred compensation, pensions, and annuities.* Iowa income tax withholding is not required from payments of deferred compensation, pensions, and annuities made to nonresidents that are attributable to personal services of the nonresidents in Iowa since these payments are not subject to Iowa income tax.

307.5(8) *Exemption from withholding of a nonresident’s distributive share of income from a pass-through entity.* A partnership, S corporation, estate, or trust is not required to withhold

state income tax on a nonresident member's distributive share of Iowa-source income from the pass-through entity. Instead, pass-through entities are subject to the composite return requirements in 701—Chapter 405.

This rule is intended to implement Iowa Code sections 422.15, 422.16, 422.17, and 422.73.

701—307.6(422) Penalty and interest.

307.6(1) *Penalties for willful failure to file or furnish an income statement or for willfully filing or furnishing a false or fraudulent income statement.*

a. Payers responsible for furnishing an income statement as described in paragraph 307.4(3) “g” or “h” shall be subject to a \$500 penalty for each instance of any of the following:

(1) Willful failure to furnish an income statement to a payee by January 31 of the year following the year in which income tax is withheld.

(2) Willful failure to file an income statement with the department by February 15 of the year following the year in which income tax is withheld.

(3) Willfully furnishing a false or fraudulent income statement to a payee.

(4) Willfully filing a false or fraudulent income statement with the department.

b. Penalties assessed under this subrule will not be waived.

c. Penalties assessed under this subrule are in addition to any other penalty allowed under law.

307.6(2) *Examples.*

EXAMPLE 1: Employer has ten employees, all residing in Iowa. After the close of the tax year, Employer fails to furnish two of its employees with W-2s by January 31 of the following year. Additionally, Employer fails to file any W-2s with the department by February 15 of the following year and does not request an extension. If the department determines that Employer's failures to furnish W-2s to two of its employees and file ten W-2s with the department were willful, the department shall assess a penalty in the amount of \$6,000 (12 instances × \$500).

EXAMPLE 2: The same facts as Example 1, but the department determines Employer underpaid its withholding obligations by \$2,000 for the tax year. Employer timely filed its required quarterly returns. In addition to the penalties assessed in Example 1, Employer shall be assessed a penalty of \$100 (5% × \$2,000) for failure to pay, plus interest calculated pursuant to subrule 307.5(5). If the department determines Employer willfully underpaid and filed a false return in order to avoid paying Iowa withholding, the department shall assess a penalty of \$1,500 (75% × \$2,000).

This rule is intended to implement Iowa Code sections 421.27, 422.16, and 422.25.

701—307.7(422) Withholding tax credit to workforce development fund. Upon payment in full of a certificate of participation or other obligation issued to fund a job training program under Iowa Code chapter 260E, the community college that provided the training is to notify the economic development authority of the amount paid by the employer to the community college during the previous 12 months. The economic development authority is to notify the department of this amount. The department is to credit 25 percent of this amount to the workforce development fund in each quarter for the next ten years from the withholding tax paid by the employer. If the withholding tax paid by the employer for a quarter is not sufficient to cover the sum to be credited to the workforce development fund, the sum to be credited is to be reduced accordingly.

This rule is intended to implement Iowa Code section 422.16A.

701—307.8(403) Targeted jobs withholding tax credit.

307.8(1) *Notification by the employer.* Once a withholding agreement is entered into with a pilot project city, the employer shall notify the department that an agreement has been executed and include the employer's address, tax identification number and the number of new jobs created under the agreement. In addition, for each year that the withholding agreement is in place, the employer must notify the department by January 31 of the number of new jobs created as of December 31 of the preceding year.

307.8(2) *Notification by the pilot project city.* The pilot project city must notify the department on a quarterly basis of the amount of the targeted jobs withholding credit that each employer covered by a withholding agreement remitted to the city. This notification must occur within 45 days after the end of each calendar quarter. In addition, the pilot project city must notify the department immediately when a withholding agreement with an employer is terminated.

This rule is intended to implement Iowa Code section 403.19A.