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The Iowa Administrative Code (IAC) Supplement is published biweekly pursuant to Iowa Code sections 2B.5A and 17A.6. The Supplement is a compilation of updated Iowa Administrative Code chapters that reflect rule changes which have been adopted by agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17, 17A.4, and 17A.5 and published in the Iowa Administrative Bulletin bearing the same publication date as the one for this Supplement. To determine the specific changes to the rules, refer to the Iowa Administrative Bulletin. To maintain a loose-leaf set of the IAC, insert the chapters according to the instructions included in the Supplement.

In addition to the rule changes adopted by agencies, the chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay or suspension imposed by the ARRC pursuant to section 17A.8(9) or 17A.8(10); rescission of a rule by the Governor pursuant to section 17A.4(8); nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa; other action relating to rules enacted by the General Assembly; updated chapters for the Uniform Rules on Agency Procedure; or an editorial change to a rule by the Administrative Code Editor pursuant to Iowa Code section 2B.13(2).

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

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CHAPTER 14
SELLER PROPERTY CONDITION DISCLOSURE

[Prior to 9/4/02, see 193E—Ch 1]

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/22/29

193E—14.1(543B) Property condition disclosure. The criteria of this chapter applies to transfers of real estate subject to Iowa Code chapter 558A. For purposes of this chapter, "transfer" means the same as Iowa Code section 558A.1(5) and "agent" means the same as Iowa Code section 558A.1(1).

14.1(1) *Additional disclosure.* Nothing in this rule is intended to prevent any additional disclosure or to relieve the parties or agents in the transaction from making any disclosure otherwise mandated by law or contract.

14.1(2) *Licensee responsibilities to seller.* At the time a licensee obtains a listing, the listing licensee obtains a completed disclosure signed and dated by each seller represented by the licensee.

a. A licensee representing a seller delivers the executed statement to a potential buyer, a potential buyer's agent, or any other third party who may be representing a potential buyer, prior to the seller's making a written offer to sell or the seller's accepting a written offer to buy.

b. The licensee representing a seller attempts to obtain the buyer's signature and date of signature on the statement and provides the seller and the buyer with fully executed copies of the disclosure and maintains a copy of the written acknowledgment in the transaction file. If the licensee is unable to obtain the buyer's signature, the licensee obtains other documentation establishing delivery of the disclosure and maintains the written documentation in the transaction file.

c. If the transaction closes, the listing broker maintains the completed disclosure statement for a minimum of five years.

d. The executed disclosure statement is delivered to the buyer(s) or the buyer's agent in accordance with Iowa Code section 558A.2(2). If there is more than one buyer, any one buyer or buyer's agent may accept delivery of the executed statement.

14.1(3) *Licensee responsibilities to buyer.* A licensee representing a buyer in a transfer notifies the buyer of the seller's obligation to deliver the property disclosure statement.

a. If the disclosure statement is not delivered when mandated, the licensee notifies the buyer that the buyer may revoke or withdraw the offer and follows Iowa Code section 558A.2(2).

b. Reserved.

14.1(4) *Inclusion of written reports.* A written report or opinion prepared by a person qualified to render the report or opinion may be included in a disclosure statement. A report may be prepared by those authorized by Iowa Code section 558A.4(1)*"b."*

a. The seller identifies the necessary disclosure items which are to be satisfied by the report.

b. If the report is prepared for the specific purpose of satisfying the disclosure criteria, the preparer of the report follows Iowa Code section 558A.4(1)*"b."*

c. A licensee representing a seller provides the seller with information on the proper use of reports if reports are used as part of the disclosure statement.

14.1(5) *Amended disclosure statement.* A licensee's obligations with respect to any amended disclosure statement are the same as the licensee's obligations with respect to the original disclosure statement. A disclosure statement is amended if authorized by Iowa Code section 558A.3(2).

14.1(6) *Acknowledgment of receipt of disclosure statement by electronic means.* Whether or not a licensee assists in a real estate transaction, electronic delivery of any property disclosure statement mandated by Iowa Code chapter 558A is not deemed completed until written acknowledgment of receipt is provided to the transferor by the transferee or the transferee's agent. Acceptable acknowledgment of receipt includes return of a fully executed copy of the property disclosure statement to the transferor by the transferee or the transferee's agent; or a letter, electronic mail, text message, or other written correspondence to the transferor from the transferee or the transferee's

agent acknowledging receipt. A computer-generated read receipt, facsimile delivery confirmation, or other automated return message is not deemed acknowledgment of receipt for purposes of this rule.

14.1(7) *Minimum disclosure statement contents for all transfers.* All property disclosure statements, whether or not a licensee assists in the transaction, contain at a minimum the information mandated by the following sample statement. No particular language is necessary in the disclosure statement provided that the necessary disclosure items are included and the disclosure complies with Iowa Code chapter 558A. To assist real estate licensees and the public, the commission recommends use of the following sample language:

RESIDENTIAL PROPERTY SELLER DISCLOSURE STATEMENT

Property address: _____

PURPOSE:

Use this statement to disclose information as mandated by Iowa Code chapter 558A. This law obligates certain sellers of residential property that includes at least one and no more than four dwelling units to disclose information about the property to be sold. The following disclosures are made by the seller(s) and not by any agent acting on behalf of the seller(s).

INSTRUCTIONS TO SELLER(S):

1. Seller(s) completes this statement. Respond to all questions, or attach reports allowed by Iowa Code section 558A.4(2);
2. Disclose all known conditions materially affecting this property;
3. If an item does not apply to this property, indicate that it is not applicable **(N/A)**;
4. Please provide information in good faith and make a reasonable effort to ascertain the necessary information. If the necessary information is **unknown** or is **unavailable** following a reasonable effort, use an **approximation** of the information, or indicate that the information is **unknown (UNK)**. All **approximations** are identified as **approximations (AP)**;
5. Additional pages may be attached as needed;
6. Keep a copy of this statement with your other important papers.

1. Basement/Foundation: Any known water or other problems?	Yes [ ]	No [ ]
2. Roof: Any known problems?	Yes [ ]	No [ ]
Any known repairs?	Yes [ ]	No [ ]
If yes, date of repairs/replacement: ____/____/____		
3. Sewer System: Any known problems?	Yes [ ]	No [ ]
Any known repairs?	Yes [ ]	No [ ]
If yes, date of repairs/replacement: ____/____/____		
4. Heating System(s): Any known problems?	Yes [ ]	No [ ]
Any known repairs?	Yes [ ]	No [ ]
If yes, date of repairs/replacement: ____/____/____		
5. Central Cooling System(s): Any known problems?	Yes [ ]	No [ ]
Any known repairs?	Yes [ ]	No [ ]
If yes, date of repairs/replacement: ____/____/____ If N/A check here [ ]		
6. Plumbing System(s): Any known problems?	Yes [ ]	No [ ]
Any known repairs?	Yes [ ]	No [ ]
If yes, date of repairs/replacement: ____/____/____		
7. Electrical System(s): Any known problems?	Yes [ ]	No [ ]
Any known repairs?	Yes [ ]	No [ ]
If yes, date of repairs/replacement: ____/____/____		
8. Pest Infestation (e.g., termites, carpenter ants): Any known problems?	Yes [ ]	No [ ]
If yes, date(s) of treatment: ____/____/____		
Any known structural damage?	Yes [ ]	No [ ]
If yes, date(s) of repairs/replacement: ____/____/____		
9. Asbestos: Any known to be present in the structure?	Yes [ ]	No [ ]
If yes, explain: _____		
10. Radon: Any known tests for the presence of radon gas?	Yes [ ]	No [ ]

If yes, date of last report: ____/____/____
and results: _____

11. Lead-Based Paint: Any known to be present in the structure? Yes [ ] No [ ]
12. Flood Plain: Do you know if the property is located in a flood plain? Yes [ ] No [ ]
13. Are there currently, or have there ever been, any lead water service lines present? Yes [ ] No [ ] Unknown [ ]

If yes, please provide more information: _____

14. Zoning: Do you know the zoning classification of the property? Yes [ ] No [ ]
If yes, what is the zoning classification? _____
15. Covenants: Is the property subject to restrictive covenants? Yes [ ] No [ ]
If yes, attach a copy or state where a true, current copy of the covenants can be obtained:
_____
16. Shared or Co-Owned Features: Any features of the property known to be shared in common with adjoining landowners, such as walls, fences, roads, and driveways whose use or maintenance responsibility may have an effect on the property? Yes [ ] No [ ]
Any known *"common areas"* such as pools, tennis courts, walkways, or other areas co-owned with others, or a Homeowner's Association which has any authority over the property? Yes [ ] No [ ]
17. Physical Problems: Any known settling, flooding, drainage or grading problems? Yes [ ] No [ ]
18. Structural Damage: Any known structural damage? Yes [ ] No [ ]
19. Well and Pump: Any known problems? Yes [ ] No [ ]
If N/A check here [ ]
Any known repairs? Yes [ ] No [ ]
If yes, date of repairs/replacement: ____/____/____
Any known water tests? Yes [ ] No [ ]
If yes, date of last report: ____/____/____
and results: _____
20. Septic Tanks/Drain Fields: Any known problems? Yes [ ] No [ ]
If N/A check here [ ]
Location of tank:
_____
Date tank last cleaned: ____/____/____

You need to explain any *"YES"* response(s) above. Use the back of this statement or additional sheets as necessary: _____
_____
_____
_____

SELLER(S) DISCLOSURE:

Seller(s) discloses the information regarding this property based on information known or reasonably available to the Seller(s).
The Seller(s) has owned the property since ____/____/____. The Seller(s) certifies that as of the date signed this information is true and accurate to the best of my/our knowledge.
Seller(s) acknowledges that Buyer(s) be provided with the "Iowa Radon Home-Buyers and Sellers Fact Sheet" prepared by the Iowa Department of Health and Human Services.

Seller_____ Seller_____
Date ____/____/____ Date ____/____/____

BUYER(S) ACKNOWLEDGMENT:
Buyer(s) acknowledges receipt of a copy of this Real Estate Disclosure Statement. This statement is not intended to be a warranty or to substitute for any inspection Buyer(s) may wish to obtain.
Buyer(s) acknowledges receipt of the "Iowa Radon Home-Buyers and Sellers Fact Sheet" prepared by the Iowa Department of Health and Human Services.

Buyer_____ Buyer_____

Date ____/____/____ Date ____/____/____

This rule is intended to implement Iowa Code chapters 17A, 272C, 543B, and 558A.

[**ARC 7776C**, IAB 4/17/24, effective 5/22/24; **ARC 0027D**, IAB 1/21/26, effective 4/22/26]

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ECONOMIC DEVELOPMENT AUTHORITY[261]

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[Prior to 1/14/87, see Iowa Development Commission[520] and Planning and Programming[630]]
[Prior to 9/7/11, see Economic Development, Iowa Department of[261];
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CHAPTER 1
ORGANIZATION

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/25/31

261—1.1(15) Definitions. As used in these rules, unless the context otherwise requires:

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Authority's website" means the information and related content found at opportunityiowa.gov and may include integrated content at affiliate sites.

"Board" means the same as defined in Iowa Code section 15.102(4).

"Committee" means a committee established by the board and includes any standing committees established by rule or ad hoc committees established pursuant to Iowa Code section 15.105(12).

"Director" means the same as defined in Iowa Code section 15.102(8).

[**ARC 9995C**, IAB 1/21/26, effective 2/25/26]

261—1.2(15) Economic development authority board.

1.2(1) *Meetings.*

a. The board generally meets monthly at the authority's offices. By notice of the regularly published meeting agendas, the board and its committees may hold regular or special meetings at other locations within the state. Meeting agendas are available on the authority's website.

b. The chairperson may exclude any person disrupting the proceedings.

1.2(2) *Board treasurer.* The accounting director for the authority or the accounting director's designee serves as the treasurer to the board. The treasurer shall attend audit entrance and exit interviews conducted by the auditor of state and shall report the results of such audits to the board.

1.2(3) *Committees.*

a. A due diligence committee is established to assist the board in making awards of incentives and assistance under the authority's programs.

(1) The due diligence committee is an advisory body comprised of voting members of the board who are selected annually by the voting members of the board. The membership and size of the committee and the terms of committee members will be established annually by the board.

(2) The members of the due diligence committee will elect members to serve as chairperson and vice chairperson. The chairperson may appoint members of the due diligence committee to serve on a due diligence subcommittee if necessary. Such a subcommittee is advisory only and may perform such duties as may be assigned by the chairperson and members of the due diligence committee.

(3) The duties of the due diligence committee may include reviewing applications for financial assistance, conducting a thorough review of proposed projects, making recommendations to the board regarding the size and conditions of awards, and any other duty assigned by the board in relation to the programs administered by the authority.

(4) A majority of committee members constitutes a quorum.

b. Technology commercialization committee.

(1) The technology commercialization committee is established pursuant to Iowa Code section 15.116. The membership and size of the committee and the terms of committee members will be established by the board.

(2) The director will appoint a member to serve as chairperson. The chairperson may appoint members of the technology commercialization committee to serve on a technology commercialization subcommittee if necessary. Such a subcommittee is advisory only and may perform such duties as may be assigned by the chairperson and members of the technology commercialization committee.

(3) The duties of the technology commercialization committee may include reviewing applications for financial assistance, conducting a thorough review of proposed projects, making recommendations to the board regarding the size and conditions of awards, and any other duty

assigned by the board in relation to the programs administered by the authority to the extent such programs relate to the areas and industry sectors identified in Iowa Code section 15.116.

(4) A majority of committee members constitutes a quorum.

c. The director may appoint ad hoc committees to serve in an advisory capacity to the authority whenever the director deems them necessary to accomplish the work of the authority. The size of such committees and the terms of committee members will be established by the director. Such committees may be dissolved as deemed appropriate by the director, and other committees may from time to time be established for specific purposes.

[**ARC 9995C**, IAB 1/21/26, effective 2/25/26]

261—1.3(15) Authority structure.

1.3(1) *General.* The authority's organizational structure consists of the board, the director and such divisions as the director may from time to time create.

1.3(2) *Chief designee.* The director may designate an employee to administer the authority in the director's absence. Such employee may bear the title of deputy director, chief operating officer, chief of staff, or other similar title as long as the director has executed an instrument clearly delegating the director's authority to that employee.

1.3(3) *Signature authority.* The director may authorize one or more employees to execute and deliver on behalf of the authority any agreement, document, or instrument as such employee may deem necessary or appropriate to implement and carry out the intent and purpose of any statute or administrative rule by which the authority is bound other than those statutes or administrative rules requiring a person holding a specified office to sign, if any, as long as the director has executed an instrument clearly delegating such authority to such employee or employees.

[**ARC 9995C**, IAB 1/21/26, effective 2/25/26]

261—1.4(15) Information. The general public may obtain information about the Iowa economic development authority by contacting the authority at its offices located at 1963 Bell Avenue, Des Moines, Iowa 50315; by telephone at 515.348.6200; or through the authority's website.

[**ARC 9995C**, IAB 1/21/26, effective 2/25/26]

These rules are intended to implement Iowa Code chapter 15.

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CHAPTER 23
IOWA COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/25/31

261—23.1(15) Purpose. The primary purpose of the community development block grant program is the development of viable communities by providing decent housing and suitable living environments and expanding economic opportunities, primarily for persons of low and moderate income.
[**ARC 9996C**, IAB 1/21/26, effective 2/25/26]

261—23.2(15) Definitions. When used in this chapter, unless the context otherwise requires:

"Annual action plan" means the annual plan required and approved by HUD that outlines the state's processes and procedures for distribution of CDBG funds. The annual action plan is available on the authority's website.

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Authority's website" means the information and related content found at opportunityiowa.gov and may include integrated content at affiliate sites.

"CDBG" means community development block grant.

"Citizen participation plan" means the plan required and approved by HUD that describes the state's process for including citizen participation in development of its consolidated plan and annual action plan. The citizen participation plan is available on the authority's website.

"Consolidated plan" means the five-year plan required and approved by HUD that establishes goals and objectives for the state's CDBG program. The consolidated plan is available on the authority's website.

"HUD" means the U.S. Department of Housing and Urban Development.

"Management guide" means the administrative reference manual published by the authority for each program year. The management guide is available on the authority's website.

"Program year" means the annual period beginning January 1 and ending December 31.

"Recipient" means a local government entity awarded CDBG funds under any CDBG program.
[**ARC 9996C**, IAB 1/21/26, effective 2/25/26]

261—23.3(15) Annual action plan. The authority will prepare a CDBG annual action plan for submittal to and approval by HUD. The plan will provide a description of the activities and programs that will take place during the year to meet goals established in the consolidated plan.

23.3(1) The authority will follow the state's citizen participation plan during the development of the annual action plan. A draft annual action plan will be available on the authority's website for 30 days for public review and comment. The authority will hold a public hearing during the comment period to collect public input on the plan prior to its submittal to HUD.

23.3(2) The annual action plan will include the proposed CDBG program funding allocation.
[**ARC 9996C**, IAB 1/21/26, effective 2/25/26]

261—23.4(15) Allocation of funds. Upon approval by HUD, the authority will allocate CDBG funds among programs or activities described in the state's most recent annual action plan, which may include but not be limited to the following:

1. Housing assistance.
2. Water and sewer improvements.
3. Community facilities improvements.
4. Opportunities and threats fund.
5. Neighborhood revitalization activities.

[**ARC 9996C**, IAB 1/21/26, effective 2/25/26]

261—23.5(15) Requirements for funding. Applications for funds under any of the program-allocated funds pursuant to rule 261—23.4(15) shall meet the minimum criteria described in subrules 23.5(1) through 23.5(3).

23.5(1) Proposed activities shall be eligible, as authorized by Title I, Section 105, of the Housing and Community Development Act of 1974 as amended and as further defined in 24 CFR Part 570. References in this subrule are to the laws as in effect February 25, 2026.

23.5(2) Proposed activities shall address at least one of the following three objectives:

a. Primarily benefit low- and moderate-income persons. To address this objective, 51 percent or more persons benefiting from a proposed activity must have incomes at or below 80 percent of the area median income as defined by HUD.

b. Aid in the prevention or elimination of slums and blight. To address this objective, the application must document the extent or seriousness of deterioration in the area to be assisted, showing a clear adverse effect on the well-being of the area or community and illustrating that the proposed activity will alleviate or eliminate the conditions causing the deterioration.

c. Meet an urgent community development need. To address this objective, the applicant must certify that the proposed activity is designed to alleviate existing conditions that pose a serious and immediate threat to the health or welfare of the community and that are recent in origin or that recently became urgent, that the applicant is unable to finance the activity without CDBG assistance and that other sources of funding are not available.

23.5(3) Applicants shall certify their compliance with federal requirements applicable to the CDBG program.

[**ARC 9996C**, IAB 1/21/26, effective 2/25/26]

261—23.6(15) Award and administration. The authority may negotiate award amounts, terms and conditions prior to making any award under the program. A management guide detailing the instructions for administration of awards will be updated periodically by the authority and will be available on the authority's website.

[**ARC 9996C**, IAB 1/21/26, effective 2/25/26]

These rules are intended to implement Iowa Code section 15.108(1)*"a"* and 24 CFR Part 570.

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[1] See IAB Economic Development Department.

CHAPTER 24
BROADBAND FORWARD AND TELECOMMUTER FORWARD CERTIFICATIONS

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/25/31

261—24.1(15E) Definitions.

"Applicant" means a political subdivision that submits an application to the authority for a broadband forward certification or telecommuter forward certification.

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Broadband" means the same as defined in Iowa Code section 8.76.

"Broadband infrastructure" means the same as defined in Iowa Code section 8.76.

"Certification" means a certificate issued to a political subdivision pursuant to this chapter.

"Political subdivision" means the same as defined in Iowa Code section 15E.167.

"Program" means the broadband forward and telecommuter forward certification program established pursuant to Iowa Code section 15E.167 and this chapter.

[**ARC 9997C**, IAB 1/21/26, effective 2/25/26]

261—24.2(15E) Application, review, and approval.

24.2(1) *Application.* The authority will develop a standardized application process and make information on applying available on the authority's website at www.opportunityiowa.gov. To apply for certification under the program, a political subdivision shall submit an application to the authority in the form and manner prescribed by the authority. A political subdivision may apply for broadband forward certification and telecommuter forward certification concurrently.

24.2(2) *Review.* The authority will review each complete application to determine whether an applicant meets the criteria for certification.

24.2(3) *Approval.* The authority may approve, deny or defer applications for certification. If the authority approves an application for certification, the authority will issue a broadband forward or telecommuter forward certificate and assist the political subdivision in publicizing its certification.

[**ARC 9997C**, IAB 1/21/26, effective 2/25/26]

261—24.3(15E) Broadband forward certification.

24.3(1) To obtain broadband forward certification, a political subdivision shall submit to the authority an application that meets the criteria in Iowa Code section 15E.167(3).

24.3(2) A political subdivision applying for certification shall designate a single point of contact with the responsibilities described in Iowa Code section 15E.167(4).

24.3(3) The authority will evaluate whether the applicant demonstrates that its efforts or proposed efforts to develop broadband infrastructure and access to broadband will have a sufficient impact that warrants certification.

[**ARC 9997C**, IAB 1/21/26, effective 2/25/26]

261—24.4(15E) Telecommuter forward certification.

24.4(1) A political subdivision that meets the criteria for broadband forward certification may apply for telecommuter forward certification. To obtain telecommuter forward certification, a political subdivision shall submit to the authority an application that meets the criteria in Iowa Code section 15E.167(6).

24.4(2) A political subdivision applying for certification shall designate a single point of contact designated with the responsibilities described in Iowa Code section 15E.167(7).

24.4(3) The authority will evaluate whether the applicant demonstrates that its efforts or proposed efforts to further develop and promote the availability of telecommuting will have a sufficient impact that warrants certification.

[**ARC 9997C**, IAB 1/21/26, effective 2/25/26]

261—24.5(15E) Maintenance of certification.

24.5(1) *Reports.* A political subdivision certified pursuant to this chapter shall submit an annual report to the authority verifying its continued eligibility for certification pursuant to Iowa Code section 15E.167. If applicable, the report will also address a political subdivision's compliance with the restrictions in Iowa Code section 15E.167(5).

24.5(2) *Revocation of certification.* The authority shall revoke the certification of a political subdivision that does not comply with the requirements of Iowa Code section 15E.167 or that the authority otherwise determines is no longer eligible for certification pursuant to this chapter.

[**ARC 9997C**, IAB 1/21/26, effective 2/25/26]

These rules are intended to implement Iowa Code section 15E.167.

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CHAPTER 31
ECONOMIC DEVELOPMENT REGION INITIATIVES
Rescinded **ARC 9998C**, IAB 1/21/26, effective 2/25/26

CHAPTER 32
TAX CREDITS FOR ECONOMIC DEVELOPMENT REGION REVOLVING LOAN FUND
Rescinded **ARC 7056C**, IAB 8/9/23, effective 9/13/23

CHAPTER 33
IOWA WINE AND BEER PROMOTION GRANT PROGRAM
[Prior to 7/4/07, see 261—Ch 104]
Rescinded **ARC 6320C**, IAB 5/18/22, effective 6/22/22

CHAPTER 34
WELCOME CENTER PROGRAM
[Prior to 7/19/95, see 261—Ch 58]
[Prior to 9/6/00, see 261—Ch 63]
[Prior to 7/4/07, see 261—Ch 102]
Rescinded **ARC 7056C**, IAB 8/9/23, effective 9/13/23

CHAPTER 35
REGIONAL TOURISM MARKETING GRANT PROGRAM
Rescinded **ARC 7056C**, IAB 8/9/23, effective 9/13/23

CHAPTER 43
HOOVER PRESIDENTIAL LIBRARY TAX CREDIT
Rescinded **ARC 9998C**, IAB 1/21/26, effective 2/25/26

CHAPTER 44
COG ASSISTANCE
Rescinded **ARC 9998C**, IAB 1/21/26, effective 2/25/26

CHAPTER 56
EMPLOYEE STOCK OWNERSHIP PLAN (ESOP) FORMATION ASSISTANCE

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/25/31

261—56.1(85GA,HF648) Definitions. For purposes of this chapter, unless the context otherwise requires:

"Agreement" means a contract for financial assistance under the program describing the terms on which the financial assistance is to be provided.

"Applicant" means a business applying for assistance under the program.

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Business" means a corporation eligible to become a qualified Iowa ESOP.

"Director" means the director of the authority.

"Financial assistance" means a payment made by the authority to an applicant approved for funding under the program.

"Program" means the ESOP formation assistance program established pursuant to this chapter.

"Qualified Iowa ESOP" means an employee stock ownership plan, as defined in Section 4975(e)(7) of the Internal Revenue Code as in effect on February 25, 2026, and trust that are established by an Iowa corporation for the benefit of the employees of the corporation.

[**ARC 9999C**, IAB 1/21/26, effective 2/25/26]

261—56.2(85GA,HF648) Program eligibility, application, and funding decisions.

56.2(1) *Program eligibility.* To be eligible under the program, an applicant shall meet all of the following requirements:

a. The business is interested in establishing an ESOP.

b. The business is, or documents intent to become, an Internal Revenue Service (IRS) subchapter C or subchapter S corporation.

c. The business has a valuation that is sufficient to make an ESOP feasible. A business with valuation less than $5 million is generally not considered a feasible candidate for an ESOP.

d. The business has a number of employees, eligible employee types, and a total payroll that are sufficient to make an ESOP feasible. A business with fewer than 25 full-time, permanent employees is generally not considered a feasible candidate for an ESOP.

e. The applicant shall have a cash flow level sufficient to make an ESOP feasible. A business with cash flow less than $500,000 is generally not considered a feasible candidate for an ESOP.

f. The business is not a business engaged in the business of sale at retail of tangible personal property or taxable services in this state or online. "Sale at retail" means the same as defined in Iowa Code section 423.1(46). Any business obligated to collect sales or use tax under Iowa Code chapter 423 may be ineligible pursuant to this paragraph.

g. The business is not a publicly traded company.

h. The business has not completed a feasibility study for purposes of exploring formation of a qualified Iowa ESOP in the three years prior to application for the program.

56.2(2) *Application.* The authority will accept applications for the program on a rolling basis. Information on submitting an application is available on the authority's website.

56.2(3) *Application scoring.* The authority may engage outside experts for assistance in evaluating the applications as needed. An applicant may be required to interview with authority staff or outside experts engaged by the authority. Authority staff will score applications based on the extent to which an applicant is a feasible candidate to form a qualified Iowa ESOP. The authority will keep records of the scoring process and make those records available to applicants.

56.2(4) *Funding decisions.* The director will make the final funding decision on each application, taking into consideration the score and the funding recommendation of authority staff.

The director will not approve funding for an application that receives an average score of less than 50 points.

56.2(5) *Amount of assistance.* An applicant to the program may be approved for financial assistance in an amount equal to 50 percent of the cost incurred for obtaining a feasibility study conducted by an independent financial professional. The total amount of financial assistance provided to an applicant will not exceed $25,000.

[**ARC 9999C**, IAB 1/21/26, effective 2/25/26]

261—56.3(85GA,HF648) Contract and disbursement.

56.3(1) Each applicant that is approved for financial assistance under the program shall enter into an agreement with the authority to establish the terms on which the financial assistance is to be provided.

56.3(2) The authority may reimburse a business for up to 25 percent of the cost of a feasibility study upon completion of the feasibility study. The authority may reimburse a business for up to 25 percent of the cost of a feasibility study upon formation of a qualified Iowa ESOP. The business must document the costs incurred and completion of all necessary transactions to the satisfaction of the authority prior to disbursement. Costs incurred prior to approval of financial assistance will not be eligible for reimbursement.

[**ARC 9999C**, IAB 1/21/26, effective 2/25/26]

These rules are intended to implement 2013 Iowa Acts, House File 648, section 9.

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[Filed ARC 9999C (Notice ARC 9544C, IAB 9/17/25), IAB 1/21/26, effective 2/25/26]

CHAPTER 71
TARGETED JOBS WITHHOLDING TAX CREDIT PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/25/31

261—71.1(403) Definitions.

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Award date" means the date the board approved a withholding agreement.

"Base employment level" means the number of full-time equivalent positions at an employer as established by the authority and an employer using the employer's payroll records as of the date an employer applies for the program.

"Board" means the same as defined in Iowa Code section 15.102.

"Business" means the same as defined in Iowa Code section 403.19A.

"Countywide average wage" means the average that the authority calculates using the most current four quarters of wage and employment information as provided in the quarterly covered wage and employment data report as provided by the department of workforce development. Agricultural/mining and governmental employment categories are deleted in compiling the wage information.

"Created job" means a new, permanent, full-time equivalent position added to an employer's payroll in excess of the employer's base employment level.

"Employee" means the same as defined in Iowa Code section 403.19A.

"Employer" means the same as defined in Iowa Code section 403.19A.

"Employer's taxable capital investment" means a capital investment in real property, including but not limited to the purchase of land and existing buildings and building construction included in the project, that is subject to taxation by the local taxing authority.

"Full-time equivalent job" or *"full-time"* means a non-part-time position for the number of hours or days per week considered to be full-time work for the kind of service or work performed for an employer. Typically, a full-time equivalent position requires 2,080 hours of work in a calendar year, including all paid holidays, vacations, sick time, and other paid leave.

"Local financial support" or *"local match"* means the same as defined in Iowa Code section 403.19A(3)*"k"*(2). For the purposes of this definition, "cash" includes but is not limited to loans, forgivable loans or grants. For the purposes of this definition, "in-kind contributions" means contributions directly related to the project and includes but is not limited to the construction of private or public infrastructure or other amenities and improvements.

"Pilot project city" means the same as defined in Iowa Code section 403.19A.

"Project" means an activity or set of activities directly related to the start-up, location, modernization, or expansion of a business, and proposed in an application by a business, that will result in the accomplishment of the goals of the program.

"Qualifying investment" means the same as defined in Iowa Code section 403.19A. For purposes of this definition, "long-term lease costs" means those costs incurred or expected to be incurred under a lease during the duration of a withholding agreement, provided that the cumulative cost for that period does not exceed the cost of the land and the third-party developer's costs to build or renovate the building for the approved employer.

"Retained job" means the same as defined in Iowa Code section 403.19A. For the purposes of this definition, a position "at risk of elimination" includes a position that would be relocated out of state.

"Targeted job" means the same as defined in Iowa Code section 403.19A.

"Withholding agreement" means the same as defined in Iowa Code section 403.19A.

[**ARC 0001D**, IAB 1/21/26, effective 2/25/26]

261—71.2(403) Pilot project cities. Pursuant to Iowa Code section 403.19A(2), pilot project cities were identified by the authority based on applications received prior to October 1, 2006. The identified pilot project cities are:

1. Burlington.
2. Council Bluffs.
3. Fort Madison.
4. Keokuk.
5. Sioux City.

[**ARC 0001D**, IAB 1/21/26, effective 2/25/26]

261—71.3(403) Withholding agreements. The authority and a pilot project city may enter into a withholding agreement pursuant to Iowa Code section 403.19A. In addition to the items described in Iowa Code section 403.19A(3)*"d,"* a withholding agreement shall contain all of the following:

71.3(1) A list of all other incentives or financial assistance the employer has requested or is receiving from other federal, state, or local economic development programs, including loans, grants, forgivable loans, and tax credits.

71.3(2) The total amount of withholding tax credits awarded.

71.3(3) The total number of created jobs and retained jobs included in the project.

71.3(4) The required countywide average wage.

71.3(5) The total qualifying investment included in the project.

71.3(6) The total required matching local financial support for the project.

71.3(7) The term of the withholding agreement.

71.3(8) Any terms deemed necessary by the authority to effect compliance with the requirements of Iowa Code section 403.19A and this chapter.

[**ARC 0001D**, IAB 1/21/26, effective 2/25/26]

261—71.4(403) Project approval.

71.4(1) *Request for board approval form.* To request board approval of a proposed withholding agreement, an employer and pilot project city shall utilize a standardized application developed by the authority. The form will include but not be limited to the following:

a. A general description of the project, including how the pilot project city will utilize withholding funds generated by the project.

b. The employer's base employment level.

c. Information regarding the number of targeted jobs in the project, the wages of the targeted jobs, and the types of jobs created by the project.

d. A budget for the project, showing the total project cost, the amount of local matching funds committed to the project, and the amount of withholding funds the pilot project city will receive from the project.

e. A letter or resolution of support from the local government showing support for the project.

71.4(2) *Timing of submittal.* Requests for board approval of a proposed withholding agreement may be submitted at any time. The authority will review requests for approval of a proposed withholding agreement in as timely a manner as possible.

71.4(3) *Project initiation.* The authority will not accept applications for projects that have been initiated or will be initiated prior to board consideration of the employer's application for the program unless the employer establishes that not initiating the project prior to board consideration of the application would result in undue hardship or that extenuating circumstances necessitate initiating the project prior to board consideration of the employer's application for the program. Whether an undue hardship or extenuating circumstance exists will be determined by the authority.

a. Any one of the following may indicate that a project has been initiated:

(1) The start of construction of new or expanded buildings;

(2) The start of rehabilitation of existing buildings;

(3) The purchase or leasing of existing buildings; or

(4) The installation of new machinery and equipment or new computers to be used in the operation of the project.

b. The following shall not indicate a project has been initiated:

(1) The purchase of land or signing an option to purchase land;

(2) Earthmoving or other site development activities not involving actual building construction, expansion or rehabilitation; or

(3) Acquisition of a business as a going concern.

c. Any costs incurred prior to the award date are not eligible qualifying investment expenses.

71.4(4) *Board action on requests for approval.* The board, on behalf of the authority, may approve or deny a withholding agreement according to the provisions of Iowa Code section 403.19A and this chapter. A pilot project city and employer will be notified in writing of the board's decision regarding the proposed withholding agreement.

[**ARC 0001D**, IAB 1/21/26, effective 2/25/26]

261—71.5(403) Reporting requirements.

71.5(1) The annual report required by Iowa Code section 403.19A(3)*"c"*(3) shall be submitted by the employer by September 1 covering the prior fiscal year (July 1 to June 30). The authority will verify job creation or retention using the method described in rule 261—71.6(15).

71.5(2) The authority may request additional reports from pilot project cities as necessary to determine the status of the targeted jobs withholding tax credit program.

71.5(3) The pilot project city or employer shall provide the following upon request:

a. Payroll records that correspond to the quarterly report provided by the pilot project city for the department of revenue;

b. Information substantiating the total amount of qualifying investment made in the project;

c. Information substantiating the total amount of local financial support made in the project;

d. Payments and receipts under a withholding agreement.

[**ARC 0001D**, IAB 1/21/26, effective 2/25/26]

261—71.6(15) Job counting.

71.6(1) *Overview.* The authority will count created and retained jobs using a base employment analysis comparing the base employment level to employment at another date. The employer's base employment level will be established at the time of application for the program. The number of jobs the employer has pledged to create shall be in addition to the base employment level. Retained jobs may be included in the base employment level as established at the time of approval.

71.6(2) *Base employment level.*

a. Base employment level will include the number of full-time equivalent positions employed at the project location. If the project occurs at more than one physical location, the employer's base employment level will include the total number of full-time equivalent positions working at the identified locations. Base employment level may include the employer's full-time equivalent positions in this state as identified by the authority that are not located at the project location.

b. If an employer enters multiple withholding agreements for projects at the same location, the base employment level will be calculated by using the payroll document from the oldest withholding agreement that is open. Job obligations from each new withholding agreement will be added to this base employment level.

c. The authority will collect payroll documents to calculate and verify the base employment level used in each withholding agreement. Payroll documents must include a name or employee identification number and the hourly rate of pay for all full-time equivalent positions.

d. If the base employment level includes retained jobs, the authority will require an employer to verify that a job is at risk. Such verification may include the signed statement of an officer of the employer, documentation that the employer is actively exploring other sites for the project, or any other information the authority may reasonably require during the application review process to establish that a job is at risk.

71.6(3) *Verification.* At the project completion date, during the maintenance period, and following the maintenance period completion date, payroll documents will be used to calculate and

verify compliance with job obligations. The person who submits the documents must, under penalty of perjury, verify that the information contained in the documents is true and correct.

71.6(4) *Full-time equivalent positions.* Only a full-time equivalent position filled by an individual will be considered an employee of the employer for the purpose of establishing the base employment level, retained jobs, or created jobs. The authority will not consider "job sharing" or any other means of aggregation or combination of hours worked by more than one natural person in counting jobs. The authority will verify that full-time equivalent positions constitute the employment of one person for:

a. Eight hours per day for a five-day, 40-hour workweek for 52 weeks per year, including paid holidays, vacations and other paid leave; or

b. The number of hours or days per week, including paid holidays, vacations and other paid leave, currently established by schedule, custom, or otherwise, as constituting a week of full-time work for the kind of service an individual performs for an employing unit, provided that the number of hours per week is at least 32 hours per week for 52 weeks per year, including paid holidays, vacations, and other paid leave.

c. If employees at the facility do not typically work 40 hours per week, the employer will be required to provide documentation outlining what the employer considers a full-time workweek and how the employer's interpretation fits within the norms of its industry standards. Whether to accept this interpretation is within the sole discretion of the authority.

71.6(5) *Contract employees.* An employer's leased or contract employee may be included in the base employment level, as a created job, or as a retained job only if the following requirements are met:

a. The employer has a legally binding contract with a third-party provider to provide the leased or contract employee.

b. The contract between the third-party provider and the employer specifically requires the third-party provider to pay the wages required for the time period required by the authority as conditions of the approval of a withholding agreement with the employer.

c. The contract between the third-party provider and the employer specifically requires the third-party provider to submit payroll records to the authority, in form and content and as frequently as required by the authority, for purposes of verifying the employer's job creation/retention.

d. The contract between the third-party provider and the employer specifically authorizes the authority or its authorized representatives to access the third-party provider's records related to the project.

e. The employer agrees to be contractually liable to the authority for the performance or nonperformance of the third-party provider.

71.6(6) *Remote employees.* Employees with a reasonable connection to a project location who work remotely may be included in the base employment level, as a created job, or as a retained job as established by the authority at the time of application. To determine whether employees who work remotely should be included, the authority will consider an employer's policies on establishing remote work locations for employees, reporting structures, percentage of time worked at the project location, and the distance of employees' remote work locations from the project location. Only employees who work remotely within a defined geographic area established by the authority will be included. Whether an employee who works remotely is included in the base employment level, as a created job, or as a retained job pursuant to this subrule shall be solely within the discretion of the authority.

71.6(7) *Wages.* Jobs that are not paid the countywide average wage will not be counted toward an employer's job creation or job retention obligations. To determine the wages paid to the employees of an eligible business, the authority will include only monetary compensation, represented in terms of an hourly rate, paid by an employer to an employee for work or services provided, typically on a weekly or biweekly basis. The wage will not include nonregular forms of compensation, such as bonuses, unusual overtime pay, commissions, stock options, pensions, retirement or death benefits, unemployment benefits, life or other insurance, or other fringe benefits.

[**ARC 0001D**, IAB 1/21/26, effective 2/25/26]

261—71.7(403) Applicability. This chapter applies to withholding agreements entered into on or after July 1, 2013. Withholding agreements entered into prior to July 1, 2013, shall be governed by this chapter as it existed prior to the enactment of 2013 Iowa Acts, Senate File 433.

[**ARC 0001D**, IAB 1/21/26, effective 2/25/26]

These rules are intended to implement Iowa Code section 403.19A.

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[1] The March 18, 2009, effective date of ARC 7561B was delayed 70 days by the Administrative Rules Review Committee at its meeting held March 6, 2009.

CHAPTER 73
Reserved

CHAPTER 74
GROW IOWA VALUES FINANCIAL ASSISTANCE PROGRAM
Rescinded **ARC 6320C**, IAB 5/18/22, effective 6/22/22

CHAPTER 75
OPPORTUNITIES AND THREATS PROGRAM
Rescinded **ARC 9998C**, IAB 1/21/26, effective 2/25/26

CHAPTER 77
SITE DEVELOPMENT PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/25/31

261—77.1(15E) Definitions.

"Applicant" means the entity that submits an application to the authority for a certificate of readiness for a site development area or areas.

"Authority" means the economic development authority established in Iowa Code section 15.105.

"Certificate of readiness" means a certificate issued to a local government or local economic development official for a site that is determined to be ready for development or redevelopment based on criteria set forth in rule 261—77.4(15E).

"Site development area" means property that is included as part of a site development plan and that is to be used or proposed to be used for development or redevelopment.

[**ARC 0002D**, IAB 1/21/26, effective 2/25/26]

261—77.2(15E) Eligibility. Eligible applicants may apply to the authority for a certificate of readiness pursuant to Iowa Code section 15E.18.

[**ARC 0002D**, IAB 1/21/26, effective 2/25/26]

261—77.3(15E) Application; review; approval.

77.3(1) *Application.* All requests for a certificate of readiness for a site development area shall be made using the application provided by the authority. The application shall include at least the following information:

a. Applicant information, including name, address, telephone number and contact person.

b. Legal description of the site development area(s).

c. Identification of the property owner(s) related to the site development area(s) and control of the site development area(s) for the period the certificate of readiness will be effective.

d. Detailed site development plan(s) for the site development area(s).

77.3(2) *Review.* The authority will accept applications during specified time periods. The authority and, if applicable, a contractor engaged for the purpose of evaluating sites will review applications based on the general criteria described in subrule 77.4(1). The authority will evaluate each application to identify any barriers to development or redevelopment.

77.3(3) *Approval.* The authority may approve, deny or defer applications for a certificate of readiness. If the authority approves an application for a certificate of readiness, the authority will issue a certificate of readiness in accordance with rule 261—77.5(15E).

[**ARC 0002D**, IAB 1/21/26, effective 2/25/26]

261—77.4(15E) Evaluation criteria.

77.4(1) *General.* When evaluating applications for certificates of readiness, the authority will consider the following criteria:

a. The thoroughness and detail of the site development plan.

b. The site development plan's regard for compliance with applicable regulations, including without limitation land-use and zoning restrictions or environmental or cultural protections.

c. The presence of or planning for viable transportation infrastructure.

d. The presence of or planning for viable utility infrastructure.

e. The geologic and natural characteristics of the site development area(s), including the proximity or inclusion of any floodplains.

f. The ownership and control of the site development area(s).

g. Demonstrated support, including without limitation financial and local support, for the site development plan.

77.4(2) *Additional consideration.* In addition to the general criteria described above, the authority may consider whether a site development plan for a site development area utilizes sustainable design and practices. For purposes of this subrule, "sustainable design" means construction design intended to minimize negative environmental impacts and to promote the health and comfort of building occupants.

[**ARC 0002D**, IAB 1/21/26, effective 2/25/26]

261—77.5(15E) Certificate of readiness.

77.5(1) *Certification.* Upon approval of an application, the authority will issue a certificate of readiness to the applicant. The certificate of readiness will include a short description of how the site development plan meets the general criteria described in subrule 77.4(1) and will include whether the site development plan meets the additional consideration described in subrule 77.4(2). The certificate of readiness will be valid for the term described on the certificate, which may vary for each site development area depending on the nature of the development and the site characteristics. In no event shall the term of a certificate exceed ten years.

77.5(2) *Recertification.* The local government or local economic development official responsible for the site development area shall reapply for a certificate of readiness under these rules for the site to be considered for a subsequent certificate of readiness.

[**ARC 0002D**, IAB 1/21/26, effective 2/25/26]

261—77.6(15E) Consultation. The authority may contract with third parties to provide site development consultations. The applicant will be required to enter a contract with the authority that provides for reimbursement of all or a portion of the cost of site development consultations if, during the period the certificate of readiness is effective, the owner(s) of a site or park sell(s), give(s) away, or otherwise dispose(s) of the site or park or any portion of the site development area for a purpose or use other than a purpose or use for which the site was certified.

[**ARC 0002D**, IAB 1/21/26, effective 2/25/26]

These rules are intended to implement Iowa Code section 15E.18.

[Filed ARC 9485B (Notice ARC 9255B, IAB 12/1/10), IAB 5/4/11, effective 6/8/11]
[Filed ARC 0002D (Notice ARC 9648C, IAB 10/29/25), IAB 1/21/26, effective 2/25/26]

CHAPTER 113
COMMUNITY MICROENTERPRISE DEVELOPMENT ORGANIZATION GRANT PROGRAM

Rescinded **ARC 1573C**, IAB 8/20/14, effective 9/24/14

CHAPTER 114
SEED INVESTOR TAX CREDIT PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/25/31

261—114.1(15E) Definitions. For purposes of this chapter, unless the context otherwise requires:

"Affiliate" means the same as defined in Iowa Code section 15E.26. For the purposes of this definition, "controlling equity interest" means ownership of more than 50 percent of the outstanding equity interests of a corporation, partnership, limited liability company, or trust.

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Board" means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

"Convertible debt" means debt that may be converted to equity at the option of the debt holder but has not yet been converted.

"Director" means the director of the authority.

"Eligible investor" means an investor making an investment that is eligible for a tax credit pursuant to this chapter and Iowa Code chapter 15E, subchapter IV.

"Equity" means common or preferred corporate stock or warrants to acquire such stock, membership interests in limited liability companies, or partnership interests in partnerships. Equity shall be limited to securities or interests acquired only for cash and shall not include securities or interests acquired at any time for services, contributions of property other than cash, convertible debt, or any other noncash consideration.

"Full-time equivalent employee" means a non-part-time position for the number of hours or days per week considered to be full-time work for the kind of service or work performed for an employer. Typically, a full-time equivalent position requires 2,080 hours of work in a calendar year, including all paid holidays, vacations, sick time, and other paid leave.

"Investment" means the same as defined in Iowa Code section 15E.26.

"Investor" means the same as defined in Iowa Code section 15E.26.

"Person" means an individual, corporation, limited liability company, business trust, estate, trust, partnership or association, or any other legal entity.

"Principal" means any current or prospective officer, director, or owner.

"Principal business operations" means the location at which at least 50 percent of a qualified business's employees are employed, the location at which employees representing at least 50 percent of a qualified business's payroll are employed, or the home office for a substantial amount of executive employees.

"Program" means the seed investor tax credit program administered pursuant to this chapter and Iowa Code chapter 15E, subchapter IV.

"Qualifying business" means the same as defined in Iowa Code section 15E.26.

"Rural area" means the same as defined in Iowa Code section 15E.26.

"Urban area" means the same as defined in Iowa Code section 15E.26.

[**ARC 0003D**, IAB 1/21/26, effective 2/25/26]

261—114.2(15E) Certification of qualifying businesses.

114.2(1) *Eligibility for certification as a qualifying business.* A business shall meet all of the criteria in Iowa Code section 15E.28 to be eligible for certification as a qualifying business.

114.2(2) *Length of business operations.* For the purposes of determining whether a business has been in operation for five years or less as required by Iowa Code section 15E.28(2)*"b,"* the authority will consider the following factors:

a. The date of incorporation or organization;

b. The date on which the business began the sale of goods or services;

c. The date on which the business first hired employees;

d. The date of execution of business contracts; and

e. Any other information that indicates the date on which the business began materially engaging in commercial activity.

114.2(3) *Application for certification.* A qualifying business shall apply to the authority for certification as a qualifying business as prescribed by the authority. The application for certification will include the following information:

a. A description of the general nature of the business's operations.

b. The location of the principal business operations, any other business locations, and the number of employees at each of the business's locations.

c. The date on which the business was formed and the date on which the business commenced operations based on the factors identified in subrule 114.2(2).

d. Verification that the business has at least one full-time equivalent employee.

e. Evidence that the business's primary operations are in a qualifying industry pursuant to Iowa Code section 15E.28(2)*"d."* Such evidence may include but is not limited to whether the business has a North American industry classification system (NAICS) number aligned with the relevant industries as determined by the authority. Businesses with other NAICS numbers will be required to document to the authority's satisfaction that the business is primarily engaged in an applicable industry identified in Iowa Code section 15E.28(2)*"d"* based on factors including but not limited to sources of revenue and customer base. For the purposes of determining whether the business is primarily engaged in the provision of services that require a professional license, "services requiring a professional license" includes but is not limited to the professions listed in Iowa Code section 496C.2.

f. Documentation of the ownership, affiliates, and principals of the business sufficient to demonstrate the business is an independent organization that is not part of, or an affiliate of, a business that is not a qualifying business and to demonstrate that the business has at least two investors for the purposes of establishing its eligibility pursuant to Iowa Code section 15E.28(2)*"h"*(2).

g. A description of the manner in which the business satisfies the business experience requirements set forth in Iowa Code section 15E.28(2)*"f."*

h. A balance sheet that reflects the qualifying business's assets, liabilities, and owners' equity as of the close of the most recent month or quarter.

i. The names, addresses, shares or equity interests issued; consideration paid for the shares or equity interests; and estimated amounts of tax credits through the program of all shareholders or equity holders and the date on which the investment was made, as well as documentation of any binding investment commitments made prior to application for certification. An agreement for convertible debt may be considered a binding investment commitment for the purposes of this paragraph.

j. A signed statement from an officer, director, manager, member, or general partner of the qualifying business certifying the accuracy of the information provided.

k. Any other information the authority may reasonably require to determine the business's eligibility for certification as a qualifying business and its investors' eligibility to receive tax credits or to allow the authority to estimate demand for tax credits.

114.2(4) *Authority review and notice of certification.*

a. Upon the authority's receipt of the information and documentation necessary to demonstrate satisfaction of the criteria set forth in Iowa Code section 15E.28, the authority shall, within a reasonable period of time, determine whether a business shall be certified as a qualifying business and, if applicable, issue written notification to the qualifying business that such business has been certified with the authority for the purpose of issuing investment tax credits. The authority will indicate in its written notice the first date investments are eligible for a tax credit based on the date of application for certification and the date the authority expects the certification to expire based on the date the business began operations. If the authority determines a business should not be certified, the authority shall issue written notification to the business of the denial of certification and provide the reasons why the business was not certified.

b. Prior to issuance of the written notification pursuant to paragraph 114.2(4)*"a,"* a qualifying business shall pay a nonrefundable application fee of $200 to the authority.

c. Following written notification of certification, a certified qualifying business shall enter into an agreement with the authority reflecting the terms of certification.

114.2(5) *Revocation and expiration of certification.*

a. A certified qualifying business shall provide any information the authority may reasonably request to confirm the business's continued eligibility for certification as a qualifying business and the eligibility of its investors to receive tax credits or to allow the authority to estimate demand for tax credits.

b. If a qualifying business fails to meet or maintain any requirement set forth in this chapter and in Iowa Code chapter 15E, subchapter IV, the authority shall revoke the business's certification as a qualifying business by issuing written notice of revocation to the business. The notice will identify the last date on which the business was eligible to be certified as a qualifying business. Investments made after the identified date will not be eligible for a tax credit.

c. If a business continues to satisfy all eligibility requirements until it has been in operation for more than five years, the business's certification will expire on the date identified as the expected date of expiration pursuant to paragraph 114.2(4)*"a."* Investments made after the identified date will not be eligible for a tax credit.

d. The authority shall rescind any tax credit certificates issued to taxpayers for investments made after the date on which the business's certification was revoked or expired and shall notify the department of revenue that it has done so. A tax credit certificate that has been rescinded by the authority shall be null and void, and the department of revenue will not accept the tax credit certificate.

114.2(6) *Reporting.*

a. A certified qualifying business shall report new equity interests or transfers in equity among current equity holders or as any other information on the list of investors provided to the authority as part of the application for certification may change.

b. The authority may at any time request additional information and documentation from a qualifying business regarding the operations, job creation, and economic impact of such qualifying business, and the authority may use such information in preparing and publishing any reports to be provided to the governor and the general assembly to the extent such information is not confidential pursuant to Iowa Code section 15E.29.

[**ARC 0003D**, IAB 1/21/26, effective 2/25/26]

261—114.3(15E) Investment and investor requirements.

114.3(1) Only investments made after the date a qualifying business submits an application for certification shall qualify for a tax credit.

114.3(2) A taxpayer shall not claim a tax credit through the program if the taxpayer receives a tax credit for the same investment through another program administered by the authority.

114.3(3) A qualifying business must submit documentation of an investment to the authority, consistent with paragraph 114.4(1)*"b,"* during the first available application window following the investment for the investment to qualify for a tax credit. If the first available application window following the investment concludes prior to approval of certification of the applicable qualifying business, the investor may apply in the first available application window following approval of certification.

114.3(4) Convertible debt shall only be considered an investment in the form of cash to purchase equity as of the date of conversion. Investors that utilize convertible debt must document the date and terms of conversion to equity to be eligible for a tax credit.

114.3(5) A simple agreement for future equity (SAFE) or comparable instrument may be evaluated by the authority to determine whether it constitutes an investment in the form of cash to purchase equity. An instrument that creates debt will not be considered.

114.3(6) Pursuant to the requirements and definitions in Iowa Code chapter 15E, subchapter IV, the authority will also verify the following to determine the eligibility of an investment for a tax credit:

a. The amount of the investment is at least $10,000.

b. The investment is not made by an affiliate of the qualifying business or its principals.

c. The investment is not made by an individual or entity that owns 70 percent or more of the qualifying business.

[**ARC 0003D**, IAB 1/21/26, effective 2/25/26]

261—114.4(15E) Applying for an investment tax credit.

114.4(1) *Annual business application.* The annual application submitted by qualifying businesses will include:

a. A report from the business of any changes to the information provided in the application for certification pursuant to subrule 114.2(3).

b. The names, addresses, email addresses, phone numbers, shares or equity interests issued, and consideration paid for the shares or equity interests of all shareholders or equity holders, including but not limited to investors who may qualify for the tax credits and the date on which all investments were made.

c. Documentation of the ownership, affiliates, and principals of the qualifying business and of its investors sufficient to allow the authority to determine the following:

(1) Whether any investors are ineligible for a tax credit because the investor is an affiliate of the qualifying business or its principals.

(2) Whether any investors are ineligible for a tax credit because the individual or entity owns 70 percent or more of the qualifying business.

(3) Whether tax credits issued to an investor and the investor's spouse or dependent would exceed the maximum allowed pursuant to Iowa Code section 15E.27(2)*"b"*(1).

d. A signed statement from an officer, director, manager, member, or general partner of the qualifying business certifying the accuracy of the information provided.

e. A listing of investments that are anticipated to be eligible for tax credits during the fiscal year following submission of the application.

f. Any other information the authority may reasonably require to determine the business's continued eligibility for certification as a qualifying business and its investors' eligibility to receive tax credits or to allow the authority to estimate demand for tax credits.

114.4(2) *Application window.* The annual application required pursuant to Iowa Code section 15E.28(5) shall be submitted electronically to the authority from September 1 to December 31 each year. The authority may adjust the annual application period dates under extenuating circumstances and will provide notice of adjustments on the authority's website. The authority may cease accepting applications during any annual application period if the requested tax credits for the program and the requested tax credits for innovation fund investment tax credits available pursuant to Iowa Code section 15E.52 exceed $12 million. Applications shall be date- and time-stamped by the authority in the order in which such applications are received.

114.4(3) *Board approval of maximum tax credits.* The board will determine the total amount of tax credits available for each fiscal year pursuant to Iowa Code section 15.119. The authority will make its initial allocation of tax credits to eligible investors based on the order in which applications are received until the maximum aggregate amount of credits authorized for issuance has been reached for any fiscal year.

114.4(4) *Investor information and deadline.* Additional information that may be requested from investors identified by a qualifying business includes proof of investment and the investor's tax identification number. An eligible investor must provide any information requested by the authority to verify the eligibility of the investor and to allow the authority to issue a tax credit certificate. Such

information shall be provided within 30 days of a request from the authority unless a request for extension is approved by the authority in writing.

114.4(5) *Tax credit approval.* Authority staff will verify the continued eligibility of qualifying businesses and the eligibility of investments prior to approval of tax credits by the director. Tax credits will be approved by the director on a first-come, first-served basis until the maximum amount of tax credits approved by the board is fully utilized. Applications that exceed the maximum amount of tax credits approved by the board will be denied.

114.4(6) *Tax credit amount.* The location of the principal business operations will be utilized to determine whether a qualifying business is located in a rural area or an urban area for the purposes of establishing the amount of a tax credit pursuant to Iowa Code section 15E.27(2)*"a."*

114.4(7) *Tax credit limitations.* Tax credits are limited by the following:

a. The total amount of tax credits available for the program, approved by the board pursuant to Iowa Code section 15.119.

b. The maximums allowed per fiscal year for a natural person, corporation, or other entity pursuant to Iowa Code section 15E.27(2).

c. The maximum allowed per fiscal year for any one qualifying business pursuant to Iowa Code section 15E.27(2).

114.4(8) *Denial of applications.* Applications received by the authority that exceed the limitations described in Iowa Code sections 15.119 and 15E.27 and in subrule 114.4(7) will be denied, regardless of whether the investment was otherwise eligible to receive a tax credit award. Any application that can be partially approved without exceeding the applicable maximum amounts may be approved as to the portion less than the maximum amounts and denied as to the portion greater than the maximum amounts. For example, if an application is eligible for $50,000 of tax credits, but there is only $30,000 of the business maximum amount available, the application may be approved for $30,000 and denied for $20,000.

[**ARC 0003D**, IAB 1/21/26, effective 2/25/26]

261—114.5(15E) Tax credit certificates.

114.5(1) *Issuance by the authority.* The authority shall issue tax credit certificates to investors pursuant to Iowa Code section 15E.28 provided, however, that such tax credit certificate shall be subject to rescission pursuant to paragraph 114.2(5)*"d."*

114.5(2) *Vested right.* A taxpayer does not obtain a vested right in a tax credit until a certificate has been issued by the authority.

114.5(3) *Claiming an investment tax credit.* An investor that has been issued a tax credit certificate by the authority may claim the credit in accordance with any applicable rules adopted by the department of revenue.

[**ARC 0003D**, IAB 1/21/26, effective 2/25/26]

These rules are intended to implement Iowa Code chapter 15E, subchapter IV.

[Filed ARC 0003D (Notice ARC 9670C, IAB 11/12/25), IAB 1/21/26, effective 2/25/26]

CHAPTER 115
TAX CREDITS FOR INVESTMENTS IN QUALIFYING BUSINESSES
Rescinded **ARC 0004D**, IAB 1/21/26, effective 2/25/26

CHAPTER 116
TAX CREDITS FOR INVESTMENTS IN CERTIFIED INNOVATION FUNDS

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/25/31

261—116.1(15E) Definitions. For purposes of this chapter, unless the context otherwise requires:

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Board" means the same as defined in Iowa Code section 15.102.

"Convertible debt" means debt that may be converted to equity at the option of the debt holder but has not yet been converted.

"Equity" means common or preferred corporate stock or warrants to acquire such stock, membership interests in limited liability companies, partnership interests in partnerships, or near equity. Equity shall be limited to securities or interests acquired only for cash and shall not include securities or interests acquired at any time for services, contributions of property other than cash, or any other non-cash consideration.

"Innovation fund" means the same as defined in Iowa Code section 15E.52.

"Innovative business" means the same as defined in Iowa Code section 15E.52.

"Investor" means a taxpayer that makes an investment in an innovation fund.

"Program" means the tax credit program for investments in certified innovation funds available pursuant to this chapter and Iowa Code section 15E.52.

[**ARC 0005D**, IAB 1/21/26, effective 2/25/26]

261—116.2(15E) Certification of innovation funds.

116.2(1) An innovation fund shall submit an application for certification to the authority prior to the issuance of any investment tax credits to investors in such innovation funds. The innovation fund must submit the application within 120 days from the first date on which the equity investments qualifying for the investment tax credit have been made.

116.2(2) Application forms setting forth the information required to certify the eligibility of an innovation fund may be obtained by contacting the authority.

116.2(3) The authority will not issue a tax credit certificate until the board has certified that a fund meets all of the following criteria:

a. The innovation fund has submitted a copy of the innovation fund's certificate of limited partnership, limited partnership agreement, articles of organization or operating agreement certified by the chief executive officer of the innovation fund.

b. The innovation fund has submitted a signed statement from an officer, director, manager, member or general partner of the fund stating that the criteria established in Iowa Code section 15E.52 are met.

(1) For the purposes of determining whether an innovation fund will make investments in promising early-stage companies that have a principal place of business in the state, "having a principal place of business in the state" means (1) that the business has at least 50 percent of all of its employees in the state, (2) that the business pays at least 50 percent of the business's total payroll to employees residing in the state, or (3) that the home office for a substantial amount of executive employees is in the state.

(2) To establish that the criterion in Iowa Code section 15E.52(7)*"d"* is met, the innovation fund shall provide a detailed description of the framework the innovation fund will use to evaluate a business's growth potential and its ability to produce commercially viable products or services within a reasonable period of time. The description shall list and discuss the criteria and the attendant process that the innovation fund will use to evaluate businesses. The authority will consider requests submitted under Iowa Code section 15.118 or 22.7 to treat the evaluation framework as confidential.

(3) To establish that the criterion in Iowa Code section 15E.52(7)*"e"* is met, an innovation fund shall provide a detailed description of the methods by which each business will be evaluated. An

innovation fund shall also submit a plan describing the actions it will take in order to collaborate and coordinate with other state and local entities and the ways in which the innovation fund intends to ensure consistency with the policy goals of this chapter. Such a plan shall propose to create relationships that can be substantiated in writing, which may include without limitation contracts, memoranda of understanding, letters of support, affidavits, or joint press releases from or with the entities that will be involved in the collaborative and coordinating efforts or through a list and summary description of the dates and locations for meetings held between the innovation fund and the other entities that allowed for collaboration and coordination between the innovation fund and those entities in an effort to achieve policy consistency.

(4) To establish that the criterion in Iowa Code section 15E.52(7)*"f"* is met, an innovation fund shall provide written confirmation of such relationships, which may include without limitation contracts, memoranda of understanding, letters of support, affidavits, or joint press releases from or with the regents institutions of this state or a list and summary description of the dates and locations for meetings held between the innovation fund and the regents institutions, the names of representatives of regents institutions with whom the innovation fund has met, and a brief summary of the discussions at those meetings.

(5) To establish that the criterion in Iowa Code section 15E.52(7)*"g"* is met, an innovation fund shall include provisions in the fund's governing documents that provide for the continued operations of the fund only if the minimum level of investment commitment is reached.

(6) To assist the authority in determining the amount of tax credits to allocate for the program for each fiscal year, an innovation fund shall provide any available information about the timing and amounts of investments anticipated during the existence of the fund.

116.2(4) Upon the authority's receipt of the information and documentation necessary to demonstrate satisfaction of the criteria set forth in Iowa Code section 15E.52 and herein, the authority shall, within a reasonable period of time, determine whether to certify the innovation fund. Incomplete applications will not be forwarded to the board. If the authority determines an innovation fund should not be certified, the authority shall issue written notification to the innovation fund of the denial of certification and provide the reasons why the innovation was not certified. The authority shall issue written notification to the innovation fund that the fund has been certified for the purpose of issuing investment tax credits. This written notification shall contain the following statement:

> The Authority shall not be liable for an innovation fund's failure to maintain compliance with the certification requirements nor for an investor's loss of tax credit certificates resulting from either a failure to maintain compliance or from a revocation.

116.2(5) An innovation fund certified before July 1, 2025, that wishes to take advantage of the changes in 2025 Iowa Acts, Senate File 657, must submit an amended application to the board and demonstrate that the innovation fund meets all new requirements for certification.

[**ARC 0005D**, IAB 1/21/26, effective 2/25/26]

261—116.3(15E) Maintenance, reporting, and revocation of certification.

116.3(1) On or before December 31 of each year, each certified innovation fund shall collect and provide to the board, in the manner and form prescribed by the authority, the following information and documentation:

a. The amount of equity investments made in the innovation fund, both on an annual and a cumulative basis.

b. The information required in Iowa Code section 15E.52(10)*"e."*

c. In order to establish that an innovation fund has met the criterion found in Iowa Code section 15E.52(7)*"e,"* documentation and information in the manner and form required by the authority. Such documentation and information may include without limitation contracts, memoranda of understanding, letters of support, affidavits, joint press releases, or a list and summary description of the dates and locations for meetings held between the innovation fund and the other entities that

allowed for collaboration and coordination between the innovation fund and those entities in an effort to achieve policy consistency.

d. In order to establish that an innovation fund has met the criterion found in Iowa Code section 15E.52(7)*"f,"* documentation and information in the manner and form required by the authority. Such documentation and information may include without limitation contracts, memoranda of understanding, letters of support, affidavits, joint press releases, or a list and summary description of the dates and locations for meetings held between the innovation fund and regents institutions, the names of representatives of regents institutions with whom the innovation fund has met, and a brief summary of the discussions at those meetings. The innovation fund shall also indicate if any business in which it has invested is commercializing research developed at one of the regents institutions.

e. A list of investors that expected to be eligible for tax credits during the fiscal year in which the report is submitted and the following fiscal year, the date of such investors' investments, and the amount of the investments.

f. To the extent available, documentation sufficient to verify the completion and eligibility of any investment for which a tax credit will be requested during the fiscal year in which the report is submitted.

116.3(2) Upon obtaining the required minimum threshold of $3 million in binding investment commitments, an innovation fund shall submit a statement containing the names, addresses, equity interests issued and consideration paid for the interests of all investors who may initially qualify for the tax credits. An innovation fund shall submit an amended statement as may be necessary from time to time to reflect new equity interests or transfers in equity among current equity holders or as any other information on the list may change. The authority will consider requests submitted under Iowa Code section 15.118 to treat investor names and amounts as confidential.

116.3(3) The board may revoke an innovation fund's certification if any of the following events occur:

a. An innovation fund fails to secure the required $3 million in initial binding investment commitments within one year of the date of certification by the board or fails at any point thereafter to secure investment from its investors of at least $3 million. If an investor in an innovation fund fails to make a capital call by the innovation fund and that failure would cause the innovation fund to fail to secure the required minimum $3 million in investment, then the authority will allow the innovation fund a period of not more than 120 days after receiving notice of the failed capital call to secure additional investment commitments sufficient to meet the required minimum investment.

b. An innovation fund fails to timely submit the report required in Iowa Code section 15E.52(9).

c. An innovation fund fails to maintain the eligibility criteria as set forth in Iowa Code section 15E.52.

The board may forbear revocation under this subrule for good cause shown or for demonstration of extenuating circumstances. Such forbearance shall be at the board's discretion and for the period of time determined by the board to be in the best interest of the program and the state of Iowa.

116.3(4) If the board finds that a fund is out of compliance or revokes an innovation fund's certification, the board will not issue tax credit certificates to investors in the innovation fund until the innovation fund manager demonstrates to the board that the innovation fund again meets the eligibility criteria set forth in Iowa Code section 15E.52. If an investor makes an equity investment prior to a notice of noncompliance and a revocation of an innovation fund's certification, the board will issue the tax credit certificate as set forth in rule 261—116.6(15E). If an investor is issued a tax credit certificate prior to a revocation of certification, the investor shall have all of the rights described in Iowa Code section 15E.52(5).

[**ARC 0005D**, IAB 1/21/26, effective 2/25/26]

261—116.4(15E) Investment and investor requirements.

116.4(1) Investments made more than 120 days before an innovation fund applies for certification are not eligible for a tax credit.

116.4(2) A taxpayer shall not claim a tax credit through the program if the taxpayer receives a tax credit for the same investment through another program administered by the authority.

116.4(3) For investments made on or after July 1, 2026, an investor must apply for a tax credit during the first available application window following the investment for the investment to qualify for a tax credit. If the first available application window following the investment concludes prior to approval of certification of the applicable innovation fund, the investor may apply in the first available application window following approval of certification.

116.4(4) Convertible debt shall only be considered an investment in the form of cash to purchase equity as of the date of conversion. Investors that utilize convertible debt must document the date and terms of conversion to equity to be eligible for a tax credit.

[**ARC 0005D**, IAB 1/21/26, effective 2/25/26]

261—116.5(15E) Application for the investment tax credit certificate.

116.5(1) *Investor application.* Investors may apply for an investment tax credit certificate for each equity investment made in a certified innovation fund by submitting an application to the authority for approval by the board and providing such other information and documentation as may be requested by the authority. A certified innovation fund shall provide any information and documentation requested by the authority relating to an investment, including proof of investment.

116.5(2) *Application window.* For fiscal years beginning on or after July 1, 2026, applications shall be submitted electronically to the authority from September 1 to December 31 each year. The authority may adjust the annual application period dates under extenuating circumstances and will provide notice of adjustments on the authority's website. The authority may cease accepting applications during any annual application period if the requested tax credits for the program and the requested tax credits for the seed investor tax credit program available pursuant to Iowa Code chapter 15E, subchapter IV, exceed $12 million. Applications shall be date- and time-stamped by the authority in the order in which such applications are received.

116.5(3) *Board approval of maximum tax credits.* The board will determine the total amount of tax credits to allocate for each fiscal year pursuant to Iowa Code section 15.119.

116.5(4) *Recommendation and approval of tax credits.* Authority staff will make a recommendation to the board for approval of tax credits to eligible investors. The board will approve tax credit certificates on a first-come, first-served basis until the maximum aggregate amount of credits authorized for issuance has been reached for any fiscal year.

[**ARC 0005D**, IAB 1/21/26, effective 2/25/26]

261—116.6(15E) Tax credit certificates.

116.6(1) *Preparation of the certificate.* The tax credit certificate shall be in a form approved by the authority and shall contain the taxpayer's name, address, and tax identification number; the amount of credit; the name of the innovation fund; the year in which the investment was made; and any other information that may be required by the department of revenue.

116.6(2) *Vested right.* A taxpayer does not obtain a vested right in a tax credit until a certificate has been issued by the authority.

116.6(3) *Claiming and transferring tax credits.* To claim a tax credit under this chapter, a taxpayer must attach to that taxpayer's tax return a certificate issued pursuant to Iowa Code section 15E.52 and this chapter when the return is filed with the department of revenue. A tax credit may be claimed in the first year that a certificate is issued. Tax credits shall be claimed in accordance with any applicable rules adopted by the department of revenue. A tax credit may be transferred in accordance with Iowa Code section 15E.52 and any applicable rules adopted by the department of revenue.

[**ARC 0005D**, IAB 1/21/26, effective 2/25/26]

261—116.7(15E) Additional information. The authority may at any time request additional information and documentation from an innovation fund regarding the operations, job creation and economic impact of the fund, and the authority may use such information in preparing and publishing

any reports to be provided to the governor and the general assembly to the extent such information is not confidential pursuant to Iowa Code sections 15.118 and 22.7 or other applicable law.

[**ARC 0005D**, IAB 1/21/26, effective 2/25/26]

These rules are intended to implement Iowa Code section 15E.52.

[Filed ARC 0009C (Notice ARC 9845B, IAB 11/16/11), IAB 2/8/12, effective 3/14/12]
[Filed Emergency After Notice ARC 1098C (Notice ARC 0940C, IAB 8/7/13), IAB 10/16/13, effective 10/1/13]
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CHAPTER 117
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Rescinded **ARC 9998C**, IAB 1/21/26, effective 2/25/26

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CHAPTER 131
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Rescinded IAB 7/9/03, effective 8/13/03

CHAPTER 132
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[Prior to 11/15/89, see 261—Ch 56]
[Prior to 7/19/95, see 261—Ch 61]
[Prior to 9/6/00, see 261—Ch 68]
[Renumbered IAB 7/4/07; see 261—Ch 72]

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[Prior to 9/6/00, see 261—Ch 71]
Rescinded **ARC 8258C**, IAB 10/16/24, effective 11/20/24

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[Prior to 9/6/00, see 261—Ch 72]
Rescinded **ARC 7056C**, IAB 8/9/23, effective 9/13/23

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[Prior to 9/6/00, see 261—Ch 80]
Rescinded IAB 7/4/07, effective 6/15/07; see 261—Part VII

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[Prior to 9/6/00, see 261—Ch 100]
[Renumbered IAB 7/4/07; see 261—Ch 195]

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[Renumbered IAB 7/4/07; see 261—Ch 196]

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[IAB 7/4/07, 261—Ch 171 renumbered as 261—Ch 197]
[Prior to 7/4/07, see 261—Ch 168, div I, III]
Rescinded **ARC 9998C**, IAB 1/21/26, effective 2/25/26

CHAPTER 172
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[IAB 7/4/07, 261—Ch 172 renumbered as 261—Ch 198]
[Prior to 7/4/07, see 261—Ch 168, div II]
Rescinded **ARC 8145C**, IAB 7/24/24, effective 8/28/24

CHAPTER 173
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[IAB 7/4/07, 261—Ch 173 renumbered as 261—Ch 199]
[Prior to 7/4/07, see 261—Ch 168, div V]
Rescinded **ARC 8145C**, IAB 7/24/24, effective 8/28/24

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Rescinded **ARC 8145C**, IAB 7/24/24, effective 8/28/24

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Rescinded **ARC 8145C**, IAB 7/24/24, effective 8/28/24

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Rescinded **ARC 8145C**, IAB 7/24/24, effective 8/28/24

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[Editorial change: IAC Supplement 11/15/23]

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[Rules in 481—Chapter 22 transferred to 481—Chapter 31, 8/26/87]
Rescinded **ARC 0010D**, IAB 1/21/26, effective 2/25/26

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Rescinded **ARC 0012D**, IAB 1/21/26, effective 2/25/26

CHAPTER 74
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Rescinded **ARC 3875C**, IAB 7/4/18, effective 8/8/18; see 481—Chapter 72

CHAPTER 75
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Rescinded **ARC 6518C**, IAB 9/7/22, effective 10/12/22

CHAPTERS 76 to 81
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CHAPTER 82
ECONOMIC FRAUD BUREAU

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/25/31

481—82.1(10A) Definitions.

"Client" means any person who has made an application for or is receiving state or federal public assistance from any state or federal agency.

"Collateral contact" means a reliable source other than the client who is knowledgeable about information relative to pertinent public assistance case factors.

"Department" means the department of inspections, appeals, and licensing.

"HHS" means the Iowa department of health and human services.

"Division" means the investigations division of the department.

"EBT" or *"electronic benefit transfer"* means the electronic process that allows a client to authorize the transfer of the client's benefits from a financial account to a retailer to pay for eligible items received. Clients are issued an EBT card similar to a bank ATM or debit card to receive and use their Supplemental Nutrition Assistance Program (SNAP) benefits.

"EBT trafficking" means the same as defined in 7 CFR 271.2.

"Intentional program violation" or *"IPV"* means the same as defined in 7 CFR 273.16(c)(1) and (2).

"Pertinent public assistance case factors" means information considered necessary to verify household composition, income, resources or any other potential program violation.

"Program violation" means action that is contrary to the rules of eligibility for any state or federal public assistance program.

"Public assistance" means the same as defined in rule 441—11.1(217), or any other state or federal assistance program.

[**ARC 0011D**, IAB 1/21/26, effective 2/25/26]

481—82.2(10A) Economic fraud bureau (EFB or bureau). Generally, the EFB conducts investigations of public assistance fraud, if a written agreement has been entered into between the department and an entity of the executive branch of the federal, state or local government, in order to maintain integrity and accountability in the administration of public assistance benefits.

[**ARC 0011D**, IAB 1/21/26, effective 2/25/26]

481—82.3(10A) Investigation procedures.

82.3(1) *Client contact.* The bureau may but does not have to contact the client during the course of an investigation. If the bureau contacts the client and the client does not respond, the client's nonresponse will be included in the bureau's investigation findings.

82.3(2) *Evidence gathered.* The bureau may conduct record reviews and gather evidence to verify a client's employment, wages, residence, household composition, income versus expenses, property ownership or other relevant facts.

82.3(3) *Subpoenas.* Subpoenas may be issued pursuant to Iowa Code section 10A.104 and 481—subrule 1.1(4) to obtain information necessary to an investigation. Subpoenas may be served upon the respondent of the subpoena or the respondent's registered agent as follows:

a. Personally by division personnel,

b. Via USPS mail, or

c. Via facsimile or email.

Division personnel determine the appropriate method by which the respondent is to deliver information in response to a subpoena duces tecum.

82.3(4) *Collateral contacts.* The division may use collateral contacts to collect information pertinent to an investigation or verify information provided by the client.

82.3(5) *Cooperation.* The division may cooperate with local, state or federal law enforcement agencies during investigations.

[**ARC 0011D**, IAB 1/21/26, effective 2/25/26]

481—82.4(10A) EBT trafficking investigations. In addition to the procedures outlined in rule 481—82.3(10A), the following apply to EBT trafficking investigations.

82.4(1) *Probable cause.* Probable cause must be established before an EBT trafficking investigation may be conducted.

82.4(2) *Referrals.* Referrals to the division may come from HHS, retailers, law enforcement agencies or the general public or following the identification of questionable EBT card transactions through federal or state databases. The bureau may open an investigation without an outside referral.

[**ARC 0011D**, IAB 1/21/26, effective 2/25/26]

481—82.5(10A) Findings. At the completion of an investigation, the bureau will transmit its findings in writing to the appropriate state or federal agency and make recommendations based on the evidence obtained or provided during the investigation.

82.5(1) *Decisions about public assistance eligibility.* The appropriate state or federal agency makes all decisions about public assistance eligibility. HHS will report the case action taken and any determination of overpayment, cost avoidance, or intentional program violation to the division.

82.5(2) *Testimony and hearings.* Staff of the division may be called to testify in administrative and legal proceedings related to an investigation, in addition to conducting EBT intentional program violation hearings.

[**ARC 0011D**, IAB 1/21/26, effective 2/25/26]

481—82.6(10A) Confidentiality. The EFB will maintain confidentiality of investigative case information in accordance with Iowa Code sections 10A.105 and 22.7(5) and any other applicable state or federal law.

[**ARC 0011D**, IAB 1/21/26, effective 2/25/26]

These rules are intended to implement Iowa Code sections 10A.105, 10A.402, and 10A.403.

[Filed ARC 0011D (Notice ARC 9749C, IAB 11/26/25), IAB 1/21/26, effective 2/25/26]

CHAPTER 83
MEDICAID FRAUD CONTROL UNIT

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/25/31

481—83.1(10A) Definitions.

"Abuse" or *"neglect"* means the same as "abuse of patients or residents" and "neglect of patients or residents" as defined in 42 CFR §1007.1 committed against:

1. A patient or resident of a health care facility as defined by 42 CFR §1007.1.
2. A resident in a board and care facility as defined by 42 CFR §1007.1.
3. A Medicaid beneficiary in a noninstitutional or other setting.

Such conduct may include but is not limited to violations under Iowa Code chapters 235B, 235E, 708, 709, 714, and 726.

"Director" means the same as defined in Iowa Code chapter 10A.

"Fraud" means the same as defined in 42 CFR §1007.1.

"Medicaid," "medical assistance program" or *"medical assistance"* means the same as defined in Iowa Code chapter 249A.

"Provider" means the same as defined in 42 CFR §1007.1.

"Unit" means the Iowa Medicaid fraud control unit.

[**ARC 0012D**, IAB 1/21/26, effective 2/25/26]

481—83.2(10A) Investigative authority. The unit's investigative authority is found in Iowa Code chapter 10A, 42 CFR §1007.11, and 45 CFR §164.512(d).

[**ARC 0012D**, IAB 1/21/26, effective 2/25/26]

481—83.3(10A) Access to records. The unit is authorized to request, review, and retain information and records necessary to investigate allegations within its state and federal authority. The unit is also a health oversight agency as defined by 45 CFR §164.501 and can receive protected health information pursuant to 45 CFR §164.512(d).

[**ARC 0012D**, IAB 1/21/26, effective 2/25/26]

481—83.4(10A) Subpoenas. In addition to any subpoena provisions set forth in 481—Chapter 1, the following apply:

83.4(1) The unit may serve subpoenas during the course of an open investigation upon an individual, entity, or the individual's or entity's registered agent by:

a. Personal service.

b. U.S. mail.

c. Electronic transmission via facsimile or email.

83.4(2) The unit is authorized to determine the appropriate format and method by which the individual or entity is to provide the information in response to a subpoena duces tecum.

[**ARC 0012D**, IAB 1/21/26, effective 2/25/26]

481—83.5(10A) Confidentiality. The unit will maintain the confidentiality of all investigative case information in accordance with Iowa Code chapters 22 and 685, 42 CFR §1007.11(f), 42 CFR Part 2, and any other applicable state or federal law.

[**ARC 0012D**, IAB 1/21/26, effective 2/25/26]

These rules are intended to implement Iowa Code sections 10A.104(6), 10A.105, 10A.402(5), and 10A.403.

[Filed ARC 0012D (Notice ARC 9750C, IAB 11/26/25), IAB 1/21/26, effective 2/25/26]

CHAPTER 84
AUDITS UNIT

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/25/31

481—84.1(10A) Audit occurrence. The department, acting as an agent for the Iowa department of health and human services (HHS), audits financial records of intermediate care facilities, residential care facilities, and intermediate care facilities for the intellectually disabled on a rotating basis or upon request of HHS. Audits are intended to ensure compliance with the following Iowa Administrative Code chapters:

1. 441—Chapter 52, "Payment."
2. 441—Chapter 54, "Facility Participation."
3. 441—Chapter 81, "Nursing Facilities."
4. 441—Chapter 82, "Intermediate Care Facilities for Persons with an Intellectual Disability."

If a chapter not listed is used in an audit, the auditor will notify the facility.

[**ARC 0010D**, IAB 1/21/26, effective 2/25/26]

481—84.2(10A) Confidentiality. All information compiled during an audit is confidential according to Iowa Code sections 10A.105 and 217.30. All inquiries to release information that is confidential under Iowa Code section 217.30 will be addressed to HHS.

84.2(1) Information may be added to an audit file by the subject of the audit when the subject notifies the Audits Unit, Department of Inspections, Appeals, and Licensing, 6200 Park Avenue, Des Moines, Iowa 50321.

84.2(2) At the conclusion of the audit, when material is returned to HHS, HHS rules regarding fair information practices prevail.

[**ARC 0010D**, IAB 1/21/26, effective 2/25/26]

These rules are intended to implement Iowa Code sections 10A.402 and 22.11.

[Filed ARC 0010D (Notice ARC 9748C, IAB 11/26/25), IAB 1/21/26, effective 2/25/26]

CHAPTERS 85 to 89
Reserved

CHAPTER 90
PUBLIC ASSISTANCE DEBT RECOVERY UNIT (PADRU)

[Prior to 4/7/10, see 481—Ch 71]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/25/31

PREAMBLE

More information related to this chapter can be found in 441—Chapter 11.

[**ARC 0013D**, IAB 1/21/26, effective 2/25/26]

481—90.1(10A) Definitions. The following definitions apply:

"Active case" means a household that is receiving public assistance.

"Allotment reduction" means an amount withheld from a financial or SNAP benefit.

"Benefit reduction" refers to SNAP.

"Debt" means the dollar amount of public assistance, by program, received by or on behalf of a person or provider in excess of that allowed by law, rules, or regulations for any given month(s); or the dollar amount of public assistance unlawfully transferred or obtained in violation of program rules; or the dollar amount of unpaid IowaCare personal financial responsibility obligations.

"Debtor" means any person who has been determined by HHS or by the department to be responsible for the repayment of a particular public assistance debt.

"Department" means the department of inspections, appeals, and licensing.

"Economic fraud bureau" means the economic fraud bureau of the investigations division of the department.

"FIP" means the family investment program described in 441—Chapters 40, 41, 45 and 46.

"Grant reduction" refers to the FIP and to RCA.

"HHS" means the Iowa department of health and human services.

"Notice of debt" means a notice that informs the debtor that a debt in a public assistance program has occurred and identifies the debt amount, the dates on which the debt was incurred, the cause of the debt, and the options the debtor has to repay the debt (more information can be found in 441—Chapter 11).

"Public assistance" means any program that HHS administers that confers a financial, medical, or SNAP benefit.

"RCA" means refugee cash assistance as described in 441—Chapter 60.

"Recovery" means the repayment of a debt by direct cash or credit card payment from the debtor, by allotment reduction, by setoffs, or by garnishment of wages or assets.

"Repayment agreement" means the same as defined in rule 441—11.1(217).

"Setoffs" means the practice described in Iowa Code section 421.65 and 701—Chapter 26.

"SNAP" means the Supplemental Nutrition Assistance Program as defined in rule 441—65.1(234).

"Title XIX divestiture" means a debt against a person who receives transferred assets from a Medicaid applicant or recipient within five years prior to an application for medical assistance if the applicant is approved for medical assistance (Medicaid) or a transfer impacting the recovery or payment of a medical assistance (Medicaid) debt.

[**ARC 0013D**, IAB 1/21/26, effective 2/25/26]

481—90.2(10A) Recovery process. The recovery process begins when data specifying which public assistance program(s) owed a debt is successfully entered on the designated overpayment recovery system and a notice of debt is issued to the debtor.

[**ARC 0013D**, IAB 1/21/26, effective 2/25/26]

481—90.3(10A) Records. PADRU maintains an account for each debt that has occurred for a debtor filed under the debtor's name, including information maintained pursuant to rule 441—11.2(217).
[**ARC 0013D**, IAB 1/21/26, effective 2/25/26]

481—90.4(10A) Debt repayment. A notice of debt pursuant to 441—subrule 11.2(2) or Form 470-0495, Agreement to Pay a Debt, is used to initiate payments of a debt. The minimum rate of payment is determined by each program unless set by a court order or otherwise negotiated by HHS. All recoveries are transmitted to the HHS cashier. Payments are made directly by cash, check, or money order or through an online payment portal by the debtor except as otherwise provided in this rule. The amount of allotment reduction for a FIP overpayment caused by an agency error will be different from the amount of allotment reduction for a client error, as determined by HHS.

90.4(1) *Active cases—PROMISE JOBS program.* For payment reduction for the PROMISE JOBS program, the debtor has to provide written permission to effectuate a FIP reduction.

90.4(2) *Active cases—FIP, RCA, SNAP.* Allotment reduction will be used, except that cash payment pursuant to a repayment agreement may be used when the repayment amount exceeds the amount that may be collected by allotment reduction.

90.4(3) *SNAP with electronic benefit balances.* SNAP payments may be made by returning electronic benefits to pay the debt.
[**ARC 0013D**, IAB 1/21/26, effective 2/25/26]

481—90.5(10A) Further collection action. If complete repayment has not been received by the methods described in rule 481—90.4(10A), or if the repayment agreement is not returned, further collection action may be taken. This action includes but is not limited to the following:

90.5(1) *For all debts.*

a. Debts of $6,500 or less, small claims court action.

b. Debts of more than $6,500, referral to the attorney general for district court action.

c. State income tax refund setoffs in accordance with 441—Chapter 11 and Iowa Code section 421.65.

d. The filing of a claim in a debtor's estate or bankruptcy proceedings.

e. Garnishment of wages or assets.

f. Setoffs of a state warrant.

g. Distress warrants.

h. Liens.

90.5(2) *For SNAP debts.* In addition to the above actions, federal offsets may be used for the collection of SNAP debts in accordance with rule 441—11.5(234).
[**ARC 0013D**, IAB 1/21/26, effective 2/25/26]

481—90.6(10A) Appeal rights. If a notice of debt or other notice of adverse action is received by the debtor and the debtor wishes to contest the debt, an appeal is submitted to the recovery unit or to HHS. If an appeal is submitted, the recovery process is suspended until conclusion of the appeal process outlined in 481—Chapter 9 and 441—Chapter 7.
[**ARC 0013D**, IAB 1/21/26, effective 2/25/26]

481—90.7(10A) Data processing systems matches. The recovery unit compares information with other data processing systems to identify the location, resources, or income of a debtor. Part or all of a data processing system is used. The recovery unit uses but is not limited to using the data processing systems of the following entities:

1. Social Security Administration,
2. Department of workforce development,
3. Department of revenue,
4. Department of administrative services,
5. Department of transportation (driver's license and motor vehicle registration), and

6. Department of health and human services.

[**ARC 0013D**, IAB 1/21/26, effective 2/25/26]

481—90.8(10A) Confidentiality. The confidentiality of records is in accordance with 441—Chapter 9.

[**ARC 0013D**, IAB 1/21/26, effective 2/25/26]

These rules are intended to implement Iowa Code section 10A.402.

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GAMES OF SKILL, CHANCE, BINGO AND RAFFLES

CHAPTER 100
GENERAL PROVISIONS FOR SOCIAL AND CHARITABLE GAMBLING

[Prior to 12/17/86, Revenue Department[730], Ch 91]
[Prior to 11/18/87, Racing and Gaming Division[195]]
[Prior to 6/14/89, Racing and Gaming Division[491], Ch 20]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/25/31

481—100.1(99B) Definitions. In addition to the definitions found in Iowa Code chapter 99B, and unless specifically defined in 481—Chapters 101 through 106, the following definitions apply to all social and charitable gambling rules:

"Bingo supplies and equipment" means a machine, display board, monitor, card, bingo paper, or any other implement or provision used in the conduct of the game of bingo licensed pursuant to Iowa Code chapter 99B.

"Department" means the department of inspections, appeals, and licensing.

"Director" means the director of the department of inspections, appeals, and licensing.

"QO" means the same as "qualified organization" as defined in Iowa Code section 99B.1(29).

[**ARC 0014D**, IAB 1/21/26, effective 2/25/26]

481—100.2(99B) Licensure. Gambling shall only occur upon receipt of a license issued by the department that shall be prominently displayed at the gambling location.

100.2(1) *Types of gambling licenses—QOs.* A QO may apply for the six following license types, each of which permits the activities listed. A QO with a one-year or two-year license may apply for a very large raffle license.

License type/ Activity type	Two-year QO	One-year QO	180-day QO	90-day QO	14-day QO	Bingo at a fair or festival
Bingo	Three occasions per week; 15 occasions per month	No	No	No	Two occasions	One occasion per day for length of fair or festival
Games of skill and chance	Unlimited carnival-style games	No	No	No	Unlimited carnival-style games	No
Game night	One per calendar month	One per calendar month	One per calendar month	One per calendar month	One per calendar month	No
Very small and small raffles	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited	No
Large raffles	One per calendar year	Eight per license period, each conducted in a different county	One per calendar year	One per calendar year	One per calendar year	No
Very large raffles	One per calendar year, requires additional very large raffle license	One per calendar year, requires additional very large raffle license	No	No	No	No
Electronic raffles	One small raffle per day; one large raffle per calendar year	No	No	No	No	No

100.2(2) *Other types of gambling licenses.* There are four other types of gambling licenses:

a. One-year license for an amusement concession.

b. Two-year license for social gambling in beer and liquor establishments.

c. Two-year license for social gambling in public places.

d. Annual license for manufacturers and distributors of bingo equipment and supplies or electronic raffle systems.

100.2(3) *Unlicensed very small raffle.* Iowa Code section 99B.24(3) allows one unlicensed very small raffle per calendar year for an organization that meets the definition of a QO. The QO shall obtain permission from the department to conduct this raffle.

100.2(4) *Political action committees.* Political action committees are not QOs and are not eligible for gambling licenses.

[**ARC 0014D**, IAB 1/21/26, effective 2/25/26]

481—100.3(99B) License application. In addition to requirements for licensure found in Iowa Code chapter 99B, the following standards apply to gambling licenses.

100.3(1) *Applications.* Applications may be completed online by visiting dial.iowa.gov and clicking on the link for "Social and Charitable Gambling." A paper application may be requested from the Social and Charitable Gambling Unit, Iowa Department of Inspections, Appeals, and Licensing, 6200 Park Avenue, Des Moines, Iowa 50321; or by calling 515.281.6848.

100.3(2) *Receipt of application.* An application shall be submitted at least 30 days before the beginning date requested.

100.3(3) *Fees.* License fees are not refundable.

100.3(4) *Documentation.* QOs applying for a charitable gambling license must submit documentation to prove tax-exempt status with the application.

100.3(5) *Application for incorrect license.* If the applicant does not apply for the appropriate license, the license fee may be applied to the appropriate license within 30 days of notification to the applicant by the department.

100.3(6) *Incomplete application submitted.* If the applicant submits an incomplete application, the application may be completed and submitted within 30 days of notification to the applicant by the department without forfeiting the fee submitted with the incomplete application.

100.3(7) *Responsible party.* The responsible party identified on the application shall sign the application or submit the online application and be a person who is authorized to make decisions on behalf of the QO.

100.3(8) *Sales tax permit.* QOs and amusement concessions licensees shall possess a sales tax permit at the time the license application is submitted. The following gambling activities are exempt from sales and local option taxes:

a. Gambling activities conducted by county and city governments.

b. Gambling activities held by the Iowa state fair, Iowa state fair authority, or Iowa state fair foundation (organized under Iowa Code chapter 173), including gambling activities that occur outside of the annual scheduled fair event.

c. Gambling activities held by a fair (as defined in Iowa Code section 174.1(2)), including gambling activities that occur outside of scheduled fair events.

d. Raffles held by a licensed QO at a fair as defined in Iowa Code section 99B.1 and pursuant to the requirements specified in Iowa Code section 99B.24.

e. Raffles, whether or not they are conducted at a fair event, where the proceeds are used to provide educational scholarships by a qualifying organization representing veterans as defined in Iowa Code section 99B.27(1)*"b."*

100.3(9) *State tax liabilities.* The applicant must have no outstanding state tax liabilities or submit with the application a copy of a negotiated repayment plan with the department of revenue and be current in all payments.

100.3(10) *Revocation—no license issued.*

a. No one involved in an organization with a gambling license revocation action pending will be granted a license similar to the license revoked.

b. No one with a gambling license currently under revocation may be issued any gambling license during the period of revocation.

c. A license will not be issued if there is a current revocation of either a gambling or a retail alcohol license for the location named on the license application.

100.3(11) *Criminal violations.* No applicant shall have been convicted of or pled guilty to a criminal violation of Iowa gambling law. No applicant shall have been convicted of a felony, federal or state, within five years of the date of the application. For felony convictions more than five years prior to the date of the application, citizenship rights must have been restored in order for the application to be considered. The applicant may have no more than two convictions of or guilty pleas to serious or aggravated misdemeanors in the last two years.

100.3(12) *Violations of gambling law or Iowa alcoholic beverage control Act (Iowa Code chapter 123).*

a. No applicant shall have been convicted of or pled guilty to a criminal violation of Iowa gambling law.

b. No retail alcohol license shall have been suspended within the last 12 months or revoked because of a conviction of or guilty plea to a criminal violation of the Iowa alcoholic beverage control Act.

[**ARC 0014D**, IAB 1/21/26, effective 2/25/26]

481—100.4 Reserved.

481—100.5(99B) Returned checks. If a check intended to pay for any license provided for under Iowa Code chapter 99B is not honored for payment by the bank on which the check is drafted, the department will notify the applicant of the need to provide sufficient payment before the license will be issued. An additional fee of $25 will be assessed for each dishonored check.

[**ARC 0014D**, IAB 1/21/26, effective 2/25/26]

481—100.6(99B) Payment systems. Payment systems are authorized by Iowa Code section 99B.5 and shall comply with all applicable federal and state laws regarding payment card processing and the protection of personal information.

[**ARC 0014D**, IAB 1/21/26, effective 2/25/26]

481—100.7(99B) Participation—game of skill, game of chance or raffle. No one who conducts a game of skill, game of chance, or raffle may participate in the game or raffle. An individual "conducts" a raffle if the individual directly participates in the mechanism of selection of the prize, such as drawing the winning entry. An individual "conducts" a game of skill or game of chance if the person is a dealer or a croupier or otherwise operates the game.

[**ARC 0014D**, IAB 1/21/26, effective 2/25/26]

481—100.8(99B) Posted rules—games other than bingo and raffles. Rules established by the licensee shall be posted on a sign near the front of the playing area in large, easily readable print or made available electronically at each player's location before the player forfeits money to play the game and include:

1. The name and mailing address of the licensee;
2. Prices to play;
3. How winners will be determined;
4. Prize(s) or categories of prizes for each game; and
5. Description of each game, including the cost per game. For example, a game might be one opportunity to shoot and make one basket or three opportunities to shoot and make one basket.

[**ARC 0014D**, IAB 1/21/26, effective 2/25/26]

481—100.9 Reserved.

481—100.10(99B) Rules—raffles.

100.10(1) A copy of the rules for a raffle shall be available upon request and include the following:

a. Methods of awarding a prize;

b. Prices to play, including discounts; and

c. Whether a sufficient number of entries must be sold in order for the raffle to occur, or if an alternate prize is offered when sales of entries are insufficient.

100.10(2) A licensed QO may also include in its rules items such as the policy for nonpayment of prizes.

[**ARC 0014D**, IAB 1/21/26, effective 2/25/26]

481—100.11(99B) Prizes. Prizes are governed by the following standards.

100.11(1) *Amusement concession licensees.* The maximum prize limit for games of skill and games of chance is $950 in merchandise.

100.11(2) *QOs.* The following table provides prize limits for types of gambling conducted by QOs.

Type of gambling	Prize limits
Games of skill and games of chance	$10,000 in merchandise
Very small raffle	Cumulative value of cash prizes is $1,000 or less; or purchased merchandise is $1,000 or less; or donated merchandise is $5,000 or less
Small raffle	Cumulative value of all cash and prizes is more than $1,000 but not more than $10,000
Large raffle	Cumulative value of cash and prizes is more than $10,000 but not more than $100,000
Very large raffle	Cumulative value of cash and prizes is more than $100,000 but not more than $200,000; or the prize is real property
Single bingo game	Up to $250 cash or merchandise
Bingo jackpot	$1,000 cash or merchandise maximum on first jackpot in 24-hour period; $2,500 cash or merchandise maximum on second jackpot in 24-hour period (see Iowa Code section 99B.21(2)*"d"*)

100.11(3) *Game night.* An individual shall not spend more than $250 for entrance fees and wagers. Cash and merchandise may be awarded in an aggregate amount not to exceed $10,000. No participant shall win more than a total of $5,000.

[**ARC 0014D**, IAB 1/21/26, effective 2/25/26]

481—100.12(99B) Games of chance—prohibited games. Slot machines and pull-tabs are unlawful for all licenses issued under Iowa Code chapter 99B. Other than during a game night, games in the following list are unlawful:

1. Punchboard,
2. Pushcard,
3. Craps,
4. Chuck-a-luck,
5. Roulette,
6. Klondike,
7. Blackjack,
8. Baccarat,
9. Equality, or
10. Three-card monte.

[**ARC 0014D**, IAB 1/21/26, effective 2/25/26]

481—100.13(99B) Records. In addition to requirements found in Iowa Code section 99B.16, the following requirements apply.

100.13(1) *Disbursement journal.* Records of expenses and dedicated and distributed money are as follows:

a. The date of expenditure, the name of the payee, a description of the purpose of payment, the amount of payment, and the method of payment.

b. The purpose for expenditure of dedicated funds.

100.13(2) *Supporting documentation—time requirements.* Supporting documentation such as invoices or bills shall be kept for three years.

[**ARC 0014D**, IAB 1/21/26, effective 2/25/26]

481—100.14(99B) Reports. The requirements are set forth in Iowa Code section 99B.16 and as follows.

100.14(1) A report will be submitted even if no gambling activity occurred during the reporting period.

100.14(2) Reports may be completed online by visiting dial.iowa.gov and clicking on the link for "Social and Charitable Gambling." A paper version of the annual gambling report may be obtained from the Social and Charitable Gambling Unit, Iowa Department of Inspections, Appeals, and Licensing, 6200 Park Avenue, Des Moines, Iowa 50321; or by telephone at 515.281.6848.

100.14(3) When the due date is on Saturday, Sunday, or a legal holiday, the report is due the next business day.

[**ARC 0014D**, IAB 1/21/26, effective 2/25/26]

481—100.15(10A,17A,99B) Appeal rights. Any decision of the department may be appealed in accordance with procedures set out in 481—Chapter 10 and Iowa Code chapter 17A. When an appeal is received, the status of the license is governed by the following.

100.15(1) *Denial of untimely or insufficient renewal application.* If a renewal application is not timely or sufficient, a license may not be issued until a final decision is issued and all appeal rights have been exhausted.

100.15(2) *Denial of timely and sufficient renewal application.* If a renewal application is timely and sufficient but is denied by the department, a license remains effective until a final decision is issued and all appeal rights have been exhausted.

100.15(3) *Denial of new application.* If a new application is denied, no license may be issued until a final decision is issued and all appeal rights have been exhausted.

[**ARC 0014D**, IAB 1/21/26, effective 2/25/26]

481—100.16(99B) Raffles. The following apply to all raffles, including electronic raffles.

100.16(1) *Timing.* The license must be in effect before promotions for the raffle can begin. The gambling event begins when the first entry is sold and ends when winning numbers are drawn. If an organization obtains a temporary license to conduct a raffle, the entirety of the raffle, including promotion, sale of entries and drawing, must fall within the time period for the temporary license.

100.16(2) *Raffle entries—sales.* Any price may be charged for a raffle entry, and the price, including any discounts, shall be the same for every purchaser. Raffle entries shall not be purchased by credit card nor be sold outside the state of Iowa. Organizations shall comply with United States Postal Service regulations restricting the sale of raffle entries through the mail. The purchaser of a raffle entry shall be provided the location, date, and time of the corresponding raffle drawing at the time of purchase.

100.16(3) *Raffle entries—discount.* A licensee may offer raffle entries for sale at a discounted rate if the discount is applied in a nondiscriminatory manner. The amount paid for entries shall not be determined by any variable characteristic, such as height, weight, or wingspan. The discount must be available to all persons throughout the duration of the raffle and posted on all promotional material.

100.16(4) *Winners.* The drawing of the winning entry shall be done in a manner that allows the purchasers to observe the drawing.

a. The date by which the prize shall be claimed will be no fewer than 14 days following the drawing. The licensed QO will make a reasonable effort to inform the winner of the drawing results during that time frame.

b. If the prize is not claimed, the licensed QO may do one of the following:

(1) Continue to draw until a winner claims the prize. Each drawing will allow the time period specified in paragraph 100.16(4)*"a"* for claiming the prize.

(2) Donate the unclaimed prize to another QO to be used for an educational, civic, public, charitable, patriotic, or religious use.

100.16(5) *Prizes.* If a prize is merchandise, its value shall be determined by the purchase price paid by the organization or donor. The prize may be a single item or several items.

[**ARC 0014D**, IAB 1/21/26, effective 2/25/26]

481—100.17(99B) Expenses. Requirements are set forth in Iowa Code section 99B.14(1).

100.17(1) *Proof of expense.* No expense item shall be allowed without a proper receipt, paid invoice, or canceled check or be paid from an outside source. The burden of proof is on the licensee to show that all expenses were incurred exclusively and directly as a result of the gambling activity. An expense will not be considered reasonable if the amount charged significantly exceeds the prevailing rate or average retail cost of the item or service purchased.

100.17(2) *Allowed expenses.* Expenses allowed within the 40 percent limit are:

a. The license fee;

b. Rent of building or equipment;

c. Taxes (other than state and local sales tax paid on gross receipts);

d. Promotion expense;

e. Major equipment purchases;

f. Overhead expenses;

g. Worker compensation; and

h. Other expenses incurred exclusively and directly as a result of the gambling activity.

[**ARC 0014D**, IAB 1/21/26, effective 2/25/26]

481—100.18(99B) Net receipts. Requirements are set forth in Iowa Code section 99B.14.

100.18(1) *Examples.* The following examples illustrate methods to determine net receipts, allowable expenses, and the amount requested to be dedicated and distributed.

a. Example 1. When sales tax is not included in gross receipts, sales tax need not be deducted to arrive at net receipts.

Gross receipts (excluding sales tax)	$100,000
Amount awarded as prizes	$20,000
Net receipts	$80,000
Minimum dedicated and distributed (60% of net receipts)	$48,000
Maximum expenses (40% of net receipts)	$32,000

b. Example 2. When sales tax is included in gross receipts, it is deducted to arrive at net receipts.

Gross receipts (including sales tax)	$107,000
Amount awarded as prizes	$20,000
Sales tax (7%)	$7,000
Net receipts	$80,000
Minimum dedicated and distributed (60% of net receipts)	$48,000
Maximum expenses (40% of net receipts)	$32,000

100.18(2) *Time for distribution.* Net receipts received during the calendar year shall be distributed no later than 30 days following the end of each calendar year, except as pursuant to Iowa Code section 99B.14(2)*"a."*

[**ARC 0014D**, IAB 1/21/26, effective 2/25/26]

481—100.19(99B) Licensure of manufacturers and distributors of bingo equipment and supplies and electronic raffle systems. Requirements are set forth in Iowa Code section 99B.32.

100.19(1) Reserved.

100.19(2) *Application.* The applicant shall comply with the requirements of Iowa Code chapter 99B, administrative rules of the department, and other applicable state or federal laws. The department may require detailed information concerning the business structure and operation of the applicant, including but not limited to the following:

a. All owners, officers, and board members of the business.

b. All names under which the applicant will conduct business in the state of Iowa.

100.19(3) *Manufacturers and distributors of electronic raffle systems—additional requirements.* A manufacturer or distributor of electronic raffle systems must meet the following additional requirements in order to obtain a license.

a. Approval of certifying entity by the department. In addition to licensure, manufacturers and distributors of electronic raffle systems will be certified by an entity approved by the department. "Approved by the department" means that the entity has submitted its qualifications in writing to the director for review and has received approval in writing by the director or the director's designee.

b. Certification—requirements. Entities approved by the department to certify manufacturers and distributors of electronic raffle systems will ensure all electronic raffle systems meet the requirements of Iowa Code section 99B.25 and rule 481—100.20(99B).

c. Review of contracts—notification. The applicant will submit to the department for review at the time of application the base contract intended for use with QOs. For the duration of the license, the licensee will notify the department each time the licensee enters into a contract with a QO by submitting in writing the name of the QO and the duration of the contract. The required notification will allow the department to verify that the QO holds a valid two-year QO license, which permits the conduct of an electronic raffle.

[**ARC 0014D**, IAB 1/21/26, effective 2/25/26]

481—100.20(99B) Bingo supplies and equipment. Products sold within this state to a gambling license holder shall meet the following requirements:

100.20(1) Products will be manufactured and sold by an Iowa-licensed manufacturer or distributor.

100.20(2) Products will be supplies and equipment used in connection with the game of bingo as defined in Iowa Code section 99B.1. The following are noninclusive characteristics of the game of bingo to which products must conform:

a. Cards or playing faces will have spaces marked in horizontal and vertical rows. Each space will be designated by number, letter, symbol, or picture or a combination of numbers, letters, symbols, or pictures.

b. Balls or objects used to select spaces that are to be covered on the card or playing face will bear numbers, letters, symbols, or pictures or a combination of numbers, letters, symbols, or pictures corresponding to the system used for designating the spaces.

c. The bingo machine will contain a receptacle where objects or balls are placed and from which the objects or balls representing the space to be covered are selected. The selection of the balls or objects by the bingo machine will be by chance and may be either manual or mechanical.

100.20(3) Bingo cards sold in Iowa will have the manufacturer's name imprinted on the cards.

[**ARC 0014D**, IAB 1/21/26, effective 2/25/26]

481—100.21(99B) Electronic raffles. In addition to the requirements found in Iowa Code section 99B.25, the following requirements apply to electronic raffles:

100.21(1) Reserved.

100.21(2) All entries will be included in the drawing.

100.21(3) The sale of raffle entries and the drawing of the winning entry will take place within the same calendar day.

[**ARC 0014D**, IAB 1/21/26, effective 2/25/26]

These rules are intended to implement Iowa Code chapter 99B.

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[2] This history transferred in IAC 9/5/90 from 481—Chapter 105, applicable to "Annual Game Night."

CHAPTER 101
AMUSEMENT CONCESSIONS

[Prior to 12/17/86, Revenue Department[730], Ch 92]
[Prior to 11/18/87, Racing and Gaming Division[195]]
[Prior to 6/14/89, Racing and Gaming Division[490], Ch 21]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/25/31

481—101.1(99B) License requirements. No games shall be conducted until an application is approved and a license is issued in accordance with 481—Chapter 100.

101.1(1) A gambling license is required for each amusement concession game, with the name and description of the game attached to the application.

101.1(2) The person conducting an amusement concession, for the purposes of licensure, is the owner of the amusement concession.

[**ARC 0015D**, IAB 1/21/26, effective 2/25/26]

481—101.2(99B) Prizes. All prizes shall be merchandise.

[**ARC 0015D**, IAB 1/21/26, effective 2/25/26]

These rules are intended to implement Iowa Code section 99B.31.

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CHAPTER 104
GENERAL PROVISIONS FOR ALL AMUSEMENT DEVICES

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/25/31

481—104.1(10A,99B) Definitions. Definitions in rules 481—100.1(10A,99B) and 481—105.1(10A,99B) are incorporated by reference in this chapter, along with the following definitions:

"Amusement device" means the same as defined in Iowa Code section 99B.1(2). An amusement device is not a device that plays poker, blackjack, roulette, or keno. Devices specified in Iowa Code section 725.9 as gambling devices are not amusement devices.

"Gambling device" means the same as defined in Iowa Code section 725.9(2) and does not include devices that do not comply with Iowa Code chapter 99B.

"Knock-off switch" means a mechanism or other method that releases free games or credits accumulated toward the award of merchandise.

"Prize" means a ticket(s) or token(s) that is dispensed by an amusement device as an award for use.

"Progressive games" means games in which the value of the prizes increases an incremental amount with each game.

"Slot machine" means a mechanical, electronic, or video gambling device into which a player deposits coins, tokens or currency and from which certain credits, tickets, tokens or coins are paid out when a particular, random configuration of symbols appears on the reels, simulated reels, or screen of the device. The slot machine may have a lever, buttons, or other means to activate or stop the play.

[**ARC 0016D**, IAB 1/21/26, effective 2/25/26]

481—104.2(99B) Device restrictions. All amusement devices shall comply with Iowa Code section 99B.52 and the following:

104.2(1) The device will be electrical, which includes both electronic and video, or mechanical, or a combination of both.

104.2(2) The device will not be designed or adapted to issue or pay coins or currency.

104.2(3) The device may be designed or adapted to award merchandise or tickets or tokens redeemable for merchandise.

104.2(4) The device may be designed or adapted to issue tickets or tokens except tickets or tokens that may be used to play any device or game.

104.2(5) The device will not have a knock-off switch. Credits may be released by the insertion of coins, currency, or tokens to activate a new game. Free games may only be utilized for playing the device and not released in any other manner.

104.2(6) The device will be designed or adapted to accept only coins, currency, or tokens to play the game.

[**ARC 0016D**, IAB 1/21/26, effective 2/25/26]

481—104.3(99B) Prohibited games/devices.

104.3(1) The following games or devices are not permitted:

a. Gambling games permitted in Iowa Code chapter 99F.

b. Any machine that does not conform to the requirements in these rules or Iowa Code chapter 99B.

c. Any machine designed like or resembling a machine that is normally used for casino-type gambling.

d. Amusement devices designed or adapted to facilitate gambling.

e. Progressive games.

104.3(2) This rule does not prohibit the possession of antique slot machines when possessed pursuant to Iowa Code chapter 725.

[**ARC 0016D**, IAB 1/21/26, effective 2/25/26]

481—104.4(99B) Prizes. Prizes not to exceed a retail value of $50 per play or game may be awarded for use of an amusement device.

104.4(1) Merchandise with a retail value of no more than $50 per transaction may be awarded.

104.4(2) One or more free games may be awarded by the device.

104.4(3) If the device is designed or adapted to issue tickets or tokens, the following shall apply:

a. Tickets or tokens will not be used to purchase or play a game.

b. Tickets or tokens will not be redeemed for coins or currency.

c. Tickets or tokens may be redeemed for merchandise.

d. Tickets or tokens may be accumulated to the maximum allowable prize limit per play or game to purchase merchandise.

e. Tickets or tokens may be redeemed for food and beverage.

f. If the entire amount of the ticket or token issued by the amusement device is not redeemed for merchandise, the balance will not be redeemed for cash.

g. Tickets or tokens will only be redeemed on the premises where the amusement device is located and only for merchandise sold in the normal course of business on the premises.

104.4(4) Merchandise prizes shall not be repurchased.

[**ARC 0016D**, IAB 1/21/26, effective 2/25/26]

481—104.5(99B) Registration. An amusement device must be registered in compliance with Iowa Code section 99B.53. Registration is required if chance plays a role equal to or greater than the players' skill or knowledge in determining the outcome of the game. Additional licenses or registrations under Iowa Code chapter 99B are not required.

[**ARC 0016D**, IAB 1/21/26, effective 2/25/26]

481—104.6(99B) Violations.

104.6(1) Failure to comply with the limitations imposed on the use and possession of amusement devices in Iowa Code chapter 99B constitutes unlawful gambling, which may result in the following consequences:

a. Conviction for illegal gambling under the provisions of Iowa Code chapter 725.

b. Forfeiture of property under the provisions of Iowa Code chapter 809.

104.6(2) Additional consequences apply for registered amusement devices pursuant to 481—Chapter 105.

[**ARC 0016D**, IAB 1/21/26, effective 2/25/26]

481—104.7(99B,17A) Declaratory orders. In addition to the requirements for declaratory orders found in 481—Chapter 3, parties seeking a declaratory order shall file with their petition a written evaluation of the game by an independent gaming laboratory approved by the department.

104.7(1) *Approved by the department.* "Approved by the department" means that the gaming laboratory has submitted its qualifications in writing to the director for review and approval in writing by the director or the director's designee.

104.7(2) *Written evaluation—requirements.* The independent gaming laboratory's evaluation must analyze whether chance plays a role equal to or greater than the players' skill or knowledge in determining the outcome of the game. "Outcome of the game" includes both whether the player correctly solves the puzzle and what prize is awarded.

[**ARC 0016D**, IAB 1/21/26, effective 2/25/26]

These rules are intended to implement Iowa Code sections 99B.1, 99B.2, and 99B.51 through 99B.58.

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[1] February 11, 2004, effective date of 104.1, definition of "prize," 104.3"5," 104.4(3)*"f"* and *"g,"* and 104.6"1" delayed 70 days by the Administrative Rules Review Committee at its meeting held February 9, 2004.

CHAPTER 105
REGISTERED AMUSEMENT DEVICES

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/25/31

481—105.1(10A,99B) Definitions. The definitions in Iowa Code section 99B.51 and rule 481—104.1(10A,99B) are incorporated by reference in this chapter. In addition, the following definitions apply to the possession and use of registered amusement devices.

"Counting mechanism" means an appliance that tallies the volume of business of an individual amusement device.

"Distributes" means to deliver, to provide or to otherwise make available in Iowa amusement devices required to be registered in accordance with these rules.

"Operation" means that a registered amusement device is made available for use by the public or made available for use on the premises of a charitable organization.

"Person" means a person as defined by Iowa Code section 4.1.

"Premises" means a location where one or more registered amusement devices is available for public use.

"Registered amusement device" means an electrical or mechanical amusement device in operation subject to registration by the department pursuant to Iowa Code section 99B.53 and includes both the external and internal components.

"Responsible party" means the owner of the amusement device.

"Security mechanism" means an appliance that prevents a person from operating an electrical or mechanical amusement device by not allowing the acceptance of money until action is taken by the owner or owner's designee to allow the person to operate the device.

[**ARC 0017D**, IAB 1/21/26, effective 2/25/26]

481—105.2(99B) Registered amusement devices. Each registered amusement device shall only be located on premises as described in Iowa Code section 99B.53.

105.2(1) Any change in the registered amusement device constitutes a new registered amusement device for which registration is required. The word "change" does not include repairs or replacement of parts that do not change or alter the operation of the device as originally registered.

105.2(2) If the amusement device needs to be repaired, the owner may repair it without losing the registration position or buying a new registration tag. A repair constitutes any change to a device as long as the type of game and the number of devices in a location is not changed. If the repairs or replacement parts alter the operation of the device as originally registered, the device must be reregistered before being made available for operation. If an amusement device needs to be replaced because it is defective, it must be replaced with the same game in order to keep the registration position.

105.2(3) Reserved.

105.2(4) An amusement device registration position becomes available under the following circumstances:

a. When a distributor or owner:

(1) Is going out of business,

(2) Fails to renew a registration by the renewal due date, or

(3) Has an electrical or mechanical device seized by law enforcement and the seizure is upheld through a forfeiture hearing.

b. When an amusement device is replaced with a new amusement device that has a different game.

c. When any other legal order has been issued that pertains to violations of Iowa Code chapter 99B, 123, or 123A.

105.2(5) Premises with a Class "B" or Class "E" retail alcohol license shall post a sign near a registered amusement device stating that a person must be 21 years of age or older to operate the registered amusement device and the premises shall ask for ID prior to disengaging the security mechanism.

105.2(6) Reserved.

105.2(7) If the department, or the department's designee, determines that a registered amusement device is not in compliance with the requirements of this chapter or any other provision of Iowa law, the device may be subject to seizure, and any registration associated with the device, including the registration of the manufacturer, distributor, or owner, may be revoked or suspended.

105.2(8) Situations that constitute advertising and promoting as restricted by Iowa Code section 99B.53(12) include but are not limited to posted signs, newspaper/magazine advertisements, radio and television advertisements, word of mouth and Internet posting.

105.2(9) If there is no amusement device registration availability, a person may be included on a waiting list for an amusement device registration position.

a. A person shall appear on the waiting list only once for a single registration position.

b. A person may be added to the waiting list by sending an email to gmms@dia.iowa.gov; by writing the department at Department of Inspections, Appeals, and Licensing, Social and Charitable Gambling Unit, 6200 Park Avenue, Des Moines, Iowa 50319-0083; or by calling 515.281.6840.

c. The department will maintain the waiting list in chronological order.

d. When a registration position becomes available, the department will notify the first person on the waiting list of the amusement device registration availability by mail or email. If multiple positions become available, the department may notify as many persons on the waiting list as there are available positions.

e. The person on the waiting list shall have ten days from the time the notification was sent to submit a registered amusement device application and the fee.

f. If the person does not submit the registration application, fee and proof of purchase within ten days, the person shall forfeit the position on the waiting list and be removed from the waiting list.

105.2(10) An initial amusement device registration shall only be allowed at a location that has a Class "C," special Class "C," Class "D," or Class "F" retail alcohol license issued pursuant to Iowa Code chapter 123.

105.2(11) If a person purchases an amusement device that is registered with the department, the registration tag, if available, must be removed from the purchased amusement device and returned to the department or the department notified in writing within ten calendar days of the change in ownership. The purchased device will be removed from the inventory of the original owner, thus creating a registration position on the waiting list. The purchaser must apply for a registration position on the waiting list for the device.

105.2(12) An amusement device that is registered with the department and located in a warehouse may be placed in a location that has a Class "C," special Class "C," Class "D," or Class "F" retail alcohol license issued pursuant to Iowa Code chapter 123. Such a device may also be used as a replacement device.

105.2(13) The registration application for all new amusement devices must be accompanied by the receipt, invoice, or bill of sale containing the seller's name, company name, and address, transaction date, motherboard serial number, and name of the game.

105.2(14) Devices shall not allow for more than one player. Each playing position constitutes one amusement device.

[**ARC 0017D**, IAB 1/21/26, effective 2/25/26]

481—105.3(99B) Prohibited registered amusement devices. The following devices are prohibited:

1. Amusement devices registered in violation of statutory or regulatory requirements governing such devices.
2. Registered amusement devices that are prohibited by rule 481—104.3(99B).

3. Any registered amusement device designed or adapted to facilitate gambling.

[**ARC 0017D**, IAB 1/21/26, effective 2/25/26]

481—105.4(99B) Prizes. Prizes may be awarded for use of a registered amusement device in conformance with rule 481—104.4(99B).

[**ARC 0017D**, IAB 1/21/26, effective 2/25/26]

481—105.5(99B) Registration by a manufacturer, distributor, or an owner that operates for profit. A person engaged in business in Iowa as a manufacturer, a distributor, or an owner that operates for profit shall be registered with the department prior to engaging in business in Iowa. A person shall register under each of the categories that applies to the business to be conducted in Iowa and pay the designated fee for each category of registration as set forth in Iowa Code section 99B.56.

105.5(1) Reserved.

105.5(2) Registration forms are available from the Department of Inspections, Appeals, and Licensing, Social and Charitable Gambling Unit, 6200 Park Avenue, Des Moines, Iowa 50321; or by telephone at 515.281.6840.

105.5(3) If registration information changes, the person shall notify the department in writing of the changes within ten calendar days.

105.5(4) Registration fees are nonrefundable.

[**ARC 0017D**, IAB 1/21/26, effective 2/25/26]

481—105.6(99B) Registration of registered amusement devices. Each owner of an amusement device subject to registration by the department pursuant to Iowa Code section 99B.53 shall obtain a registration before the amusement device is available for operation. A registration issued pursuant to Iowa Code chapter 99B is required to offer a registered amusement device for use.

105.6(1) Reserved.

105.6(2) In the event a registration position is not open, the distributor's or owner's name may be placed on the department's waiting list. The distributor or owner will be notified by the department when a position is available. Upon the distributor's or owner's completion of the application form and payment of the required fee, the department will issue a registration tag valid for one year from the date of issuance.

a. Application forms are available from the Department of Inspections, Appeals, and Licensing, Amusement Devices, 6200 Park Avenue, Des Moines, Iowa 50321. The application form shall contain all information required by the department.

b. Prior to placement of the amusement device for public use, the registration tag shall be prominently displayed on the front of the registered amusement device in such a manner as to be clearly visible to the general public.

c. Any changes to the information provided on the application, including but not limited to changes in ownership, registered amusement device location, and the cessation of business in this state, shall be reported to the department in writing or electronically within ten calendar days of the occurrence of any of the above events.

d. Registration fees are nonrefundable.

105.6(3) A new registered amusement device must be obtained from a manufacturer that is registered with the department pursuant to Iowa Code section 99B.56. A registered amusement device that has been placed on location and used may be obtained from a manufacturer, distributor or owner that is registered with the department pursuant to Iowa Code section 99B.56. A distributor or owner that ceases, for any reason, to be registered pursuant to Iowa Code section 99B.56 may sell any registered amusement devices in the distributor's or owner's possession within 12 months from the date registration ceases. For all amusement devices new to the purchaser, proof of purchase, which includes the seller's name, company name, and address, must accompany the application for registration of the machine.

105.6(4) Reserved.

105.6(5) Each electrical or mechanical amusement device required to be registered pursuant to Iowa Code section 99B.53 shall include on the amusement device a counting mechanism.

a. The department of inspections, appeals, and licensing or the department of public safety will notify the distributor, owner, or qualified organization in advance to have access to the information provided by the counting mechanism.

b. The counting mechanism shall be at least six digits in length; and cumulatively count the total amounts inserted in the device during game play. If the mechanism being used tallies in dollars and cents, at least six digits must be used for the dollar amount. The counting mechanism shall not be able to be reset.

c. The counting mechanism shall be equipped with a battery backup, or an equivalent, and accurately maintain all required information for 30 days after power is discontinued from the device.

105.6(6) The owner of the registered amusement device shall exercise due diligence in ensuring that the amusement device complies with these rules and all laws governing such devices. Upon request by the department or the department's designee, any manufacturer or distributor registered with the department, or any owner of a registered device, shall permit the inspection of any amusement device and make available for inspection all records, documents, and agreements pertaining to the amusement device.

[**ARC 0017D**, IAB 1/21/26, effective 2/25/26]

481—105.7(99B) Violations. Failure to comply with the limitations imposed on the use and possession of registered amusement devices in Iowa Code chapter 99B may result in the following:

1. Conviction for illegal gambling may result under the provisions of Iowa Code chapter 725.
2. Suspension or revocation of a retail alcohol license may result under the provisions of Iowa Code chapter 123.
3. Property may be forfeited under the provisions of Iowa Code chapter 809.
4. Violation of any laws pertaining to gambling may result in suspension or revocation of a registration as prescribed in Iowa Code section 99B.55.
5. Unless otherwise prescribed in Iowa Code section 99B.55, a registration may be revoked upon the violation of any gambling law, rule or regulation, including Iowa Code chapter 99B, 481—Chapter 104, or this chapter.
6. A registration may be revoked if the registrant or an agent of the registrant engages in any act or omission that would have permitted the department to refuse to issue a registration under Iowa Code chapter 99B.

[**ARC 0017D**, IAB 1/21/26, effective 2/25/26]

481—105.8(10A,99B) Appeal rights. Decisions to refuse to issue a registration or to revoke a registration by the department may be appealed in accordance with the procedures set out in 481—Chapter 9. The refusal to issue a registration or the notice of revocation will be in writing and state the specific grounds for the action. When an appeal is received, the status of the registration is governed by the following standards:

105.8(1) No registration will be issued when a new application is denied.

105.8(2) A previously issued registration remains effective until a final agency decision is issued.

[**ARC 0017D**, IAB 1/21/26, effective 2/25/26]

481—105.9(10A,99B) Procedure for denial, revocation, or suspension of a registration.

105.9(1) The department may revoke, suspend, or deny a registration issued pursuant to Iowa Code section 99B.56 for cause following 30 days' written notice delivered by certified mail, return receipt requested, or by personal service and an opportunity for hearing pursuant to rule 481—105.8(10A,99B).

105.9(2) If the registrant has not requested a hearing within the prescribed time period, the department may affirm, modify or set aside the department's proposed action in the department's final written decision.

105.9(3) The department may suspend a registration prior to a hearing if the director determines that the public integrity of the registered activity is compromised or that there is a risk to public health, safety, or welfare.

105.9(4) The department may rescind the notice of revocation, suspension, or denial at any point prior to hearing when the department becomes satisfied that the reasons for revocation, suspension, or denial have been or will be removed.

105.9(5) The department will send by certified mail, return receipt requested, or serve personally upon the applicant or registrant a copy of the department's final decision.

105.9(6) If the department finds cause for denial of a registration, the applicant shall not reapply for registration of an amusement device for two years.

105.9(7) If the department finds cause for revocation or suspension, the department shall suspend or revoke the registration for a period not to exceed two years.

105.9(8) In addition to the suspension or revocation, a registrant that allows an individual under the age of 21 to operate an electrical or mechanical amusement device may also be fined for a scheduled violation pursuant to Iowa Code section 805.8C(4) and 805.8C(5).

[**ARC 0017D**, IAB 1/21/26, effective 2/25/26]

481—105.10(99B) Annual verification of device location. Each distributor or owner that owns amusement devices shall, with the annual distributor or owner registration, verify all device locations.

[**ARC 0017D**, IAB 1/21/26, effective 2/25/26]

481—105.11(99B) Criteria for approval or denial of a registration.

105.11(1) The department will consider the responsible person's history of compliance with Iowa Code sections 99B.51 through 99B.58 and other gambling laws and rules in determining whether to approve or deny an application for registration of an amusement device, a manufacturer, a distributor, or an owner.

105.11(2) The department will deny a registration application if the registration does not comply with Iowa Code section 99B.52 and the following:

a. The applicant owes back taxes or fees to the state of Iowa.

b. An amusement device registration availability position is not available.

c. For any other reason, the department deems denial of the registration appropriate.

105.11(3) The period for refusal to issue a registration shall not exceed two years.

[**ARC 0017D**, IAB 1/21/26, effective 2/25/26]

481—105.12(10A,99B) Suspension or revocation of a registration. If the responsible party violates the law, including Iowa Code chapter 99B, 481—Chapter 104, this chapter, or any other laws or administrative rules, the registrant's registration may be suspended or revoked.

[**ARC 0017D**, IAB 1/21/26, effective 2/25/26]

These rules are intended to implement Iowa Code sections 99B.1, 99B.2 and 99B.51 through 99B.58.

[Filed 12/17/03, Notice 10/29/03—published 1/7/04, effective 2/11/04][1]
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[Filed ARC 0017D (Notice ARC 9756C, IAB 11/26/25), IAB 1/21/26, effective 2/25/26]

[1] Effective date of 2/11/04 delayed 70 days by the Administrative Rules Review Committee at its meeting held February 9, 2004.

CHAPTER 106
CARD GAME TOURNAMENTS BY VETERANS ORGANIZATIONS

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/25/31

481—106.1(99B) Definitions. In addition to definitions found in Iowa Code chapter 99B, for the purposes of this chapter, the following definitions apply:

"Card game tournament" or *"tournament"* means a series of card games held by a licensee during a consecutive period of time of not more than 24 hours and not held as part of a monthly game night licensed pursuant to Iowa Code section 99B.27.

"Licensee" means a qualified organization representing veterans that has been issued a license pursuant to Iowa Code section 99B.12 and the rules in 481—Chapter 100 and this chapter.

[**ARC 0018D**, IAB 1/21/26, effective 2/25/26]

481—106.2(99B) Licensing. Application and license requirements are found in Iowa Code section 99B.27 and 481—Chapter 100.

[**ARC 0018D**, IAB 1/21/26, effective 2/25/26]

481—106.3(99B) Card game tournament. In addition to the requirements found in Iowa Code section 99B.27, licensees conducting tournaments must post or distribute tournament rules to all participants before the tournament begins, including the following information:

1. Participation fees;
2. Prize(s); and
3. Any other tournament rules.

[**ARC 0018D**, IAB 1/21/26, effective 2/25/26]

481—106.4(99B) Records. The licensee shall comply with the recordkeeping requirements found in Iowa Code sections 99B.16 and 99B.27(3) and 481—Chapter 100.

[**ARC 0018D**, IAB 1/21/26, effective 2/25/26]

These rules are intended to implement Iowa Code sections 99B.2 and 99B.27.

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[Filed ARC 0018D (Notice ARC 9755C, IAB 11/26/25), IAB 1/21/26, effective 2/25/26]

COUNTY FINANCE COMMITTEE[547]

Rules transferred from agency number 292 to 547 under the "umbrella" of Management Department pursuant to 1986 Iowa Acts, chapter 1245, section 116.

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CHAPTER 1
GENERAL PROVISIONS

[Prior to 5/4/88, see County Finance Committee [292] Ch 1]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/25/31

547—1.1(333A) Definitions.

"Committee" means the county finance committee established in Iowa Code section 333A.2.

"Committee's mailing address" is Iowa Department of Management, State Capitol, Des Moines, Iowa 50319.

"County budget" means the budget adopted by the board of supervisors pursuant to Iowa Code chapter 331.

"County official" means members of the committee referred to as "county official," which may be either a county officer designated in Iowa Code section 39.17 or a member of the board of supervisors as designated in Iowa Code section 39.18.

[**ARC 0006D**, IAB 1/21/26, effective 2/25/26]

547—1.2(333A) Organization and administration.

1.2(1) *Purpose.* The purpose of the county finance committee is to administer the provisions of Iowa Code section 333A.2 and to make recommendations to the governor, the general assembly, and county officials concerning county budgets and finance.

1.2(2) *Membership.* The selection, appointment, and approval of the county finance committee members are made as provided in Iowa Code section 333A.2.

1.2(3) *Officers.* The officers of the committee consist of chairperson and vice chairperson.

1.2(4) *Subcommittees.* The committee may establish temporary subcommittees to research and investigate items of business for the committee.

1.2(5) *Office location.* The director of the department of management provides office space, staff assistance, and necessary supplies and equipment as provided by law.

[**ARC 0006D**, IAB 1/21/26, effective 2/25/26]

547—1.3(333A) Meetings.

1.3(1) *Organizational meeting.* The organizational meeting of the committee will be held at the call of and at a place designated by the chairperson. The officers serve until their successors are appointed.

1.3(2) *Other meetings.* Meetings may be called by the chairperson of the committee or a majority of its members.

1.3(3) *Conduct of meetings.* Meetings of the committee will be conducted in accordance with Robert's Rules of Order insofar as not incompatible with the laws of the state of Iowa governing this committee or its own resolutions as to its conduct.

[**ARC 0006D**, IAB 1/21/26, effective 2/25/26]

547—1.4(333A) Secretary's duties.

1.4(1) *Notice of meeting.* Notice will be given of the time and place of each meeting by the committee's secretary.

1.4(2) *Meeting minutes.* Minutes will be kept of all proceedings of each meeting by the committee's secretary, and the minutes will constitute the official record of all committee actions.

1.4(3) *Mailing list.* A current list of committee members, including the members' addresses, telephone numbers and terms of office, will be maintained by the secretary.

[**ARC 0006D**, IAB 1/21/26, effective 2/25/26]

547—1.5(333A) Compensation. Committee members are to be compensated as provided in Iowa Code section 333A.3.

[**ARC 0006D**, IAB 1/21/26, effective 2/25/26]

547—1.6(333A) Studies and reports. At least five members of the committee are needed to approve any guidelines, comments, recommendations and proposed legislation.
[**ARC 0006D**, IAB 1/21/26, effective 2/25/26]

547—1.7(333A) County budgets. County budgets will be prepared in accordance with the provisions of Iowa Code section 331.434.
[**ARC 0006D**, IAB 1/21/26, effective 2/25/26]

547—1.8(333A) Annual financial reports. County annual financial reports will be prepared in accordance with the provisions of Iowa Code section 331.403.
[**ARC 0006D**, IAB 1/21/26, effective 2/25/26]

These rules are intended to implement Iowa Code section 333A.2.

[Filed 10/31/79, Notice 9/19/79—published 11/28/79, effective 1/2/80]
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[Filed ARC 0006D (Notice ARC 9675C, IAB 11/12/25), IAB 1/21/26, effective 2/25/26]

CHAPTER 3
STUDIES AND REPORTS

[Prior to 5/4/88, see County Finance Committee[292] Ch 3]

Rescinded **ARC 0007D**, IAB 1/21/26, effective 2/25/26

CHAPTER 4
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[Prior to 5/4/88, see County Finance Committee[292] Ch 4]

Rescinded **ARC 0008D**, IAB 1/21/26, effective 2/25/26

CHAPTER 5
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[Prior to 5/4/88, see County Finance Committee[292] Ch 5]

Rescinded **ARC 0009D**, IAB 1/21/26, effective 2/25/26

PUBLIC SAFETY DEPARTMENT[661]

Rules transferred from agency number 680 to 661 to conform with the reorganization numbering scheme in general

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CHAPTER 3
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[Appeared as rules 2.200 to 2.209 prior to 6/27/79]
[Ch 3 as appeared prior to 6/27/79 rescinded with the exception of rule 3.13 renumbered at 7.1 to 7.5]
[Prior to 4/20/88, see Public Safety Department, [680] Ch 3]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/25/31

661—3.1(17A,331) General provisions. These rules are adopted to designate the color and design of the standard uniform and accessories for Iowa sheriffs and deputy sheriffs.

3.1(1) The specifications of the uniforms and accessories, such as fabric and style, are made available to the department of administrative services.

3.1(2) Persons wanting to enter bids on the sheriff's uniforms and accessories should contact the department of administrative services.

[**ARC 0019D**, IAB 1/21/26, effective 2/25/26]

661—3.2(17A,331) Uniform. The uniform generally consists of:

1. Sage green trousers with a one-inch strip of material the same color as the shirt down the outside seam of each pant leg.
2. Long-sleeved or short-sleeved shirts with two breast pockets, pleated, with three-pointed flags and shoulder ornaments made of the same material and color as the trousers.
3. The winter and summer hats are sage green with a swivel strap and three-inch brims. The winter hat has a gold metallic acorn cord. The summer hat has a metal eyelet for a badge. The winter fur hat is sage green with sage green fur trim. A baseball style cap can be sage green or match the shirt.
4. Sage green ties that are three and one-half inches at the widest point.
5. Black, round-toed shoes or boots.
6. A sage green light duty jacket or a forest green raincoat that is reversible to international orange or safety yellow.
7. Accessories consisting of shoulder and blazer emblems, badges, name bar, tie accessories, and rank insignia.

[**ARC 0019D**, IAB 1/21/26, effective 2/25/26]

These rules are intended to implement Iowa Code section 331.657.

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CHAPTER 20
GOVERNOR'S TRAFFIC SAFETY BUREAU

[Prior to 4/20/88, see Planning and Programming[630] Ch 12]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/25/31

661—20.1(23USC402,ExecOrd23) Authority. 23 U.S.C. Section 402 requires each state to have a highway safety program sponsored by the U.S. Secretary of Transportation under the responsibility of the governor.

20.1(1) The governor designated the commissioner of the department of public safety as the governor's highway safety representative for Iowa and established the department of public safety as the state highway safety agency.

20.1(2) The governor's traffic safety bureau administers the state highway safety program in accordance with the provisions of 23 U.S.C.

[**ARC 0020D**, IAB 1/21/26, effective 2/25/26]

661—20.2(23USC402,ExecOrd23) Purpose. The purpose of the highway safety program is to provide a coordinated federal, state and local effort to reduce traffic-related deaths, injuries, and property damage crashes.

[**ARC 0020D**, IAB 1/21/26, effective 2/25/26]

661—20.3(23USC402,ExecOrd23) Responsibilities.

20.3(1) The governor's traffic safety bureau develops and prepares the state's highway safety plan based on evaluation of highway crashes and traffic safety problems within the state.

20.3(2) The governor's traffic safety bureau encourages and assists local units of government in improving their traffic safety programs.

20.3(3) The governor's traffic safety bureau serves as a reviewing authority for federal and state traffic safety programs.

20.3(4) The governor's traffic safety bureau monitors safety program activity and expenditures of funds by state and local agencies as authorized by 23 U.S.C. Section 402.

20.3(5) The governor's traffic safety bureau coordinates the state highway safety plan with other state agencies.

20.3(6) Application for funding.

a. Proposals for funding highway safety programs may be submitted during set application time periods by any city, county, or state agency or nonprofit organization or any other eligible organization or individual.

b. Applications for funding in the next federal fiscal year, beginning October 1, must be received on or before March 1 to be considered. The bureau chief of the governor's traffic safety bureau may amend the deadline dates in order to implement projects and special activities as deemed appropriate.

c. Initial proposals should include project title, statement of the highway safety problem to be addressed supported by crash data, what is being proposed to solve the problem, how it will be evaluated, a proposed budget, and a letter of intent accepting responsibility for the proposed project from the responsible authority of the organization making application.

d. Only requests containing the listed elements will be considered for funding.

e. Assistance in developing and submitting proposals for highway safety funding may be obtained by contacting the governor's traffic safety bureau, Iowa department of public safety, by email at gtsbinfo@dps.state.ia.us.

[**ARC 0020D**, IAB 1/21/26, effective 2/25/26]

661—20.4(23USC402,ExecOrd23) Funding criteria.

20.4(1) Allocation of federally appropriated funds administered by the governor's traffic safety bureau pursuant to 23 U.S.C. Section 402 are based on: (1) federally mandated projects; and (2) high-fatality and personal-injury crash causations and locations.

NOTE: The governor's traffic safety bureau refers to current federal authorization to dictate how funds are distributed.

20.4(2) At least 40 percent of all federal funds apportioned to the state of Iowa pursuant to 23 U.S.C. Section 402 for any fiscal year will be expended by political subdivisions of the state to carry out local highway safety programs authorized by the governor's representative for highway safety.

[**ARC 0020D**, IAB 1/21/26, effective 2/25/26]

661—20.5(23USC402,ExecOrd23) Program requirements.

20.5(1) All approved programs funded by the governor's traffic safety bureau are administered in compliance with the current version of the Iowa Governor's Traffic Safety Bureau Policies and Procedures Manual located on the department of public safety's website at dps.iowa.gov/gtsb-publications-surveys-reports. Copies may also be obtained by emailing gtsbinfo@dps.state.ia.us.

20.5(2) Highway safety contract procedures and reporting forms and their explanations are contained in the current version of the Iowa Governor's Traffic Safety Bureau Policies and Procedures Manual.

[**ARC 0020D**, IAB 1/21/26, effective 2/25/26]

These rules are intended to implement Executive Order 23 and 23 U.S.C. Section 402.

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CHAPTER 28
MARIJUANA ERADICATION PROCEDURES

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/25/31

661—28.1(80) Reports of marijuana. Persons wishing to report marijuana growing in Iowa, whether cultivated or uncultivated, may contact any local law enforcement agency within the state of Iowa or the Division of Narcotics Enforcement by telephone through the toll-free Marijuana Hotline at 1.800.532.0052.
[**ARC 0021D**, IAB 1/21/26, effective 2/25/26]

661—28.2(80) Cultivated marijuana. Upon receipt of information pertaining to marijuana cultivation or harvesting, the department of public safety, division of narcotics enforcement, may coordinate with the department of agriculture and land stewardship to investigate.
[**ARC 0021D**, IAB 1/21/26, effective 2/25/26]

661—28.3(80) Uncultivated marijuana. Upon receipt of information pertaining to wild uncultivated marijuana, the department of public safety, division of narcotics enforcement, will notify the county sheriff or chief of police of the report. After the sheriff has been notified, the department of public safety, division of narcotics enforcement, will notify, by regular mail, the owner of the land where uncultivated marijuana has been reported and will request that the landowner voluntarily remove the marijuana. Notification to a landowner of information regarding uncultivated marijuana growing on the landowner's property, as provided in this rule, is intended to obtain voluntary cooperation in the eradication of marijuana. The county sheriff and the local police chief, if any, will be sent copies of the notice, also by regular mail.
[**ARC 0021D**, IAB 1/21/26, effective 2/25/26]

661—28.4(80) Scope and limitation. Nothing in this chapter shall be construed to be a restriction or limitation upon the nature or scope of the authority of any member of the department of public safety or of any other public officer as otherwise provided by law.
[**ARC 0021D**, IAB 1/21/26, effective 2/25/26]

These rules are intended to implement Iowa Code section 80.5.

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[Editorial change: IAC Supplement 6/17/09]
[Filed ARC 0021D (Notice ARC 9723C, IAB 11/26/25), IAB 1/21/26, effective 2/25/26]

CHAPTER 29
HUMAN TRAFFICKING PREVENTION TRAINING—LODGING PROVIDERS

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/25/31

661—29.1(80) Definitions. The definitions in Iowa Code section 80.45A(1) are adopted and incorporated herein.
[**ARC 0022D**, IAB 1/21/26, effective 2/25/26]

661—29.2(80) Establishment of training program. The department of public safety's human trafficking prevention training program certifies a lodging provider's voluntary completion of human trafficking prevention training. The program is established pursuant to Iowa Code section 80.45A.
[**ARC 0022D**, IAB 1/21/26, effective 2/25/26]

661—29.3(80) Human trafficking prevention training program content. In order to receive approval by the commissioner, human trafficking prevention training will include, at a minimum, all of the requirements set forth in Iowa Code section 80.45A(3).
[**ARC 0022D**, IAB 1/21/26, effective 2/25/26]

661—29.4(80) Training providers.

29.4(1) *Training.* A list of certified training providers is maintained on the office to combat human trafficking website.

29.4(2) *Approval process for organizations.* Organizations cannot issue human trafficking prevention training certifications to lodging providers for purposes of this rule prior to receiving approval by the commissioner. To receive approval to conduct a training program, a training provider can apply through the office to combat human trafficking website and provide sufficient information to establish that the training program meets the requirements of rule 661—29.3(80).
[**ARC 0022D**, IAB 1/21/26, effective 2/25/26]

661—29.5(80) Certification for lodging providers and their employees. All current, certified lodging providers are listed on the office to combat human trafficking website.

29.5(1) *Application.* Any lodging provider seeking certification of completed human trafficking prevention training can submit a completed application form to the office to combat human trafficking website. The online application form will not be considered complete unless all required information is submitted, including verification of employee training certificates, and will not be processed until it is complete.

NOTE: The website for human trafficking prevention training and certification for employees, lodging providers, and training providers is www.stophtiowa.org.

29.5(2) *Fee.* There is no fee for lodging providers to request or renew a trafficking prevention training certification. Approved organizational training providers under subrule 29.4(2) may charge fees for training programs; however, lodging providers are under no obligation to utilize such training providers.

29.5(3) *Maintenance of records.* In order to maintain certification, lodging providers must maintain up-to-date human trafficking prevention training certification records on all current employees at all times. The office to combat human trafficking is entitled to review the human trafficking prevention training records for each employee and complete employee lists upon request.

29.5(4) *Revocation.* The commissioner has authorized the office to combat human trafficking to revoke a lodging provider's certification at any time. If all employees of a certified lodging provider fail to renew their trainings every three years, the office to combat human trafficking will remove the lodging provider from the approved list of providers and revoke the lodging provider's certification. Failure to maintain records of individual employee certifications may result in the revocation of a lodging provider's certification.

29.5(5) *Certification expiration.* All human trafficking prevention training certificates issued by the office to combat human trafficking bear an expiration date. All employees of a certified lodging provider must complete approved human trafficking prevention training every three years for the lodging provider to maintain a valid certification and to receive public funds.

29.5(6) *Grace periods.* Lodging providers are responsible for ensuring lodging certifications are current and valid and that new employees successfully complete human trafficking prevention training. Employees have a grace period of 30 days from when their previous training certificate expires to complete a new, approved training. Certificates expire three years from the date on which they were issued.

a. Lodging providers. The application needs to be filed no later than 30 days after beginning operation in this state or the date on which an existing training certification expires.

b. Employees of lodging providers. The application needs to be filed no later than 30 days after the date of hire or the date on which an existing training certification expires.

[**ARC 0022D**, IAB 1/21/26, effective 2/25/26]

These rules are intended to implement Iowa Code section 80.45A.

[Filed ARC 5973C (Notice ARC 5780C, IAB 7/14/21), IAB 10/20/21, effective 11/24/21]

[Filed ARC 0022D (Notice ARC 9721C, IAB 11/26/25), IAB 1/21/26, effective 2/25/26]

CHAPTERS 30 to 34
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CHAPTER 35
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[Prior to 11/8/06, see 661—Ch 9]
Rescinded **ARC 0023D**, IAB 1/21/26, effective 2/25/26

CHAPTERS 36 to 40
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CHAPTER 88
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Rescinded **ARC 0024D**, IAB 1/21/26, effective 2/25/26

CHAPTER 150
DIVISION OF CRIMINAL INVESTIGATION CRIMINALISTICS LABORATORY

[Prior to 11/22/06, see 661—Ch 12]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/25/31

661—150.1(691) Criminalistics laboratory. The state criminalistics laboratory created in Iowa Code section 691.1 is located, pursuant to that section, within the division of criminal investigation.

150.1(1) *Identification.* The state criminalistics laboratory will be known as the division of criminal investigation criminalistics laboratory. Unless the context clearly implies otherwise, the term "laboratory," when used in this chapter, means the division of criminal investigation criminalistics laboratory.

150.1(2) *Administration.* The laboratory will be headed by an administrator who reports to the director of the division of criminal investigation.

150.1(3) *Contact information.*

a. The address of the laboratory for receiving mail or shipped materials is Iowa DCI Criminalistics Laboratory, 2240 South Ankeny Boulevard, Ankeny, Iowa 50023.

b. The telephone number of the laboratory is 515.725.1500.

c. Information regarding the laboratory may be obtained from the department website.

NOTE: Currently, information about the laboratory may be found at www.dps.state.ia.us/DCI/Crime_Lab/index.shtml.

[**ARC 0025D**, IAB 1/21/26, effective 2/25/26]

661—150.2(691) Purpose and scope of work. The laboratory provides forensic science services to law enforcement agencies within the state of Iowa. The laboratory will, within its capabilities, conduct analyses and comparative studies on physical evidence to aid in any criminal investigation, when requested by a prosecuting attorney, a medical examiner, or a law enforcement agency.

150.2(1) *Resource or capability limitations.*

a. The laboratory administrator may refuse any request to conduct an analysis when, in the judgment of the administrator, the laboratory is unable to adequately conduct the requested analysis, either because of resource limitations or because the analysis is not within the professional capabilities of laboratory personnel.

b. The laboratory administrator may establish a policy excluding evidence of specific types or evidence arising from certain types of cases from being accepted by the laboratory if the administrator finds that such a policy is necessary either due to resource constraints, safety concerns, or the professional capabilities of laboratory personnel. Any policy adopted pursuant to this paragraph will be made available to all county attorneys, medical examiners, and law enforcement agencies within Iowa.

c. If analysis by the laboratory of specific evidence arising from a criminal investigation in Iowa has been excluded pursuant to either paragraph 150.2(1)*"a"* or *"b,"* the administrator may, at the administrator's discretion, assist the agency requesting the analysis in locating the services of another laboratory able to perform the requested analysis.

150.2(2) *Exclusion by law.* The laboratory will only perform analyses that have arisen from, or will aid in, criminal investigations or that are otherwise provided for by law.

[**ARC 0025D**, IAB 1/21/26, effective 2/25/26]

661—150.3(691) Laboratory capabilities. The laboratory is capable of performing any forensic scientific analysis for which a laboratory staff member has received appropriate training and for which the necessary equipment and materials are available to the staff member performing the analysis. Information regarding the current forensic science capabilities of the laboratory may be obtained in the Iowa Criminalistics Laboratory Quality Assurance Manual published by the laboratory.

[**ARC 0025D**, IAB 1/21/26, effective 2/25/26]

661—150.4(691) Evidence submission to the laboratory.

150.4(1) Evidence may be submitted to the laboratory by:

a. Any law enforcement agency in Iowa;

b. The Iowa department of corrections;

c. Any other criminal or juvenile justice agency, with the approval of the laboratory administrator; or

d. Any other state agency, with the approval of the laboratory administrator.

150.4(2) Evidence may be submitted to the laboratory via regular, certified, or registered mail or personal service. Any evidence to be submitted to the laboratory will be entered electronically into the laboratory information management system prior to submission. Each entry will include a description of each item to be submitted and an examination request for each item to be submitted.

NOTE: Access to the laboratory information management system is restricted to authorized users representing agencies authorized to submit evidence to the laboratory. Authorized users should contact the laboratory for instructions regarding access to the system.

150.4(3) Evidence submitted to the laboratory that is not personally delivered will be packaged in such a manner that laboratory personnel can determine that the package has not been opened while in transit. If the laboratory receives an unsealed or damaged package, the laboratory may refuse to process such evidence if the integrity of the evidence has been compromised.

[**ARC 0025D**, IAB 1/21/26, effective 2/25/26]

661—150.5(17A,691) Distribution of reports.

150.5(1) A copy of each completed report of analyses performed by the laboratory will be provided to the submitting officer and to the prosecuting attorney. The prosecuting attorney is responsible for providing copies of any laboratory report to the defendant or defendants as required by law.

150.5(2) Results of laboratory analyses will not be made available to any unauthorized person or organization.

[**ARC 0025D**, IAB 1/21/26, effective 2/25/26]

661—150.6(17A,691) Disposition of evidence.

150.6(1) Evidence will be returned to the submitting agency unless one of the following conditions applies:

a. Retention of the evidence would be beneficial for future laboratory analysis.

b. Returning the evidence presents a hazard to health or safety. Any required notice to the defendant of destruction of evidence pursuant to this paragraph is the responsibility of the prosecuting attorney.

150.6(2) Evidence will not be transferred or submitted to any person or agency other than the submitting agency without an applicable court order unless authorized by the submitting agency.

[**ARC 0025D**, IAB 1/21/26, effective 2/25/26]

These rules are intended to implement Iowa Code chapter 691.

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[Prior to 12/21/05, see rules 661—16.1(103A) to 661—16.500(103A)]
Transferred to 481—Chapter 300, IAC Supplement 11/26/25

CHAPTER 301
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[Prior to 12/21/05, see rules 661—16.1(103A) to 661—16.500(103A)]
Transferred to 481—Chapter 301, IAC Supplement 11/26/25

CHAPTER 302
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[Prior to 12/21/05, see rules 661—16.700(103A,104A) to 661—16.720(103A,104A)]
Rescinded **ARC 9474C**, IAB 8/6/25, effective 9/10/25

CHAPTER 303
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[Prior to 12/21/05, see rules 661—16.800(103A) to 661—16.802(103A)]
Rescinded **ARC 9474C**, IAB 8/6/25, effective 9/10/25

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Created by 1986 Iowa Acts, chapter 1245.

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CHAPTER 304
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[Prior to 12/17/86, Revenue Department[730]]
[Prior to 11/2/22, see Revenue Department[701] Ch 42]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

701—304.1(257,422) School district surtax. Iowa law provides for the implementation of an income surtax for increasing local school district budgets. The surtax must be approved by the voters of a school district in a special election or by a resolution of the board of directors of a school district. The surtax rate is determined by the department of management on the basis of the revenue to be raised by the surtax for the particular school district with the surtax.

The school district surtax is imposed on the income tax liabilities of all taxpayers residing in the school district on the last day of the taxpayers' tax years. For purposes of the school district surtax, income tax liability is the tax computed under Iowa Code section 422.5, less the nonrefundable credits against computed tax which are authorized in Iowa Code chapter 422, division II.

In a situation where an individual is residing in a school district with a surtax and the individual dies during the tax year, the individual will be considered to be subject to the surtax, since the individual was residing in the school district on the last day of the individual's tax year.

An individual serving in the Armed Forces of the United States who maintains permanent residence in an Iowa school district with a surtax is subject to the surtax regardless of whether the individual is physically residing in the school district on the last day of the tax year.

A person who is present in the school district on the last day of the tax year on a temporary basis due to annual leave or in transit between duty stations is not subject to the surtax.

This rule is intended to implement Iowa Code sections 257.21, 257.29, and 422.15.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; Editorial change: IAC Supplement 11/2/22]

701—304.2(422D) Emergency medical services income surtax. Effective July 1, 1992, a county board of supervisors may offer for voter approval a local option income surtax, an ad valorem property tax, or a combination of the two taxes to generate revenues for emergency medical services. However, this rule pertains only to the local option income surtax for emergency medical services. If a majority of those voting in the election approve the emergency medical services income surtax, the income surtax will be imposed for tax years beginning on or after January 1 of the fiscal year in which the election is held. Thus, if an election is held in the 2007-2008 fiscal year (July 1, 2007, through June 30, 2008) and the income surtax is approved in the election, the income surtax will be imposed on 2008 returns for individuals filing on a calendar-year basis. In the case of individuals filing on a fiscal-year basis, the income surtax will be imposed on returns for tax years beginning in the 2008 fiscal year. If an emergency medical services income surtax is imposed for a county, it can be imposed only for a maximum period of five years. When the emergency medical income surtax is repealed because the five-year imposition has expired, the income surtax is repealed as of December 31 for tax years beginning on or after that date.

304.2(1) *The rate of the income surtax imposed for emergency medical services.* After the income surtax is approved by an election of county voters, the board of supervisors will set the rate of tax to be imposed, which can be expressed in tenths of 1 percent or hundredths of 1 percent but cannot exceed 1 percent. In addition, because the cumulative total of the percents of income surtax imposed on any taxpayer in the county cannot exceed 20 percent, the rate of an emergency medical services income surtax may be limited, if a school district income surtax has been approved previously by a school district in the county and the surtax rate exceeds 19 percent. Therefore, assuming that a school district in the county had previously approved an income surtax rate of 19.4 percent, the medical emergency income surtax rate would be limited to six-tenths of 1 percent. If a school district income surtax and emergency medical income surtax are approved on or about the same date and the cumulative total of the income surtaxes is greater than 20 percent, the income surtax approved

on the earlier of the two dates will be allowed at the rate approved and the second income surtax approved will be limited accordingly so that the cumulative rate will not exceed 20 percent. If a school district income surtax and an emergency medical income surtax are approved on the same date with a proposed cumulative rate that exceeds 20 percent, each of the surtaxes will be reduced equally so that the cumulative surtax rate will not exceed 20 percent. Assuming that a school district in a particular county approves an income surtax of 20 percent on November 4, 2008, and an emergency medical income surtax of 1 percent is approved on the same date, both surtaxes will be reduced by five-tenths of 1 percent so that the cumulative rate of the two income surtaxes does not exceed 20 percent. The department of management can provide information about any income surtaxes that have been approved for the school districts in the county.

304.2(2) *Imposing the emergency medical income surtax.* The emergency medical income surtax will be imposed on the state income tax liability on each individual residing in the county at the end of the individual's tax year, whether the individual's tax year ends at the end of the calendar year or fiscal year. For purposes of the emergency medical income surtax, an individual's income tax liability is the aggregate of the state income taxes determined in Iowa Code section 422.5 less the nonrefundable credits against computed income tax which are authorized in Iowa Code chapter 422, division II.

304.2(3) *Administering the emergency medical income surtax.* The director of revenue shall administer the emergency medical income surtax in the same way as other state individual tax laws are administered. All powers and requirements related to administering the state income tax law apply to the administration of the emergency medical income surtax including, but not limited to, the provisions of Iowa Code sections 422.4, 422.20 to 422.31, 422.68, 422.70, and 422.72 to 422.75. The county board of supervisors and county officials shall confer with the director for assistance in drafting the ordinance imposing the emergency medical income surtax. Certified copies of the ordinance shall be filed with the department of revenue and the department of management within 30 days after the emergency medical income surtax is approved.

304.2(4) *Accounting for the emergency medical income surtax and paying the surtax.* The department shall account for the emergency medical income surtax and any interest and penalties on the surtax so that there is a separate accounting for each county where the income surtax is imposed. The accounting shall be applicable to those individual income tax returns filed on or before November 1 of the calendar year following the tax year for which the tax is imposed. The emergency medical income surtax and any penalties and interest should be credited to a "local income surtax fund" established in the office of the state treasurer. On or before December 15 of the year after the tax year, the director of revenue shall certify to the state treasurer the income surtax and any interest and penalties collected from returns filed on or before November 1.

This rule is intended to implement Iowa Code chapter 422D.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; Editorial change: IAC Supplement 11/2/22]

701—304.3(422) Exemption credits.

304.3(1) A single person shall deduct from the computed tax a personal exemption credit of $40. A single person is defined in 701—subrule 301.4(1).

304.3(2) A married person living with husband or wife at the close of the taxable year, or living with husband or wife at the time of the death of that spouse during the taxable year, shall, if a joint return is filed, deduct from the computed tax a personal exemption of $80. Where such spouse files a separate return, each spouse is entitled to deduct from the computed tax a personal exemption of $40. The personal exemption may not be divided between the spouses in any other proportion.

304.3(3) A taxpayer shall deduct from computed tax an exemption of $40 for each dependent. "Dependent" has the same meaning as provided by the Internal Revenue Code, and the same dependents shall be claimed for Iowa income tax purposes as the taxpayer is entitled to claim for federal income tax purposes. If each spouse furnished 50 percent of the support, the spouses must elect between them which spouse is to be entitled to claim the dependent. The dividing of dependent

credits applies only to the number of dependents and not to the credit amount for a particular dependent.

304.3(4) A head of household as defined in 701—subrule 301.4(7) is allowed a personal exemption credit of $80.

304.3(5) A taxpayer who is 65 years of age on or before the first day following the end of the tax year is allowed an additional personal exemption credit of $20 in addition to any other credits allowed by this rule.

304.3(6) A taxpayer who is blind, as defined in Iowa Code section 422.12(1)*"e,"* is allowed a personal exemption credit of $20 in addition to any other credits allowed by this rule.

304.3(7) A nonresident taxpayer or a part-year resident taxpayer will be allowed to deduct personal exemption credits as if the nonresident taxpayer or part-year taxpayer was a resident for the entire year.

This rule is intended to implement Iowa Code section 422.12.

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701—304.4(422) Tuition and textbook credit for expenses incurred for dependents attending grades kindergarten through 12 in Iowa. Taxpayers who pay tuition and textbook expenses of dependents who attend grades kindergarten through 12 in Iowa may receive a tax credit of 25 percent of up to $2,000 ($1,000 for tax years beginning prior to January 1, 2021) of qualifying expenses for each dependent who receives private instruction, as defined in Iowa Code section 422.12(1)*"c,"* or attends an elementary or secondary school located in Iowa. A taxpayer whose dependent receives private instruction is only eligible for the tuition and textbook credit for tax years beginning on or after January 1, 2021.

For a taxpayer whose dependent attends an elementary or secondary school, in order for the taxpayer to qualify for the tuition and textbook credit, the elementary school or secondary school that the dependent is attending must meet the standards for accreditation of public and nonpublic schools in Iowa provided in Iowa Code section 256.11. In addition, the school the dependent is attending must not be operated for profit and must adhere to the provisions of the United States Civil Rights Act of 1964, and the provisions of Iowa Code chapter 216, which is known as the Iowa civil rights Act of 1965.

304.4(1) *Tuition.* For purposes of the tuition and textbook tax credit, "tuition" means any charge for the expense of personnel, buildings, equipment, and materials other than textbooks, and other expenses which relate to the teaching of only those subjects that are legally and commonly taught in public elementary or secondary schools in Iowa. "Tuition" includes charges by a qualified school for summer school classes or for instruction of a child who is physically unable to attend classes at the site of the elementary or secondary school. Expenses paid by a taxpayer, including a taxpayer whose dependent receives private instruction, for equipment and materials other than textbooks must be for equipment and materials required for attendance in Iowa in order to be eligible for the tuition and textbook tax credit. The following are examples of equipment and materials that may qualify for the credit provided they are required for attendance in school or for providing private instruction:

a. Pocket folders and binders.
b. Spiral notebooks and loose-leaf paper.
c. Writing utensils, including pens, pencils, highlighters, colored pencils, crayons, and markers.
d. Backpacks.
e. Rulers.
f. Calculators.
g. Scissors.
h. Computers, including rental fees paid to a school for the use of a computer.

"Tuition" does not include charges or fees which relate to the teaching of religious tenets, doctrines, or worship in cases where the purpose of the teaching is to inculcate the religious tenets,

doctrines, or worship. In addition, "tuition" does not include amounts paid to an individual or other entity for instruction that is supplementary to elementary or secondary school instruction or private instruction. Amounts paid to an elementary or secondary school or to a person providing private instruction for meals, lodging, or clothing for a dependent do not qualify for the tax credit for tuition. "Tuition" also does not include expenses for Internet services or Internet upgrades to facilitate remote learning.

304.4(2) *Textbooks.* For purposes of the tuition and textbook tax credit, "textbooks" means books and other instructional materials used to teach only those subjects legally and commonly taught in public elementary and secondary schools in Iowa. "Textbooks" includes fees or charges for required supplies or materials for classes in art, home economics, shop, or similar courses. "Textbooks" also includes books and materials used for extracurricular activities, such as sporting events, musical events, dramatic events, speech activities, driver's education, or programs of a similar nature.

"Textbooks" does not include amounts paid for books or other instructional materials used in the teaching of religious tenets, doctrines, or worship, in cases where the purpose of the teaching is to inculcate the religious tenets, doctrine, or worship. For tax years beginning before January 1, 2021, "textbooks" does not include amounts paid for books or other instructional materials used in teaching a dependent subjects in the home or outside of an elementary or secondary school. For tax years beginning on or after January 1, 2021, "textbooks" does include amounts paid for books or other instructional materials used in teaching a dependent subjects in the home or outside of an elementary or secondary school if that dependent is receiving private instruction.

304.4(3) *Extracurricular activities.* For purposes of the tuition and textbook tax credit, amounts paid for dependents to participate in or to attend extracurricular activities may be claimed as part of the tuition and textbook tax credit. "Extracurricular activities" includes sporting events, musical events, dramatic events, speech activities, driver's education, and programs of a similar nature.

a. The following are specific examples of expenditures related to a dependent's participation in or attendance at extracurricular activities offered by a qualifying school or offered in the course of private instruction that may qualify for the tuition and textbook tax credit:

(1) Fees for participation in sports activities.

(2) Fees for field trips.

(3) Rental fees for instruments for bands or orchestras but not rental fees in rent-to-own contracts.

(4) Driver's education fees.

(5) Cost of activity tickets or admission tickets to sporting, music, and dramatic events.

(6) Fees for events such as homecoming, winter formal, prom, or similar events.

(7) Rental of costumes for plays.

(8) Purchase of costumes for plays if the costumes are not suitable for street wear.

(9) Purchase of track shoes, football shoes, or other athletic shoes with cleats, spikes, or other features that are not suitable for street wear.

(10) Costs of tickets or other admission fees to attend banquets or buffets for academic or athletic awards.

(11) Trumpet grease, woodwind reeds, guitar picks, violin strings, and similar types of items for maintenance of instruments used in bands or orchestras.

(12) Band booster club or athletic booster club dues, but only if dues are for the dependent and not the parent or adult.

(13) Rental of a formal gown or a tuxedo for a dance or similar event.

(14) Dues paid to clubs or organizations such as chess club, photography club, debate club, or similar organizations.

(15) Amounts paid for music that will be used in music programs, including vocal music programs.

(16) Fees paid for required general materials for shop class, agriculture class, home economics class, or auto repair class and general fees for equivalent classes.

(17) Fees for a dependent's bus trips to attend school or private instruction if paid to the school or the provider of private instruction.

(18) Costs of band or athletic uniforms.

(19) Costs of instrument lessons.

b. The following are specific examples of expenditures related to a dependent's participation in or attendance at extracurricular activities offered by a school or offered in the course of private instruction that will not qualify for the tuition and textbook credit.

(1) Purchase of a musical instrument used in a band or orchestra.

(2) Purchase of basketball shoes or other athletic shoes that are readily adaptable to street wear.

(3) Amounts paid for special testing such as SAT or PSAT, and for Iowa talent search tests.

(4) Payments for senior trips, band trips, and other overnight activity trips which involve payment for meals and lodging.

(5) Fees paid to K-12 schools or to a private instructor for courses for college credit.

(6) Amounts paid for T-shirts, sweatshirts, and similar clothing that is appropriate for street wear.

(7) Amounts paid for special programs at universities and colleges.

(8) Amounts paid for a yearbook, annual, or class ring.

(9) Fees for special materials paid for shop class, agriculture class, auto repair class, home economics class, and similar classes. For purposes of this paragraph, "special materials" means materials used for personal projects of the dependents, such as materials to make furniture for personal use, automobile parts for family automobiles, and other materials for projects for personal or family benefit.

(10) Purchase of a formal gown or a tuxedo for a dance or similar event.

(11) Amounts paid for sports-related social events.

304.4(4) *Claiming the credit.* The credit can only be claimed by the spouse who claims the dependent credit on the Iowa tax return as described in subrule 304.3(3). For example, for divorced or separated parents, only the spouse who claims the dependent credit on the Iowa return can claim the tuition and textbook credit for tuition and textbook expenses for that dependent.

In cases where married taxpayers file separately on a combined return form, the tuition and textbook credit shall be allocated between the spouses in the ratio in which the dependent credit was claimed between the spouses.

EXAMPLE: A married couple has two dependent children and claimed a tuition and textbook credit of $500 related to both children on their 2011 Iowa return. The taxpayers filed separately on a combined Iowa return form for 2011. One spouse claimed both of the dependent credits on the Iowa return. The $500 tuition and textbook credit will be claimed by the spouse who claimed the dependent credits on the Iowa return.

EXAMPLE: A married couple has three dependent children and claimed a tuition and textbook credit of $600 related to all three children on their 2011 Iowa return. The taxpayers filed separately on a combined Iowa return form for 2011. One spouse claimed one dependent credit, and the other spouse claimed two dependent credits on the Iowa return. The spouse who claimed one dependent credit will claim $200 of the tuition and textbook credit, while the spouse who claimed two dependent credits will claim $400 of the tuition and textbook credit.

This rule is intended to implement Iowa Code section 422.12.

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701—304.5(422) Nonresident and part-year resident credit. An individual who is a nonresident of Iowa for the entire tax year, or an individual who is an Iowa resident for a portion of the tax year, is allowed a credit against the individual's Iowa income tax liability for the Iowa income tax on the portion of the individual's income which was earned outside Iowa while the person was a nonresident of Iowa. This credit is computed on Schedule IA 126. The following subrules explain how the credit

is computed for taxpayers who are nonresidents of Iowa and taxpayers who are part-year residents of Iowa.

304.5(1) *Credit calculation for nonresidents of Iowa.*

a. Prior to the calculation of the nonresident credit, a nonresident of Iowa shall compute taxable income in the same manner as a full-year Iowa resident. Thus, a nonresident would have the same initial Iowa income tax liability as a full-year Iowa resident taxpayer with the same taxable income before the nonresident credit is computed.

b. The nonresident credit is computed by dividing the taxpayer's Iowa source net income by the taxpayer's total net income. See 701—Chapter 302 to determine a nonresident's Iowa source net income and total net income. This Iowa income percentage is rounded to the nearest tenth of a percent (e.g., 1.2 percent) for tax years beginning before January 1, 2022, and to the nearest ten-thousandth of a percent (e.g., 1.2345 percent) for tax years beginning on or after January 1, 2022. The Iowa income percentage is then subtracted from 100 percent to arrive at the nonresident credit percentage, which represents the percentage of the individual's total income which was earned outside Iowa. The nonresident credit percentage is multiplied by the net Iowa tax to compute the nonresident credit. For purposes of this subrule, "net Iowa tax" means the Iowa regular income tax after reduction for the nonrefundable credits provided in Iowa Code section 422.12.

EXAMPLE 1: A single resident of Nebraska had Iowa source net income of $15,000 in 2022 from wages earned from employment in Iowa. The rest of this person's income was attributable to sources outside Iowa. This nonresident of Iowa had a total net income of $40,000 and a taxable income of $30,000 due to allowable deductions. The Iowa income percentage is computed by dividing the Iowa source net income of $15,000 by the taxpayer's total net income of $40,000, which results in a percentage of 37.5000. This percentage is subtracted from 100 percent, which leaves a nonresident credit percentage of 62.5000.

The Iowa tax before reduction for the nonrefundable credits under Iowa Code section 422.12 is $1,508. The individual is allowed an exemption credit under Iowa Code section 422.12 of $40, which leaves a tax amount of $1,468 ($1,508 - $40). When $1,468 is multiplied by the nonresident credit percentage of 62.5000, a nonresident credit of $918 is computed.

EXAMPLE 2: A California resident, who was married, had $20,000 of Iowa source net income in 2022 from an Iowa farm. This individual had an additional $80,000 in net income that was attributable to sources outside Iowa, but the individual's spouse had no income. The taxpayers had a total net income of $100,000 and a taxable income of $70,000 due to allowable deductions.

The taxpayers had an Iowa income tax liability of $4,583 after application of the personal exemption credits of $80 under Iowa Code section 422.12. The taxpayers had an Iowa source net income of $20,000 and a total net income of $100,000. Therefore, the Iowa income percentage was 20.0000. Subtracting the Iowa income percentage of 20 percent from 100 percent leaves a nonresident credit percentage of 80.0000.

When the Iowa income tax liability of $4,583 is multiplied by 80 percent, this results in a nonresident credit of $3,666.

304.5(2) *Credit calculation for part-year residents of Iowa.*

a. Prior to the calculation of the part-year resident credit, an individual who is a resident of Iowa for part of the tax year shall compute taxable income in the same manner as a full-year Iowa resident. Therefore, a part-year resident would have the same initial Iowa income tax liability as a full-year Iowa resident with the same taxable income before computation of the part-year resident credit.

b. The part-year resident credit for a part-year resident is computed by adding all the individual's net income received while the taxpayer was a resident of Iowa and all the Iowa source net income received during the period of the tax year when the individual was a nonresident of Iowa, and dividing that sum by the taxpayer's total net income. See 701—Chapter 302 to determine a part-year resident's Iowa source net income and total net income. This Iowa income percentage is rounded to the nearest tenth of a percent (e.g., 1.2 percent) for tax years beginning before January 1, 2022, and to the nearest ten-thousandth of a percent (e.g., 1.2345 percent) for tax years beginning on or after

January 1, 2022. The Iowa income percentage is then subtracted from 100 percent to arrive at the part-year resident credit percentage, which represents the percentage of the individual's total income which was earned outside of Iowa while a nonresident. The part-year resident credit percentage is multiplied by the net Iowa tax to compute the part-year resident credit. For purposes of this subrule, "net Iowa tax" means the Iowa regular income tax after reduction for the nonrefundable credits provided in Iowa Code section 422.12.

EXAMPLE 3: A single individual was a resident of Nebraska for the first half of 2022 and moved to Iowa on July 1, 2022, to accept a job in Des Moines. This individual earned $20,000 from wages, $200 from interest, and $4,000 from a ranch in Nebraska from January 1, 2022, through June 30, 2022. In the second half of 2022, this person had wages of $30,000, interest income of $300, and $4,000 from the Nebraska ranch. This part-year resident had $14,000 of allowable deductions.

The part-year resident's total net income was $58,500 and the Iowa source net income was $34,300, which includes the Iowa wages, the Nebraska ranch income of $4,000 earned during the individual's period of Iowa residence, as well as the interest income of $300 earned during that time of the tax year. The Iowa taxable income for the part-year resident for 2022 was $44,500 due to allowable deductions of $14,000 ($58,500 - $14,000). The individual's Iowa income percentage was 58.6325, which was determined by dividing the Iowa source income of $34,300 by the total income of $58,500. Subtracting the Iowa income percentage of 58.6325 from 100 percent results in a part-year resident credit percentage of 41.3675. The Iowa tax on total income was $2,529, which was reduced to $2,489 after subtraction of the personal exemption credit of $40 under Iowa Code section 422.12.

When $2,489 is multiplied by the part-year resident percentage of 41.3675, a part-year resident credit of $1,030 is computed for this part-year resident.

EXAMPLE 4: A single individual moved from Minnesota to Iowa on July 1, 2022. This person earned $5,000 in income from an Iowa farm in the first half of the tax year and another $10,000 from this farm in the second half of the tax year. This person had $10,000 in wages from employment in Minnesota in the first half of the year and another $15,000 in wages from employment in Iowa in the second half of the tax year. This person had $2,000 in interest from a bank in the first half of the year and $2,000 in interest from a bank in the second half of the tax year.

The part-year resident's total net income was $44,000 and the Iowa source net income was $32,000, which consisted of $15,000 in wages, $2,000 in interest income, and $15,000 in income from the Iowa farm. Since the farm was in Iowa, all farm income, including the income received while the individual was not a resident of Iowa, was taxable to Iowa. The individual's Iowa taxable income was $34,250, which was computed after subtracting $9,750 in allowable deductions ($44,000 - $9,750). The taxpayer's Iowa income tax liability was $1,757 after subtraction of a personal exemption credit of $40 under Iowa Code section 422.12.

The taxpayer's Iowa income percentage was 72.7273, which was computed by dividing the Iowa source net income of $32,000 by the total net income of $44,000. The part-year resident credit percentage was 27.2727, which was arrived at by subtracting the Iowa income percentage of 72.7273 from 100 percent. The taxpayer's part-year resident credit is $479. This was determined by multiplying the Iowa income tax liability after personal exemption credit amount of $1,757 by the part-year resident percentage of 27.2727.

This rule is intended to implement Iowa Code section 422.5.

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701—304.6(422) Out-of-state tax credits.

304.6(1) *Definitions.* For purposes of this rule:

"Foreign country" means any country, other than the United States, and any political subdivision of that country.

"Income tax" means any direct tax imposed upon a taxpayer and measured by the taxpayer's income for a specified period of time. The out-of-state jurisdiction's characterization of the tax is not

controlling in the department's determination of whether a tax is an income tax. Fees, penalty, and interest paid in connection with an income tax do not qualify. For purposes of this rule, the term "income tax" does not include a minimum tax imposed on preference items.

"Pass-through entity" means an entity taxed as a partnership for federal tax purposes, an S corporation, an estate, or a trust other than grantor trusts.

"Regulated investment company" means any domestic corporation that meets the requirements of Section 851 of the Internal Revenue Code and that has made a valid election under Section 853 of the Internal Revenue Code to have its shareholders' pro rata share of entity-level income tax paid by the electing corporation be deemed to have been paid by its shareholders. The term "regulated investment company" includes, but is not limited to, a mutual fund.

"State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any political subdivision thereof.

"Tiered owner" means an owner or beneficiary of a pass-through entity that is itself a pass-through entity.

304.6(2) *General application.*

a. Residents. Iowa residents, including part-year residents, are allowed an out-of-state tax credit against the resident's Iowa income tax liability for income taxes owed and paid by the resident to another state or foreign country on income for which all of the following are true:

(1) The income was derived from sources within the other state or foreign country. In determining whether income is derived from sources within that other state or foreign country, Iowa statutes and rules on the sourcing of a nonresident's income shall govern.

(2) The income is subject to Iowa income tax. Income tax imposed by another state or foreign country on income that is not subject to Iowa income tax does not qualify for the credit.

(3) The income was earned while the taxpayer was an Iowa resident and is included on the resident's Iowa income tax return. The credit is allowable only if the taxpayer files an Iowa income tax return as a resident or part-year resident.

b. Nonresidents. Nonresidents of Iowa shall not claim the out-of-state tax credit.

304.6(3) *Rule for pass-through entities.*

a. Direct owners.

(1) If the Iowa resident is a direct partner, shareholder, or beneficiary of a pass-through entity that owed and paid entity-level income tax, or income tax on a composite return basis, to another state or foreign country on income derived from sources in that state or foreign country, the resident is allowed to treat the resident's pro rata share of that income tax as paid by the resident for purposes of the out-of-state tax credit, provided the resident's pro rata share of that income flows through to the resident and meets the requirements of paragraph 304.6(2)*"a."*

(2) The entity-level income tax or composite income tax paid to the other state or foreign country is the net state or foreign income tax actually owed and paid for the tax year on income taxed by that state or foreign country, as properly computed on the pass-through entity's income tax return or composite return (not a withholding return) in the other state or foreign country after reduction for all nonrefundable credits provided to the pass-through entity. Paragraph 304.6(6)*"b"* provides an additional limitation if the Iowa resident receives a refundable credit in the other state or foreign country for the Iowa resident's share of the income tax owed and paid by the pass-through entity. The resident's pro rata share of entity-level income tax or composite income tax paid by the pass-through entity shall be in the same proportion as the resident's pro rata share of income derived from sources in that state or foreign country, as properly reported on the entity's return in the other state or foreign country.

(3) To qualify, the pass-through entity must provide to the resident a statement identifying the jurisdiction and the resident's pro rata share of the income, income tax liability, and income tax paid in that jurisdiction.

EXAMPLE 1: Partnership W earns $2,000 of income in state A, which imposes an entity-level income tax directly on the partnership. Partnership W pays $100 of income tax to state A. Partnership

W is owned 50 percent by Partnership X and 50 percent by individual Y, a resident of Iowa. Individual Y receives a statement from Partnership W showing that Partnership W earned $2,000 of income and paid $100 of entity-level income tax to state A and that individual Y's pro rata share of that income and entity-level income tax is $1,000 and $50, respectively. If that $1,000 of income from Partnership W is subject to Iowa income tax and included on individual Y's Iowa income tax return as earned while an Iowa resident, individual Y will be entitled to treat the $50 of income tax paid by Partnership W to state A as paid by individual Y in the computation of Y's out-of-state tax credit.

b. Indirect owners.

(1) If the Iowa resident is an indirect partner, shareholder, or beneficiary of a pass-through entity that paid entity-level income tax, or income tax on a composite return basis, to another state or foreign country on income derived from sources in that state or foreign country, the resident is allowed to treat the resident's pro rata share of that income tax as paid by the resident for purposes of the out-of-state tax credit if both of the following requirements are satisfied:

1. The tiered owner reduces the amount of the paying pass-through entity's income tax that the tiered owner reports to its partners, shareholders, or beneficiaries by the amount of any credit available from that other state or foreign country to the tiered owner for the tax liability of the paying pass-through entity.

2. The resident's pro rata share of that income flows through one or more tiered owners to the resident and meets the requirements of paragraph 304.6(2)*"a."*

(2) The entity-level income tax or composite income tax paid to the other state or foreign country is the net state or foreign income tax actually owed and paid for the tax year on income taxed by that state or foreign country, as properly computed on the pass-through entity's income tax return or composite tax return (not a withholding return) in the other state or foreign country, after reduction for all nonrefundable credits provided to the pass-through entity, and after further reduction by a tiered owner for any credits provided by that other state or foreign country to the tiered owner for the tax liability of the paying pass-through entity. Paragraph 304.6(6)*"b"* provides an additional limitation if the Iowa resident receives a refundable credit in the other state or foreign country for the Iowa resident's share of the income tax owed and paid by a pass-through entity. The resident's pro rata share of entity-level income tax or composite income tax paid by the pass-through entity shall be in the same proportion as the resident's pro rata share of income derived from sources in that state or foreign country, as properly reported on the entity's return in the other state or foreign country, after flowing through one or more tiered pass-through entities to the resident.

(3) To qualify, the paying pass-through entity must provide to the tiered owner a statement identifying the jurisdiction and the tiered owner's pro rata share of the income, income tax liability, and income tax paid in that jurisdiction. The tiered owner, in turn, must provide the indirect partner, shareholder, or beneficiary with a statement that includes all of the following information:

1. The jurisdiction to which income tax was paid; the paying pass-through entity and any other tiered owner through which the income flowed; and the indirect partner's, shareholder's, or beneficiary's pro rata share of the paying pass-through entity's income.

2. The indirect partner's, shareholder's, or beneficiary's pro rata share of the paying pass-through entity's income tax liability and income tax paid to the other jurisdiction after reduction for any credit available to the tiered owner for the tax liability of the paying pass-through entity. If no such credit was provided to the tiered owner, the statement must include a declaration from the tiered owner to that effect.

EXAMPLE 2: Assume the same facts as Example 1. Partnership X (a tiered owner) receives a statement from Partnership W which shows that W earned $2,000 of income in state A and paid $100 of entity-level income tax to state A and that Partnership X's pro rata share of that income and entity-level income tax is $1,000 and $50, respectively. Partnership X is not eligible for a credit in state A for its share of the entity-level income tax paid by Partnership W. Partnership X is owned 50 percent by individual Z, a resident of Iowa. Individual Z then receives a statement from Partnership X indicating that Partnership X was not eligible for a credit for the tax paid by Partnership W, that

Z's pro rata share of Partnership W's income taxed by state A is $500, and that Z's pro rata share of Partnership W's income tax imposed by and paid to state A is $25. If that $500 of income from Partnership W flows through Partnership X to individual Z, is subject to Iowa income tax, and is included on Z's Iowa income tax return as earned while an Iowa resident, Z will be entitled to treat the $25 of income tax paid by Partnership W to state A as paid by Z in the computation of Z's out-of-state tax credit.

EXAMPLE 3: Assume the same facts as Example 2, except that Partnership X (a tiered owner) is eligible for a $50 credit in state A for its share of the entity-level income tax paid by Partnership W to state A. Partnership X must reduce its share of Partnership W's entity-level income tax ($50) that it can report to its partners by the amount of the credit provided by state A for that tax ($50). Therefore, Partnership X cannot pass Partnership W's entity-level income tax through to individual Z, and Z cannot treat a pro rata share of Partnership W's entity-level income tax as paid by Z. However, if Partnership X is itself subject to and pays an entity-level income tax in state A, it may be allowed to pass through, and individual Z may be allowed to treat as paid by Z a pro rata share of the entity-level income tax paid by Partnership X in state A in the same manner as described in paragraph 304.6(3)*"a."*

304.6(4) *Rule for regulated investment companies.* If the Iowa resident is a shareholder of a regulated investment company making an election under Section 853 of the Internal Revenue Code, the resident shareholder is allowed an out-of-state tax credit for the resident shareholder's pro rata share of entity-level income tax paid to a foreign country or possession of the United States by the regulated investment company and treated as paid by the resident shareholder under Section 853 of the Internal Revenue Code if the income taxed by the foreign country or possession of the United States is also subject to tax in Iowa and is included on the resident shareholder's Iowa income tax return as earned while an Iowa resident. To qualify, the regulated investment company must provide to the resident shareholder a statement identifying the jurisdiction and the resident shareholder's pro rata share of the income, income tax liability, and income tax paid in that jurisdiction.

EXAMPLE 4: Individual D is a resident of Iowa and a shareholder of a mutual fund that paid income tax to foreign jurisdictions and that made an election under Section 853 of the Internal Revenue Code. On the annual, year-end tax statement, the mutual fund reported $2,000 of income to individual D and $10 of foreign tax paid with respect to D's income. If that $2,000 of income from the mutual fund is subject to Iowa income tax and included on individual D's Iowa income tax return as earned while an Iowa resident, D will be entitled to treat the $10 of income tax paid by the mutual fund to the foreign jurisdictions as paid by D in the computation of D's out-of-state tax credit.

304.6(5) *Computing the out-of-state tax credit—preliminary calculation.*

a. Required form. The tax credit must be computed on the IA 130, Iowa Out-of-State Tax Credit Schedule. Married taxpayers filing separate Iowa returns, or filing separately on a combined Iowa return, must complete a separate IA 130 for each spouse.

b. Computed separately by jurisdiction. The tax credit must be computed separately for each out-of-state jurisdiction. A separate IA 130 is required for each out-of-state jurisdiction. However, separate computations and separate IA 130s are not required for foreign income taxes paid by a regulated investment company.

c. Computed separately by income tax type. The tax credit must be computed separately for regular income tax and special lump-sum distribution tax. If the taxpayer was assessed a special tax on a lump-sum distribution by another state or foreign country, compute the tax credit separately under these rules using only the lump-sum distribution and lump-sum distribution tax imposed in Iowa and imposed in the other state or foreign country. A lump-sum distribution taxed by another state or foreign country shall not be included as part of gross income. A minimum tax or income tax imposed on preference items derived from sources in another state or foreign country are not eligible for the out-of-state tax credit under this rule. For rules on the out-of-state tax credit with respect to minimum tax paid, see rule 701—304.7(422).

d. Full-year Iowa residents. For a taxpayer who is an Iowa resident for the entire tax year, the income tax paid to the other state or foreign country is the sum of the following amounts:

(1) Income tax treated as paid by the resident under subrules 304.6(3) and 304.6(4). The income tax shall be treated as paid by the resident for the tax year that the out-of-state pass-through income is considered taxable Iowa income to the resident.

(2) The net state or foreign income tax actually owed and paid by the resident for the tax year on income qualifying under paragraph 304.6(2)*"a,"* as properly computed on the resident's income tax return in the other state or foreign country, less all nonrefundable credits provided to the resident, and less any refundable credits provided to the resident for entity-level income taxes or composite income taxes paid by a pass-through entity. See Example 5 below.

e. Part-year Iowa residents. A taxpayer who is a part-year resident of Iowa may only claim the out-of-state tax credit against the taxpayer's Iowa income tax liability for income tax paid to another state or foreign country on income qualifying under paragraph 304.6(2)*"a"* that is earned during the period of the tax year that the taxpayer was an Iowa resident. The income tax paid to the other state or foreign country is the sum of the following amounts:

(1) Income tax treated as paid by the resident under subrules 304.6(3) and 304.6(4) on income earned during the period of the tax year that the taxpayer was an Iowa resident. The income tax shall be treated as paid by the resident for the tax year that the out-of-state pass-through income is considered taxable Iowa income.

(2) The net state or foreign income tax actually owed and paid by the taxpayer for the tax year on income qualifying under paragraph 304.6(2)*"a"* that was earned during the period of the tax year that the taxpayer was an Iowa resident, as properly computed on the resident's income tax return in the other state or foreign country, less all nonrefundable credits provided to the resident, and less any refundable credits provided to the resident for entity-level income taxes or composite income taxes paid by a pass-through entity. See Example 6 below.

304.6(6) *Computing the out-of-state tax credit—additional limitations and considerations.*

a. Maximum credit. The out-of-state tax credit cannot exceed the amount of Iowa income tax that would have been imposed on the same income which was taxed by the other state or foreign country. The maximum out-of-state tax credit must be computed according to the formula in this paragraph. If gross income is subject to tax in a jurisdiction at more than one level (i.e., at the pass-through entity level and at the individual level), it shall only be counted once for purposes of computing the maximum credit.

(1) Full-year Iowa residents. Gross income qualifying under paragraph 304.6(2)*"a"* and taxed by the other state or foreign country shall be divided by the total gross income of the Iowa resident taxpayer. This quotient, multiplied by the net Iowa tax as determined on the total gross income of the taxpayer as if entirely earned in Iowa, shall be the maximum tax credit. For tax years beginning before January 1, 2022, this quotient shall be computed as a percentage rounded to the nearest tenth of a percent (e.g., 1.2 percent). For tax years beginning on or after January 1, 2022, this quotient shall be computed as a percentage rounded to the nearest ten-thousandth of a percent (e.g., 1.2345 percent). For purposes of this subparagraph, "net Iowa tax" means the Iowa regular income tax after reduction for the nonrefundable credits provided in Iowa Code section 422.12.

EXAMPLE 5: Taxpayer A was an Iowa resident for the entire tax year but commuted across the border and worked in state Z. Taxpayer A had wages of $30,000 in state Z. Taxpayer A filed an income tax return in state Z reporting the $30,000 of wages and had state Z income tax liability of $500, which is A's preliminary out-of-state credit under subrule 304.6(5). Taxpayer A also had income of $10,000 from rental of an Iowa farm and another $10,000 in interest income from a personal savings account. Taxpayer A's total gross income for the tax year was $50,000. Thus, 60 percent ($30,000 ÷ $50,000) of Taxpayer A's income was earned in state Z. Taxpayer A's net Iowa tax on total gross income was $817, which results in a maximum out-of-state credit of $490 ($817 ×.60). Therefore, the out-of-state tax credit allowed is $490, because the maximum credit of $490 was less than the preliminary credit of $500.

(2) Part-year Iowa residents. Gross income qualifying under paragraph 304.6(2)*"a"* that was earned during the period of the tax year that the taxpayer was an Iowa resident and taxed by the other state or foreign country shall be divided by the total gross income of the Iowa taxpayer earned while an Iowa resident or otherwise sourced to Iowa. This quotient, multiplied by the net Iowa tax as determined on the total gross income of the taxpayer as if entirely earned in Iowa, shall be the maximum tax credit. For tax years beginning before January 1, 2022, this quotient shall be computed as a percentage rounded to the nearest tenth of a percent (e.g., 1.2 percent). For tax years beginning on or after January 1, 2022, this quotient shall be computed as a percentage rounded to the nearest ten-thousandth of a percent (e.g., 1.2345 percent). For purposes of this subparagraph, "net Iowa tax" means the Iowa regular income tax after reduction for the nonrefundable credits provided in Iowa Code section 422.12 and after reduction for the nonresident and part-year resident credit in rule 701—304.5(422).

EXAMPLE 6: Taxpayer B was a part-year Iowa resident for the tax year. Taxpayer B resided in state Z for the first six months of the year and moved to Iowa on July 1 but continued to commute across the border and work in state Z. Taxpayer B was employed in state Z for the entire year and had wages of $30,000 in state Z. Taxpayer B filed an income tax return in state Z reporting the $30,000 of wages and had state Z income tax liability of $1,000. The amount of gross income taxed by state Z while taxpayer B was an Iowa resident was $15,000 (50 percent of the $30,000 of state Z wages). Since 50 percent of the income earned in state Z was earned while taxpayer B was a resident of Iowa, the preliminary out-of-state credit under subrule 304.6(5) was $500 ($1,000 ×.50). Taxpayer B also had $10,000 in farm rental income from farmland located in Iowa. Taxpayer B's gross income earned while an Iowa resident and otherwise sourced to Iowa was $25,000 ($15,000 of wages + $10,000 farm rental income). Thus, 60 percent of the gross income was earned in state Z while an Iowa resident ($15,000 ÷ $25,000). Taxpayer B's net Iowa tax on total gross income was $1,094, which results in a maximum out-of-state credit of $656 ($1,094 ×.60). Therefore, the out-of-state tax credit allowed is $500, because the preliminary credit of $500 was less than the maximum credit of $656.

b. Refund attributable to credit for entity-level income tax or composite income tax paid by a pass-through entity. If the resident claims a refundable tax credit in another state or foreign country for entity-level income tax or composite income tax paid by a pass-through entity, that refundable credit reduces the resident's income tax liability in that state or foreign country as described in subparagraphs 304.6(5)*"d"*(2) and 304.6(5)*"e"*(2). However, any refund attributable to that refundable credit also reduces the amount of income tax treated as paid by the resident under subrules 304.6(3) and 304.6(4). In computing this credit reduction, the refundable credit for entity-level income tax or composite income tax paid by a pass-through entity shall be applied on the other state's or foreign country's income tax return after all nonrefundable credits, but before any other refundable credit. The credit reduction is required whether the resident receives the refund or applies the amount to a different tax liability or tax period.

EXAMPLE 7: Individual B, a resident of Iowa and a 50 percent owner of Partnership P doing business in state Z, receives a statement from Partnership P in accordance with subparagraph 304.6(3)*"a"*(3) showing that P earned income in and paid entity-level income tax to state Z and individual B's pro rata share of that income and that entity-level income tax is $5,000 and $250, respectively. However, individual B also receives a $250 refundable credit from state Z for B's share of the entity-level income tax paid by Partnership P. Individual B files an individual income tax return in state Z to report B's pro rata share of income from Partnership P and calculates a tentative income tax of $200, before application of the refundable credit. Individual B applies the refundable tax credit against that tentative income tax and calculates an income tax liability of $0 and a refund of $50 from state Z. Therefore, individual B must reduce the $250 of entity-level income tax treated as paid by B under subrule 304.6(3) to $200 ($250 - $50). Individual B files an Iowa income tax return which includes the $5,000 of income from Partnership P earned in state Z and calculates a preliminary out-of-state tax credit under subrule 304.6(5) of $200.

c. Taxpayers claiming the S corporation apportionment tax credit. A taxpayer who is a shareholder of an S corporation and who has income that was apportioned outside of Iowa through a claim to the S corporation apportionment tax credit is not permitted to claim the out-of-state tax credit on the same S corporation income. Income tax paid by the resident or a pass-through entity with respect to the S corporation income shall not be included in the resident's preliminary credit calculation in paragraph 304.6(5)*"d"* or *"e."* Gross income from the S corporation shall not be included in the resident's maximum credit calculation in paragraph 304.6(6)*"a."*

d. Married taxpayers using a different filing status in the other state or foreign country. If married taxpayers use a separate filing status in the other state or foreign country, but file jointly for Iowa tax purposes, the taxpayers must combine both spouses' income and income tax paid in the other state or foreign country for purposes of computing the out-of-state tax credit. If married taxpayers file jointly in the other state or foreign country, but file separate Iowa returns, or separately on a combined Iowa return, the taxpayers must prorate the income tax paid in the other state or foreign country according to each spouse's respective gross income earned in that state or foreign country.

e. Tax on income that does not flow through to resident. Entity-level income tax or composite income tax paid by a pass-through entity on income that does not flow through to the Iowa resident and meet the requirements of paragraph 304.6(2)*"a"* does not qualify for the out-of-state tax credit. For example, a LIFO recapture tax installment paid by an S corporation in another state would not qualify because that tax is measured by the income of the entity in the last tax year it was a C corporation, when such income did not flow through to the shareholders. Also, income tax paid by a trust in another state on income not distributed to the beneficiaries would not qualify because that income did not flow through to the beneficiaries. These examples are not intended to be exhaustive.

f. Recalculating credit following adjustments in the other jurisdiction. If the taxpayer or the taxpayer's pass-through entity amends the amount of income or income tax liability reported and paid to the other state or foreign country, either through an amended return, audit, or otherwise, the taxpayer shall file an amended Iowa return and recalculate the allowable out-of-state tax credit. Any refund must be requested by the later of three years after the due date of the return, or one year after payment of the tax, as prescribed in Iowa Code section 422.73(2)*"a."* Iowa law does not provide additional time to request a refund following an audit by another state or foreign country.

g. Nonrefundable and nontransferable. The out-of-state tax credit cannot exceed the resident's tax liability; thus, no amount is eligible to be carried forward to any future tax year. The credit may not be transferred to any other person.

304.6(7) *Claiming the out-of-state tax credit—supporting documentation.* To claim the out-of-state tax credit, the taxpayer claiming the credit must submit the following to the department with the return or upon request as indicated below:

a. Out-of-state tax return. A copy of the income tax return filed with the other state or foreign country must be submitted. The department may further request a copy of the return which has been certified by the tax authority of that state or foreign country and showing thereon that the income tax assessed has been paid to them.

b. Iowa income tax return. To claim the out-of-state tax credit, a taxpayer must file an Iowa income tax return for the tax year for which the credit is claimed. A taxpayer must file an Iowa income tax return to claim the out-of-state tax credit even if the taxpayer would not otherwise have an obligation to file an Iowa income tax return for the year for which the credit is claimed.

c. Iowa out-of-state tax credit schedule. An IA 130, Iowa Out-of-State Tax Credit Schedule, must be submitted for the tax year for which the credit is claimed.

d. Pass-through entity statements. A taxpayer who is claiming an out-of-state tax credit for entity-level income tax or composite income tax paid by a pass-through entity must submit a statement from the pass-through entity that meets the requirements of subrule 304.6(3). The pass-through entity's actual income tax returns must be submitted to the department upon request. A taxpayer who is claiming an out-of-state tax credit for entity-level income tax paid by a regulated investment

company must submit a statement from the regulated investment company that meets the requirements of subrule 304.6(4).

e. Additional foreign income tax documentation. A taxpayer who is claiming the out-of-state tax credit for income taxes paid to a foreign country must provide the department with a copy of federal Form 1116, Foreign Tax Credit, if that form was required to be submitted with the taxpayer's federal income tax return. This submission requirement does not mean that all amounts on federal Form 1116 qualify for the Iowa out-of-state tax credit. Additionally, if the income tax was paid in foreign currency, the taxpayer shall include a detailed explanation of how the taxpayer figured the conversion rate. The conversion rate is the rate of exchange in effect on the day the taxpayer paid the foreign income tax.

f. Proof of payment. Upon request, the taxpayer must provide the department with a photocopy, or other similar reproduction, of either:

(1) The receipt issued by the other state or foreign country for payment of the tax, or

(2) The canceled check (both sides) with which the tax was paid to the other state or foreign country together with a statement of the amount and kind (e.g., wage or salary income, rental income, business income) of total income on which such tax was paid.

This rule is intended to implement Iowa Code section 422.8.

[**ARC 6029C**, IAB 11/3/21, effective 12/8/21; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—304.7(422) Out-of-state tax credit for minimum tax.

304.7(1) *General rule.* Iowa residents are allowed an out-of-state tax credit for minimum taxes or income taxes paid to another state or foreign country on preference items derived from sources outside of Iowa. Part-year residents who pay minimum tax to another state or foreign country on preference items derived from sources outside Iowa will be allowed an out-of-state tax credit only to the extent that the minimum tax paid to the other state or foreign country relates to preference items that occurred during the period the taxpayer was an Iowa resident. Taxpayers who were nonresidents of Iowa for the entire tax year are not eligible for an out-of-state tax credit on their Iowa returns for minimum taxes paid to another state or foreign country on preference items.

If the Iowa resident is a partner, shareholder, member, or beneficiary of a partnership, S corporation, limited liability company, or trust which files a composite income tax return and pays minimum tax in another state on behalf of the partners, shareholders, members or beneficiaries, the out-of-state tax credit will be allowed for the Iowa resident. The Iowa resident must provide a schedule of the resident's share of the minimum tax paid to another state on a composite basis, and the out-of-state tax credit is limited based upon the calculation set forth in subrule 304.7(2).

However, if the partnership, S corporation, limited liability company, or trust is directly subject to minimum tax in another state and the minimum tax is not directly imposed on the resident taxpayer, then the out-of-state tax credit is not allowed for the Iowa resident on the minimum tax directly imposed on the partnership, S corporation, limited liability company, or trust. For example, if another state does not recognize the S corporation election for state tax purposes and a corporation income tax is imposed directly on the S corporation which includes minimum tax, then the out-of-state tax credit is not allowed for the Iowa resident shareholder on the corporation income tax, including minimum tax, paid to the other state.

304.7(2) *Limitation of out-of-state tax credit for minimum tax.* The limitation on the out-of-state tax credit for minimum tax is that the credit shall not exceed the Iowa minimum tax that would have been computed on the same preference items which were taxed by the other state or foreign country. The limitation may be determined according to the following formula: The total of preference items earned outside of Iowa and taxed by another state or foreign country shall be divided by the total of preference items of the resident taxpayer. This quotient, multiplied by the state minimum tax on the total of preference items as if entirely earned in Iowa, shall be the maximum credit against the Iowa minimum tax. However, if the minimum tax imposed by the other state or foreign country is less than

the minimum tax computed under the limitation formula, the out-of-state credit for minimum tax will not exceed the minimum tax imposed by the other state or foreign country.

No out-of-state credit will be allowed on the Iowa return for minimum tax paid to another state or foreign country to the extent that the minimum tax of the other state or foreign country is imposed on items of tax preference not subject to the Iowa minimum tax. In addition, no out-of-state credit will be allowed for minimum tax paid to another state or foreign country of capital gains or losses from distressed sales which are excluded from the Iowa minimum tax. Capital gains or losses from distressed sales are described in rule 701—302.27(422).

304.7(3) *Proof of claim for out-of-state tax credit for minimum tax.* The out-of-state credit for minimum tax may be claimed on the return of a taxpayer if proof of payment of minimum tax to the state or foreign country is included with the return. Documents needed for proof of payment are a photocopy of the minimum tax form of the state or country to which minimum tax was paid as well as instructions from the minimum tax form or other information which specifies how the minimum tax is imposed and what preference items are subject to the minimum tax of that state or foreign country.

In the case of audit by the department of a taxpayer claiming an out-of-state tax credit for minimum tax paid, the department may require additional proof of payment of the out-of-state tax credit. The department will accept any of the following documents as verification of payment of the minimum tax:

a. A photocopy, or other similar reproduction, of either:

(1) The receipt issued by the other state or foreign country for payment of the tax, including the minimum tax, or

(2) The canceled check (both sides) which was used for payment of the minimum tax to the other state or foreign country.

b. A copy of the return filed with the other state or foreign country which has been certified by the tax authority of that state or foreign country and which shows that the income tax, including the minimum tax, has been paid.

This rule is intended to implement Iowa Code section 422.8.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—304.8(422) Withholding and estimated tax credits. An employee from whose wages tax is withheld shall claim credit for the tax withheld on the employee's income tax return for the year during which the tax was withheld. Credit will be allowed only if a copy of the withholding statement is attached to the return. Taxpayers who have made estimated income tax payments shall claim credit for the estimated tax paid for the taxable year.

This rule is intended to implement Iowa Code section 422.16.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; Editorial change: IAC Supplement 11/2/22]

701—304.9(422) Motor fuel credit. An individual, partnership, limited liability company, or S corporation may elect to receive an income tax credit in lieu of the motor fuel tax refund provided by Iowa Code chapter 452A. An individual, partnership, limited liability company, or S corporation which holds a motor fuel tax refund permit under Iowa Code section 452A.18 when it makes this election must cancel the permit within 30 days after the first day of the tax year. However, if the refund permit is not canceled within this period, the permit becomes invalid at the time the election to receive an income tax credit is made. The election will continue for subsequent tax years unless a new motor fuel tax refund permit is obtained.

The motor fuel income tax credit must be the amount of Iowa motor fuel tax paid on qualifying fuel purchases as determined by Iowa Code chapter 452A and Iowa Code section 422.110 less any state sales tax as determined by 701—subrule 220.2(2). The credit must be claimed on the tax return covering the tax year in which the motor fuel tax was paid. If the motor fuel credit results in an overpayment of income tax, the overpayment may be refunded or may be credited to income tax due in the subsequent tax year.

The motor fuel tax credits for fuel taxes paid by partnerships, limited liability companies, and S corporations are not claimed on returns filed for the partnerships, limited liability companies, and S corporations. Instead, the pro rata shares of the motor fuel tax credits are allocated to the partners, members, and shareholders in the same ratio as incomes are allocated to the partners, members, and shareholders. A schedule must be attached to the individual's returns showing the distribution of gallons and the amount of credit claimed by each partner, member, or shareholder.

The partnership, limited liability company, or S corporation must attach to its return a schedule showing the allocation to each partner, member, or shareholder of the motor fuel purchased by the partnership, limited liability company, or S corporation which qualifies for the credit.

This rule is intended to implement Iowa Code sections 422.110 and 422.111.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—304.10(422) Alternative minimum tax credit for minimum tax paid in a prior tax year. Minimum tax paid in prior tax years commencing with tax years beginning on or after January 1, 1987, by a taxpayer can be claimed as a tax credit against the taxpayer's regular income tax liability in a subsequent tax year. Therefore, 1988 is the first tax year that the minimum tax credit is available, and the credit is based on the minimum tax paid by the taxpayer for 1987. The minimum tax credit may only be used against regular income tax for a tax year to the extent that the regular tax is greater than the minimum tax for the tax year. If the minimum tax credit is not used against the regular tax for a tax year, the remaining credit is carried over to the following tax year to be applied against the regular income tax liability for that period. The minimum tax credit is computed on Form IA 8801.

304.10(1) *Examples of computation of the minimum tax credit and carryover of the credit.*

EXAMPLE 1. The taxpayers reported $5,000 of minimum tax for 2007. For 2008, the taxpayers reported regular tax of $8,000, and the minimum tax liability is $6,000. The minimum tax credit is $2,000 for 2008 because, although the taxpayers had an $8,000 regular tax liability, the credit is allowed only to the extent that the regular tax exceeds the minimum tax. Since only $2,000 of the carryover credit from 2007 was used, there is a $3,000 minimum tax carryover credit to 2009.

EXAMPLE 2. The taxpayers reported $2,500 of minimum tax for 2007. For 2008, the taxpayers reported regular tax of $8,000, and the minimum tax liability is $5,000. The minimum tax credit is $2,500 for 2008 because, although the regular tax exceeded the minimum tax by $3,000, the credit is allowed only to the extent of minimum tax paid for prior tax years. There is no minimum tax carryover credit to 2009.

304.10(2) *Minimum tax credit for nonresidents and part-year residents.* Nonresident and part-year resident taxpayers who paid Iowa minimum tax in tax years beginning on or after January 1, 1987, are eligible for the minimum tax credit to the extent that the minimum tax they paid was attributable to tax preferences and adjustments. Therefore, if a nonresident or part-year resident taxpayer had Iowa source tax preferences or adjustments, then all the minimum tax that was paid would qualify for the minimum tax credit.

The minimum tax credit for a tax year as computed above applies to the regular income tax liability less the nonresident part-year credit to the extent this regular tax amount exceeds the minimum tax for the tax year. To the extent the credit is not used, the credit can be carried over to the next tax year.

This rule is intended to implement Iowa Code section 422.11B.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 2829C**, IAB 11/23/16, effective 1/1/17; Editorial change: IAC Supplement 11/2/22]

701—304.11(15,422) Research activities credit. The taxes imposed on individual income shall be reduced by a state tax credit for increasing research activities in this state. For individual income tax, the requirements of the research activities credit are described in Iowa Code section 422.10. This rule explains terms not defined in the statute and procedures for claiming the credit.

304.11(1) *Definitions.*

"Accountant" means a person authorized under Iowa Code chapter 542 to engage in the practice of public accounting in Iowa as defined in Iowa Code section 542.3(23) or authorized to engage in such practice in another state under a similar law of another state.

"Architect" means a person licensed under Iowa Code chapter 544A or a similar law of another state.

"Aviation and aerospace" means the design, development or production of aircraft, rockets, missiles, spacecraft and other machinery and equipment that operate in aerospace.

"Collection agency" means a person primarily engaged in the business of collecting debt, including but not limited to consumer debt collection subject to the provisions of the federal Fair Debt Collections Practices Act in 15 U.S.C. §1692 et seq., the Iowa debt collection practices Act in Iowa Code sections 537.7101 through 537.7103, or other similar state law.

"Finance or investment company" means a person primarily engaged in finance or investment activities broadly consisting of the holding, depositing, or management of a customer's money or assets for investment purposes, or the provision of loans or other similar financing or credit to customers. "Finance or investment company" includes but is not limited to a person organized or licensed under Iowa Code chapter 524, 533, or 533D or other similar state or federal law, or an investment company as defined in 15 U.S.C. §80a-3.

"Life sciences" means the sciences concerned with the study of living organisms, including agriscience, biology, botany, zoology, microbiology, physiology, biochemistry, and related subjects.

"Manufacturing" means the same as defined in 2018 Iowa Acts, Senate File 2417, section 183.

"Publisher" means a person whose primary business is the publishing of books, periodicals, newspapers, music, or other works for sale in any format.

"Real estate company" means a person licensed under Iowa Code chapter 543B or otherwise primarily engaged in acts constituting dealing in real estate as described in Iowa Code section 543B.6.

"Retailer" means a person that primarily engages in sales of personal property as defined in 2018 Iowa Acts, Senate File 2417, section 158, or services directly to an ultimate consumer. A business that primarily makes sales for resale is not a retailer.

"Software engineering" means the detailed study of the design, development, operation, and maintenance of software.

"Transportation company" means a person whose primary business is the transportation of persons or property from one place to another.

"Wholesaler" means a person that primarily engages in buying large quantities of goods and reselling them in smaller quantities to retailers or other merchants who in turn sell those goods to the ultimate consumer.

304.11(2) *Requirement that the business claim and be allowed the federal credit.* To claim this credit, a taxpayer's business must claim and be allowed a research credit for such qualified research expenses under Section 41 of the Internal Revenue Code for the same taxable year as the taxpayer's business is claiming the credit.

a. Being "allowed" the federal credit. For purposes of this subrule, a federal credit is "allowed" if the taxpayer meets all requirements to claim the credit under Section 41 of the Internal Revenue Code and any applicable federal regulation and Internal Revenue Service guidance and such credit has not been disallowed by the Internal Revenue Service.

b. Applicability of requirement to pass-throughs. If the individual received the Iowa credit through a pass-through entity, the pass-through entity that conducted the research must have claimed and been allowed the federal credit in order for the individual to claim the Iowa credit.

c. Impact of federal audit. If the Internal Revenue Service audits or otherwise reviews the return and disallows the credit, the taxpayer shall file an amended Iowa return along with supporting schedules, including an amended federal return or a copy of the federal revenue agent's report and notification of final federal adjustments, to add back the Iowa credit to the extent not previously disallowed by the department.

d. Authority of the department. Nothing in this subrule shall limit the department's authority to review, examine, audit, or otherwise challenge an Iowa tax credit claim under Iowa Code section 422.10, regardless of inaction, a settlement, or a determination by the Internal Revenue Service under Section 41 of the Internal Revenue Code.

304.11(3) *Calculating the credit.* For information on how the credit is calculated, see Iowa Code section 422.10.

304.11(4) *Claiming the tax credit.*

a. Forms. The credit must be claimed on the forms provided on the department's website and must include all information required by the forms.

b. Allocation to the individual owners of an entity or beneficiaries of an estate or trust. An individual may claim a research activities credit incurred by a partnership, S corporation, limited liability company, estate, or trust electing to have the income of the business entity taxed to the individual. The amount claimed by an individual from the business entity shall be based upon the pro rata share of the individual's earnings from a partnership, S corporation, estate or trust.

c. Refundability. Any research credit in excess of the individual's tax liability, less the nonrefundable credits authorized in Iowa Code chapter 422, division II, may be refunded to the individual or may be credited to the individual's tax liability for the following tax year.

d. Transferability. Tax credit certificates shall not be transferred to any other person.

e. Enterprise zone claimants. The enterprise zone program was repealed on July 1, 2014. However, any supplemental research activities credit earned by businesses pursuant to Iowa Code section 15.335 and approved under the enterprise zone program prior to July 1, 2014, remains valid and can be claimed on tax returns filed after July 1, 2014.

This rule is intended to implement Iowa Code sections 15.335 and 422.10 as amended by 2018 Iowa Acts, Senate File 2417.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 9104B**, IAB 9/22/10, effective 10/27/10; **ARC 9820B**, IAB 11/2/11, effective 12/7/11; **ARC 0337C**, IAB 9/19/12, effective 10/24/12; **ARC 1101C**, IAB 10/16/13, effective 11/20/13; **ARC 1545C**, IAB 7/23/14, effective 8/27/14; **ARC 1744C**, IAB 11/26/14, effective 12/31/14; **ARC 4143C**, IAB 11/21/18, effective 12/26/18; Editorial change: IAC Supplement 11/2/22]

701—304.12(422) New jobs credit. A tax credit is available to an individual who has entered into an agreement under Iowa Code chapter 260E and has increased employment by at least 10 percent.

304.12(1) *Definitions.*

a. The term "new jobs" means those jobs directly resulting from a project covered by an agreement authorized by Iowa Code chapter 260E (Iowa industrial new jobs training Act) but does not include jobs of recalled workers or replacement jobs or other jobs that formerly existed in the industry in this state.

b. The term "jobs directly related to new jobs" means those jobs which directly support the new jobs but do not include in-state employees transferred to a position which would be considered to be a job directly related to new jobs unless the transferred employee's vacant position is filled by a new employee. The burden of proof that a job is directly related to new jobs is on the taxpayer.

EXAMPLE A. A taxpayer who has entered into a chapter 260E agreement to train new employees for a new product line, transfers an in-state employee to be foreman of the new product line but does not fill the transferred employee's position. The new foreman's position would not be considered a job directly related to new jobs even though it directly supports the new jobs because the transferred employee's old position was not refilled.

EXAMPLE B. A taxpayer who has entered into a chapter 260E agreement to train new employees for a new product line transfers an in-state employee to be foreman of the new product line and fills the transferred employee's position with a new employee. The new foreman's position would be considered a job directly related to new jobs because it directly supports the new jobs and the transferred employee's old position was filled by a new employee.

c. The term "taxable wages" means those wages upon which an employer is required to contribute to the state unemployment fund as defined in Iowa Code section 96.1A(36) for the year in

which the taxpayer elects to take the new jobs tax credit. For fiscal year taxpayers, "taxable wages" shall not be greater than the maximum wage upon which an employer is required to contribute to the state unemployment fund for the calendar year in which the taxpayer's fiscal year begins.

d. The term "agreement" means an agreement entered into under Iowa Code chapter 260E after July 1, 1985, an amendment to that agreement, or an amendment to an agreement entered into before July 1, 1985, if the amendment sets forth the base employment level as of the date of the amendment. The term "agreement" also includes a preliminary agreement entered into under Iowa Code chapter 260E provided the preliminary agreement contains all the elements of a contract and includes the necessary elements and commitments relating to training programs and new jobs.

e. The term "base employment level" means the number of full-time jobs an industry employs at a plant site which is covered by an agreement under Iowa Code chapter 260E on the date of the agreement.

f. The term "project" means a training arrangement which is the subject of an agreement entered into under Iowa Code chapter 260E.

g. The term "industry" means a business engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products, conducting research and development, or providing services in interstate commerce, but excludes retail, health, and professional services. "Industry" does not include a business which closes or substantially reduces its operations in one area of the state and relocates substantially the same operation in another area of the state. "Industry" is a business engaged in the above-listed activities rather than the generic definition encompassing all businesses in the state engaged in the same activities. For example, in the meat-packing business, an industry is considered to be a single corporate entity or operating division, rather than the entire meat-packing business in the state.

h. The term "new employees" means the same as new jobs or jobs directly related to new jobs.

i. The term "full-time job" means any of the following:

(1) An employment position requiring an average work week of 35 or more hours;

(2) An employment position for which compensation is paid on a salaried full-time basis without regard to hours worked; or

(3) An aggregation of any number of part-time or job-sharing employment positions which equal one full-time employment position. For purposes of this subrule, each part-time or job-sharing employment position shall be categorized with regard to the average number of hours worked each week as one-quarter, half, three-quarters, or full-time position, as set forth in the following table:

Average Number of Weekly Hours	Category
More than 0 but less than 15	¼
15 or more but less than 25	½
25 or more but less than 35	¾
35 or more	1 (full-time)

304.12(2) *How to compute the credit.* The credit is 6 percent of the taxable wages paid to employees in new jobs or jobs directly related to new jobs for the taxable year in which the taxpayer elects to take the credit.

EXAMPLE 1. A taxpayer enters into an agreement to increase employment by 20 new employees which is greater than 10 percent of the taxpayer's base employment level of 100 employees. In year one of the agreement, the taxpayer hires 20 new employees but elects not to take the credit in that year. In year two of the agreement, only 18 of the new employees hired in year one are still employed and the taxpayer elects to take the credit. The credit would be 6 percent of the taxable wages of the 18 remaining new employees. In year three of the agreement, the taxpayer hires two additional new employees under the agreement to replace the two employees that left in year two and elects to take the credit. The credit would be 6 percent of the taxable wages paid to the two replacement employees. In year four of the agreement, three of the employees for which a credit had

been taken left employment and three additional employees were hired. No credit is available for these employees. A credit can only be taken one time for each new job or job directly related to a new job.

EXAMPLE 2. A taxpayer operating two plants in Iowa enters into a chapter 260E agreement to train new employees for a new product line at one of the taxpayer's plants. The base employment level on the date of the agreement at plant A is 300 and at plant B is 100. Under the agreement, 20 new employees will be trained for plant B which is greater than a 10 percent increase of the base employment level for plant B. In the year in which the taxpayer elects to take the credit, the employment level at plant A is 290 and at plant B is 120. The credit would be 6 percent of the wages of 10 new employees at plant B as 10 new jobs were created by the industry in the state. A credit for the remaining 10 employees can be taken if the employment level at plant A increases back to 300 during the period of time that the credit can be taken.

304.12(3) *When the credit can be taken.* The taxpayer may elect to take the credit in any tax year which either begins or ends during the period beginning with the date of the agreement and ending with the date by which the project is to be completed under the agreement. However, the taxpayer may not take the credit until the base employment level has been exceeded by at least 10 percent.

EXAMPLE: A taxpayer enters into an agreement to increase employment from a base employment level of 200 employees to 225 employees. In year one of the agreement, the taxpayer hires 20 new employees which is a 10 percent increase over the base employment level but elects not to take the credit. In year two of the agreement, two of the new employees leave employment. The taxpayer elects to take the credit which would be 6 percent of the taxable wages of the 18 employees currently employed. In year three, the taxpayer hires 7 new employees and elects to take the credit. The credit would be 6 percent of the taxable wages of the 7 new employees.

A taxpayer may claim on the taxpayer's individual income tax return the pro rata share of the Iowa new jobs credit from a partnership, subchapter S corporation, estate or trust. The portion of the credit claimed by the individual shall be in the same ratio as the individual's pro rata share of the earnings of the partnership, subchapter S corporation, or estate or trust. All partners in a partnership, shareholders in a subchapter S corporation and beneficiaries in an estate or trust shall elect to take the Iowa new jobs credit the same year.

For tax years beginning prior to January 1, 2007, any Iowa new jobs credit in excess of the individual's tax liability less the credits authorized in Iowa Code sections 422.12 and 422.12B may be carried forward for ten years or until it is used, whichever is the earlier. For tax years beginning on or after January 1, 2007, any Iowa new jobs credit in excess of the individual's tax liability less the credits authorized in Iowa Code section 422.12 may be carried forward for ten years or until it is used, whichever is the earlier.

This rule is intended to implement Iowa Code section 422.11A.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; Editorial change: IAC Supplement 11/2/22]

701—304.13(422) Earned income credit.

304.13(1) *Tax years beginning before January 1, 2007.* Effective for tax years beginning on or after January 1, 1990, an individual is allowed an Iowa earned income credit equal to a percentage of the earned income credit to which the taxpayer is entitled on the taxpayer's federal income tax return as authorized in Section 32 of the Internal Revenue Code. The Iowa earned income credit is nonrefundable; therefore, the credit may not exceed the remaining income tax liability of the taxpayer after the personal exemption credits and the other nonrefundable credits are deducted. The percentage of the earned income credit for tax years beginning in the 1990 calendar year is 5 percent. The percentage of the earned income credit for tax years beginning on or after January 1, 1991, is 6.5 percent.

For federal income tax purposes, the earned income credit is available for a low-income worker who maintains a household in the United States that is the principal place of abode of the worker and a child or children for more than one-half of the tax year or the worker must have provided a home for the entire tax year for a dependent parent. In addition, the worker must be (1) a married person

who files a joint return and is entitled to a dependency exemption for a son or daughter, adopted child or stepchild; (2) a surviving spouse; or (3) an individual who qualifies as a head of household as described in Section 2(b) of the Internal Revenue Code. The federal earned income credit for a taxpayer is determined by computing the taxpayer's earned income on a worksheet provided in the federal income tax return instructions and determining the allowable credit from a table included in the instructions for the 1040 or 1040A. For purposes of the credit, a taxpayer's earned income includes wages, salaries, tips, or other compensation plus net income from self-employment.

In the case of married taxpayers who filed a joint federal return and who elected to file separate state returns or separately on the combined return form, the Iowa earned income credit is allocated between the spouses in the ratio that each spouse's earned income relates to the earned income of both spouses.

Nonresidents and part-year residents of Iowa are allowed the same earned income credits as resident taxpayers.

304.13(2) *Tax years beginning on or after January 1, 2007.* Effective for tax years beginning on or after January 1, 2007, but beginning before January 1, 2013, an individual is allowed an Iowa earned income credit equal to 7 percent of the earned income credit to which the taxpayer is entitled on the taxpayer's federal income tax return as authorized in Section 32 of the Internal Revenue Code. For tax years beginning on or after January 1, 2013, but beginning before January 1, 2014, an individual is allowed an Iowa earned income tax credit equal to 14 percent of the earned income credit to which the taxpayer is entitled on the taxpayer's federal income tax return as authorized in Section 32 of the Internal Revenue Code. For tax years beginning on or after January 1, 2014, an individual is allowed an Iowa earned income tax credit equal to 15 percent of the earned income credit to which the taxpayer is entitled on the taxpayer's federal income tax return as authorized in Section 32 of the Internal Revenue Code. The Iowa earned income credit is refundable; therefore, the credit may exceed the remaining income tax liability of the taxpayer after the personal exemption credits and other nonrefundable credits are deducted.

In the case of married taxpayers who filed a joint federal return and who elected to file separate state returns or separately on the combined return form, the Iowa earned income credit is allocated between the spouses in the ratio that each spouse's earned income relates to the earned income of both spouses.

Nonresidents or part-year residents of Iowa must determine the Iowa earned income tax credit in the ratio of their Iowa source net income to their total source net income. In addition, if nonresidents or part-year residents of Iowa are married and elect to file separate returns or separately on the combined return form, the Iowa earned income credit must be allocated between the spouses in the ratio of each spouse's Iowa source net income to the combined Iowa source net income.

EXAMPLE: A married couple lives in Omaha, Nebraska. One spouse worked in Iowa in 2007 and had wages and other income from Iowa sources of $12,000. That spouse had a federal adjusted gross income from all sources of $15,000. The other spouse had no Iowa source net income and had a federal adjusted gross income from all sources of $10,000. The taxpayers had a federal earned income credit of $2,800.

The federal earned income credit of $2,800 multiplied by 7 percent equals $196. The ratio of Iowa source net income of $12,000 divided by total source net income of $25,000 equals 48 percent. The Iowa earned income tax credit equals $196 multiplied by 48 percent, or $94.

This rule is intended to implement Iowa Code section 422.12B as amended by 2013 Iowa Acts, Senate File 295.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 1102C**, IAB 10/16/13, effective 11/20/13; Editorial change: IAC Supplement 11/2/22]

701—304.14(15) Investment tax credit—new jobs and income program and enterprise zone program.

304.14(1) *General rule.* An investment tax credit of up to 10 percent of the new investment which is directly related to new jobs created by the location or expansion of an eligible business is available for businesses approved by the economic development authority under the new jobs and income program and the enterprise zone program. The new jobs and income program was repealed on July 1, 2005, and has been replaced with the high quality job creation program. See rule 701—304.29(15) for information on the investment tax credit under the high quality job creation program. Any investment tax credit earned by businesses approved under the new jobs and income program prior to July 1, 2005, remains valid and can be claimed on tax returns filed after July 1, 2005. The credit is available for machinery and equipment or improvements to real property placed in service after May 1, 1994. The credit shall be taken in the year the qualifying asset is placed in service. The enterprise zone program was repealed on July 1, 2014. Any investment tax credit earned by businesses approved under the enterprise zone program prior to July 1, 2014, remains valid and can be claimed on tax returns filed after July 1, 2014. For business applications received by the economic development authority on or after July 1, 1999, purchases of real property made in conjunction with the location or expansion of an eligible business, the cost of land and any buildings and structures located on the land will be considered to be new investment which is directly related to new jobs for purposes of determining the amount of new investment upon which an investment tax credit may be taken. For projects approved on or after July 1, 2005, under the enterprise zone program, the investment tax credit will be amortized over a five-year period, as described in subrule 304.29(2).

For eligible businesses approved by the Iowa department of economic development on or after March 17, 2004, certain lease payments made by eligible businesses to a third-party developer will be considered to be new investment for purposes of computing the investment tax credit. The eligible business shall enter into a lease agreement with the third-party developer for a minimum of ten years. The investment tax credit is based on the annual base rent paid to a third-party developer by the eligible business for a period not to exceed ten years. The total costs of the annual base rent payments for the ten-year period cannot exceed the cost of the land and the third-party developer's cost to build or renovate the building used by the eligible business. The annual base rent is defined as the total lease payment less taxes, insurance and operating and maintenance expenses.

Any credit in excess of the tax liability for the tax year may be carried forward seven years or until used, whichever is the earlier.

If the business is a partnership, S corporation, limited liability company, or an estate or trust electing to have the income taxed directly to an individual, an individual may claim the credit. The amount of the credit claimed by the individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

304.14(2) *Investment tax credit—value-added agricultural products or biotechnology-related processes.* For tax years beginning on or after July 1, 2001, an eligible business whose project primarily involves the production of value-added agricultural products may elect to receive a refund for all or a portion of an unused investment tax credit. For tax years beginning on or after July 1, 2001, but before July 1, 2003, an eligible business includes a cooperative described in Section 521 of the Internal Revenue Code which is not required to file an Iowa corporation income tax return and whose project primarily involves the production of ethanol. For tax years beginning on or after July 1, 2003, an eligible business includes a cooperative described in Section 521 of the Internal Revenue Code which is not required to file an Iowa corporation income tax return. For tax years ending on or after July 1, 2005, an eligible business approved under the enterprise zone program whose project primarily involves biotechnology-related processes may elect to receive a refund for all or a portion of an unused investment tax credit.

Eligible businesses shall apply to the Iowa department of economic development for tax credit certificates between May 1 and May 15 of each fiscal year through the fiscal year ending June 30, 2009. The election to receive a refund of all or a portion of an unused investment tax credit is no

longer available beginning with the fiscal year ending June 30, 2010. Only those businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate. The Iowa department of economic development will not issue tax credit certificates for more than $4 million during a fiscal year for this program and eligible businesses described in subrule 304.29(2). If applications are received for more than $4 million, the applicants shall receive certificates for a prorated amount.

The economic development authority will issue tax credit certificates within a reasonable period of time. Tax credit certificates are valid for the tax year following project completion. The tax credit certificate must be included with the tax return for the tax year during which the tax credit is claimed. The tax credit certificate shall not be transferred, except for a cooperative described in Section 521 of the Internal Revenue Code which is required to file an Iowa corporation income tax return and whose project primarily involves the production of ethanol for tax years beginning on or after January 1, 2002, or for a cooperative described in Section 521 of the Internal Revenue Code which is required to file an Iowa corporation income tax return for tax years beginning on or after July 1, 2003.

For value-added agricultural projects, for a cooperative that is not required to file an Iowa income tax return because it is exempt from federal income tax, the cooperative must submit a list of its members and the share of each member's interest in the cooperative. The Iowa department of economic development will issue a tax credit certificate to each member on the list.

See 701—subrule 501.10(4) for examples illustrating how this subrule is applied.

For tax years beginning on or after January 1, 2002, but before July 1, 2003, a cooperative described in Section 521 of the Internal Revenue Code which is required to file an Iowa corporation income tax return and whose project primarily involves the production of ethanol may elect to transfer all or a portion of its tax credit to its members. For tax years beginning on or after July 1, 2003, a cooperative described in Section 521 of the Internal Revenue Code which is required to file an Iowa corporation income tax return may elect to transfer all or a portion of its tax credit to its members. The amount of tax credit transferred and claimed by a member shall be based upon the pro rata share of the member's earnings in the cooperative. The economic development authority will issue a tax credit certificate to each member of the cooperative to whom the credit was transferred provided that tax credit certificates which total no more than $4 million are issued during a fiscal year. The tax credit certificate must be included with the tax return for the tax year during which the tax credit is claimed.

304.14(3) *Repayment of credits.* If an eligible business fails to maintain the requirements of the new jobs and income program or the enterprise zone program, the taxpayer may be required to repay all or a portion of the tax incentives taken on Iowa returns. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the tax credits may have expired, the department may proceed to collect the tax incentives forfeited by failure to maintain the requirements of the new jobs and income program or the enterprise zone program because this repayment is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability. Details on the calculation of the repayment can be found in 261—subrule 187.5(4) of the administrative rules of the economic development authority. If the business is a partnership, limited liability company, S corporation, estate or trust where the income of the taxpayer is taxed to the individual owner(s) of the business, the department may proceed to collect the tax incentives against the partners, members, shareholders or beneficiaries to whom the tax incentives were passed through. See Decision of the Administrative Law Judge in *Damien & Colette Trebilcock, et al.,* Docket No. 11DORF 042-044, June 11, 2012.

If the eligible business, within five years of purchase, sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other existing structures for which a tax credit was claimed under this rule, the income tax liability of the eligible business for the year in which all or part of the property is sold, disposed of, razed, or otherwise rendered unusable shall be increased by one of the following amounts:

a. One hundred percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within one full year after being placed in service.

b. Eighty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within two full years after being placed in service.

c. Sixty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within three full years after being placed in service.

d. Forty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within four full years after being placed in service.

e. Twenty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within five full years after being placed in service.

This rule is intended to implement Iowa Code section 15.333 as amended by 2010 Iowa Acts, Senate File 2380.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 9104B**, IAB 9/22/10, effective 10/27/10; **ARC 1744C**, IAB 11/26/14, effective 12/31/14; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—304.15(422) Child and dependent care credit. There is a child and dependent care credit which is refundable to the extent the amount of the credit exceeds the taxpayer's income tax liability less other applicable income tax credits. If a taxpayer claims the child and dependent care credit, the taxpayer cannot claim the early childhood development credit described in rule 701—304.31(422).

304.15(1) *Computation of the Iowa child and dependent care credit.* The Iowa child and dependent care credit is computed as a percentage of the child and dependent care credit which is allowed for federal income tax purposes under Section 21 of the Internal Revenue Code. For tax years beginning on or after January 1, 2015, the Iowa credit is computed without regard to whether or not the federal credit was limited to the taxpayer's federal tax liability. In addition, for tax years beginning on or after January 1, 2015, the Iowa credit will be allowed even if the taxpayer's federal adjusted gross income is below $0. The credit is computed so that taxpayers with lower net incomes are allowed higher percentages of their federal child care credit than taxpayers with higher net incomes. The following is a schedule showing the percentages of federal child and dependent care credits allowed on the taxpayers' Iowa returns on the basis of the net incomes of the taxpayers.

* Net income	Percentage of federal credit allowed for tax years beginning on or after January 1, 2006, and before January 1, 2021	Percentage of federal credit allowed for tax years beginning on or after January 1, 2021
Less than $10,000	75%	75%
$10,000 or more but less than $20,000	65%	65%
$20,000 or more but less than $25,000	55%	55%
$25,000 or more but less than $35,000	50%	50%
$35,000 or more but less than $40,000	40%	40%
$40,000 or more but less than $45,000	30%	30%
$45,000 or more but less than $90,000	No Credit	30%
$90,000 or more	No Credit	No Credit

*Note that in the case of married taxpayers who have filed joint federal returns and elect to file separate returns or to file separately on the combined return form for Iowa purposes, the taxpayers must determine the child and dependent care credit by the schedule provided in this rule on the basis of their combined net incomes. The credit determined from the schedule must be allocated between the married taxpayers in the proportion that each spouse's net income relates to the combined net income of the taxpayers.

304.15(2) *Examples of computation of the Iowa child and dependent care credit.* The following are examples of computation of the child and dependent care credit and the allocation of the credit between spouses in situations where married taxpayers have filed joint federal returns and are filing separate Iowa returns or are filing separately on the combined Iowa return form.

EXAMPLE A: A married couple has a combined net income of $40,000. Both spouses were employed. They had a federal child and dependent care credit of $600 which related to expenses incurred for care of their two small children. One of the spouses had a net income of $30,000 and the second spouse had a net income of $10,000.

The taxpayers' Iowa child and dependent care credit was $180 since they were entitled to an Iowa child and dependent care credit of 30 percent of their federal credit of $600. If the taxpayers elect to file separate Iowa returns, the $180 credit would be allocated between the spouses on the basis of each spouse's net income as it relates to the combined net income of both spouses as shown below:

$$\$180 \times \frac{\$30{,}000}{\$40{,}000} = \$135$$ child and dependent care credit for spouse with $30,000 net income

$$\$180 \times \frac{\$10{,}000}{\$40{,}000} = \$45$$ child and dependent care credit for spouse with $10,000 net income

EXAMPLE B: A married couple filed their Iowa return separately on a combined return. Both spouses were employed. They had a federal child and dependent care credit of $800 which related to expenses incurred for care of their children. One spouse had a net income of $25,000 and the other spouse had a net income of $12,500, so their combined net income was $37,500.

The taxpayers' Iowa child and dependent care credit was $320, since they were entitled to an Iowa credit of 40 percent of their federal credit of $800. The $320 credit is allocated between the spouses on the basis of each spouse's Iowa net income as it relates to the combined Iowa net income of both spouses as shown below:

$$\$320 \times \frac{\$25{,}000}{\$37{,}500} = \$213$$ child and dependent care credit for spouse with $25,000 Iowa net income

$$\$320 \times \frac{\$12{,}500}{\$37{,}500} = \$107$$ child and dependent care credit for spouse with $12,500 Iowa net income

304.15(3) *Computation of the Iowa child and dependent care credit for nonresidents and part-year residents.* Nonresidents and part-year residents who have income from Iowa sources in the tax year may claim child and dependent care credits on their Iowa returns. The percentage of the federal credit allowed is determined based on the nonresident or part-year resident's all-source net income. If the nonresident or part-year resident's all-source net income is $90,000 or higher, the taxpayer will not qualify for the Iowa child and dependent care credit regardless of the amount of the taxpayer's Iowa-source income. To compute the amount of child and dependent care credit that can be claimed on the Iowa return by a nonresident or part-year resident, the following formula shall be used:

Federal child and dependent care credit × Percentage of federal child and dependent credit allowed on Iowa return from table in subrule 42.15(1) based on all-source net income × $\frac{\text{*Iowa net income}}{\text{All-source net income}}$

*Iowa net income for purposes of determining the child care credit that can be claimed on the Iowa return by a nonresident or part-year resident taxpayer is the total Iowa-source income less the Iowa-source adjustments to income as computed on the Schedule IA 126.

In cases where married taxpayers are nonresidents or part-year residents of Iowa and are filing separate Iowa returns or are filing separately on the combined Iowa return form, the child and dependent care credit allowable on the Iowa return should be allocated between the spouses in the ratio of the Iowa net income of each spouse to the combined Iowa net income of the taxpayers.

304.15(4) *Example of computation of the Iowa child and dependent care credit for nonresidents and part-year residents.* The following is an example of the computation of the Iowa child and dependent care credit for nonresidents and part-year residents.

A married couple lives in Omaha, Nebraska. One of the spouses worked in Iowa and had an Iowa-source net income of $15,000. That spouse had an all-source net income of $20,000. The second spouse had an Iowa-source net income of $10,000 and an all-source net income of $15,000. The

couple had a combined Iowa-source net income of $25,000 and a combined all-source net income of $35,000. The taxpayers had a federal child and dependent care credit of $800 which related to expenses incurred for the care of their two young children. The taxpayers' Iowa child and dependent care credit is calculated below:

Federal child and dependent care credit		Percentage of federal child and dependent credit allowed on Iowa return				Iowa-source net income / All-source net income		
$800	×	40%	=	$320	×	$25,000 / $35,000	=	$229

The $229 credit is allocated between the spouses as shown below:

$229 × $15,000 / $25,000 = $137 for spouse with Iowa-source net income of $15,000

$229 × $10,000 / $25,000 = $92 for spouse with Iowa-source net income of $10,000

This rule is intended to implement Iowa Code section 422.12C.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 0337C**, IAB 9/19/12, effective 10/24/12; **ARC 1665C**, IAB 10/15/14, effective 11/19/14; **ARC 6149C**, IAB 1/12/22, effective 2/16/22; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—304.16(422) Franchise tax credit. A shareholder in a financial institution, as defined in Section 581 of the Internal Revenue Code, or a member of a financial institution organized as a limited liability company that is taxed as a partnership for federal income tax purposes that has elected to have its income taxed directly to the shareholders or members may take a tax credit equal to the shareholder's or member's pro rata share of the Iowa franchise tax paid by the financial institution.

304.16(1) *Credit calculation.*

a. The credit must be calculated by recomputing the amount of tax calculated under Iowa Code section 422.5 by reducing the shareholder's or member's taxable income by the shareholder's or member's pro rata share of the items of income and expenses of the financial institution and subtracting the credits allowed in Iowa Code section 422.12.

b. The resulting amount, not to exceed the shareholder's or member's pro rata share of the franchise tax paid by the financial institution, is the amount of tax credit allowed the shareholder or member.

304.16(2) *Credit calculation for combined return filers.*

a. Where the financial institution has elected to file a combined return with one or more investment subsidiaries pursuant to rule 701—602.33(422), the franchise tax paid by the financial institution for purposes of calculating this credit is a portion of the tax paid by the combined group equal to the portion of the combined group's total taxable income attributable to the financial institution.

b. This credit is not available to shareholders or members of investment subsidiaries included on a combined return under rule 701—602.33(422) for that portion of the tax shown due on the return attributable to the investment subsidiary.

304.16(3) *Combined filer credit calculation formula.* The following formula determines the portion of a combined group's tax that may be used to calculate a shareholder's or member's franchise tax credit.

PTI = parent financial institution separate taxable income (if zero or less, no credit is available)

CTI = combined group taxable income

GT = combined group total tax (if zero or less, no credit is available)

PTI/CTI* × GT = tax eligible for the credit

*If PTI/CTI is 1 or greater, 100 percent of the tax is attributable to the parent financial institution.

EXAMPLE: Parent financial institution B, an S corporation, and its investment subsidiary C elect to file a combined Iowa franchise return. B's separate taxable income is $750,000, and the group's combined taxable income is $1,000,000. The combined group's Iowa franchise tax liability is $41,000 (at a rate of 4.1 percent for 2025). B contributed 75 percent (0.75) of the group's combined taxable income. The tax available to B's shareholders for purposes of calculating the Iowa franchise tax is $30,750 (41,000 × 0.75).

This rule is intended to implement Iowa Code section 422.11.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; Editorial change: IAC Supplement 11/2/22; **ARC 0028D**, IAB 1/21/26, effective 2/25/26]

701—304.17(15E) Eligible housing business tax credit. An individual who qualifies as an eligible housing business may receive a tax credit of up to 10 percent of the new investment which is directly related to the building or rehabilitating of homes in an enterprise zone. The enterprise zone program was repealed on July 1, 2014, and the eligible housing business tax credit has been replaced with the workforce housing tax incentives program. See rule 701—304.53(15) for information on the tax incentives provided under the workforce housing tax incentives program. Any investment tax credit earned by businesses approved under the enterprise zone program prior to July 1, 2014, remains valid and can be claimed on tax returns filed after July 1, 2014. The tax credit may be taken on the tax return for the tax year in which the home is ready for occupancy.

An eligible housing business is one which meets the criteria in 2014 Iowa Code section 15E.193B.

304.17(1) *Computation of credit.* New investment which is directly related to the building or rehabilitating of homes includes but is not limited to the following costs: land, surveying, architectural services, building permits, inspections, interest on a construction loan, building materials, roofing, plumbing materials, electrical materials, amounts paid to subcontractors for labor and materials provided, concrete, labor, landscaping, appliances normally provided with a new home, heating and cooling equipment, millwork, drywall and drywall materials, nails, bolts, screws, and floor coverings.

New investment does not include the machinery, equipment, or hand or power tools necessary to build or rehabilitate homes.

A taxpayer may claim on the taxpayer's individual income tax return the pro rata share of the Iowa eligible housing business tax credit from a partnership, S corporation, limited liability company, estate, or trust. The portion of the credit claimed by the individual shall be in the same ratio as the individual's pro rata share of the earnings of the partnership, S corporation, limited liability company, or estate or trust, except for projects beginning on or after July 1, 2005, which used low-income housing tax credits authorized under Section 42 of the Internal Revenue Code to assist in the financing of the housing development. For these projects, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder.

For tax years beginning prior to January 1, 2007, any Iowa eligible housing business tax credit in excess of the individual's tax liability, less the credits authorized in Iowa Code sections 422.12 and 422.12B, may be carried forward for seven years or until it is used, whichever is the earlier. For tax years beginning on or after January 1, 2007, any Iowa eligible housing business tax credit in excess of the individual's tax liability less the credits authorized in Iowa Code section 422.12 may be carried forward for seven years or until it is used, whichever is the earlier.

If the eligible housing business fails to maintain the requirements of 2014 Iowa Code section 15E.193B, the taxpayer, in order to be an eligible housing business, may be required to repay all or a part of the tax incentives the taxpayer received. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the income tax credit may have expired, the department may proceed to collect the tax incentives forfeited by failure to maintain the requirements of 2014 Iowa Code section 15E.193B. This repayment is required because it is a recovery of an incentive, rather

than an adjustment to the taxpayer's tax liability. Details on the calculation of the repayment can be found in 261—subrule 187.5(4) of the administrative rules of the economic development authority. If the business is a partnership, limited liability company, S corporation, estate or trust where the income of the taxpayer is taxed to the individual owner(s) of the business, the department may proceed to collect the tax incentives against the partners, members, shareholders or beneficiaries to whom the tax incentives were passed through. See Decision of the Administrative Law Judge in *Damien & Colette Trebilcock, et al.,* Docket No. 11DORF 042-044, June 11, 2012.

Prior to January 1, 2001, the tax credit cannot exceed 10 percent of $120,000 for each home or individual unit in a multiple dwelling unit building. Effective January 1, 2001, the tax credit cannot exceed 10 percent of $140,000 for each home or individual unit in a multiple dwelling unit building.

Effective for tax periods beginning on or after January 1, 2003, the taxpayer must receive a tax credit certificate from the economic development authority to claim the eligible housing business tax credit. The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the date the project was completed, the amount of the eligible housing business tax credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 304.17(2). The tax credit certificate must be included with the income tax return for the tax period in which the home is ready for occupancy. The administrative rules for the eligible housing business tax credit for the economic development authority may be found under 261—Chapter 59.

304.17(2) *Transfer of the eligible housing business tax credit.* For tax periods beginning on or after January 1, 2003, the eligible housing business tax credit certificates may be transferred to any person or entity if low-income housing tax credits authorized under Section 42 of the Internal Revenue Code are used to assist in the financing of the housing development. In addition, the eligible housing business tax credit certificates may be transferred to any person or entity for projects beginning on or after July 1, 2005, if the housing development is located in a brownfield site as defined in Iowa Code section 15.291, or if the housing development is located in a blighted area as defined in Iowa Code section 403.17. No more than $3 million of tax credits for housing developments located in brownfield sites or blighted areas may be transferred in a calendar year, with no more than $1.5 million being transferred for any one eligible housing business in a calendar year.

The excess of the $3 million limitation of tax credits eligible for transfer in the 2013 and 2014 calendar years for housing developments located in brownfield sites or blighted areas cannot be claimed by a transferee prior to January 1, 2016. The eligible housing business must have notified the economic development authority in writing before July 1, 2014, of the business's intent to transfer any tax credits for housing developments located in brownfield sites or blighted areas. If a tax credit certificate is issued by the economic development authority for a housing development approved prior to July 1, 2014, that is located in a brownfield site or blighted area, the tax credit can still be claimed by the eligible business, but the tax credit cannot be transferred by the eligible business if the economic development authority was not notified prior to July 1, 2014.

EXAMPLE 1: A housing development located in a brownfield site was completed in December 2013 and was issued a tax credit certificate totaling $250,000. The $3 million calendar cap for transferred tax credits for brownfield sites and blighted areas has already been reached for the 2013 and 2014 tax years. The $250,000 tax credit is going to be transferred to Bill Smith, and the economic development authority was notified of the transfer prior to July 1, 2014. Once a replacement tax credit certificate has been issued, Mr. Smith cannot file an amended Iowa individual income tax return for the 2013 tax year until January 1, 2016, to claim the $250,000 tax credit.

EXAMPLE 2: A housing development located in a blighted area was completed in May 2014 and was issued a tax credit certificate totaling $150,000. The $3 million calendar cap for transferred tax credits for brownfield sites and blighted areas has already been reached for the 2014 tax year. The $150,000 tax credit is going to be transferred to Greg Rogers, and the economic development authority was notified of the transfer prior to July 1, 2014. Once a replacement tax credit certificate

has been issued, Mr. Rogers cannot file an amended Iowa individual income tax return for the 2014 tax year until January 1, 2016, to claim the $150,000 tax credit.

Within 90 days of transfer of the tax credit certificate for transfers prior to July 1, 2006, the transferee must submit the transferred tax credit certificate to the economic development authority, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. For transfers on or after July 1, 2006, the transferee must submit the transferred tax credit certificate to the department of revenue. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee for transfers prior to July 1, 2006, the economic development authority will issue a replacement tax credit certificate to the transferee. For transfers on or after July 1, 2006, the department of revenue will issue the replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company or S corporation, the transferee shall provide a list of the partners, members or shareholders and information on how the housing business tax credit should be divided among the partners, members or shareholders. The transferee shall also provide the tax identification numbers and addresses of the partners, members or shareholders. The replacement tax credit certificate must contain the same information that was on the original certificate and must have the same expiration date as the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax period for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credits shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

This rule is intended to implement 2014 Iowa Code section 15E.193B.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 1744C**, IAB 11/26/14, effective 12/31/14; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—304.18(422) Assistive device tax credit. Effective for tax years beginning on or after January 1, 2000, a taxpayer that is a small business that purchases, rents, or modifies an assistive device or makes workplace modifications for an individual with a disability who is employed or will be employed by the taxpayer may qualify for an assistive device tax credit, subject to the availability of the credit. The assistive device credit is equal to 50 percent of the first $5,000 paid during the tax year by the small business for the purchase, rental, or modification of an assistive device or for making workplace modifications. Any credit in excess of the tax liability may be refunded or applied to the taxpayer's tax liability for the following tax year. If the taxpayer elects to take the assistive device tax credit, the taxpayer shall not deduct for Iowa income tax purposes any amount of the cost of an assistive device or workplace modification that is deductible for federal income tax purposes. A small business will not be eligible for the assistive device credit if the device is provided for an owner of the small business unless the owner is a bona fide employee of the small business.

304.18(1) *Submitting applications for the credit.* A small business that wishes to receive the assistive device tax credit must submit an application for the credit to the Iowa department of economic development and provide other information and documents requested by the Iowa department of economic development. If the taxpayer meets the criteria for qualification for the credit, the Iowa department of economic development will issue the taxpayer a certificate of entitlement for the credit. However, the aggregate amount of assistive device tax credits that may be granted by the Iowa department of economic development to all small businesses during a fiscal year cannot exceed $500,000. The certificate of entitlement for the assistive device credit shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the estimated amount of the tax credit, the date on which the taxpayer's application was approved, the date when it is anticipated that the assistive device project will be completed and a space on the application where the taxpayer shall enter the date that the assistive device project was completed. The certificate of entitlement will not be considered to be valid for purposes of claiming the assistive device credit on the taxpayer's

Iowa income tax return until the taxpayer has completed the assistive device project and has entered the completion date on the certificate of entitlement form. The tax year of the small business in which the assistive device project is completed is the tax year for which the assistive device credit may be claimed. For example, in a case where taxpayer A received a certificate of entitlement for an assistive device credit on September 15, 2007, and completed the assistive device workplace modification project on January 15, 2008, taxpayer A could claim the assistive device credit on taxpayer A's 2008 Iowa return, assuming that taxpayer A is filing returns on a calendar-year basis.

The department of revenue will not allow the assistive device credit on a taxpayer's return if the certificate of entitlement or a legible copy of the certificate is not included with the taxpayer's income tax return. If the taxpayer has been granted a certificate of entitlement and the taxpayer is a partnership, limited liability company, S corporation, estate, or trust, where the income of the taxpayer is taxed to the individual owner(s) of the business entity, the taxpayer must provide a copy of the certificate to each of the owners with a statement showing how the credit is to be allocated among the individual owners of the business entity. An individual owner shall include a copy of the certificate of entitlement and the statement of allocation of the assistive device credit with the individual's state income tax return.

304.18(2) *Definitions.* The following definitions are applicable to this rule:

"Assistive device" means any item, piece of equipment, or product system which is used to increase, maintain, or improve the functional capabilities of an individual with a disability in the workplace or on the job. "Assistive device" does not mean any medical device, surgical device, or organ implanted or transplanted into or attached directly to an individual. "Assistive device" does not include any device for which a certificate of title is issued by the state department of transportation, but does include any item, piece of equipment, or product system otherwise meeting the definition of "assistive device" that is incorporated, attached, or included as a modification in or to such a device issued a certificate of title.

"Business entity" means partnership, limited liability company, S corporation, estate, or trust, where the income of the business is taxed to each of the individual owners of the business, whether the individual owner is a partner, member, shareholder, or beneficiary.

"Disability" means the same as defined in Iowa Code section 15.102. Therefore, "disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of the individual, a record of physical or mental impairment that substantially limits one or more of the major life activities of the individual, or being regarded as an individual with a physical or mental impairment that substantially limits one or more of the major life activities of the individual. "Disability" does not include any of the following:

1. Homosexuality or bisexuality.
2. Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders, or other sexual behavior disorders.
3. Compulsive gambling, kleptomania, or pyromania.
4. Psychoactive substance abuse disorders resulting from current illegal use of drugs.
5. Alcoholism.

"Employee" means an individual who is employed by the small business and who meets the criteria in Treasury Regulation § 31.3401(c)-1(b), which is the definition of an employee for federal income tax withholding purposes. An individual who receives self-employment income from the small business shall not be considered an employee of the small business for purposes of this rule.

"Small business" means that the business either had gross receipts in the tax year before the current tax year of $3 million or less or employed not more than 14 full-time employees during the tax year prior to the current tax year.

"Workplace modifications" means physical alterations to the office, factory, or other work environment where the disabled employee is working or will work.

304.18(3) *Allocation of assistive tax credit to owners of a business entity.* If the taxpayer that was entitled to an assistive device credit is a business entity, the business entity shall allocate the

allowable credit to each of the individual owners of the entity on the basis of each owner's pro rata share of the earnings of the entity to the total earnings of the entity. Therefore, if a partnership has an assistive device credit of $2,500 for a tax year and one partner of the partnership receives 25 percent of the earnings of the partnership, that partner would receive an assistive device credit for the tax year of $625 or 25 percent of the total assistive device credit of the partnership.

304.18(4) *Repeal of credit.* The assistive device credit is repealed on July 1, 2009.

This rule is intended to implement Iowa Code section 422.11E.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 1744C**, IAB 11/26/14, effective 12/31/14; Editorial change: IAC Supplement 11/2/22]

701—304.19(404A,422) Historic preservation and cultural and entertainment district tax credit for projects with Part 2 applications approved and tax credits reserved prior to July 1, 2014. A historic preservation and cultural and entertainment district tax credit, subject to the availability of the credit, may be claimed against a taxpayer's Iowa individual income tax liability for 25 percent of the qualified costs of rehabilitation of property to the extent the costs were incurred on or after July 1, 2000, for approved rehabilitation projects of eligible property in Iowa.

The general assembly has mandated that the department of cultural affairs and the department of revenue adopt rules to jointly administer Iowa Code chapter 404A. 2014 Iowa Acts, House File 2453, amended the historic preservation and cultural and entertainment district tax credit program effective July 1, 2014. The department of revenue's provisions for projects with tax credits reserved prior to July 1, 2014, are found in this rule. The department of revenue's provisions for projects with agreements entered into on or after July 1, 2014, are found in rule 701—304.54(404A,422). The department of cultural affairs' rules related to this program may be found at 223—Chapter 48. Division I of 223—Chapter 48 applies to projects with reservations approved prior to July 1, 2014. Division II of 223—Chapter 48 applies to projects with agreements entered into on or after July 1, 2014.

Notwithstanding anything contained herein to the contrary, the department of cultural affairs shall not reserve tax credits under 2013 Iowa Code chapter 404A as amended by 2013 Iowa Acts, chapter 112, section 1, for applicants that do not have an approved Part 2 application and a tax credit reservation on or before June 30, 2014. Projects with approved Part 2 applications and provisional tax credit reservations on or before June 30, 2014, shall be governed by 2013 Iowa Code chapter 404A as amended by 2013 Iowa Acts, chapter 112, section 1; by 223—Chapter 48, Division I; and by rule 701—304.19(404A,422). Projects for which Part 2 applications were approved and agreements entered into after June 30, 2014, shall be governed by 2014 Iowa Acts, House File 2453; by 223—Chapter 48, Division II; and by rule 701—304.54(404A,422).

304.19(1) *Eligible properties for the historic preservation and cultural and entertainment district tax credit.* The following types of property are eligible for the historic preservation and cultural and entertainment district tax credit:

a. Property verified as listed on the National Register of Historic Places or eligible for such listing.

b. Property designated as of historic significance to a district listed in the National Register of Historic Places or eligible for such designation.

c. Property or district designated a local landmark by a city or county ordinance.

d. Any barn constructed prior to 1937.

304.19(2) *Application and review process for the historic preservation and cultural and entertainment district tax credit.*

a. Taxpayers who want to claim an income tax credit for completing a historic preservation and cultural and entertainment district project must submit an application for approval of the project. The application forms for the historic preservation and cultural and entertainment district tax credit may be requested from the State Tax Credit Program Manager, State Historic Preservation Office, Department of Cultural Affairs, 600 E. Locust, Des Moines, Iowa 50319-0290. The telephone number for this

office is (515)281-4137. Applications for the credit will be accepted by the state historic preservation office on or after July 1, 2000, until such time as all the available credits allocated for each fiscal year are encumbered.

b. Applicants for the historic preservation and cultural and entertainment district tax credit must include all information and documentation requested on the application forms for the credit in order for the application to be processed.

304.19(3) *Computation of the amount of the historic preservation and cultural and entertainment district tax credit.* The amount of the historic preservation and cultural and entertainment district tax credit is 25 percent of the qualified rehabilitation costs made to an eligible property in a project. Qualified rehabilitation costs are those rehabilitation costs approved by the state historic preservation office for a project for a particular taxpayer to the extent those rehabilitation costs are actually expended by that taxpayer.

a. In the case of commercial property, qualified rehabilitation costs must equal at least $50,000 or 50 percent of the assessed value of the property, excluding the value of the land, prior to rehabilitation, whichever is less. In the case of property other than commercial property, the qualified rehabilitation costs must equal at least $25,000 or 25 percent of the assessed value, excluding the value of the land, prior to the rehabilitation, whichever amount is less.

b. In computing the tax credit, the only costs which may be included are the qualified rehabilitation costs incurred commencing from the date on which the first qualified rehabilitation cost is incurred and ending with the end of the taxable year in which the property is placed in service. The rehabilitation period may include dates that precede approval of a project, provided that any qualified rehabilitation costs incurred prior to the date of approval of the project are qualified rehabilitation costs.

c. For purposes of the historic preservation and cultural and entertainment district tax credit, qualified rehabilitation costs include those costs properly included in the basis of the eligible property for income tax purposes. Costs treated as expenses and deducted in the year paid or incurred and amounts that are otherwise not added to the basis of the property for income tax purposes are not qualified rehabilitation costs. Amounts incurred for architectural and engineering fees, site survey fees, legal expenses, insurance premiums, development fees, and other construction-related costs are qualified rehabilitation costs to the extent they are added to the basis of the eligible property for tax purposes. Costs of sidewalks, parking lots, and landscaping do not constitute qualified rehabilitation costs. Any rehabilitation costs used in the computation of the historic preservation and cultural and entertainment district tax credit are not added to the basis of the property for Iowa income tax purposes if the rehabilitation costs were incurred in a tax year beginning on or after January 1, 2000, but prior to January 1, 2001. Any rehabilitation costs incurred in a tax year beginning on or after January 1, 2001, are added to the basis of the rehabilitated property for income tax purposes except those rehabilitation expenses that are equal to the amount of the computed historic preservation and cultural and entertainment district tax credit for the tax year.

EXAMPLE: The basis of a commercial building in a historic district was $500,000, excluding the value of the land, before the rehabilitation project. During a project to rehabilitate this building, $600,000 in rehabilitation costs were expended to complete the project and $500,000 of those rehabilitation costs were qualified rehabilitation costs which were eligible for the historic preservation and cultural and entertainment district tax credit of $125,000. Therefore, the basis of the building for Iowa income tax purposes was $975,000, since the qualified rehabilitation costs of $125,000, which are equal to the amount of the historic preservation and cultural and entertainment district tax credit for the tax year, are not added to the basis of the rehabilitated property. The basis of the building for federal income tax purposes was $1,100,000. It should be noted that this example does not consider any possible reduced basis for the building for federal income tax purposes due to the rehabilitation investment credit provided in Section 47 of the Internal Revenue Code.

304.19(4) *Completion of the historic preservation and cultural and entertainment district project and claiming the historic preservation and cultural and entertainment district tax credit on the*

Iowa return. After the taxpayer completes an authorized rehabilitation project, the taxpayer must be issued a certificate of completion of the project from the state historic preservation office of the department of cultural affairs. After verifying the taxpayer's eligibility for the historic preservation and cultural and entertainment district tax credit, the state historic preservation office shall issue a historic preservation and cultural and entertainment district tax credit certificate, which shall be included with the taxpayer's income tax return for the tax year in which the rehabilitation project is completed or the year the credit was reserved, whichever is later. For example, if a project was completed in 2008 and the credit was reserved for the state fiscal year ending June 30, 2010, the credit can be claimed on the 2009 calendar year return that is due on April 30, 2010. The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the address or location of the rehabilitation project, the date the project was completed, the year the tax credit was reserved and the amount of the historic preservation and cultural and entertainment district tax credit. In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee, the amount of the tax credit being transferred, and any consideration received in exchange for the tax credit, as provided in subrule 304.19(6). In addition, if the taxpayer is a partnership, limited liability company, estate or trust, where the tax credit is allocated to the owners or beneficiaries of the entity, a list of the owners or beneficiaries and the amount of credit allocated to each owner or beneficiary shall be provided with the certificate. The tax credit certificate shall be included with the income tax return for the period in which the project was completed.

For tax years ending on or after July 1, 2007, any historic preservation and cultural and entertainment district tax credit in excess of the taxpayer's tax liability is fully refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

304.19(5) *Allocation of historic preservation and cultural and entertainment district tax credits to the individual owners of the entity for tax credits reserved for fiscal years beginning on or after July 1, 2012.* For tax credits reserved for fiscal years beginning on or after July 1, 2012, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. The credit does not have to be allocated based on the pro rata share of earnings of the partnership, limited liability company or S corporation.

304.19(6) *Transfer of the historic preservation and cultural and entertainment district tax credit.* For tax periods beginning on or after January 1, 2003, the historic preservation and cultural and entertainment district tax credit certificates may be transferred to any person or entity. A tax credit certificate of less than $1,000 shall not be transferable.

a. For transfers on or after July 1, 2006, the department of revenue will issue the replacement tax credit certificate to the transferee. Within 90 days of the transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number and address, the denomination that each replacement tax credit certificate is to carry, the amount of all consideration provided in exchange for the tax credit and the names of recipients of any consideration provided in exchange for the tax credit. If a payment of money was any part of the consideration provided in exchange for the tax credit, the transferee shall list the amount of the payment of money in its statement to the department of revenue. If any part of the consideration provided in exchange for the tax credit included nonmonetary consideration, including but not limited to any promise, representation, performance, discharge of debt or nonmonetary rights or property, the tax credit transferee shall describe the nature of nonmonetary consideration and disclose any value the transferor and transferee assigned to the nonmonetary consideration. The tax credit transferee must indicate on its statement to the department of revenue if no consideration was provided in exchange for the tax credit. If the transferee is a partnership, limited liability company or S corporation, the transferee shall provide a list of the partners, members or shareholders and information on how the historic preservation and cultural and entertainment district tax credit should be divided among the partners, members

or shareholders. The transferee shall also provide the tax identification numbers and addresses of the partners, members or shareholders. The replacement tax credit certificate must contain the same information that was on the original certificate and must have the same expiration date as the original tax credit certificate.

b. The transferee may use the amount of the tax credit for any tax period for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

c. If the historic preservation and cultural and entertainment district tax credit of the transferee exceeds the tax liability shown on the transferee's return, the tax credit shall be fully refundable.

This rule is intended to implement Iowa Code chapter 404A as amended by 2013 Iowa Acts, Senate File 436, and Iowa Code section 422.11D.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 9104B**, IAB 9/22/10, effective 10/27/10; **ARC 9876B**, IAB 11/30/11, effective 1/4/12; **ARC 0398C**, IAB 10/17/12, effective 11/21/12; **ARC 1138C**, IAB 10/30/13, effective 12/4/13; **ARC 1968C**, IAB 4/15/15, effective 5/20/15; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—304.20(422) Ethanol blended gasoline tax credit. Effective for tax years beginning on or after January 1, 2002, a retail gasoline dealer may claim an ethanol blended gasoline tax credit against that individual's individual income tax liability. The taxpayer must operate at least one retail motor fuel site at which more than 60 percent of the total gallons of gasoline sold and dispensed through one or more motor fuel pumps by the taxpayer in the tax year is ethanol blended gasoline. The tax credit shall be calculated separately for each retail motor fuel site operated by the taxpayer. The amount of the credit for each eligible retail motor fuel site is two and one-half cents multiplied by the total number of gallons of ethanol blended gasoline sold and dispensed through all motor fuel pumps located at that retail motor fuel site during the tax year in excess of 60 percent of all gasoline sold and dispensed through motor fuel pumps at that retail motor fuel site during the tax year.

For taxpayers having a fiscal year ending in 2002, the tax credit is available for each eligible retail motor fuel site based on the total number of gallons of ethanol blended gasoline sold and dispensed through all motor fuel pumps located at the taxpayer's retail motor fuel site from January 1, 2002, until the end of the taxpayer's fiscal year. Assuming a tax period that began on July 1, 2001, and ended on June 30, 2002, the taxpayer would be eligible for the tax credit based on the gallons of ethanol blended gasoline sold from January 1, 2002, through June 30, 2002. For taxpayers having a fiscal year ending in 2002, a claim for refund to claim the ethanol blended gasoline tax credit must be filed before October 1, 2003, even though the statute of limitations for refund set forth in 701—subrule 305.3(8) has not yet expired.

EXAMPLE 1: A taxpayer sold 100,000 gallons of gasoline at the taxpayer's retail motor fuel site during the tax year, 70,000 gallons of which was ethanol blended gasoline. The taxpayer is eligible for the credit since more than 60 percent of the total gallons sold was ethanol blended gasoline. The number of gallons in excess of 60 percent of all gasoline sold is 70,000 less 60,000, or 10,000 gallons. Two and one-half cents multiplied by 10,000 equals a $250 credit available.

The credit may be calculated on Form IA 6478. The credit must be calculated separately for each retail motor fuel site operated by the taxpayer. Therefore, if the taxpayer operates more than one retail motor fuel site, it is possible that one retail motor fuel site may be eligible for the credit while another retail motor fuel site may not. The credit may be taken only for those retail motor fuel sites for which more than 60 percent of gasoline sales involves ethanol blended gasoline.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

Starting with the 2006 calendar tax year, a taxpayer may claim the ethanol blended gasoline tax credit even if the taxpayer also claims the E-85 gasoline promotion tax credit provided in rule 701—304.31(422) for the same tax year for the same ethanol gallons.

EXAMPLE 2: A taxpayer sold 200,000 gallons of gasoline at a retail motor fuel site in 2006, of which 160,000 gallons was ethanol blended gasoline. Of these 160,000 gallons, 1,000 gallons was E-85 gasoline. Taxpayer is entitled to claim the ethanol blended gasoline tax credit of two and one-half cents multiplied by 40,000 gallons, since this amount constitutes the gallons in excess of 60 percent of the total gasoline gallons sold. Taxpayer may also claim the E-85 gasoline promotion tax credit on the 1,000 gallons of E-85 gasoline sold.

304.20(1) *Definitions.* The following definitions are applicable to this rule:

"Ethanol blended gasoline" means the same as defined in Iowa Code section 214A.1.

"Gasoline" means any liquid product prepared, advertised, offered for sale or sold for use as, or commonly and commercially used as, motor fuel for use in a spark-ignition, internal combustion engine, and which meets the specifications provided in Iowa Code section 214A.2.

"Motor fuel pump" means a pump, meter, or similar commercial weighing and measuring device used to measure and dispense motor fuel for sale on a retail basis.

"Retail dealer" means a person engaged in the business of storing and dispensing motor fuel from a motor fuel pump for sale on a retail basis, regardless of whether the motor fuel pump is located at a retail motor fuel site including a permanent or mobile location.

"Retail motor fuel site" means a geographic location in Iowa where a retail dealer sells and dispenses motor fuel on a retail basis. For example, tank wagons are considered retail motor fuel sites.

"Sell" means to sell on a retail basis.

304.20(2) *Allocation of credit to owners of a business entity.* If the taxpayer that was entitled to the ethanol blended gasoline tax credit is a partnership, limited liability company, S corporation, estate, or trust, the business entity shall allocate the allowable credit to each of the individual owners of the entity on the basis of each owner's pro rata share of the earnings of the entity to the total earnings of the entity. Therefore, if a partnership has an ethanol blended gasoline tax credit of $3,000 and one partner of the partnership receives 25 percent of the earnings of the partnership, that partner would receive an ethanol blended gasoline tax credit for the tax year of $750 or 25 percent of the total ethanol blended gasoline tax credit of the partnership.

304.20(3) *Repeal of ethanol blended gasoline tax credit.* The ethanol blended gasoline tax credit is repealed on January 1, 2009. However, the tax credit is available for taxpayers whose fiscal year ends after December 31, 2008, for those ethanol gallons sold beginning on the first day of the taxpayer's fiscal year until December 31, 2008. The ethanol promotion tax credit described in rule 701—304.37(15,422) is available beginning January 1, 2009, for retail dealers of gasoline.

See 701—subrule 501.19(3) for an example illustrating how this subrule is applied.

This rule is intended to implement Iowa Code section 422.11C.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—304.21(15E) Eligible development business investment tax credit. Effective for tax years beginning on or after January 1, 2001, a business which qualifies as an eligible development business may receive a tax credit of up to 10 percent of the new investment which is directly related to the construction, expansion or rehabilitation of building space to be used for manufacturing, processing, cold storage, distribution, or office facilities.

An eligible development business must be approved by the Iowa department of economic development prior to March 17, 2004, and meet the qualifications of Iowa Code section 15E.193C. Effective March 17, 2004, the eligible development business program is repealed.

New investment includes the purchase price of land and the cost of improvements made to real property. The tax credit may be claimed by an eligible development business in the tax year in which the construction, expansion or rehabilitation is completed.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until used, whichever is the earlier.

If the business is a partnership, S corporation, limited liability company, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

If the eligible development business fails to meet and maintain any one of the requirements to be an eligible business, the business shall be subject to repayment of all or a portion of the amount of tax incentives received. For example, if within five years of project completion the development business sells or leases any space to any retail business, the development business shall proportionally repay the value of the investment credit. The proportion of the investment credit that would be due for repayment by an eligible development business for selling or leasing space to a retail business would be determined by dividing the square footage of building space occupied by the retail business by the square footage of the total building space.

An eligible business which is not a development business and which operates in an enterprise zone cannot claim an investment tax credit if the property is owned, or was previously owned, by an approved development business that has already received an investment tax credit. An eligible business which is not a development business can claim an investment tax credit only on additional new improvements made to real property that was not included in the development business's approved application for the investment tax credit.

This rule is intended to implement Iowa Code section 15E.193C.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; Editorial change: IAC Supplement 11/2/22]

701—304.22(15E,422) Venture capital credits.

304.22(1) *Investment tax credit for an equity investment in a qualifying business or community-based seed capital fund.*

a. Equity investments in a qualifying business or community-based seed capital fund before January 1, 2011. See rule 123—2.1(15E) for the discussion of the investment tax credit for an equity investment in a qualifying business or community-based seed capital fund, along with the issuance of tax credit certificates by the Iowa capital investment board, for equity investments made before January 1, 2011. For equity investments made in a qualifying business prior to January 1, 2004, only direct investments made by an individual are eligible for the investment tax credit. Individuals receiving income from a revocable trust's investment in a qualifying business are eligible for the investment tax credit for the portion of the revocable trust's equity investment in a qualifying business.

b. Equity investments in a qualifying business or community-based seed capital fund on or after January 1, 2011, and before July 2, 2015. For equity investments made on or after January 1, 2011, see 261—Chapter 115 for information regarding eligibility for qualifying businesses and community-based seed capital funds, applications for the investment tax credit for equity investments in a qualifying business or community-based seed capital fund, and the issuance of tax credit certificates by the economic development authority.

(1) Certificate issuance. The department of revenue will be notified by the economic development authority when the tax credit certificates are issued.

(2) Amount of the tax credit. The credit is equal to 20 percent of the taxpayer's equity investment in a qualifying business or community-based seed capital fund.

(3) Year in which the tax credit may be claimed. An investment shall be deemed to have been made on the same date as the date of acquisition of the equity interest as determined by the Internal Revenue Code. For investments made prior to January 1, 2014, a taxpayer shall not claim the tax credit prior to the third tax year following the tax year in which the investment is made. For investments made in qualifying businesses on or after January 1, 2014, the credit can be claimed in the year of the investment. However, for investments made in qualifying businesses during the 2014 calendar year, the credit cannot be redeemed prior to January 1, 2016. For example, if an individual taxpayer whose tax year ends on December 31, 2012, makes an equity investment during the 2012

calendar year, the individual taxpayer cannot claim the tax credit until the tax year ending December 31, 2015. However, if the taxpayer dies prior to redeeming the tax credit, the remaining tax credit may be redeemed on the decedent's final income tax return. For fiscal years beginning July 1, 2011, the amount of tax credits authorized cannot exceed $2 million. The tax credit certificate must be included with the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate.

(4) Carried over tax credits. If a tax credit is carried over and issued for the tax year immediately following the year in which the investment was made because the $2 million cap has been reached, the tax credit may be claimed by the taxpayer for the third tax year following the tax year for which the credit is issued. For example, if an individual taxpayer makes an equity investment in December 2012 and the $2 million cap for the fiscal year ending June 30, 2013, had already been reached, the tax credit will be issued for the tax year ending December 31, 2013, and cannot be redeemed until the tax year ending December 31, 2016.

(5) Limitations. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier. The tax credit cannot be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit. The tax credit is not transferable to any other taxpayer.

(6) Pro rata tax credit claims for certain business entities. For equity investments made in a community-based seed capital fund or equity investments made in a qualifying business on or after January 1, 2004, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

c. Equity investments in a qualifying business on or after July 2, 2015. For equity investments made on or after July 2, 2015, see 261—Chapter 115 for information regarding eligibility for qualifying businesses, applications for the investment tax credit for equity investments in a qualifying business, and the issuance of tax credit certificates by the economic development authority.

(1) Certificate issuance. The department of revenue will be notified by the economic development authority when the tax credit certificates are issued.

(2) Amount of the tax credit. For fiscal years beginning July 1, 2011, the amount of the tax credits authorized cannot exceed $2 million. The credit is equal to 25 percent of the taxpayer's equity investment in a qualifying business. In any one calendar year, the amount of tax credits issued for any one qualifying business shall not exceed $500,000. The maximum amount of tax credit that may be issued per calendar year to a natural person and the person's spouse or dependent shall not exceed $100,000 combined. For purposes of this paragraph, "dependent" has the same meaning as provided by the Internal Revenue Code.

(3) Year in which the tax credit may be claimed. A taxpayer shall not claim a tax credit prior to September 1, 2016. The tax credit certificate must be included with the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate. For purposes of this paragraph, an investment shall be deemed to have been made on the same date as the date of acquisition of the equity interest as determined by the Internal Revenue Code.

(4) Pro rata tax credit claims for certain business entities. An individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust. Any credits claimed by an individual are subject to the limitations provided in 304.22(1)*"c"*(2) above.

(5) Refundability. For a tax credit claimed against the taxes imposed in Iowa Code chapter 422, division II, any tax credit in excess of the tax liability is refundable. In lieu of claiming a refund, the

taxpayer may elect to have the overpayment shown on the taxpayer's final completed return credited to the tax liability for the following tax year.

(6) Transfers and carryback of tax credits prohibited. The tax credit cannot be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit. The tax credit is not transferable to any other taxpayer.

304.22(2) *Investment tax credit for an equity investment in a venture capital fund.* See rule 123—3.1(15E) for the discussion of the investment tax credit for an equity investment in a venture capital fund, along with the issuance of tax credit certificates by the Iowa capital investment board. This credit is repealed for investments in venture capital funds made after July 1, 2010.

The department of revenue will be notified by the Iowa capital investment board when the tax credit certificates are issued. The tax credit certificate must be attached to the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier.

For equity investments made in a venture capital fund, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

304.22(3) *Contingent tax credit for investments in Iowa fund of funds.* See rule 123—4.1(15E) for the discussion of the contingent tax credit available for investments made in the Iowa fund of funds organized by the Iowa capital investment corporation. Tax credit certificates related to the contingent tax credits will be issued by the Iowa capital investment board.

The department of revenue will be notified by the Iowa capital investment board when these tax credit certificates are issued and, if applicable, when they are redeemed. If the tax credit certificate is redeemed, the certificate must be attached to the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate.

If the tax credit certificate is redeemed, any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until used, whichever is the earlier.

If the tax credit certificate is redeemed, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

304.22(4) *Innovation fund investment tax credit.* See 261—Chapter 116 for information regarding eligibility for an innovation fund, applications for the investment tax credit for investments in an innovation fund, and the issuance of tax credit certificates by the economic development authority.

The department of revenue will be notified by the economic development authority when the tax credit certificates are issued. The credit is equal to 20 percent of the taxpayer's equity investment in the form of cash in an innovation fund for tax years beginning and investments made on or after January 1, 2011, and before January 1, 2013. For tax years beginning and investments made on or after January 1, 2013, the taxpayer may claim a tax credit equal to 25 percent of the taxpayer's equity investment in the form of cash in an innovation fund. An investment shall be deemed to have been made on the same date as the date of acquisition of the equity interest as determined by the Internal Revenue Code. A taxpayer shall claim the tax credit for the tax year in which the investment is made. For fiscal years beginning July 1, 2011, the amount of tax credits authorized cannot exceed $8 million. No tax credit certificates will be issued prior to September 1, 2014. The tax credit certificate must be attached to the taxpayer's return for the tax year in which the investment was made as stated on the tax credit certificate.

If a tax credit is carried over and issued for the tax year immediately following the year in which the investment was made because the $8 million cap has been reached, the tax credit may be claimed by the taxpayer for the tax year following the tax year for which the credit is issued. For example, if an individual taxpayer makes an equity investment in December 2013 and the $8 million cap for the fiscal year ending June 30, 2014, had already been reached, the tax credit will be issued for the tax year ending December 31, 2014, and can be redeemed for the tax year ending December 31, 2014.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is the earlier. The tax credit cannot be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit.

The innovation fund tax credit certificate may be transferred once to any person or entity.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the innovation fund tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year and the same expiration date as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

For equity investments made in an innovation fund, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

This rule is intended to implement Iowa Code sections 15E.51, 15E.52, 15E.66, 422.11F, and 422.11G and section 15E.43 as amended by 2015 Iowa Acts, chapter 138.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 9104B**, IAB 9/22/10, effective 10/27/10; **ARC 9966B**, IAB 1/11/12, effective 2/15/12; **ARC 1102C**, IAB 10/16/13, effective 11/20/13; **ARC 1665C**, IAB 10/15/14, effective 11/19/14; **ARC 2632C**, IAB 7/20/16, effective 8/24/16; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—304.23(15) New capital investment program tax credits. Effective for tax periods beginning on or after January 1, 2003, a business which qualifies under the new capital investment program is eligible to receive tax credits. An eligible business under the new capital investment program must be approved by the Iowa department of economic development and meet the qualifications of 2003 Iowa Acts, chapter 125, section 4. The new capital investment program was repealed on July 1, 2005, and has been replaced with the high quality job creation program. See rule 701—304.29(15) for information on the tax credits available under the high quality job creation program. Any tax credits earned by businesses approved under the new capital investment program prior to July 1, 2005, remain valid and can be claimed on tax returns filed after July 1, 2005.

304.23(1) *Research activities credit.* A business approved under the new capital investment program is eligible for an additional research activities credit as described in 701—subrule 501.7(5).

This credit for increasing research activities is in lieu of the research activities credit described in subrule 304.11(3).

304.23(2) *Investment tax credit.*

a. General rule. An eligible business can claim an investment tax credit equal to a percentage of the new investment directly related to new jobs created by the location or expansion of an eligible business. The percentage is equal to the amount provided in paragraph *"b."* New investment directly related to new jobs created by the location or expansion of an eligible business includes the following:

(1) The cost of machinery and equipment, as defined in Iowa Code section 427A.1(1), paragraphs *"e"* and *"j,"* purchased for use in the operation of the eligible business. The purchase price shall be depreciated in accordance with generally accepted accounting principles.

(2) The purchase price of real property and any buildings and structures located on the real property.

(3) The cost of improvements made to real property which is used in the operation of the eligible business.

For eligible businesses approved by the Iowa department of economic development on or after March 17, 2004, certain lease payments made by eligible businesses to a third-party developer will be considered to be new investment for purposes of computing the investment tax credit. The eligible business shall enter into a lease agreement with the third-party developer for a minimum of five years. The investment tax credit is based on the annual base rent paid to a third-party developer by the eligible business for a period not to exceed ten years. The total costs of the annual base rent payments for the ten-year period cannot exceed the cost of the land and the third-party developer's cost to build or renovate the building used by the eligible business. The annual base rent is defined as the total lease payment less taxes, insurance and operating and maintenance expenses.

Any credit in excess of the tax liability for the tax period may be carried forward seven years or until used, whichever is the earlier.

If the business is a partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to an individual, an individual may claim the credit. The amount of the credit claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 and filing as a partnership for federal tax purposes, or estate or trust.

b. Tax credit percentage. The amount of tax credit claimed shall be based on the number of high quality jobs created as determined by the Iowa department of economic development:

(1) If no high quality jobs are created but economic activity within Iowa is advanced, the eligible business may claim a tax credit of up to 1 percent of the new investment.

(2) If 1 to 5 high quality jobs are created, the eligible business may claim a tax credit of up to 2 percent of the new investment.

(3) If 6 to 10 high quality jobs are created, the eligible business may claim a tax credit of up to 3 percent of the new investment.

(4) If 11 to 15 high quality jobs are created, the eligible business may claim a tax credit of up to 4 percent of the new investment.

(5) If 16 or more high quality jobs are created, the eligible business may claim a tax credit of up to 5 percent of the new investment.

c. Investment tax credit—value-added agricultural products or biotechnology-related processes. An eligible business whose project primarily involves the production of value-added agricultural products or uses biotechnology-related processes may elect to receive a refund for all or a portion of an unused investment tax credit. An eligible business includes a cooperative described in Section 521 of the Internal Revenue Code whose project primarily involves the production of ethanol.

Eligible businesses that elect to receive a refund shall apply to the Iowa department of economic development for tax credit certificates between May 1 and May 15 of each fiscal year through the

fiscal year ending June 30, 2009. The election to receive a refund of all or a portion of an unused investment tax credit is no longer available beginning with the fiscal year ending June 30, 2010. Only those businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate. The Iowa department of economic development shall not issue tax credit certificates for more than $4 million during a fiscal year to eligible businesses for this program and eligible businesses described in subrule 304.14(2). If applications are received for more than $4 million, the applicants shall receive certificates for a prorated amount.

The economic development authority shall issue tax credit certificates within a reasonable period of time. Tax credit certificates are valid for the tax year following project completion. The tax credit certificate must be included with the tax return for the tax year during which the tax credit is claimed. The tax credit certificate shall not be transferred, except for a cooperative described in Section 521 of the Internal Revenue Code whose project primarily involves the production of ethanol, as provided in subrule 304.14(2). For value-added agricultural projects involving ethanol, the cooperative must submit a list of its members and the share of each member's interest in the cooperative. The economic development authority shall issue a tax credit certificate to each member on the list.

d. Repayment of benefits. If an eligible business fails to maintain the requirements of the new capital investment program, the taxpayer may be required to repay all or a portion of the tax incentives taken on Iowa returns. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the tax credits may have expired, the department may proceed to collect the tax incentives forfeited by failure to maintain the requirements of the new capital investment program. This repayment is required because it is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability. Details on the calculation of the repayment can be found in 261—subrule 187.5(4) of the administrative rules of the economic development authority. If the business is a partnership, limited liability company, S corporation, estate or trust where the income of the taxpayer is taxed to the individual owner(s) of the business, the department may proceed to collect the tax incentives against the partners, members, shareholders or beneficiaries to whom the tax incentives were passed through. See Decision of the Administrative Law Judge in *Damien & Colette Trebilcock, et al.,* Docket No. 11DORF 042-044, June 11, 2012.

An eligible business in the new capital investment program may also be required to repay all or a portion of the tax incentives received on Iowa returns if the eligible business experiences a layoff of employees in Iowa or closes any of its facilities in Iowa.

If, within five years of purchase, the eligible business sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other existing structures for which a tax credit was claimed under this subrule, the income tax liability of the eligible business shall be increased by one of the following amounts:

(1) One hundred percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within one full year after being placed in service.

(2) Eighty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within two full years after being placed in service.

(3) Sixty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within three full years after being placed in service.

(4) Forty percent of the tax credit claimed if the property ceases to be eligible for the tax credit within four full years after being placed in service.

(5) Twenty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within five full years after being placed in service.

This rule is intended to implement Iowa Code section 15.333 as amended by 2010 Iowa Acts, Senate File 2380, and sections 15.335 and 15.381 to 15.387.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 9104B**, IAB 9/22/10, effective 10/27/10; **ARC 1744C**, IAB 11/26/14, effective 12/31/14; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—304.24(15E,422) Endow Iowa tax credit. Effective for tax years beginning on or after January 1, 2003, a taxpayer who makes an endowment gift to an endow Iowa qualified community foundation may qualify for an endow Iowa tax credit, subject to the availability of the credit. For tax years beginning on or after January 1, 2003, but before January 1, 2010, the credit is equal to 20 percent of a taxpayer's endowment gift to an endow Iowa qualified community foundation approved by the Iowa department of economic development. For tax years beginning on or after January 1, 2010, the credit is equal to 25 percent of a taxpayer's endowment gift to an endow Iowa qualified community foundation approved by the Iowa department of economic development. For tax years beginning on or after January 1, 2010, a taxpayer cannot claim a deduction for charitable contributions under Section 170 of the Internal Revenue Code for the amount of the contribution for which the tax credit is claimed for Iowa tax purposes. The administrative rules for the endow Iowa tax credit for the Iowa department of economic development may be found under 261—Chapter 47.

The total amount of endow Iowa tax credits available is $2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is $2 million annually for the 2005-2007 calendar years, and $200,000 of these tax credits on an annual basis is reserved for endowment gifts of $30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed $100,000 for the 2003-2007 calendar years. The total amount of endow Iowa tax credits annually for the 2008 and 2009 calendar years is $2 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2010 is $2.7 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2011 is $3.5 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The maximum amount of tax credit granted to a single taxpayer shall not exceed 5 percent of the total endow Iowa tax credit amount authorized for 2008 and subsequent years. For the 2012 calendar year and subsequent calendar years, the total amount of endow Iowa tax credits is $6 million; the maximum amount of tax credit authorized to a single taxpayer is $300,000 ($6 million multiplied by 5 percent). The endow Iowa tax credit cannot be transferred to any other taxpayer.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier.

If a taxpayer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code section 15E.305 as amended by 2013 Iowa Acts, House File 620, and section 422.11H.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 9104B**, IAB 9/22/10, effective 10/27/10; **ARC 9876B**, IAB 11/30/11, effective 1/4/12; **ARC 0398C**, IAB 10/17/12, effective 11/21/12; **ARC 1138C**, IAB 10/30/13, effective 12/4/13; Editorial change: IAC Supplement 11/2/22]

701—304.25(422) Soy-based cutting tool oil tax credit. Effective for tax periods ending after June 30, 2005, and beginning before January 1, 2007, a manufacturer may claim a soy-based cutting tool oil tax credit. A manufacturer, as defined in Iowa Code section 428.20, may claim the credit equal to the costs incurred during the tax year for the purchase and replacement costs relating to the transition from using nonsoy-based cutting tool oil to using soy-based cutting tool oil.

All of the following conditions must be met to qualify for the tax credit:

1. The costs must be incurred after June 30, 2005, and before January 1, 2007.
2. The costs must be incurred in the first 12 months of the transition from using nonsoy-based cutting tool oil to using soy-based cutting tool oil.
3. The soy-based cutting tool oil must contain at least 51 percent soy-based products.

4. The costs of the purchase and replacement must not exceed $2 per gallon of soy-based cutting tool oil used in the transition.

5. The number of gallons used in the transition cannot exceed 2,000 gallons.

6. The manufacturer shall not deduct for Iowa income tax purposes the costs incurred in the transition to using soy-based cutting tool oil which are deductible for federal tax purposes.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

If a taxpayer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to an individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code section 422.11I.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; Editorial change: IAC Supplement 11/2/22]

701—304.26(15I,422) Wage-benefits tax credit. Effective for tax years ending on or after June 9, 2006, a wage-benefits tax credit equal to a percentage of the annual wages and benefits paid for a qualified new job created by the location or expansion of the business in Iowa is available for qualified businesses.

304.26(1) *Definitions.* The following definitions are applicable to this rule:

"Average county wage" means the annualized average hourly wage calculated by the Iowa department of economic development using the most current four quarters of wage and employment information as provided in the Quarterly Covered Wage and Employment Data report provided by the department of workforce development. Agricultural/mining and governmental employment categories are deleted in compiling the wage information.

"Benefits" means all of the following:

1. Medical and dental insurance plans.
2. Pension and profit-sharing plans.
3. Child care services.
4. Life insurance coverage.
5. Vision insurance plan.
6. Disability coverage.

"Department" means the Iowa department of revenue.

"Full-time" means the equivalent of employment of one person:

1. For 8 hours per day for a five-day, 40-hour workweek for 52 weeks per year, including paid holidays, vacations, and other paid leave, or

2. The number of hours or days per week, including paid holidays, vacations, and other paid leave, currently established by schedule, custom or otherwise, as constituting a week of full-time work for the kind of service an individual performs for an employing unit.

"Grow Iowa values fund" means the grow Iowa values fund created in Iowa Code Supplement section 15G.108.

"Nonqualified new job" means any one of the following:

1. A job previously filled by the same employee in Iowa.
2. A job that was relocated from another location in Iowa.
3. A job that is created as a result of a consolidation, merger, or restructuring of a business entity if the job does not represent a new job in Iowa.

"Qualified new job" or *"job creation"* means a job that meets all of the following criteria:

1. Is a new full-time job that has not existed in the business in Iowa within the previous 12 months.
2. Is filled by a new employee for at least 12 months.
3. Is filled by a resident of the state of Iowa.
4. Is not created as a result of a change in ownership.

5. Was created on or after June 9, 2005.

"Retail business" means a business which sells its product directly to a consumer.

"Retained qualified new job" or *"job retention"* means the continued employment, after the first 12 months of employment, of the same employee in a qualified new job for another 12 months.

"Service business" means a business which is not engaged in the sale of tangible personal property, and which provides services to a local consumer market and does not have a significant proportion of its sales coming from outside Iowa.

304.26(2) *Calculation of credit.* A business which is not a retail or service business may claim the wage-benefits tax credit which is determined as follows:

a. If the annual wages and benefits for the qualified new job equal less than 130 percent of the average county wage, the credit is 0 percent of the annual wage and benefits paid.

b. If the annual wages and benefits for the qualified new job equal at least 130 percent but less than 160 percent of the average county wage, the credit is 5 percent of the annual wage and benefits paid for each qualified new job.

c. If the annual wages and benefits for the qualified new job equal at least 160 percent of the average county wage, the credit is 10 percent of the annual wage and benefits paid for each qualified new job.

If the business is a partnership, S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

304.26(3) *Application for the tax credit; tax credit certificate; amount of tax credit available.*

a. In order to claim the wage-benefits tax credit, the business must submit an application to the department along with information on the qualified new job or retained qualified new job. The application cannot be submitted until the end of the twelfth month after the qualified job was filled. For example, if the new job was created on June 9, 2005, the application cannot be submitted until June 9, 2006. The following information must be submitted in the application:

(1) Name, address and federal identification number of the business.

(2) A description of the activities of the business. If applicable, the proportion of the sales of the business which come from outside Iowa shall be included.

(3) The amount of wages and benefits paid to each employee for each new job for the previous 12 months.

(4) A computation of the amount of credit being requested.

(5) The address and state of residence of each new employee.

(6) The date that the qualified new job was filled.

(7) An indication of whether the job is a qualified new job or a retained qualified new job for which an application was filed for a previous year.

(8) The type of tax for which the credit will be applied.

(9) If the business is a partnership, S corporation, limited liability company, or estate or trust, a schedule of the partners, shareholders, members or beneficiaries. This schedule shall include the names, addresses and federal identification numbers of the partners, shareholders, members or beneficiaries, along with their percentage of the pro rata share of earnings of the partnership, S corporation, limited liability company, or estate or trust.

b. Upon receipt of the application, the department has 45 days either to approve or deny the application. If the department does not act on the application within 45 days, the application is deemed approved. If the department denies the application, the business may appeal the decision to the Iowa economic development board within 30 days of the notice of denial.

c. If the application is approved, or if the Iowa economic development board approves the application that was previously denied by the department, a tax credit certificate will be issued by the

department to the business, subject to the availability of the amount of credits that may be issued. The tax credit certificate shall contain the name, address and tax identification number of the business (or individual, estate or trust, if applicable), the date of the qualified new job(s), the wage and benefits paid for each job(s) for the 12-month period, the amount of the credit, the tax period for which the credit may be applied, and the type of tax for which the credit will be applied.

d. The tax credit certificates that are issued in a fiscal year cannot exceed $10 million for the fiscal year ending June 30, 2007, and shall not exceed $4 million for the fiscal years ending June 30, 2008, through June 30, 2011. The tax credit certificates are issued on a first-come, first-served basis. Therefore, if tax credit certificates have already been issued for the $10 million limit for the fiscal year ending June 30, 2007, any applications for tax credit certificates received after the $10 million limit has been reached will be denied. Similarly, if tax credit certificates have already been issued for the $4 million limit for the fiscal years ending June 30, 2008, through June 30, 2011, any applications for tax credit certificates received after the $4 million limit has been reached will be denied. If a business failed to receive all or a part of the tax credit due to the $10 million or $4 million limitation, the business may reapply for the tax credit for the retained new job for a subsequent tax period.

e. A business which qualifies for the tax credit for the fiscal year ending June 30, 2007, is eligible to receive the tax credit certificate for each of the fiscal years ending June 30, 2008, through June 30, 2011, subject to the $4 million limit for tax credits for the fiscal years ending June 30, 2008, through June 30, 2011, if the business retains the qualified new job during each of the fiscal years ending June 30, 2008, through June 30, 2011. The business must reapply by June 30 of each fiscal year for the tax credit, and the percentage of the wages and benefits allowed for the credit set forth in subrule 304.26(2) for the first year is applicable for each subsequent period. Preference will be given in issuing tax credit certificates for those businesses that retain qualified new jobs, and preference will be given in the order in which applications were filed for the fiscal year ending June 30, 2007. Therefore, those businesses which received the first $4 million of tax credits for the year ending June 30, 2007, in which the qualified jobs were created will automatically receive a tax credit for the fiscal years ending June 30, 2008, through June 30, 2011, as long as the qualified jobs are retained and an application is completed.

f. For the fiscal years ending June 30, 2008, through June 30, 2011, if credits become available because the jobs were not retained by businesses which received the first $4 million of credits for the year ending June 30, 2007, an application which was originally denied will be considered in the order in which the application was received for the fiscal year ending June 30, 2007.

EXAMPLE: Wage-benefits tax credits of $4 million are issued for the fiscal year ending June 30, 2007, relating to applications filed between July 1, 2006, and March 31, 2007. For the next fiscal year ending June 30, 2008, the same businesses that received the $4 million in wage-benefits tax credits filed applications totaling $3 million for the retained jobs for which the application for the prior year was filed on or before March 31, 2007. The first $3 million of the available $4 million will be allowed to these same businesses. The remaining $1 million that is still available for the fiscal year ending June 30, 2008, will be allowed for those retained jobs for which applications for the prior year were filed starting on April 1, 2007, until the remaining $1 million in tax credits is issued.

g. A business may apply in writing to the Iowa economic development board for a waiver of the average wage and benefit requirement. If a waiver is granted, the business must provide the department with the waiver and it must be attached to the application.

h. A business may receive other federal, state, and local incentives and tax credits in addition to the wage-benefits tax credit. However, a business that receives a wage-benefits tax credit cannot receive tax incentives under the high quality job creation program set forth in Iowa Code chapter 15 or moneys from the grow Iowa values fund.

304.26(4) *Examples.* The following noninclusive examples illustrate how this rule applies:

EXAMPLE 1: Business A operates a grocery store and hires five new employees, each of whom will earn wages and benefits in excess of 130 percent of the average county wage. Business A would not qualify for the wage-benefits tax credit because Business A is a retail business.

EXAMPLE 2: Business B operates an accounting firm and hires two new accountants, each of whom will earn wages and benefits in excess of 160 percent of the average county wage. The accounting firm provides services to clients wholly within Iowa. Business B would not qualify for the wage-benefits tax credit because it is a service business. The majority of its sales are generated from within the state of Iowa and thus Business B, because it is a service business, is not eligible for the credit.

EXAMPLE 3: Business C operates a software development business and hires two new programmers, each of whom will earn wages and benefits in excess of 160 percent of the average county wage. Over 50 percent of the customers of Business C are located outside Iowa. Business C would qualify for the wage-benefits tax credit because a majority of its sales are coming from outside the state, even though Business C is engaged in the performance of services.

EXAMPLE 4: Business D is a manufacturer that hires a new employee in Clayton County, Iowa, on July 8, 2005. The average county wage for Clayton County for the third quarter of 2005 is $11.86 per hour. If the average county wage per hour for Clayton County is $11.95 for the fourth quarter of 2005, $12.05 for the first quarter of 2006, and $12.14 for the second quarter of 2006, the annualized average county wage for this 12-month period is $12.00 per hour. This wage equates to an average annual wage of $24,960 ($12.00 × 40 hours × 52 weeks). In order for Business D to qualify for the 5 percent wage-benefits tax credit, the new employee must receive wages and benefits totaling $32,448 (130 percent of $24,960) for the 12-month period from July 8, 2005, through July 7, 2006. In order for Business D to qualify for the 10 percent wage-benefits tax credit, the new employee must receive wages and benefits totaling $39,936 (160 percent of $24,960) for the 12-month period from July 8, 2005, through July 7, 2006.

EXAMPLE 5: Business E is a manufacturer that hires three new employees in Grundy County, Iowa, on July 1, 2005. If the average county wage for the 12-month period from July 1, 2005, through June 30, 2006, is $13.75 per hour in Grundy County, this wage equates to an average county wage of $28,600. The wages and benefits for each of these three new employees is $40,000 for the period from July 1, 2005, through June 30, 2006, which is 140 percent of the average county wage. Business E is entitled to a wage-benefits tax credit of $2,000 for each employee ($40,000 × 5 percent), for a total wage-benefits tax credit of $6,000. If Business E files on a calendar-year basis, the $6,000 wage-benefits tax credit can be claimed on the tax return for the period ending December 31, 2006.

EXAMPLE 6: Business F is a manufacturer that hires ten new employees on July 1, 2005, and qualifies for the wage-benefits tax credit because the wages and benefits paid exceed 130 percent of the average county wage. Business F receives a wage-benefits tax credit in July 2006 for these ten employees, which can be used on the tax return for the period ending December 31, 2006. On August 31, 2006, two of the employees leave the business and are replaced by two new employees. Business F is entitled to a wage-benefits tax credit for only eight employees in July 2007 because only eight employees continued employment for the subsequent 12 months in a job which meets the definition of a retained qualified new job. Business F cannot request a wage-benefits tax credit for the two employees hired on August 31, 2006. Business F cannot request the wage-benefits tax credit because these two full-time jobs existed in the business within the previous 12 months in Iowa, and these jobs do not meet the definition of a qualified new job or retained qualified new job.

EXAMPLE 7: Business G is a manufacturer that hires ten new employees on July 1, 2005, and qualifies for the wage-benefits tax credit because the wages and benefits paid exceed 130 percent of the average county wage. Business G receives a wage-benefits tax credit in July 2006 for these ten employees equal to 5 percent of the wages and benefits paid. On October 1, 2006, Business G hires an additional five employees, each of whom receives wages and benefits in excess of 130 percent of the average county wage. Business G can apply for the wage-benefits tax credit on October 1, 2007, for these five employees, since these employees have now been employed for 12 months. However, the credit may not be allowed if more than $4 million of retained job tax credits have been issued for the fiscal year ending June 30, 2008.

EXAMPLE 8: Assume the same facts as Example 6, except that the $10 million limit of tax credits has already been met for the fiscal year ending June 30, 2007, and Business F hired five new employees on August 31, 2006. Business F can apply for the wage-benefits tax credit for the three employees on August 31, 2007, a number which is above the ten full-time jobs originally created, but Business F may not receive the tax credit if more than $4 million of retained job tax credits have been issued for the fiscal year ending June 30, 2008.

EXAMPLE 9: Assume the same facts as Example 7, except that the ten employees hired on July 1, 2005, by Business G received wages and benefits equal to 155 percent of the average county wage, and the five employees hired on October 1, 2006, by Business G received wages equal to 161 percent of the average county wage. Business G can apply for the tax credit on October 1, 2007, equal to 10 percent of the wages and benefits paid for the employees hired on October 1, 2006. On July 1, 2007, Business G can reapply for the tax credit equal to 5 percent of the wages and benefits paid only for the ten employees originally hired on July 1, 2005, even if the wages and benefits for these ten employees exceed 160 percent of the average county wage for the period from July 1, 2006, through June 30, 2007.

304.26(5) *Repeal of the wage-benefits tax credit.* The wage-benefits tax credit is repealed effective July 1, 2008. However, the wage-benefits tax credit is still available through the fiscal year ending June 30, 2011, as provided in paragraphs 304.26(3)*"d," "e,"* and *"f."* A business is not entitled to a wage-benefits tax credit for a qualified new job created on or after July 1, 2008.

This rule is intended to implement Iowa Code chapter 15I and section 422.11L.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—304.27(422,476B) Wind energy production tax credit. Effective for tax years beginning on or after July 1, 2006, an owner of a qualified wind energy production facility that has been approved by the Iowa utilities board may claim a wind energy production tax credit for qualified electricity sold by the owner or used for on-site consumption against a taxpayer's Iowa individual income tax liability. The administrative rules for the certification of eligibility for the wind energy production tax credit for the Iowa utilities board may be found in rule 199—15.18(476B).

304.27(1) *Application and review process for the wind energy production tax credit.* An owner of a wind energy production facility must be approved by the Iowa utilities board in order to qualify for the wind energy production tax credit. The facility must be an electrical production facility that produces electricity from wind, that is located in Iowa, and that is placed in service on or after July 1, 2005, but before July 1, 2012. For applications filed on or after March 1, 2008, a facility must consist of one or more wind turbines which have a combined nameplate generating capacity of at least 2 megawatts and no more than 30 megawatts. For applications filed on or after July 1, 2009, by a private college or university, community college, institution under the control of the state board of regents, public or accredited nonpublic elementary and secondary school, or public hospital as defined in Iowa Code section 249J.3, the facility must have a combined nameplate generating capacity of no less than ¾ of a megawatt.

The maximum amount of nameplate generating capacity for all qualified wind energy production facilities cannot exceed 50 megawatts. An owner shall not own more than two qualified facilities. A facility that is not operational within 18 months after issuance of the approval from the Iowa utilities board will no longer be considered a qualified facility. However, a facility that is not operational within 18 months due to the unavailability of necessary equipment shall be granted an additional 12 months to become operational.

An owner of the qualified facility must apply to the Iowa utilities board for the wind energy production tax credit. The application for the tax credit must be filed no later than 30 days after the close of the tax year for which the credit is applied. The information to be included in the application is set forth in 199—subrule 15.20(1).

304.27(2) *Computation of the credit.* The wind energy production credit equals one cent multiplied by the number of kilowatt-hours of qualified electricity sold or used for on-site consumption by the owner during the tax year. For the first tax year in which the credit is applied, the kilowatt-hours of qualified electricity sold may exceed 12 months.

EXAMPLE: A qualified facility was placed in service on April 1, 2006, and the taxpayer files on a calendar-year basis. The first year for which the credit can be claimed is the period ending December 31, 2007, since that is the first tax year that began on or after July 1, 2006. The credit for the 2007 tax year can include electricity sold between April 1, 2006, and December 31, 2007.

The credit is not allowed for any kilowatt-hours of electricity sold to a related person. The definition of "related person" uses the same criteria set forth in Section 45(e)(4) of the Internal Revenue Code relating to the federal renewable electricity production credit. Persons shall be treated as related to each other if such persons are treated as a single employer under Treasury Regulation § 1.52-1. In the case of a corporation that is a member of an affiliated group of corporations filing a federal consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to the person by another member of the affiliated group.

The utilities board will notify the department of the number of kilowatt-hours of electricity sold by the qualified facility or generated and used on site by the qualified facility during the tax year. The department will calculate the credit and issue a tax credit certificate to the owner. The tax credit certificate will include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit certificate, as provided in subrule 304.27(3). If the department refuses to issue the tax credit certificate, the taxpayer shall be notified in writing and the taxpayer will have 60 days from the date of denial to file a protest in accordance with rule 701—7.8(17A). The department will not issue a tax credit certificate if the facility is not operational within 18 months after approval was given by the utilities board, unless a 12-month extension is granted by the utilities board as provided in subrule 304.27(1).

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on the partner's, member's, shareholder's or beneficiary's pro rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust, except when the taxpayer is eligible to receive renewable electricity production tax credits authorized under Section 45 of the Internal Revenue Code. In cases where the taxpayer is eligible to receive renewable electricity production tax credits under Section 45 of the Internal Revenue Code, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. In addition, if a taxpayer is a partnership, limited liability company, S corporation, or estate or trust that is eligible to receive renewable electricity production tax credits under Section 45 of the Internal Revenue Code, the taxpayer may distribute the tax credit to an equity holder or beneficiary as a liquidating distribution, or portion thereof, of an equity holder's interest in the partnership, limited liability company or S corporation, or the beneficiary's interest in the estate or trust.

The credit can be allowed for a ten-year period beginning on the date the qualified facility was originally placed in service. For example, if a facility was placed in service on April 1, 2006, the credit can be claimed for kilowatt-hours of electricity sold between April 1, 2006, and March 31, 2016.

To claim the tax credit, the taxpayer must include the tax credit certificate with the tax return for the tax year set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for seven years or until it is used, whichever is the earlier.

304.27(3) *Transfer of the wind energy production tax credit certificate.* The wind energy production tax credit certificate may be transferred to any person or entity.

Within 30 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the wind energy production tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year and the same expiration date as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

This rule is intended to implement Iowa Code section 422.11J and Iowa Code chapter 476B as amended by 2011 Iowa Acts, House File 672.

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701—304.28(422,476C) Renewable energy tax credit. Effective for tax years beginning on or after July 1, 2006, a purchaser or producer of renewable energy whose facility has been approved by the Iowa utilities board may claim a renewable energy tax credit for qualified renewable energy against a taxpayer's Iowa individual income tax liability.

304.28(1) *Eligible facility application process.*

a. Eligible facility application process, generally. A producer or purchaser of a renewable energy facility must be approved as an eligible renewable energy facility by the Iowa utilities board in order to qualify for the renewable energy tax credit. The eligible renewable energy facility can be a wind energy conversion facility, biogas recovery facility, biomass conversion facility, methane gas recovery facility, solar energy conversion facility or refuse conversion facility. The facility must be located in Iowa and placed in service on or after July 1, 2005, and before January 1, 2018. The administrative rules for the certification of eligibility for the renewable energy tax credit for the Iowa utilities board may be found in rule 199—15.19(476C).

b. Limitations on maximum energy production and nameplate generating capacity. The maximum amount of nameplate generating capacity of all wind energy conversion facilities cannot exceed 363 megawatts. For tax years beginning prior to January 1, 2015, the maximum amount of energy production capacity for biogas recovery facilities, biomass conversion facilities, methane gas recovery facilities, solar energy conversion facilities and refuse conversion facilities cannot exceed a combined output of 53 megawatts of nameplate generating capacity and 167 billion British thermal units of heat for a commercial purpose. For tax years beginning on or after January 1, 2015, the maximum amount of energy production for biogas recovery facilities, biomass conversion facilities, methane gas recovery facilities, solar energy conversion facilities and refuse conversion facilities cannot exceed a combined output of 63 megawatts of nameplate generating capacity and, annually, 167 billion British thermal units of heat for a commercial purpose. A facility that is not operational within 30 months after issuance of approval from the utilities board will no longer be considered a qualified facility. However, if the facility is a wind energy conversion property and is not operational

within 18 months due to the unavailability of necessary equipment, the facility may apply for a 12-month extension of the 30-month limit. Extensions can be renewed for succeeding 12-month periods if the facility applies for the extension prior to expiration of the current extension period. A producer of renewable energy, who is the person who owns the renewable energy facility, cannot own more than two eligible renewable energy facilities. A person that has an equity interest equal to or greater than 51 percent in an eligible renewable energy facility cannot have an equity interest greater than 10 percent in any other renewable energy facility. However, for tax years beginning on or after January 1, 2015, an entity described in Iowa Code section 476C.1(6)*"b"*(4) or (5) may have an ownership interest in up to four solar energy conversion facilities described in Iowa Code section 476C.3(4)*"b"*(3).

304.28(2) *Tax credit certificate procedure.*

a. Tax credit application process. A producer or purchaser of a renewable energy facility must apply to the utilities board for the renewable energy tax credit. The application for the tax credit must be filed no later than 30 days after the close of the tax year for which the credit is applied. The information to be included in the application is set forth in 199—subrule 15.21(1). The utilities board will notify the department of the number of kilowatt-hours, standard cubic feet or British thermal units that were generated and purchased from an eligible facility or used for on-site consumption by the producer during the tax year for which the credit is applied.

b. Tax credit calculation. The department shall calculate the amount of the credit for which the applicant is eligible in accordance with subrules 304.28(3) and 304.28(4) and shall issue a tax credit certificate for that amount or shall notify the applicant in writing of its refusal to do so.

c. Tax credit certificate issuance. The tax credit certificate will include the taxpayer's name, address and federal identification number; the tax type for which the credit will be claimed; the amount of the credit; and the tax year for which the credit may be claimed. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit certificate, as provided in subrule 304.28(5). Once a tax credit certificate is issued pursuant to Iowa Code chapter 476C, it shall not be terminated or rescinded.

d. Taxpayers that are partnerships, limited liability companies, S corporations, or estates or trusts. If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on the partner's, member's, shareholder's or beneficiary's pro rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust, except when the taxpayer is eligible to receive renewable electricity production tax credits authorized under Section 45 of the Internal Revenue Code. In cases where the taxpayer is eligible to receive renewable electricity production tax credits under Section 45 of the Internal Revenue Code, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. In addition, if a taxpayer is a partnership, limited liability company, S corporation, or estate or trust that is eligible to receive renewable electricity production tax credits under Section 45 of the Internal Revenue Code, the taxpayer may distribute the tax credit to an equity holder or beneficiary as a liquidating distribution, or portion thereof, of an equity holder's interest in the partnership, limited liability company or S corporation or of the beneficiary's interest in the estate or trust.

e. Carryforward. To claim the tax credit, the taxpayer must include the tax credit certificate with the tax return for the tax period set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for seven years or until it is used, whichever is the earlier.

304.28(3) *Limitations.*

a. Energy production. Of the maximum amount of energy production capacity equivalent for biogas recovery facilities, biomass conversion facilities, methane gas recovery facilities, solar energy conversion facilities and refuse conversion facilities:

(1) No single facility may be allocated more than ten megawatts of nameplate generating capacity or energy production capacity equivalent.

(2) For tax years beginning on or after January 1, 2015, ten megawatts of nameplate generating capacity or energy production capacity equivalent shall be reserved for solar energy conversion facilities described in Iowa Code section 476C.3(4)*"b"*(3) that have a generating capacity of one and one-half megawatts or less.

(3) For tax years, beginning on or after January 1, 2014, 55 billion British thermal units of heat for a commercial purpose shall be reserved annually for an eligible facility that is a refuse conversion facility for processed, engineered fuel from a multicounty solid waste management planning area.

(4) For tax years beginning on or after January 1, 2014, the maximum annual amount of energy production capacity for a single refuse conversion facility is 55 billion British thermal units of heat for a commercial purpose.

b. Related persons. The credit is not allowed for any kilowatt-hours, standard cubic feet or British thermal units that are purchased from an eligible facility by a related person. Persons shall be treated as related to each other if either person owns an 80 percent or more equity interest in the other person.

c. Operation. The facility must be operational within 30 months after approval was given by the utilities board, unless a 12-month extension is granted by the utilities board as provided in subrule 304.28(1).

d. Prohibited for persons that have received a credit under Iowa Code chapter 476B. A person that has received a wind energy production tax credit pursuant to Iowa Code chapter 476B may not be issued a renewable energy tax credit certificate.

e. Ten-year award limitation. The credit is allowed for a ten-year period beginning on the date the purchaser first purchases renewable energy from a qualified facility or on the date the qualified facility first began producing renewable energy for on-site consumption. For example, if a renewable energy facility first began producing energy for on-site consumption on April 1, 2006, the credit can be claimed for kilowatt-hours, standard cubic feet or British thermal units generated and used for on-site consumption by the producer between April 1, 2006, and March 31, 2016. Tax credit certificates cannot be issued for renewable energy purchased or produced for on-site consumption after December 31, 2027.

304.28(4) *Computation of the credit.* The renewable energy tax credit equals 1½ cents per kilowatt-hour of electricity, or $1.44 per 1000 standard cubic feet of hydrogen fuel, or $4.50 per 1 million British thermal units of methane gas or other biogas used to generate electricity, or $4.50 per 1 million British thermal units of heat for a commercial purpose generated by and purchased from an eligible renewable energy facility or used for on-site consumption by the producer during the tax year. For the first tax year in which the credit is applied, the kilowatt-hours, standard cubic feet or British thermal units generated by and purchased from the facility or used for on-site consumption by the producer may exceed 12 months if the facility was operational for fewer than 12 months in its initial year of operation.

EXAMPLE: A qualified wind energy production facility was placed in service on April 1, 2006, and the taxpayer files on a calendar-year basis. The first year for which the credit can be claimed is the year ending December 31, 2007, since that is the first tax year that began on or after July 1, 2006. The credit for the 2007 tax year can include electricity generated and purchased or used for on-site consumption by the producer between April 1, 2006, and December 31, 2007.

304.28(5) *Transfer of the renewable energy tax credit certificate.*

a. One-transfer limitation. The renewable energy tax credit certificate may be transferred once to any person or entity. A decision between a producer and purchaser of renewable energy regarding who may claim the tax credit is not considered a transfer.

b. Transfer process—information required. Within 30 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department, along with a statement which contains the transferee's name, address and tax identification number; the amount of the tax credit being transferred; the value of any consideration provided by the transferee to the transferor; and any other information required by the department. Within 30 days of receiving

the transferred tax credit certificate and the statement from the transferee, the department will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the renewable energy tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year and the same expiration date as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

c. Tax year. The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit.

d. Consideration. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

304.28(6) *Small wind innovation zones.* Effective for tax years beginning on or after January 1, 2009, an owner of a small wind energy system operating within a small wind innovation zone which has been approved by the Iowa utilities board is eligible for the renewable energy tax credit. The administrative rules of the Iowa utilities board for the certification of eligibility for owners of small wind energy systems operating within a small wind innovation zone may be found in rule 199—15.22(476).

304.28(7) *Appeals.* If the department refuses to issue the tax credit certificate, the taxpayer shall be notified in writing, and the taxpayer will have 60 days from the date of denial to file a protest in accordance with rule 701—7.8(17A).

This rule is intended to implement Iowa Code section 422.11J and Iowa Code chapter 476C as amended by 2015 Iowa Acts, chapter 124, and 2016 Iowa Acts, House File 2468.

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701—304.29(15) High quality job creation program. Effective for tax periods ending on or after July 1, 2005, for programs approved on or after July 1, 2005, but before July 1, 2009, a business which qualifies under the high quality job creation program is eligible to receive tax credits. The high quality job creation program replaces the new jobs and income program and the new capital investment program. An eligible business under the high quality job creation program must be approved by the Iowa department of economic development and meet the qualifications of Iowa Code section 15.329. The administrative rules for the high quality job creation program for the Iowa department of economic development may be found at 261—Chapter 68.

The high quality job creation program was repealed on July 1, 2009, and has been replaced with the high quality jobs program. See rule 701—304.42(15) for information on the investment tax credit and additional research activities credit under the high quality jobs program. Any investment tax credit and additional research activities credit earned by businesses approved under the high quality job creation program prior to July 1, 2009, remains valid and can be claimed on tax returns filed after July 1, 2009.

304.29(1) *Research activities credit.* An eligible business approved under the high quality job creation program is eligible for an additional research activities credit as described in 701—subrule 501.7(4).

Research activities allowable for the Iowa research activities credit include expenses related to the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa; such expenses related to the development and deployment of innovative renewable

energy generation components are not eligible for the federal credit for increasing research activities. For purposes of this subrule, innovative renewable energy generation components do not include components with more than 200 megawatts in installed effective nameplate generating capacity. The research activities credit related to renewable energy generation components under the high quality job creation program and the enterprise zone program shall not exceed $1 million in the aggregate.

These expenses related to the development and deployment of innovative renewable energy generation components are applicable only to the additional research activities credit set forth in this subrule and are not applicable to the research activities credit set forth in paragraphs 304.11(3)*"a"* and *"b."* The research activities credit is subject to the threshold amounts of qualifying investment set forth in Iowa department of economic development 261—subrule 68.4(7).

304.29(2) *Investment tax credit.*

a. General rule. An eligible business can claim an investment tax credit equal to a percentage of the new investment directly related to new jobs created by the location or expansion of an eligible business. The percentage is equal to the amount provided in Iowa department of economic development 261—subrule 68.4(7). New investment directly related to new jobs created by the location or expansion of an eligible business includes the following:

(1) The cost of machinery and equipment, as defined in Iowa Code section 427A.1(1), paragraphs *"e"* and *"j,"* purchased for use in the operation of the eligible business. The purchase price shall be depreciated in accordance with generally accepted accounting principles.

(2) The purchase price of real property and any buildings and structures located on the real property.

(3) The cost of improvements made to real property which is used in the operation of the eligible business.

In addition, certain lease payments made by eligible businesses to a third-party developer will be considered to be new investment for purposes of computing the investment tax credit. The eligible business shall enter into a lease agreement with the third-party developer for a minimum of five years. The investment tax credit is based on the annual base rent paid to a third-party developer by the eligible business for a period not to exceed ten years. The total costs of the annual base rent payments for the ten-year period cannot exceed the cost of the land and the third-party developer's cost to build or renovate the building used by the eligible business. The annual base rent is defined as the total lease payment less taxes, insurance and operating and maintenance expenses.

The investment tax credit can be claimed in the tax year in which the qualifying assets are placed in service. The investment tax credit will be amortized over a five-year period. Any credit in excess of the tax liability for the tax period may be carried forward seven years or until used, whichever is the earlier.

EXAMPLE: An eligible business which files tax returns on a calendar-year basis earned $100,000 of investment tax credits for new investment made in 2006. The business can claim $20,000 of investment tax credits for each of the years from 2006 through 2010. The $20,000 of investment tax credit that can be claimed in 2006 can be carried forward to the 2007-2013 tax years if the entire credit cannot be claimed on the 2006 return. Similarly, the $20,000 investment tax credit that can be claimed in 2007 can be carried forward to the 2008-2014 tax years if the entire credit cannot be claimed on the 2007 return.

If the business is a partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to an individual, an individual may claim the credit. The amount of the credit claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to an individual.

b. Investment tax credit—value-added agricultural products or biotechnology-related processes. An eligible business whose project primarily involves the production of value-added agricultural

products or uses biotechnology-related processes may elect to receive a refund for all or a portion of an unused investment tax credit. An eligible business includes a cooperative described in Section 521 of the Internal Revenue Code whose project primarily involves the production of ethanol.

Eligible businesses that elect to receive a refund shall apply to the Iowa department of economic development for tax credit certificates between May 1 and May 15 of each fiscal year through the fiscal year ending June 30, 2009. The election to receive a refund of all or a portion of an unused investment tax credit is no longer available beginning with the fiscal year ending June 30, 2010. Only those businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate. The Iowa department of economic development shall not issue tax credit certificates for more than $4 million during a fiscal year to eligible businesses for this program and the enterprise zone program described in subrule 304.14(2). If applications are received for more than $4 million, the applicants shall receive certificates for a prorated amount.

The economic development authority shall issue tax credit certificates within a reasonable period of time. Tax credit certificates are valid for the tax year following project completion. The tax credit certificate must be included with the tax return for the tax year during which the tax credit is claimed. The tax credit certificate shall not be transferred, except for a cooperative described in Section 521 of the Internal Revenue Code whose project primarily involves the production of ethanol, as provided in subrule 304.14(2). For value-added agricultural projects involving ethanol, the cooperative must submit a list of its members and the share of each member's interest in the cooperative. The economic development authority shall issue a tax credit certificate to each member on the list.

c. Repayment of benefits. If an eligible business fails to maintain the requirements of the high quality job creation program, the taxpayer may be required to repay all or a portion of the tax incentives taken on Iowa returns. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the tax credits may have expired, the department may proceed to collect the tax incentives forfeited by failure of the eligible business to maintain the requirements of the high quality job creation program because the repayment is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability. Details on the calculation of the repayment can be found in 261—subrule 187.5(4) of the administrative rules of the economic development authority. If the business is a partnership, limited liability company, S corporation, estate or trust where the income of the taxpayer is taxed to the individual owner(s) of the business, the department may proceed to collect the tax incentives against the partners, members, shareholders or beneficiaries to whom the tax incentives were passed through. See Decision of the Administrative Law Judge in *Damien & Colette Trebilcock, et al.,* Docket No. 11DORF 042-044, June 11, 2012.

An eligible business in the high quality job creation program may also be required to repay all or a portion of the tax incentives received on Iowa returns if the eligible business experiences a layoff of employees in Iowa or closes any of its facilities in Iowa.

If, within five years of purchase, the eligible business sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other existing structures for which a tax credit was claimed under this subrule, the income tax liability of the eligible business shall be increased by one of the following amounts:

(1) One hundred percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within one full year after being placed in service.

(2) Eighty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within two full years after being placed in service.

(3) Sixty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within three full years after being placed in service.

(4) Forty percent of the tax credit claimed if the property ceases to be eligible for the tax credit within four full years after being placed in service.

(5) Twenty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within five full years after being placed in service.

304.29(3) *Determination of tax credit amounts.* The amount of tax credit claimed under the high quality job creation program shall be based on the number of high quality jobs created and the amount of qualifying investment made as determined by the Iowa department of economic development.

a. If the high quality jobs have a starting wage, including benefits, equal to or greater than 130 percent of the average county wage but less than 160 percent of the average county wage, see Iowa department of economic development 261—paragraph 68.4(7)*"a"* for the amount of tax credits that may be claimed.

b. If the high quality jobs have a starting wage, including benefits, equal to or greater than 160 percent of the average county wage, see Iowa department of economic development 261—paragraph 68.4(7)*"b"* for the amount of tax credits that may be claimed.

c. An eligible business approved under the high quality job creation program is not eligible for the wage-benefits tax credit set forth in rule 701—304.26(15I,422).

This rule is intended to implement Iowa Code sections 15.326 to 15.337.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 9104B**, IAB 9/22/10, effective 10/27/10; **ARC 1744C**, IAB 11/26/14, effective 12/31/14; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—304.30(15E,422) Economic development region revolving fund tax credit. Effective for tax years ending on or after July 1, 2005, but beginning before January 1, 2010, a taxpayer who makes a contribution to an economic development region revolving fund may claim a tax credit, subject to the availability of the credit. The tax credit is equal to 20 percent of a taxpayer's contribution to the economic development region revolving fund approved by the Iowa department of economic development. The administrative rules for the economic development region revolving fund tax credit for the Iowa department of economic development may be found at 261—Chapter 32. The tax credit is repealed for tax years beginning on or after January 1, 2010.

The total amount of economic development region revolving fund tax credits available shall not exceed $2 million per fiscal year. The tax credit shall not be carried back to a tax year prior to the year in which the taxpayer redeems the credit. The economic development region revolving fund tax credit is not transferable to any other taxpayer.

Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten years or until used, whichever is the earlier.

If a taxpayer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code sections 15E.232 and 422.11K as amended by 2010 Iowa Acts, Senate File 2380.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 9104B**, IAB 9/22/10, effective 10/27/10; Editorial change: IAC Supplement 11/2/22]

701—304.31(422) Early childhood development tax credit. Taxpayers may claim a tax credit equal to 25 percent of the first $1,000 of expenses paid to others for early childhood development for each dependent three to five years of age. The credit is available only to taxpayers whose net income is less than $90,000. If a taxpayer claims the early childhood development tax credit, the taxpayer cannot claim the child and dependent care credit described in rule 701—304.15(422). The early childhood development tax credit is refundable to the extent that the credit exceeds the taxpayer's income tax liability.

For married taxpayers who elect to file separately on a combined form or elect to file separate returns for Iowa tax purposes, the combined net income of the taxpayers must be less than $90,000 to be eligible for the credit. If the combined net income is less than $90,000, the early childhood development tax credit shall be prorated to each spouse in the proportion that each spouse's respective net income bears to the total combined net income.

Nonresidents and part-year residents who have income from Iowa sources in the tax year may claim the early childhood development tax credit on their Iowa returns. If the taxpayer's all-source net income is $90,000 or higher, the taxpayer will not qualify for the credit. Nonresidents or part-year residents of Iowa must determine the early childhood development tax credit in the ratio of their Iowa-source net income to their all-source net income. In addition, if nonresidents or part-year residents of Iowa are married and elect to file separate returns or to file separately on a combined Iowa return, the early childhood development tax credit must be allocated between the spouses in the ratio of each spouse's Iowa-source net income to their combined Iowa-source net income.

304.31(1) *Expenses eligible for the credit.* The following expenses qualify for the early childhood development tax credit, to the extent they are paid during the time period that a dependent is either three, four, or five years of age:

a. Expenses for services provided by a preschool, as defined in Iowa Code section 237A.1. The preschool may only provide services for periods of time not exceeding three hours per day.

b. Books that improve child development, including textbooks, music books, art books, teacher editions, and reading books.

c. Expenses paid for instructional materials required to be used in a child development or educational lesson activity. These materials include, but are not limited to, paper, notebooks, pencils, and art supplies. In addition, software and toys which are directly and primarily used for educational or learning purposes are considered instructional materials.

d. Expenses paid for lesson plans and curricula.

e. Expenses paid for child development and educational activities outside the home. These activities include, but are not limited to, drama, art, music, and museum activities, including the entrance fees for such activities.

304.31(2) *Expenses not eligible for the credit.* The following expenses do not qualify for the early childhood development tax credit:

a. Any expenses, including expenses paid to a preschool, once a dependent reaches the age of six.

b. Expenses relating to food, lodging, membership fees, or other nonacademic expenses relating to child development and educational activities outside the home.

c. Expenses related to services, materials, or activities for the teaching of religious tenets, doctrines, or worship, in cases where the purpose of the teaching is to inculcate the religious tenets, doctrines, or worship.

This rule is intended to implement Iowa Code section 422.12C.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 6149C**, IAB 1/12/22, effective 2/16/22; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—304.32(422) School tuition organization tax credit. For tax years beginning prior to January 1, 2021, a school tuition organization tax credit is available which is equal to 65 percent of the amount of voluntary cash or noncash contributions made by a taxpayer to a school tuition organization. For tax years beginning on or after January 1, 2021, the tax credit is equal to 75 percent of the amount of voluntary cash or noncash contributions made by a taxpayer to a school tuition organization. There are numerous federal revenue regulations, rulings, court cases and other provisions relating to the determination of the value of a noncash contribution, and these are equally applicable to the determination of the amount of a school tuition organization tax credit.

304.32(1) *Definitions.* The following definitions are applicable to this rule:

"Certified enrollment" means the enrollment at schools served by school tuition organizations as of October 1, or the first Monday in October if October 1 falls on a Saturday or Sunday, of the appropriate year.

"Contribution" means a voluntary cash or noncash contribution to a school tuition organization that is not used for the direct benefit of any dependent of the taxpayer or any other student designated by the taxpayer.

"Eligible student" means a student residing in Iowa who is a member of a household whose total annual income during the calendar year prior to the school year in which the student receives a tuition grant from a school tuition organization does not exceed an amount equal to four times the most recently published federal poverty guidelines in the Federal Register by the United States Department of Health and Human Services.

"Qualified school" means a nonpublic elementary or secondary school in Iowa which is accredited under Iowa Code section 256.11, including a prekindergarten program for students who are five years of age by September 15 of the appropriate year, and adheres to the provisions of the federal Civil Rights Act of 1964 and Iowa Code chapter 216, and which is represented by only one school tuition organization.

"School tuition organization" means a charitable organization in Iowa that is exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code and that does all of the following:

1. Allocates at least 90 percent of its annual revenue in tuition grants for children to allow them to attend a qualified school of their parents' choice.
2. Awards tuition grants only to children who reside in Iowa.
3. Provides tuition grants to students without limiting availability to students of only one school.
4. Provides tuition grants only to eligible students.
5. Prepares an annual financial statement certified by a public accounting firm.

"Tuition grant" means a grant to a student to cover all or part of the student's tuition at a qualified school.

304.32(2) *Initial registration.* In order for contributions to a school tuition organization to qualify for the credit, the school tuition organization must initially register with the department. The following information must be provided with this initial registration:

a. Verification from the Internal Revenue Service that Section 501(c)(3) status was granted and that the school tuition organization is exempt from federal income tax.

b. A list of all qualified schools that the school tuition organization serves.

c. The names and addresses of all the members of the board of directors of the school tuition organization.

Once the school tuition organization is registered with the department, it is not required to subsequently register unless there is a change in the qualified schools that the organization serves. The school tuition organization must notify the department in writing of any changes in the qualified schools it serves.

304.32(3) *Participation forms.* Each qualified school that is served by a school tuition organization must annually submit a participation form to the department by November 1. The following information must be provided with this participation form:

a. The certified enrollment of the qualified school as of October 1, or the first Monday in October if October 1 falls on a Saturday or Sunday.

b. The name of the school tuition organization that represents the qualified school.

304.32(4) *Authorization to issue tax credit certificates.*

a. By December 1 of each year, the department will authorize school tuition organizations to issue tax credit certificates for the following calendar year. The total amount of tax credit certificates that may be authorized is:

(1) $2.5 million for the 2006 calendar year,
(2) $5 million for the 2007 calendar year,
(3) $7.5 million for the 2008 through 2011 calendar years,
(4) $8.75 million for the 2012 and 2013 calendar years,
(5) $12 million for the 2014 through 2018 calendar years,
(6) $13 million for the 2019 calendar year,
(7) $15 million for the 2020 and 2021 calendar years, and
(8) $20 million for the 2022 calendar year and subsequent calendar years.

b. The amount of authorized tax credit certificates for each school tuition organization is determined by dividing the total amount of tax credit available by the total certified enrollment of all qualified participating schools. This result, which is the per-student tax credit, is then multiplied by the certified enrollment of each school tuition organization to determine the tax credit authorized to each school tuition organization.

EXAMPLE: For determining the authorized tax credits for the 2022 calendar year, if the certified enrollment of all qualified schools in Iowa, as provided to the department by November 1, 2021, was 40,000, the per-student tax credit would be $500 ($20 million ÷ 40,000). If a school tuition organization located in Scott County represents four qualified schools with a certified enrollment of 1,400 students, the school tuition organization would be authorized to issue $700,000 ($500 × 1,400) of tax credit certificates for the 2022 calendar year. The department would notify this school tuition organization by December 1, 2021, of the authorization to issue $700,000 of tax credit certificates for the 2022 calendar year. This authorization would allow the school tuition organization to solicit contributions totaling $933,333 ($700,000 ÷ 75%) during the 2022 calendar year which would be eligible for the tax credit.

304.32(5) *Issuance of tax credit certificates.*

a. The school tuition organization shall issue tax credit certificates to each taxpayer who made a cash or noncash contribution to the school tuition organization. The tax credit certificate, designed by the department, shall contain the name, address and tax identification number of the taxpayer; the amount and date that the contribution was made; the amount of the credit; the tax year that the credit may be applied; the school tuition organization to which the contribution was made; and the tax credit certificate number.

b. A tax credit certificate may be issued to a partnership, limited liability company, S corporation, estate or trust. The amount of credit claimed by an individual shall be based on the pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, estate or trust.

304.32(6) *Claiming the tax credit.* The taxpayer must include the tax credit certificate with the tax return for which the credit is claimed. The tax credit shall be claimed in the tax year during which the contribution is made. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier.

a. The taxpayer shall not claim an itemized deduction for charitable contributions for Iowa income tax purposes for the amount of the contribution made to the school tuition organization.

b. Married taxpayers who file separate returns or file separately on a combined return must allocate the school tuition organization tax credit to each spouse in the proportion that each spouse's respective net income bears to the total combined net income. Nonresidents or part-year residents of Iowa, including those who are claiming a tax credit of a partnership, limited liability company, S corporation, estate, or trust of which they are a member, must determine the school tuition organization tax credit in the ratio of their Iowa source net income to their total source net income. In addition, if nonresidents or part-year residents of Iowa are married and elect to file separate returns or to file separately on a combined return, the school tuition organization tax credit must be allocated between the spouses in the ratio of each spouse's Iowa source net income to the combined Iowa source net income.

304.32(7) *Reporting requirements.* Each school tuition organization that issues tax credit certificates must report to the department, postmarked by January 12 of each calendar year, the following information:

a. The names and addresses of all the members of the board of directors of the school tuition organization, along with the name of the chairperson of the board.

b. The total number and dollar value of contributions received by the school tuition organization for the previous calendar year.

c. The total number and dollar value of tax credit certificates issued by the school tuition organization for the previous calendar year.

d. A list of each taxpayer who received a tax credit certificate for the previous calendar year, including the amount of the contribution and the amount of tax credit issued to each taxpayer for the previous calendar year. This list should also include the tax identification number of the taxpayer and the tax credit certificate number for each certificate.

e. The total number of children utilizing tuition grants for the school year in progress as of January 12, along with the total dollar value of the tuition grants.

f. The name and address of each qualified school represented by the school tuition organization at which tuition grants are being utilized for the school year in progress.

g. The number of tuition grant students and the total dollar value of tuition grants being utilized for the school year in progress at each qualified school served by the school tuition organization.

This rule is intended to implement Iowa Code section 422.11S.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 9876B**, IAB 11/30/11, effective 1/4/12; **ARC 1102C**, IAB 10/16/13, effective 11/20/13; **ARC 1744C**, IAB 11/26/14, effective 12/31/14; **ARC 5978C**, IAB 10/20/21, effective 11/24/21; Editorial change: IAC Supplement 11/2/22]

701—304.33(422) E-85 gasoline promotion tax credit. Effective for tax years beginning on or after January 1, 2006, a retail dealer of gasoline may claim an E-85 gasoline promotion tax credit. "E-85 gasoline" means ethanol blended gasoline formulated with a minimum percentage of between 70 percent and 85 percent of volume of ethanol, if the formulation meets the standards provided in Iowa Code section 214A.2. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA 135.

304.33(1) *Claiming the credit.*

a. Amount of the credit. The credit is calculated by multiplying the total number of E-85 gallons sold by the retail dealer during the tax year by the following designated rates:

Calendar years 2006, 2007, and 2008	25 cents
Calendar years 2009 and 2010	20 cents
Calendar year 2011	10 cents
Calendar years 2012 through 2024	16 cents

b. Claiming the credit with other credits. A taxpayer may claim the E-85 gasoline promotion tax credit even if the taxpayer also claims the ethanol blended gasoline tax credit provided in rule 701—304.20(422) for gallons sold prior to January 1, 2009, or the ethanol promotion tax credit provided in rule 701—304.39(422) for gallons sold on or after January 1, 2009, but prior to January 1, 2021, for the same tax year for the same ethanol gallons.

c. Refundability. Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

d. Transferability. The credit may not be transferred to any other person.

e. Example. A taxpayer operated one retail motor fuel site in 2008 and sold 200,000 gallons of gasoline, of which 160,000 gallons was ethanol blended gasoline. Of these 160,000 gallons, 1,000 gallons was E-85 gasoline. Taxpayer may claim the E-85 gasoline promotion tax credit on the 1,000 gallons of E-85 gasoline sold during 2008. Taxpayer is also entitled to claim the ethanol blended gasoline tax credit of two and one-half cents multiplied by 40,000 gallons, since this constitutes the gallons in excess of 60 percent of the total gasoline gallons sold for the 2008 tax year.

304.33(2) *Fiscal year filers.* For taxpayers whose tax year is not on a calendar-year basis, the taxpayer may compute the tax credit on the gallons of E-85 gasoline sold during the year using the designated rates as shown above. Because the tax credit is repealed on January 1, 2025, a taxpayer whose tax year ends prior to December 31, 2024, may continue to claim the tax credit in the following tax year for any E-85 gallons sold through December 31, 2024. For a retail dealer whose tax year is not on a calendar-year basis and who did not claim the E-85 credit on the previous return, the dealer may claim the credit for the current tax year for the period beginning on January 1 of the previous tax year until the last day of the previous tax year.

See 701—subrule 501.30(2) for examples illustrating how this subrule is applied.

304.33(3) *Allocation of credit to owners of a business entity or to beneficiaries of an estate or trust.* If a taxpayer claiming the E-85 ethanol promotion tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code section 422.11O as amended by 2016 Iowa Acts, Senate File 2309.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 9821B**, IAB 11/2/11, effective 12/7/11; **ARC 3043C**, IAB 4/26/17, effective 5/31/17; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—304.34(422) Biodiesel blended fuel tax credit. Effective for tax years beginning on or after January 1, 2006, a retail dealer of biodiesel blended fuel may claim a biodiesel blended fuel tax credit. "Biodiesel blended fuel" means a blend of biodiesel with petroleum-based diesel fuel that meets the standards provided in Iowa Code section 214A.2. In determining the minimum percentage by volume of biodiesel, the department will take into account reasonable variances due to testing and other limitations. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA 8864.

304.34(1) *Calculating the credit.*

a. Gallonage requirement.

(1) Tax years beginning on or after January 1, 2006, but prior to January 1, 2009. In order for a retail dealer to qualify for the biodiesel blended fuel tax credit for tax years beginning on or after January 1, 2006, but prior to January 1, 2009, of the total gallons of diesel fuel that the retail dealer sells and dispenses during the tax year, 50 percent or more of those gallons must be biodiesel blended fuel formulated with a minimum percentage of 2 percent by volume of biodiesel. The gallonage amounts for all motor fuel sites of a retail dealer are combined when calculating this gallonage requirement.

(2) Tax years beginning on or after January 1, 2009, but prior to January 1, 2012. For tax years beginning on or after January 1, 2009, but prior to January 1, 2012, the biodiesel blended fuel tax credit is calculated separately for each retail motor fuel site for which 50 percent or more of the total gallons of diesel fuel sold at the motor fuel site was biodiesel blended fuel formulated with a minimum percentage of 2 percent by volume of biodiesel.

(3) Tax years beginning on or after January 1, 2012. For tax years beginning on or after January 1, 2012, the requirement that 50 percent of all diesel fuel gallons sold be biodiesel gallons to be eligible for the tax credit is eliminated. A retail dealer may qualify for the biodiesel blended fuel tax credit even if the number of gallons of biodiesel blended fuel sold is less than 50 percent of the total gallons of diesel fuel sold.

b. Amount of credit.

(1) Fuel sold on or after January 1, 2006, but prior to January 1, 2012. For biodiesel blended fuel sold on or after January 1, 2006, but prior to January 1, 2012, the tax credit equals three cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year. Qualifying biodiesel blended fuel must be formulated with a minimum percentage of 2 percent by volume of biodiesel.

(2) Fuel sold on or after January 1, 2012, but prior to January 1, 2013. For biodiesel blended fuel sold on or after January 1, 2012, but prior to January 1, 2013, the tax credit equals the sum of two cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year that have a minimum percentage of 2 percent by volume of biodiesel but less than 5 percent by volume of biodiesel plus four and one-half cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year that have a minimum

percentage of 5 percent by volume of biodiesel. In addition, the gallonage requirements described in paragraph 304.34(1)*"a"* do not apply to fuel sold on or after January 1, 2012.

(3) Fuel sold on or after January 1, 2013, but prior to January 1, 2018. For biodiesel blended fuel sold on or after January 1, 2013, but prior to January 1, 2018, the tax credit equals four and one-half cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year that have a minimum percentage of 5 percent by volume of biodiesel. Diesel fuel sold that contains less than 5 percent by volume of biodiesel does not qualify for the biodiesel blended fuel tax credit.

(4) Fuel sold on or after January 1, 2018, but prior to January 1, 2025.

1. Amount of credit. For biodiesel blended fuel sold on or after January 1, 2018, but prior to January 1, 2025, the tax credit equals the sum of three and one-half cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year that have a minimum percentage of 5 percent by volume of biodiesel but less than 11 percent by volume of biodiesel plus five and one-half cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year that have a minimum percentage of 11 percent by volume of biodiesel. Diesel fuel sold that contains less than 5 percent by volume of biodiesel does not qualify for the biodiesel blended fuel tax credit.

2. Blending errors. Where a blending error occurs and an insufficient amount of biodiesel has inadvertently been blended with petroleum-based diesel fuel so that the mixture fails to contain 11 percent by volume of biodiesel, a 1 percent tolerance applies in determining the credit amount for the blended product as described in 304.34(1)*"b"*(4)"2":

- If the amount of the biodiesel erroneously blended with petroleum-based diesel is at least 10 percent of the total blended product by volume, the entire blended product qualifies for the credit amount available for biodiesel blended fuel that has a minimum percentage of 11 percent by volume of biodiesel.
- If the amount of biodiesel blended with petroleum-based diesel is at least 5 percent but less than 10 percent of the total blended product by volume, the entire blended product qualifies for the credit amount available for biodiesel blended fuel that has a minimum percentage of 5 percent by volume of biodiesel but less than 11 percent by volume of biodiesel.
- Numbered paragraph 304.34(1)*"b"*(4)"2" applies only if a retail dealer intends to sell and dispense biodiesel blended fuel that has a minimum percentage of 11 percent by volume of biodiesel. If a retail dealer does not intend to sell and dispense biodiesel blended fuel that has a minimum percentage of 11 percent by volume of biodiesel and the product sold and dispensed contains less than 11 percent biodiesel by volume, no error has occurred and the product does not qualify for the credit amount available for biodiesel blended fuel that has a minimum percentage of 11 percent by volume of biodiesel.

c. Refundability. Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

d. Transferability. The credit may not be transferred to any other person.

e. Examples.

EXAMPLE 1: A taxpayer operated four retail motor fuel sites during 2008 and sold a combined total at all four sites of 100,000 gallons of diesel fuel, of which 55,000 gallons was biodiesel blended fuel containing a minimum percentage of 2 percent by volume of biodiesel. Because 50 percent or more of the diesel fuel sold was biodiesel blended fuel, the taxpayer may claim the biodiesel blended fuel tax credit totaling $1,650, which is 55,000 gallons multiplied by three cents.

EXAMPLE 2: A taxpayer operated two retail motor fuel sites during 2008, and each site sold 40,000 gallons of diesel fuel. One site sold 25,000 gallons of biodiesel blended fuel containing a minimum percentage of 2 percent by volume of biodiesel, and the other site sold 10,000 gallons of biodiesel blended fuel containing a minimum percentage of 2 percent by volume of biodiesel. The taxpayer would not be eligible for the biodiesel blended fuel tax credit because only 35,000 gallons of the total

80,000 gallons, or 43.75 percent of the total diesel fuel gallons sold, was biodiesel blended fuel. The 50 percent requirement is based on the aggregate number of diesel fuel gallons sold by the taxpayer, and the fact that one retail motor fuel site met the 50 percent requirement does not allow the taxpayer to claim the biodiesel blended fuel tax credit for the 2008 tax year.

EXAMPLE 3: Same facts as in example 2, except the fuel sales occurred in 2009. The taxpayer can claim a biodiesel blended fuel tax credit totaling $750, which is 25,000 gallons multiplied by three cents, since one of the retail motor fuel sites met the 50 percent biodiesel blended fuel requirement.

EXAMPLE 4: Same facts as in example 2, except the fuel sales occurred in 2016, and all biodiesel blended fuel sold contains a minimum percentage of 5 percent by volume of biodiesel. The taxpayer can claim a biodiesel blended fuel tax credit totaling $1,575, which is 35,000 gallons multiplied by four and one-half cents, since the 50 percent biodiesel blended fuel requirement has been eliminated.

304.34(2) *Fiscal year filers.* Taxpayers whose tax year is not on a calendar-year basis and whose tax year ends before December 31, 2006, may compute the tax credit on the gallons of biodiesel blended fuel sold during the period from January 1, 2006, through the end of the tax year, provided that 50 percent of all diesel fuel sold during that period was biodiesel blended fuel. Because the tax credit is repealed on January 1, 2025, a taxpayer whose tax year ends prior to December 31, 2024, may continue to claim the tax credit in the following tax year for any biodiesel blended fuel sold through December 31, 2024.

See 701—subrule 501.31(2) for examples illustrating how this subrule is applied.

304.34(3) *Allocation of credit to owners of a business entity or to beneficiaries of an estate or trust.* If a taxpayer claiming the biodiesel blended fuel tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code section 422.11P as amended by 2016 Iowa Acts, Senate File 2309.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 9821B**, IAB 11/2/11, effective 12/7/11; **ARC 3043C**, IAB 4/26/17, effective 5/31/17; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—304.35(422) Soy-based transformer fluid tax credit. Effective for tax periods ending after June 30, 2006, and beginning before January 1, 2009, an electric utility may claim a soy-based transformer fluid tax credit. An electric utility, which is a public utility, city utility, or electric cooperative which furnishes electricity, may claim a credit equal to the costs incurred during the tax year for the purchase and replacement costs relating to the transition from using nonsoy-based transformer fluid to using soy-based transformer fluid.

304.35(1) *Eligibility requirements for the tax credit.* All of the following conditions must be met for the electric utility to qualify for the soy-based transformer fluid tax credit.

a. The costs must be incurred after June 30, 2006, and before January 1, 2009.

b. The costs must be incurred in the first 18 months of the transition from using nonsoy-based transformer fluid to using soy-based transformer fluid.

c. The soy-based transformer fluid must be dielectric fluid that contains at least 98 percent soy-based products.

d. The costs of the purchase and replacement must not exceed $2 per gallon of soy-based transformer fluid used in the transition.

e. The number of gallons used in the transition must not exceed 20,000 gallons per electric utility, and the total number of gallons eligible for the credit must not exceed 60,000 gallons in the aggregate.

f. The electric utility shall not deduct for Iowa income tax purposes the costs incurred in the transition to using soy-based transformer fluid which are deductible for federal income tax purposes.

304.35(2) *Applying for the tax credit.* An electric utility must apply to the department for the soy-based transformer fluid tax credit. The application for the tax credit must be filed no later than 30 days after the close of the tax year for which the credit is claimed. The application must include the following information:

a. A copy of the signed purchase agreement or other agreement to purchase soy-based transformer fluid.

b. The number of gallons of soy-based transformer fluid purchased during the tax year, along with the cost per gallon of each purchase made during the tax year.

c. The name, address, and tax identification number of the electric utility.

d. The type of tax for which the credit will be claimed, and the first year in which the credit will be claimed.

e. If the application is filed by a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, a list of the partners, members, shareholders or beneficiaries of the entity. This list shall include the name, address, tax identification number and pro rata share of earnings from the entity for each of the partners, members, shareholders or beneficiaries.

304.35(3) *Claiming the tax credit.* After the application is reviewed, the department will issue a tax credit certificate to the electric utility. The tax credit certificate will include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit and the tax year for which the credit may be claimed. Once the tax credit certificate is issued, the credit may be claimed only against the type of tax reflected on the certificate. If the department refuses to issue the tax credit certificate, the taxpayer shall be notified in writing; and the taxpayer will have 60 days from the date of denial to file a protest in accordance with rule 701—7.8(17A).

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on the partner's, member's, shareholder's or beneficiary's pro rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

This rule is intended to implement Iowa Code section 422.11R.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 0251C**, IAB 8/8/12, effective 9/12/12; Editorial change: IAC Supplement 11/2/22]

701—304.36(16,422) Agricultural assets transfer tax credit and custom farming contract tax credit.

304.36(1) *Agricultural assets transfer tax credit.* For tax years beginning on or after January 1, 2007, but before January 1, 2013, an owner of agricultural assets that rents assets to qualified beginning farmers may claim an agricultural assets transfer tax credit for Iowa individual income tax equal to 5 percent of the rental income received by the owner for cash rental agreements and 15 percent of the rental income received by the owner for commodity share agreements. Effective for tax years beginning on or after January 1, 2013, an owner of agricultural assets that rents assets to qualified beginning farmers may claim an agricultural assets transfer tax credit for Iowa individual income tax equal to 7 percent of the rental income received by the owner for cash rental agreements and 17 percent of the rental income received by the owner for commodity share agreements.

Also effective for tax years beginning on or after January 1, 2013, if the beginning farmer is a veteran, the credit is equal to 8 percent of the rental income received by the owner for cash rental agreements, and the credit is equal to 18 percent of the rental income received by the owner for commodity share agreements for the first year that the credit is allowed. However, the taxpayer may only claim 7 percent of the rental income for cash rental agreements and 17 percent of the rental

income for commodity share agreements in subsequent years if the agreement is renewed or a new agreement is executed by the same parties. The administrative rules for the agricultural assets transfer tax credit for the Iowa finance authority may be found under 265—Chapter 44.

To qualify for the tax credit, an owner of agricultural assets must enter into a lease or rental agreement with a beginning farmer for a term of at least two years, but not more than five years. Both the owner of agricultural assets and the beginning farmer must meet certain qualifications set forth by the Iowa finance authority, and the beginning farmer must be eligible to receive financial assistance under Iowa Code section 16.75.

The Iowa finance authority will issue a tax credit certificate to the owner of agricultural assets which will include the name, address and tax identification number of the owner, the amount of the credit, and the tax period for which the credit may be applied. To claim the tax credit, the owner must include the tax credit certificate with the tax return for the tax period set forth on the certificate. The tax credit certificates will be issued on a first-come, first-served basis. For fiscal years beginning on or after July 1, 2009, but before July 1, 2013, the amount of tax credit certificates issued by the Iowa agricultural development authority for the agricultural assets transfer tax credit program cannot exceed $6 million. For fiscal years beginning on or after July 1, 2013, the amount of the tax credit certificates issued by the Iowa finance authority for the agricultural assets transfer tax credit program cannot exceed $8 million and the amount of the credit issued to an individual taxpayer cannot exceed $50,000. However, effective December 31, 2017, the amount of tax credits issued by the Iowa finance authority for the agricultural assets transfer tax credit shall revert back to $6 million.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier. However, for any agricultural assets transfer tax credits originally issued for tax years beginning on or after January 1, 2008, any credit in excess of the tax liability may be credited to the tax liability for the following ten years. The tax credit shall not be carried back to a tax year prior to the year in which the owner redeems the credit. The credit is not transferable to any other person other than the taxpayer's estate or trust upon the death of the taxpayer.

If an owner of agricultural assets is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

The lease or rental agreement may be terminated by either the owner or the beginning farmer. If the Iowa finance authority determines that the owner is not at fault for the termination, the authority will not issue a tax credit certificate for subsequent years, but any prior tax credit certificates issued will be allowed. If the Iowa finance authority determines that the owner is at fault for the termination, any prior tax credit certificates will be disallowed. The amount of tax credits previously allowed will be recaptured, and the owner will be required to repay the entire amount of tax credits previously claimed on Iowa returns.

304.36(2) *Custom farming contract tax credit.* Effective for tax years beginning on or after January 1, 2013, a landowner that hires a beginning farmer to custom farm agricultural land in this state may claim a custom farming contract tax credit for Iowa individual income tax. The credit is equal to 7 percent of the value of the contract. If the beginning farmer is a veteran, the credit is equal to 8 percent of the value of the contract for the first year. However, the taxpayer may only claim 7 percent of the value of the contract in subsequent years if the agreement is renewed or a new agreement is executed by the same parties. The administrative rules for the custom farming contract tax credit for the Iowa finance authority may be found under 265—Chapter 44.

To qualify for the tax credit, the taxpayer must enter into a lease or rental agreement with a beginning farmer for a term of at least two years but not more than five years. Both the taxpayer and the beginning farmer must meet certain qualifications set forth by the Iowa finance authority, and the beginning farmer must be eligible to receive financial assistance under Iowa Code section 16.75.

The Iowa finance authority will issue a tax credit certificate to the taxpayer which will include the name, address and tax identification number of the owner, the amount of the credit, and the tax period for which the credit may be applied. To claim the tax credit, the owner must include the tax credit certificate with the tax return for the tax period set forth on the certificate. For fiscal years beginning on or after July 1, 2013, the amount of tax credit certificates issued by the Iowa finance authority for the custom farming contract tax credit program cannot exceed $4 million, and the credit certificates will be issued on a first-come, first-served basis. The amount of the credit issued to an individual taxpayer cannot exceed $50,000. However, effective December 31, 2017, the Iowa finance authority will no longer issue custom farming contract tax credits.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten years or until used, whichever is the earlier. The tax credit shall not be carried back to a tax year prior to the year in which the owner redeems the credit. The credit is not transferable to any other person other than the taxpayer's estate or trust upon the death of the taxpayer.

If the party entering into the custom farming contract with the beginning farmer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

The custom farming contract may be terminated by either the taxpayer or the beginning farmer. If the Iowa finance authority determines that the taxpayer is not at fault for the termination, the authority will not issue a tax credit certificate for subsequent years, but any prior tax credit certificates issued will be allowed. If the Iowa finance authority determines that the taxpayer is at fault for the termination, any prior tax credit certificates will be disallowed. The amount of tax credits previously allowed will be recaptured, and the taxpayer will be required to repay the entire amount of tax credits previously claimed on Iowa returns.

This rule is intended to implement Iowa Code section 422.11M; 2014 Iowa Acts, Senate File 2328, sections 60 and 61, as amended by 2014 Iowa Acts, House File 2454; and 2014 Iowa Acts, Senate File 2328, sections 120 and 122.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 1138C**, IAB 10/30/13, effective 12/4/13; **ARC 1665C**, IAB 10/15/14, effective 11/19/14; Editorial change: IAC Supplement 11/2/22]

701—304.37(15,422) Film qualified expenditure tax credit. Effective for tax years beginning on or after January 1, 2007, a film qualified expenditure tax credit is available for individual income tax. The tax credit cannot exceed 25 percent of the taxpayer's qualified expenditures in a film, television, or video project registered with the film office of the Iowa department of economic development (IDED). The film office may negotiate the amount of the tax credit. The administrative rules for the film qualified expenditure tax credit for IDED may be found at 261—Chapter 36.

304.37(1) *Qualified expenditures.* A qualified expenditure is a payment to an Iowa resident or an Iowa-based business for the sale, rental or furnishing of tangible personal property or services directly related to the registered project. The qualified expenditures include, but are not limited to, the following:

1. Aircraft.
2. Vehicles.
3. Equipment.
4. Materials.
5. Supplies.
6. Accounting services.
7. Animals and animal care services.
8. Artistic and design services.
9. Graphics.
10. Construction.

11. Data and information services.
12. Delivery and pickup services.
13. Labor and personnel. For limitations on the amount of labor and personnel expenditures, see Iowa department of economic development 261—paragraph 36.7(2)*"b."*
14. Lighting services.
15. Makeup and hairdressing services.
16. Film.
17. Music.
18. Photography.
19. Sound.
20. Video and related services.
21. Printing.
22. Research.
23. Site fees and rental.
24. Travel related to Iowa distant locations.
25. Trash removal and cleanup.
26. Wardrobe.

A detailed list of all qualified expenditures for each of these categories is available from the film office of IDED.

304.37(2) *Claiming the tax credit.* Upon completion of the registered project in Iowa, the taxpayer must submit, in a format approved by IDED prior to production, a listing of the qualified expenditures. Upon verification of the qualified expenditures, IDED will issue a tax credit certificate to the taxpayer. The certificate will list the taxpayer's name, address, and tax identification number; the date of project completion; the amount of the credit; the tax period for which the credit may be applied; and the type of tax for which the credit will be applied.

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on each partner's, member's, shareholder's or beneficiary's pro rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust.

To claim the tax credit, the taxpayer must include the tax credit certificate with the tax return for the tax period set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for five years or until the tax credit is used, whichever is the earlier. The tax credit cannot be carried back to a tax year prior to the year in which the taxpayer claimed the tax credit.

304.37(3) *Transfer of the film qualified expenditure tax credit.* The film qualified expenditure tax credit may be transferred no more than two times to any person or entity.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the film qualified expenditure tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

304.37(4) *Repeal of film qualified expenditure tax credit.* The film qualified expenditure tax credit is repealed for tax years beginning on or after January 1, 2012. However, the credit is still available for tax years beginning prior to January 1, 2012, if the contract or agreement related to a film project was entered into on or before May 25, 2012.

This rule is intended to implement 2012 Iowa Acts, House File 2337, sections 38 to 40.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 0398C**, IAB 10/17/12, effective 11/21/12; **ARC 1744C**, IAB 11/26/14, effective 12/31/14; Editorial change: IAC Supplement 11/2/22]

701—304.38(15,422) Film investment tax credit. Effective for tax years beginning on or after January 1, 2007, a film investment tax credit is available for individual income tax. The tax credit cannot exceed 25 percent of the taxpayer's investment in a film, television, or video project registered with the film office of the Iowa department of economic development (IDED). The film office may negotiate the amount of the tax credit. The administrative rules for the film investment tax credit for IDED may be found at 261—Chapter 36.

304.38(1) *Claiming the tax credit.* Upon completion of the project in Iowa and verification of the investment in the project, IDED will issue a tax credit certificate to the taxpayer. The certificate will list the taxpayer's name, address, and tax identification number; the date of project completion; the amount of the credit; the tax period for which the credit may be applied; and the type of tax for which the credit will be applied.

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on each partner's, member's, shareholder's or beneficiary's pro rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust.

To claim the tax credit, the taxpayer must include the tax credit certificate with the tax return for the tax period set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for five years or until the tax credit is used, whichever is the earlier. The tax credit cannot be carried back to a tax year prior to the year in which the taxpayer claimed the tax credit. In addition, a taxpayer cannot claim the film investment tax credit for qualified expenditures for which the film expenditure tax credit set forth in rule 701—304.37(15,422) is claimed.

The total of all film investment tax credits for a particular project cannot exceed 25 percent of the qualified expenditures as set forth in subrule 304.37(1) for the particular project. If the amount of investment exceeds the qualified expenditures, the tax credit will be allocated proportionately. For example, if three investors each invested $100,000 in a project but the qualified expenditures in Iowa only totaled $270,000, each investor would receive a tax credit based on a $90,000 investment amount.

304.38(2) *Transfer of the film investment tax credit.* The film investment tax credit may be transferred no more than two times to any person or entity.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of

the partners, members, shareholders or beneficiaries and information on how the film investment tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

304.38(3) *Repeal of film investment tax credit.* The film investment tax credit is repealed for tax years beginning on or after January 1, 2012. However, the credit is still available for tax years beginning prior to January 1, 2012, if the contract or agreement related to a film project was entered into on or before May 25, 2012.

This rule is intended to implement 2012 Iowa Acts, House File 2337, sections 38 to 40.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 0398C**, IAB 10/17/12, effective 11/21/12; **ARC 1744C**, IAB 11/26/14, effective 12/31/14; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—304.39(422) Ethanol promotion tax credit. Effective for tax years beginning on or after January 1, 2009, a retail dealer of gasoline may claim an ethanol promotion tax credit. For purposes of this rule, tank wagon sales are considered retail sales. The ethanol promotion tax credit is computed on Form IA 137.

304.39(1) *Definitions.* The following definitions are applicable to this rule:

"Biodiesel gallonage" means the total number of gallons of biodiesel which the retail dealer sells from motor fuel pumps during a determination period. For example, 5,000 gallons of biodiesel blended fuel with a 2 percent by volume of biodiesel sold during a determination period results in a biodiesel gallonage of 100 (5,000 times 2%).

"Biofuel distribution percentage" means the sum of the retail dealer's total ethanol gallonage plus the retail dealer's total biodiesel gallonage expressed as a percentage of the retail dealer's total gasoline gallonage.

"Biofuel threshold percentage" is dependent on the aggregate number of gallons of motor fuel sold by a retail dealer during a determination period, as set forth below:

Determination Period	More that 200,000 Gallons Sold by Retail Dealer	200,000 Gallons or Less Sold by Retail Dealer
2009	10%	6%
2010	11%	6%
2011	12%	10%
2012	13%	11%
2013	14%	12%
2014	15%	13%
2015	17%	14%
2016	19%	15%
2017	21%	17%
2018	23%	19%
2019	25%	21%
2020	25%	25%

"Biofuel threshold percentage disparity" means the positive percentage difference between the retail dealer's biofuel threshold percentage and the retail dealer's biofuel distribution percentage. For example, if a retail dealer that sells more than 200,000 gallons of motor fuel in 2009 has a biofuel

distribution percentage of 8 percent, the biofuel threshold percentage disparity equals 2 percent (10% minus 2%).

"Determination period" means any 12-month period beginning on January 1 and ending on December 31.

"Ethanol gallonage" means the total number of gallons of ethanol which the retail dealer sells from motor fuel pumps during a determination period. For example, 10,000 gallons of ethanol blended gasoline formulated with a 10 percent by volume of ethanol sold during a determination period results in an ethanol gallonage of 1,000 (10,000 gallons times 10%).

"Gasoline gallonage" means the total number of gallons of gasoline sold by the retail dealer during a determination period.

304.39(2) *Calculation of tax credit.*

a. The tax credit is calculated by multiplying the retail dealer's total ethanol gallonage by the tax credit rate, which is adjusted based upon the retail dealer's biofuel threshold percentage disparity. The tax credit rate is set forth below:

Biofuel Threshold Percentage Disparity	Tax Credit Rate per Gallon 2009-2010	Tax Credit Rate per Gallon 2011	Tax Credit Rate per Gallon 2012-2020
0%	6.5 cents	8 cents	8 cents
0.01% to 2.00%	4.5 cents	6 cents	6 cents
2.01% to 4.00%	2.5 cents	2.5 cents	4 cents
4.01% or more	0 cents	0 cents	0 cents

b. For use in calculating a retail dealer's total ethanol gallonage, the department is required to establish a schedule regarding the average amount of ethanol contained in E-85 gasoline.

c. A taxpayer may claim the ethanol promotion tax credit even if the taxpayer also claims the E-85 gasoline promotion tax credit provided in rule 701—304.33(422) or the E-15 plus gasoline promotion tax credit provided in rule 701—304.46(422) for the same tax year for the same ethanol gallons.

d. The tax credit must be calculated separately for each retail motor fuel site operated by the taxpayer for tax years beginning prior to January 1, 2011. The biofuel threshold percentage disparity of the taxpayer is computed on a statewide basis based on the total ethanol gallonage sold in Iowa. The taxpayer must determine the ethanol gallonage sold at each retail motor fuel site and multiply this ethanol gallonage by the applicable tax credit rate based on the biofuel threshold percentage disparity to calculate the ethanol promotion tax credit.

e. For tax years beginning on or after January 1, 2011, the taxpayer may elect to compute the biofuel threshold percentage disparity and the tax credit on either a site-by-site basis or on a companywide basis. The election made on the first return beginning on or after January 1, 2011, for either the site-by-site method or the companywide method is binding on the taxpayer for subsequent tax years unless the taxpayer petitions the department for a change in the method. Any petition for a change in the method should be made within a reasonable period of time prior to the due date of the return for which the change is requested. For example, if a change is requested for the tax return beginning January 1, 2012, the petition should be made by January 31, 2013, which is 90 days prior to the due date of the return.

The mere fact that a change in the method will result in a larger tax credit for subsequent years is not, of itself, sufficient grounds for changing the method for computing the credit. An example of a case for which the department may grant a change in the method is if the taxpayer has a significant change in the type of fuel sold at the taxpayer's retail sites in Iowa. For example, if a retail dealer opted to start selling E-85 gasoline at all the taxpayer's retail sites in Iowa for a subsequent tax year, the department may grant a change in the method.

If a taxpayer chooses the site-by-site method to compute the biofuel threshold percentage disparity, the gallons sold at all sites in Iowa must be considered in determining if the biofuel threshold percentage as defined in subrule 304.39(1) is based on more than 200,000 gallons or on 200,000 gallons or less. For example, if a taxpayer operates three motor fuel sites in Iowa and each site sells

80,000 gallons of motor fuel during 2011, the biofuel threshold percentage of 12 percent must be used for each retail site if the tax credit is computed on a site-by-site basis, even though each retail site sold less than 200,000 gallons of motor fuel.

f. Any tax credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming a refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

304.39(3) *Fiscal year filers.* For taxpayers whose tax year is not on a calendar-year basis, the taxpayer may compute the ethanol promotion tax credit on the total ethanol gallonage sold during the year using the designated tax credit rates as shown in paragraph 304.39(2)*"a."* Because the tax credit is repealed on January 1, 2021, a taxpayer whose tax year ends prior to December 31, 2020, may continue to claim the tax credit in the following tax year for the total ethanol gallonage sold through December 31, 2020. A taxpayer whose tax year is not on a calendar-year basis and that did not claim the ethanol promotion tax credit on the previous return may claim the tax credit for the current tax year for the period beginning on January 1 of the previous tax year until the last day of the previous tax year.

304.39(4) *Allocation of tax credit to owners of a business entity.* If a taxpayer claiming the ethanol promotion tax credit is a partnership, limited liability company, S corporation, estate, or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by the individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, estate, or trust.

304.39(5) *Examples.* The following noninclusive examples illustrate how this rule applies:

EXAMPLE 1. A taxpayer that is a retail dealer of gasoline operates only one motor fuel site in Iowa. The number of gallons of gasoline sold at this site in 2009 equals 100,000 gallons. This consisted of 5,000 gallons of E-85 gasoline, 80,000 gallons of E-10 (10% ethanol blended gasoline) and 15,000 gallons not containing ethanol. The average ethanol content of E-85 gasoline is assumed to be 79%. The taxpayer also sold at this site during 2009 15,000 gallons of diesel fuel, of which 5,000 gallons was B-2 (2% biodiesel). The ethanol gallonage is 11,950 (5,000 E-85 gallons times 79% equals 3,950; 80,000 E-10 gallons times 10% equals 8,000; and thus 3,950 plus 8,000 equals 11,950). The biodiesel gallonage sold is 100, or 5,000 times 2%. The sum of 11,950 and 100, or 12,050, is divided by the total gasoline gallonage of 100,000 to arrive at a biofuel distribution percentage of 12.05%. Since this percentage exceeds the biofuel threshold percentage of 6% for a retail dealer selling 200,000 gallons or less, the biofuel threshold disparity percentage is 0%. This calculation results in an ethanol promotion tax credit of 6.5 cents times 11,950, or $776.75.

In addition, the taxpayer is entitled to claim the E-85 gasoline promotion tax credit equal to 20 cents multiplied by 5,000 gallons, or $1,000.

EXAMPLE 2. A taxpayer that is a retail dealer of gasoline operates only one motor fuel site in Iowa. The number of gallons of gasoline sold at this site in 2010 equals 300,000 gallons which consisted of 10,000 gallons of E-85 gasoline, 230,000 gallons of E-10 (10% ethanol blended gasoline) and 60,000 gallons not containing ethanol. The average ethanol content of E-85 gasoline is assumed to be 79%. The taxpayer also sold 60,000 gallons of diesel fuel at this site during 2010, of which 25,000 gallons was B-2 (2% biodiesel). The ethanol gallonage is 30,900 (10,000 E-85 gallons times 79% equals 7,900; 230,000 E-10 gallons times 10% equals 23,000; and thus 7,900 plus 23,000 equals 30,900). The biodiesel gallonage sold is 500, or 25,000 times 2%. The sum of 30,900 and 500, or 31,400, is divided by the total gasoline gallonage of 300,000 to arrive at a biofuel distribution percentage of 10.47%. Since this is less than the biofuel threshold percentage of 11% for a retail dealer selling more than 200,000 gallons, the biofuel threshold disparity percentage is .53%. This calculation results in an ethanol promotion tax credit of 4.5 cents times 30,900, or $1,390.50.

In addition, the taxpayer is entitled to claim the E-85 gasoline promotion tax credit equal to 20 cents multiplied by 10,000 gallons, or $2,000.

EXAMPLE 3. A taxpayer that is a retail dealer of gasoline operates three motor fuel sites in Iowa during 2009, and each site sold 80,000 gallons of gasoline. Sites A and B each sold 70,000 gallons of

E-10 (10% ethanol blended gasoline) and 10,000 gallons not containing ethanol. Site C sold 60,000 gallons of E-10, 10,000 gallons of E-85, and 10,000 gallons not containing ethanol. The average ethanol content of E-85 gasoline is assumed to be 79%. The retail dealer did not sell any diesel fuel at any of the motor fuel sites. The ethanol gallonage is 27,900, as shown below:

Site A – 70,000 times 10% equals	7,000
Site B – 70,000 times 10% equals	7,000
Site C – 60,000 times 10% equals	6,000
Site C – 10,000 times 79% equals	7,900
Total	27,900

The ethanol gallonage of 27,900 is divided by the gasoline gallonage of 240,000 to arrive at a biofuel distribution percentage of 11.63%. Since this exceeds the biofuel threshold percentage of 10% for a retail dealer selling more than 200,000 gallons, the biofuel threshold disparity percentage is 0%. The credit is computed separately for each motor fuel site, and the ethanol promotion credit equals $1,813.50, as shown below:

Site A – 7,000 times 6.5 cents equals	$455.00
Site B – 7,000 times 6.5 cents equals	$455.00
Site C – 13,900 times 6.5 cents equals	$903.50
Total	$1,813.50

Since the biofuel distribution percentage and the biofuel threshold percentage disparity are computed on a statewide basis for all gallons sold in Iowa, the 6.5 cent tax credit rate is applied to the total ethanol gallonage, even if Sites A and B did not meet the biofuel threshold percentage of 10% for 2009.

In addition, the taxpayer is entitled to claim the E-85 gasoline promotion tax credit equal to 20 cents multiplied by 10,000 gallons, or $2,000.

EXAMPLE 4. A taxpayer that is a retail dealer of gasoline has a fiscal year ending March 31, 2011, and operates one motor fuel site in Iowa. The taxpayer sold more than 200,000 gallons of gasoline during the 2010 calendar year and expects to sell more than 200,000 gallons of gasoline during the 2011 calendar year. The ethanol gallonage is 30,000 for the period from April 1, 2010, through December 31, 2010, and the ethanol gallonage is 8,000 for the period from January 1, 2011, through March 31, 2011. The biofuel distribution percentage is 11.5% for the period from April 1, 2010, through December 31, 2010, and the biofuel distribution percentage is 11.8% for the period from January 1, 2011, through March 31, 2011. This results in a biofuel threshold percentage disparity of 0% (11.0 minus 11.5) for the period from April 1, 2010, through December 31, 2010, and a biofuel threshold percentage disparity of .2% (12.0 minus 11.8) for the period from January 1, 2011, through March 31, 2011. The taxpayer is entitled to an ethanol promotion tax credit of $2,310 for the fiscal year ending March 31, 2011, as shown below:

30,000 times 6.5 cents equals	$1,950
8,000 times 4.5 cents equals	360
Total	$2,310

EXAMPLE 5. A taxpayer that is a retail dealer of gasoline has a fiscal year ending April 30, 2009, and operates one motor fuel site in Iowa. The taxpayer expects to sell more than 200,000 gallons of gasoline during the 2009 calendar year. The ethanol gallonage is 50,000 gallons for the period from January 1, 2009, through April 30, 2009. The biofuel distribution percentage is 7.7% for the period from January 1, 2009, through April 30, 2009, which results in a biofuel threshold percentage disparity of 2.3% (10.0 minus 7.7). The taxpayer is entitled to claim an ethanol promotion tax credit of $1,250 (50,000 gallons times 2.5 cents) on the taxpayer's Iowa income tax return for the period ending April 30, 2009.

In lieu of claiming the credit on the return for the period ending April 30, 2009, the taxpayer may claim the ethanol promotion tax credit on the tax return for the period ending April 30, 2010,

including the ethanol gallonage for the period from January 1, 2009, through April 30, 2010. In this case, the taxpayer will compute the biofuel distribution percentage for the period from January 1, 2009, through December 31, 2009, to determine the proper tax credit rate to be applied to the ethanol gallonage for the period from January 1, 2009, through December 31, 2009.

EXAMPLE 6. Assume the same facts as Example 3, except that the gallons were sold in 2011. The taxpayer chose the companywide method to compute the biofuel threshold percentage disparity and the tax credit. The biofuel distribution percentage is 11.63%, and since the biofuel threshold percentage is 12% for retailers selling more than 200,000 gallons of motor fuel, the biofuel threshold percentage disparity is 0.37%. This results in an ethanol promotion tax credit on a companywide basis of 6 cents multiplied by the ethanol gallonage of 27,900 or $1,674.

EXAMPLE 7. Assume the same facts as Example 3, except that the gallons were sold in 2011. The taxpayer chose the site-by-site method to compute the biofuel threshold percentage disparity and the tax credit. The biofuel threshold percentage is still 12% since the retailer sold more than 200,000 gallons of motor fuel at all sites in Iowa. The biofuel distribution percentage for Site A and Site B is 7,000 divided by 80,000, or 8.75%. The biofuel threshold percentage disparity for Site A and Site B is 3.25%, or 12% less than 8.75%. The biofuel distribution percentage for Site C is 13,900 divided by 80,000, or 17.38%. The biofuel threshold percentage disparity for Site C is 0% since the biofuel distribution percentage exceeds the biofuel threshold percentage. This results in an ethanol promotion tax credit on a site-by-site basis of $1,462, as shown below:

Site A – 7,000 times 2.5 cents equals	$175
Site B – 7,000 times 2.5 cents equals	$175
Site C – 13,900 times 8 cents equals	$1,112
Total	$1,462

This rule is intended to implement Iowa Code section 422.11N as amended by 2011 Iowa Acts, Senate File 531.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 9821B**, IAB 11/2/11, effective 12/7/11; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—304.40(422) Charitable conservation contribution tax credit. Effective for tax years beginning on or after January 1, 2008, a charitable conservation contribution tax credit is available for individual income tax which is equal to 50 percent of the fair market value of a qualified real property interest located in Iowa that is conveyed as an unconditional charitable donation in perpetuity by a taxpayer to a qualified organization exclusively for conservation purposes.

304.40(1) *Definitions.* The following definitions are applicable to this rule:

"Conservation purpose" means the same as defined in Section 170(h)(4) of the Internal Revenue Code, with the exception that a conveyance of land for open space for the purpose of fulfilling density requirements to obtain subdivision or building permits is not considered a conveyance for a conservation purpose.

"Qualified organization" means the same as defined in Section 170(h)(3) of the Internal Revenue Code.

"Qualified real property interest" means the same as defined in Section 170(h)(2) of the Internal Revenue Code. Conservation easements and bargain sales are examples of a qualified real property interest.

304.40(2) *Computation of the credit.* The credit equals 50 percent of the fair market value of the qualified real property interest. There are numerous federal revenue regulations, rulings, court cases and other provisions relating to the determination of the value of a qualified real property interest, and these are equally applicable in determining the amount of the charitable conservation contribution tax credit.

The maximum amount of the tax credit is $100,000. The amount of the contribution for which the tax credit is claimed shall not be claimed as an itemized deduction for charitable contributions for Iowa income tax purposes.

304.40(3) *Claiming the tax credit.* The tax credit is claimed on Form IA 148, Tax Credits Schedule. The taxpayer must include a copy of federal Form 8283, Noncash Charitable Contributions, which reflects the calculation of the fair market value of the real property interest, with the Iowa return for the year in which the contribution is made. If a qualified appraisal of the property or other relevant information is required to be included with federal Form 8283 for federal tax purposes, the appraisal and other relevant information must also be included with the Iowa return.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following 20 years or until used, whichever is the earlier.

If the taxpayer claiming the credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

304.40(4) *Examples.* The following noninclusive examples illustrate how this rule applies:

EXAMPLE 1: A taxpayer conveys a real property interest with a fair market value of $150,000 to a qualified organization during 2008. The tax credit is equal to $75,000, or 50 percent of the $150,000 fair market value of the real property. The taxpayer cannot claim the $150,000 as an itemized deduction for charitable contributions on the Iowa individual income tax return for 2008.

EXAMPLE 2: A taxpayer conveys a real property interest with a fair market value of $500,000 to a qualified organization during 2009. The tax credit is limited to $100,000, which equates to $200,000 of the contribution being eligible for the tax credit. The remaining amount of $300,000 ($500,000 less $200,000) can be claimed as an itemized deduction for charitable contributions on the Iowa individual income tax return for 2009.

This rule is intended to implement Iowa Code section 422.11W.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 1744C**, IAB 11/26/14, effective 12/31/14; Editorial change: IAC Supplement 11/2/22]

701—304.41(15,422) Redevelopment tax credit. The economic development authority is authorized by the general assembly and the governor to oversee the implementation and administration of the redevelopment tax credit program. Effective for tax years beginning on or after July 1, 2009, a taxpayer whose project has been approved by the Iowa brownfield redevelopment advisory council and the economic development authority may claim a redevelopment tax credit once the taxpayer has been issued a tax credit certificate for the project by the economic development authority. The credit is based on the taxpayer's qualifying investment in a brownfield or grayfield site. The administrative rules for the economic development authority's administration of this program, including definitions of brownfield and grayfield sites, may be found in rules 261—65.11(15) and 261—65.12(15).

304.41(1) *Eligibility for the credit.* The economic development authority is responsible for developing a system for registration and authorization of projects receiving redevelopment tax credits. For more information, see Iowa Administrative Code 261—Chapter 65.

304.41(2) *Amount of the credit.*

a. Maximum credit total. For the fiscal year beginning July 1, 2009, the maximum amount of tax credits allowed is $1 million, and the amount of credit authorized for any one redevelopment project cannot exceed $100,000. For the fiscal year beginning July 1, 2011, the maximum amount of tax credit allowed cannot exceed $5 million, and the amount of credit authorized for any one redevelopment project cannot exceed $500,000. For the fiscal year beginning July 1, 2012, the maximum amount of tax credits allowed cannot exceed $10 million, and the amount of credit authorized for any one redevelopment project cannot exceed $1 million. For the fiscal year beginning July 1, 2013, and for each subsequent fiscal year, the maximum amount of tax credits issued by the authority shall be an amount determined by the economic development authority board but not in excess of the amount established pursuant to Iowa Code section 15.119.

b. Maximum credit per project. The maximum amount of a tax credit for a qualifying investment in any one qualifying redevelopment project shall not exceed 10 percent of the maximum amount of tax credits available in any one fiscal year pursuant to paragraph 304.41(2)*"a."*

c. Percentage computation. The amount of the tax credit shall equal one of the following:

(1) Twelve percent of the taxpayer's qualifying investment in a grayfield site.

(2) Fifteen percent of the taxpayer's qualifying investment in a grayfield site if the qualifying redevelopment project meets the requirements of green development as defined in rule 261—65.2(15).

(3) Twenty-four percent of the taxpayer's qualifying investment in a brownfield site.

(4) Thirty percent of the taxpayer's qualifying investment in a brownfield site if the qualifying redevelopment project meets the requirements of green development as defined in rule 261—65.2(15).

304.41(3) *Claiming the credit.*

a. Certificate issuance. Upon completion of the project, the economic development authority will issue a tax credit certificate to the taxpayer. The tax credit certificate will include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit, the tax year for which the credit may be claimed and the tax credit certificate number. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 304.41(4). To claim the tax credit, the taxpayer must include the tax credit certificate with the tax return for the tax period set forth on the certificate.

b. Pro rata share. If a taxpayer claiming the tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

c. Carryforward. Except as provided in paragraph 304.41(3)*"d,"* any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier. The tax credit shall not be carried back to a tax year prior to the year in which the taxpayer redeems the credit.

d. Refundability. A tax credit in excess of the taxpayer's liability for the tax year is refundable if all of the conditions of economic development authority 261—paragraph 65.11(4)*"b"* are met.

304.41(4) *Transfer of the credit.* The redevelopment tax credit can be transferred to any person or entity. However, a certificate indicating that the credit is refundable is only transferrable to the extent permitted by economic development authority 261—paragraph 65.11(4)*"b."*

a. Submission of transferred tax credit certificate to the department—information required. Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred, the amount of all consideration provided in exchange for the tax credit, and the names of recipients of any consideration provided in exchange for the tax credit. If a payment of money was any part of the consideration provided in exchange for the tax credit, the transferee shall list the amount of the payment of money in its statement to the department of revenue. If any part of the consideration provided in exchange for the tax credit included nonmonetary consideration, including but not limited to any promise, representation, performance, discharge of debt or nonmonetary rights or property, the transferee shall describe the nature of nonmonetary consideration and disclose any value the transferor and transferee assigned to the nonmonetary consideration. The transferee must indicate on its statement to the department of revenue if no consideration was provided in exchange for the tax credit. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the redevelopment tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall

also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries.

b. Issuance of replacement certificate by the department. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue a replacement tax credit certificate to the transferee.

c. Claiming the transferred tax credit. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate. The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income tax, corporation income tax, or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income tax, corporation income tax, or franchise tax purposes.

304.41(5) *Basis reduction of the redevelopment property.* The increase in the basis of the redevelopment property that would otherwise result from the qualified redevelopment costs shall be reduced by the amount of the redevelopment tax credit. For example, if a qualifying investment in a grayfield site totaled $100,000 for which a $12,000 redevelopment tax credit was issued, the increase in the basis of the property would total $88,000 for Iowa tax purposes ($100,000 less $12,000).

This rule is intended to implement Iowa Code sections 15.293A, 422.11V and 15.119.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 9876B**, IAB 11/30/11, effective 1/4/12; **ARC 1102C**, IAB 10/16/13, effective 11/20/13; **ARC 1949C**, IAB 4/1/15, effective 5/6/15; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—304.42(15) High quality jobs program. Effective for tax periods beginning on or after July 1, 2009, a business which qualifies under the high quality jobs program is eligible to receive tax credits. The high quality jobs program replaces the high quality job creation program. An eligible business under the high quality jobs program must be approved by the Iowa department of economic development and meet the qualifications of Iowa Code section 15.329. The tax credits available under the high quality jobs program are based upon the number of jobs created or retained that pay a qualifying wage threshold and the amount of qualifying investment. The administrative rules for the high quality jobs program for the Iowa department of economic development may be found at 261—Chapter 68.

304.42(1) *Research activities credit.* An eligible business approved under the high quality jobs program is eligible for an additional research activities credit as described in 701—subrule 501.7(4) for awards issued by the Iowa department of economic development prior to July 1, 2010. The eligible business is eligible for the research activities credit as described in 701—subrule 501.7(6) for awards issued by the Iowa department of economic development on or after July 1, 2010.

Research activities allowable for the Iowa research activities credit include expenses related to the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa; such expenses related to the development and deployment of innovative renewable energy generation components are not eligible for the federal credit for increasing research activities. For purposes of this subrule, innovative renewable energy generation components do not include components with more than 200 megawatts in installed effective nameplate generating capacity. The research activities credit related to renewable energy generation components under the high quality jobs program and the enterprise zone program shall not exceed $2 million for the fiscal year ending June 30, 2010, and $1 million for the fiscal year ending June 30, 2011.

These expenses related to the development and deployment of innovative renewable energy generation components are applicable only to the additional research activities credit set forth in this subrule and in 701—subrule 501.7(5) for businesses in enterprise zones, and are not applicable to the research activities credit set forth in paragraphs 304.11(3)*"a"* and *"b."*

304.42(2) *Investment tax credit.* An eligible business can claim an investment tax credit equal to a percentage of the new investment directly related to new jobs created or retained by the location or expansion of an eligible business. The percentage is equal to the amount provided in Iowa department of economic development 261—subrule 68.4(7).

The determination of the new investment eligible for the investment tax credit, the eligibility of a refundable investment tax credit for value-added agricultural product or biotechnology-related projects and the repayment of investment tax credits for the high quality jobs program is the same as set forth in subrule 304.29(2) for the high quality job creation program.

304.42(3) *Repayment of benefits.* If an eligible business fails to maintain the requirements of the high quality jobs program, the taxpayer may be required to repay all or a portion of the tax incentives taken on Iowa returns. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the tax credits may have expired, the department may proceed to collect the tax incentives forfeited by failure of the eligible business to maintain the requirements of the high quality jobs program because the repayment is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability. Details on the calculation of the repayment can be found in 261—subrule 187.5(4) of the administrative rules of the economic development authority. If the business is a partnership, limited liability company, S corporation, estate or trust where the income of the taxpayer is taxed to the individual owner(s) of the business, the department may proceed to collect the tax incentives against the partners, members, shareholders or beneficiaries to whom the tax incentives were passed through. See Decision of the Administrative Law Judge in *Damien & Colette Trebilcock, et al.,* Docket No. 11DORF 042-044, June 11, 2012.

This rule is intended to implement Iowa Code chapter 15.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 9104B**, IAB 9/22/10, effective 10/27/10; **ARC 1744C**, IAB 11/26/14, effective 12/31/14; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—304.43(16,422) Disaster recovery housing project tax credit. For tax years beginning on or after January 1, 2011, but before January 1, 2015, a disaster recovery housing project tax credit is available for individual income tax. The credit is equal to 75 percent of the taxpayer's qualifying investment in a disaster recovery housing project, and is administered by the Iowa finance authority. Qualifying investments are costs incurred on or after May 12, 2009, and prior to July 1, 2010, related to a disaster recovery housing project. Eligible properties must have applied for and received an allocation of federal low-income housing tax credits under Section 42 of the Internal Revenue Code to be eligible for the tax credit. The tax credit is repealed effective January 1, 2015.

304.43(1) *Issuance of tax credit certificates.* Upon completion of the project and verification of the amount of investment made in the disaster recovery housing project, the Iowa finance authority will issue a tax credit certificate to the taxpayer. The tax credit certificate shall include the taxpayer's name, address, tax identification number, amount of credit, and the tax year for which the credit may be claimed. The tax credit certificates will be issued on a first-come, first-served basis. The tax credit cannot be transferred to any person or entity.

304.43(2) *Limitation of tax credits.* The tax credit shall not exceed 75 percent of the taxpayer's qualifying investment in a disaster recovery housing project. The maximum amount of tax credits issued by the Iowa finance authority shall not exceed $3 million in each of the five consecutive years beginning in the 2011 calendar year. A tax credit certificate shall be issued by the Iowa finance authority for each year that the credit can be claimed.

304.43(3) *Claiming the tax credit.* The amount of the tax credit earned by the taxpayer will be divided by five and an amount equal thereto will be claimed on the Iowa individual income tax return commencing with the tax year beginning on or after January 1, 2011. A taxpayer is not entitled to a refund of the excess tax for any tax credit in excess of the tax liability, and also is not entitled to carry forward any excess credit to a subsequent tax year.

If the taxpayer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The

amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

The increase in the basis of the property that would otherwise result from the disaster recovery housing investment shall be reduced by the amount of the tax credit allowed.

EXAMPLE: An individual whose tax year ends on December 31 incurs $100,000 of costs related to an eligible disaster recovery housing project. The taxpayer receives a tax credit of $75,000, and $15,000 of credit can be claimed on each Iowa individual income tax return for the periods ending December 31, 2011, through December 31, 2015. If the tax liability for the individual for the period ending December 31, 2011, is $10,000, the credit is limited to $10,000, and the remaining $5,000 credit cannot be used. If the tax liability for the individual for the period ending December 31, 2012, is $25,000, the credit is limited to $15,000, and the remaining $5,000 credit from 2011 cannot be used to reduce the tax for 2012.

304.43(4) *Potential recapture of tax credits.* If the taxpayer fails to comply with the eligibility requirements of the project or violates local zoning and construction ordinances, the Iowa finance authority can void the tax credit and the department of revenue shall seek recovery of the value of any tax credit claimed on an individual income tax return.

This rule is intended to implement Iowa Code sections 16.211, 16.212 and 422.11X as amended by 2014 Iowa Acts, Senate File 2328.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 1665C**, IAB 10/15/14, effective 11/19/14; Editorial change: IAC Supplement 11/2/22]

701—304.44(422) Deduction of credits.

304.44(1) *Sequencing of credit deductions.* The credits against computed tax set forth in Iowa Code sections 422.5, 422.8, 422.10 through 422.12C, 422.12N, and 422.110 shall be claimed in the following sequence:

a. Personal exemption credit.

b. Tuition and textbook credit.

c. Volunteer fire fighter, volunteer emergency medical services personnel and reserve peace officer tax credit.

d. Nonresident and part-year resident credit.

e. Out-of-state tax credit.

f. Franchise tax credit.

g. S corporation apportionment credit.

h. Alternative minimum tax credit (for tax years beginning during 2023 only).

i. Historic preservation tax credit (when the taxpayer has elected that the credit be nonrefundable under Iowa Code section 404A.2(4)).

j. School tuition organization tax credit.

k. Innovation fund investment tax credit.

l. Endow Iowa tax credit.

m. Redevelopment tax credit.

n. From farm to food donation tax credit.

o. Workforce housing tax credit.

p. Hoover presidential library tax credit.

q. Enterprise zone investment tax credit.

r. High quality jobs investment tax credit.

s. Wind energy production tax credit.

t. Renewable energy tax credit.

u. New jobs tax credit.

v. Beginning farmer tax credit.

w. Agricultural assets transfer tax credit.

x. Custom farming contract tax credit.

y. Geothermal heat pump tax credit.
z. Solar energy system tax credit.
aa. Charitable conservation contribution tax credit.
ab. Alternative minimum tax credit (for tax years beginning before January 1, 2023).
ac. Historic preservation tax credit (when the taxpayer has elected that the credit be refundable under Iowa Code section 404A.2(4)).
ad. High quality jobs third-party developer tax credit.
ae. Research activities credit.
af. Child and dependent care tax credit or early childhood development tax credit.
ag. Motor fuel tax credit.
ah. Claim of right credit (if elected in accordance with rule 701—300.18(422)).
ai. Qualifying business investment tax credit (also known as angel investor tax credit).
aj. Adoption tax credit.
ak. E-85 gasoline promotion tax credit.
al. Biodiesel blended fuel tax credit.
am. E-15 plus gasoline promotion tax credit.
an. Earned income tax credit.
ao. Renewable chemical production tax credit.
ap. Estimated payments, payment with vouchers, composite tax credits, and withholding tax.

304.44(2) *Order of credits carried forward from a previous tax year.* A credit carried forward from a previous tax year shall be applied against computed tax before a credit earned under the same credit program in the current tax year. However, a credit carried forward from a previous tax year cannot be applied against computed tax before a credit earned under a different credit program in a later year that appears before it in the sequence in subrule 42.44(1). For example, a school tuition organization tax credit awarded in the current tax year must be applied against computed tax before a renewable energy tax credit carried forward from a previous tax year.

This rule is intended to implement Iowa Code sections 422.5, 422.8, 422.10, 422.11, 422.11A, 422.11B, 422.11D, 422.11E, 422.11F, 422.11H, 422.11I, 422.11J, 422.11L, 422.11M, 422.11N, 422.11O, 422.11P, 422.11Q, 422.11R, 422.11S, 422.11V, 422.11W, 422.11Y, 422.11Z, 422.12, 422.12B, 422.12C and 422.110 and 2014 Iowa Acts, House Files 2448 and 2468.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 9876B**, IAB 11/30/11, effective 1/4/12; **ARC 0398C**, IAB 10/17/12, effective 11/21/12; **ARC 1303C**, IAB 2/5/14, effective 3/12/14; **ARC 1744C**, IAB 11/26/14, effective 12/31/14; **ARC 6030C**, IAB 11/3/21, effective 12/8/21; Editorial change: IAC Supplement 11/2/22; **ARC 6900C**, IAB 2/22/23, effective 3/29/23; Editorial change: IAC Supplement 10/18/23]

701—304.45(15) Aggregate tax credit limit for certain economic development programs. Effective for the fiscal year beginning July 1, 2009, awards made under certain economic development programs cannot exceed $185 million during a fiscal year. Effective for fiscal years beginning on or after July 1, 2010, but beginning before July 1, 2012, awards made under these economic development programs cannot exceed $120 million during a fiscal year. Effective for fiscal years beginning on or after July 1, 2012, awards made under these economic development programs cannot exceed $170 million. For fiscal years beginning on or after July 1, 2010, but beginning before July 1, 2014, these programs include the assistive device tax credit program, the enterprise zone program, the housing enterprise zone program, the high quality jobs program, the redevelopment tax credit program, tax credits for investments in qualifying businesses and community-based seed capital funds, and the innovation fund tax credit program. For fiscal years beginning on or after July 1, 2014, these programs include the assistive device tax credit program, the workforce housing tax incentives program, the high quality jobs program, the redevelopment tax credit program, tax credits for investments in qualifying businesses and community-based seed capital funds, and the innovation fund tax credit program. The administrative rules for the aggregate tax credit limit for the economic development authority may be found at 261—Chapter 76.

This rule is intended to implement Iowa Code section 15.119 as amended by 2014 Iowa Acts, House File 2448.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 9104B**, IAB 9/22/10, effective 10/27/10; **ARC 1102C**, IAB 10/16/13, effective 11/20/13; **ARC 1744C**, IAB 11/26/14, effective 12/31/14; Editorial change: IAC Supplement 11/2/22]

701—304.46(422) E-15 plus gasoline promotion tax credit. Effective for eligible gallons sold on or after July 1, 2011, a retail dealer of gasoline may claim an E-15 plus gasoline promotion tax credit. "E-15 plus gasoline" means ethanol blended gasoline formulated with a minimum percentage of between 15 percent and 69 percent of volume of ethanol, if the formulation meets the standards provided in Iowa Code section 214A.2. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA 138.

304.46(1) *Calculating the credit.*

a. Amount of credit. The tax credit is calculated by multiplying the total number of E-15 plus gallons sold by the retail dealer during the tax year by the following designated rates:

Gallons sold from July 1, 2011, through December 31, 2013	3 cents
Gallons sold from January 1 through May 31 and from September 16 through December 31 for the 2014-2024 calendar years	3 cents
Gallons sold from June 1 through September 15 for the 2014-2024 calendar years	10 cents

b. Claiming the credit with other credits. A taxpayer may claim the E-15 plus gasoline promotion tax credit even if the taxpayer also claims the ethanol promotion tax credit provided in rule 701—304.39(422) for gallons sold on or after January 1, 2011, but prior to January 1, 2021, for the same tax year for the same ethanol gallons.

c. Refundability. Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

d. Transferability. The credit may not be transferred to any other person.

304.46(2) *Fiscal year filers.* For taxpayers whose tax year is not on a calendar-year basis, the taxpayer may compute the tax credit on the gallons of E-15 plus gasoline sold during the year using the designated rates as shown above. Because the tax credit is repealed on January 1, 2025, a taxpayer whose tax year ends prior to December 31, 2024, may continue to claim the tax credit in the following tax year for any E-15 plus gallons sold through December 31, 2024. For a retail dealer whose tax year is not on a calendar-year basis and who did not claim the E-15 plus credit on the previous return, the dealer may claim the credit for the current tax year for gallons sold for the period beginning on July 1 of the previous tax year until the last day of the previous tax year. However, for taxpayers whose fiscal year ends prior to December 31, 2011, the dealer must claim the credit for the current tax year for gallons sold for the period beginning on July 1 of the previous tax year until the last day of the previous tax year.

EXAMPLE 1: A taxpayer who is a retail dealer of gasoline has a fiscal year ending October 31, 2011. The taxpayer sold 2,000 gallons of E-15 plus gasoline for the period from July 1, 2011, through October 31, 2011, and sold 7,000 gallons of E-15 plus gasoline for the period from November 1, 2011, through October 31, 2012. The taxpayer is entitled to a total E-15 plus gasoline promotion tax credit of $270 for the fiscal year ending October 31, 2012, which consists of a $60 credit (2,000 gallons multiplied by 3 cents) for the period from July 1, 2011, through October 31, 2011, and a credit of $210 (7,000 gallons multiplied by 3 cents) for the period from November 1, 2011, through October 31, 2012.

EXAMPLE 2: A taxpayer who is a retail dealer of gasoline has a fiscal year ending April 30, 2012. The taxpayer sold 4,000 gallons of E-15 plus gasoline between July 1, 2011, and April 30, 2012. The taxpayer sold 9,000 gallons of E-15 plus gasoline between May 1, 2012, and April 30, 2013. The taxpayer is entitled to claim an E-15 plus gasoline promotion tax credit of $120 (4,000 gallons

multiplied by 3 cents) for the fiscal year ending April 30, 2012. In lieu of claiming the credit on the return for the period ending April 30, 2012, the taxpayer can claim the E-15 plus gasoline promotion tax credit on the tax return for the period ending April 30, 2013, for all E-15 plus gasoline gallons sold for the period from July 1, 2011, through April 30, 2013.

EXAMPLE 3: A taxpayer who is a retail dealer of gasoline has a fiscal year ending February 28, 2025. The taxpayer sold 20,000 total gallons of E-15 plus gasoline for the entire period from March 1, 2024, through February 28, 2025. For the period from March 1 through May 31, 2024, the taxpayer sold 4,000 gallons of E-15 plus gasoline, which entitles the taxpayer to a credit of $120 (4,000 gallons multiplied by 3 cents). For the period from June 1 through September 15, 2024, the taxpayer sold 6,000 gallons of E-15 plus gasoline, which entitles the taxpayer to a credit of $600 (6,000 gallons multiplied by 10 cents). For the period from September 16 through December 31, 2024, the taxpayer sold 6,000 gallons of E-15 plus gasoline, which entitles the taxpayer to a credit of $180 (6,000 gallons multiplied by 3 cents). For the period from January 1 through February 28, 2025, the taxpayer sold 4,000 gallons of E-15 plus gasoline, which occurred after expiration of the credit. The taxpayer is entitled to claim a total E-15 plus gasoline promotion tax credit of $900 ($120 plus $600 plus $180) on the taxpayer's Iowa income tax return for the period ending February 28, 2025.

304.46(3) *Allocation of credit to owners of a business entity or to beneficiaries of an estate or trust.* If a taxpayer claiming the E-15 plus gasoline promotion tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code section 422.11Y as amended by 2016 Iowa Acts, Senate File 2309.

[**ARC 9821B**, IAB 11/2/11, effective 12/7/11; **ARC 1665C**, IAB 10/15/14, effective 11/19/14; **ARC 3043C**, IAB 4/26/17, effective 5/31/17; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—304.47(422) Geothermal heat pump tax credit. For tax years beginning on or after January 1, 2019, but before January 1, 2024, a geothermal heat pump tax credit is available for residential property located in Iowa as provided in Iowa Code section 422.12N and this rule. Information relating to Iowa geothermal tax credits available for tax years prior to January 1, 2019, can be found in prior versions of this rule. Prior versions of the Iowa Administrative Code are located here: www.legis.iowa.gov/law/administrativeRules/agencies.

304.47(1) *Eligibility for the credit.* To be eligible for the credit described in this rule, all of the following requirements must be met:

a. The geothermal heat pump must be eligible for the federal residential energy efficient property tax credit provided in Section 25D(a)(5) of the Internal Revenue Code.

b. The taxpayer must claim the federal residential energy efficient property tax credit provided in Section 25D(a)(5) of the Internal Revenue Code.

c. The geothermal heat pump must be installed on residential property located in Iowa and placed in service on or after January 1, 2019, but before January 1, 2024. In determining whether this requirement is met, the term "placed in service" has the same meaning as used in Section 25D of the Internal Revenue Code.

d. The taxpayer must submit a timely and complete application to the department in accordance with subrule 304.47(4).

304.47(2) *Calculation of the credit.*

a. The credit is equal to 20 percent of the federal residential energy efficient property tax credit allowed for geothermal heat pumps provided in Section 25D(a)(5) of the Internal Revenue Code. Thus, the Iowa credit rate equals the following percentage of the qualified geothermal heat pump property expenditures:

(1) For property placed in service during calendar year 2019, 6 percent.

(2) For property placed in service during calendar year 2020 or 2021, 5.2 percent.

(3) For property placed in service during calendar year 2022 or 2023, 6 percent.

b. This credit expires on January 1, 2024.

304.47(3) *Tax credit award program limitations.* No more than $1 million in geothermal heat pump tax credits will be issued per calendar year. If the annual tax credit allocation cap is not reached, the remaining amount below the cap shall be made available for the following tax year in addition to, and cumulated with, the cap for that year. The credit will not be available for installations on or after January 1, 2024, even if the previous year's cap was not met.

304.47(4) *How to apply for the credit—waitlist.*

a. In general. Timely and complete applications shall be reviewed and approved on a first-come, first-served basis. Applications for the tax credit shall be submitted through the tax credit submission system, which applicants may access through the department's website.

b. Application deadline. The application must be filed by May 1 of the year following the year of the installation of the geothermal heat pump.

c. Contents of the application. The application must contain the following information:

(1) Name, address, and federal identification number of the taxpayer.

(2) Date of installation of the geothermal heat pump. This is the same as the date the installation was placed in service by the taxpayer.

(3) Copies of invoices or other documents showing the cost of the geothermal heat pump.

(4) Amount of federal income tax credit claimed for the geothermal heat pump.

(5) Amount of Iowa tax credit requested.

(6) Any other information requested by the department in order to verify eligibility for or amount of the Iowa tax credit requested.

d. Waitlist.

(1) If the department receives applications for tax credits in excess of the annual aggregate award limitation, the department shall establish a waitlist for the next year's allocation of tax credits. Valid and complete applications will be placed on the waitlist in the order they are received by the department. However, in the event the department denies an application or part of an application, and upon appeal by the taxpayer a previously denied tax credit amount is allowed, the date the appeal is closed will be used to determine the placement of the allowed tax credit amount on the waitlist. Waitlisted applications are reviewed and, if approved, funded in the order they are listed on the waitlist. Only valid applications filed by the taxpayer by May 1 of the year following the year the geothermal heat pump was installed shall be eligible for the waitlist.

(2) If the annual aggregate cap is reached for the final year in which the federal credit is available, no applications will be carried over to the next year. Therefore, any geothermal heat pump tax credit request related to an installation completed prior to January 1, 2024, that does not receive a tax credit award by the time the 2023 aggregate award limitation is met shall expire and shall not be carried over on the waitlist to any future year.

(3) Placement on a waitlist shall not constitute a promise binding the state that persons placed on the waitlist will actually receive the credit in a future year. The availability of a tax credit and approval of a tax credit application pursuant to this rule in a future year is contingent upon the availability of tax credits in that particular year.

304.47(5) *Claiming the tax credit.*

a. Certificate issuance. If the application is approved, the department will send a letter to the taxpayer including the amount of the tax credit and providing a tax credit certificate.

b. Claiming the tax credit. The geothermal heat pump tax credit will be claimed on Form IA 148, Tax Credits Schedule. The taxpayer must include with any Iowa tax return claiming the geothermal heat pump tax credit federal Form 5695, Residential Energy Credits.

c. Nonrefundable. Any credit in excess of the taxpayer's tax liability is nonrefundable.

d. Carryforward. Any tax credit in excess of the taxpayer's tax liability for the tax year may be credited to the taxpayer's tax liability for the following ten years or until depleted, whichever is earlier.

e. Nontransferable. The tax credit may not be transferred to any other person.

This rule is intended to implement Iowa Code section 422.12N.

[**ARC 5589C**, IAB 4/21/21, effective 5/26/21; Editorial change: IAC Supplement 11/2/22; **ARC 6903C**, IAB 2/22/23, effective 3/29/23]

701—304.48(422) Solar energy system tax credit. A solar energy system tax credit is available for both residential property and business property located in Iowa as provided in Iowa Code section 422.11L and this rule.

304.48(1) *Relationship between the Iowa and federal credits.*

a. The Iowa credit is a percentage of the applicable federal credit. Taxpayers who apply for the Iowa credit must also qualify for and claim the corresponding federal credit. Availability of the Iowa credit for a specific type of installation in a given year is dependent upon availability of the federal credit for that type of installation.

b. The Iowa credit conforms with the Internal Revenue Code as amended to and including January 1, 2016. The term "Internal Revenue Code" as used in this rule refers to the Internal Revenue Code as it existed on January 1, 2016. See Iowa Code section 422.11L(6); see also Public Law No. 114-113, Div. P, Title III, §§ 302, 303, 304, and Div. Q, Title I, § 187.

304.48(2) *Calculation of the credit—per installation award limitation.*

a. The credit is equal to the sum of the following federal tax credits for property located in Iowa:

(1) Fifty percent of the federal residential energy property credit provided in Section 25D(a)(1) of the Internal Revenue Code. This federal credit equals an applicable percentage of qualified solar energy electric property expenditures described in Section 25D(d)(2) of the Internal Revenue Code for residential use. This credit is not available for Iowa purposes for any qualified solar energy electric property placed in service after December 31, 2021, in accordance with Public Law No. 114-113 Div. P, Title III, § 304.

(2) Fifty percent of the federal residential energy property credit provided in Section 25D(a)(2) of the Internal Revenue Code. This federal credit equals an applicable percentage of the qualified solar water heating property expenditures described in Section 25D(d)(1) of the Internal Revenue Code for residential use. This credit is not available for Iowa purposes for any qualified solar water heating property placed in service after December 31, 2021, in accordance with Public Law No. 114-113 Div. P, Title III, § 304.

(3) Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code. This federal credit equals an applicable percentage of energy property equipment described in Section 48(a)(3)(A)(i) of the Internal Revenue Code that uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat (excepting property used to generate energy for the purpose of heating a swimming pool), for business use. This credit is not available for Iowa purposes for any qualified property the construction of which begins on or after January 1, 2022, in accordance with Public Law No. 114-113 Div. P, Title III, § 303.

(4) Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code. This federal credit equals an applicable percentage of energy property described in Section 48(a)(3)(A)(ii) of the Internal Revenue Code that uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight, for business use. This credit is not available for Iowa purposes for any qualified property placed in service after December 31, 2016, in accordance with Public Law No. 114-113 Div. Q, Title I, § 187.

Iowa Solar Energy System Tax Credit Rates for Installations On or After January 1, 2016,* Based on 50% of Applicable Federal Rate Under Sections 25D and 48 of the Internal Revenue Code in Effect on January 1, 2016

Applicable Property	Calendar Year Construction Begins	Calendar Year Property Placed in Service	Iowa Tax Credit Rate
Qualified Residential Solar Electric Property Under Section 25D(a)(1) of the Internal Revenue Code	N/A	2016-2019	15%
	N/A	2020	13%
	N/A	2021	11%
	N/A	2022 or later	0%
Qualified Residential Solar Water Heating Property Under Section 25D(a)(2) of the Internal Revenue Code	N/A	2016-2019	15%
	N/A	2020	13%
	N/A	2021	11%
	N/A	2022 or later	0%
Qualified Business Energy Property (electric, heat/cool, solar process heat) Under Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code	2016-2019	2016-2023	15%
		2024 or later	5%
	2020	2020-2023	13%
		2024 or later	5%
	2021	2021-2023	11%
		2024 or later	5%
	2022 or later	2022 or later	0%
Qualified Business Energy Property (fiber-optic solar illumination) Under Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code	N/A	2016	15%
	N/A	2017 or later	0%
*For a description of Iowa tax credit rates for installations placed in service prior to January 1, 2016, consult the prior versions of this rule.			

b. A solar installation must be placed in service to be eligible for the tax credit. In determining whether this requirement is met, the term "placed in service" has the same meaning as used for purposes of Section 25D or 48 of the Internal Revenue Code, as applicable. The date a taxpayer begins construction of a solar installation for purposes of Section 48 of the Internal Revenue Code shall be the same date the taxpayer begins construction for Iowa purposes.

c. The amount of tax credit claimed by a taxpayer related to subparagraphs 304.48(2)*"a"*(1) and 304.48(2)*"a"*(2) cannot exceed $5,000 per separate and distinct installation. The amount of tax credit claimed by a taxpayer related to subparagraphs 304.48(2)*"a"*(3) and 304.48(2)*"a"*(4) cannot exceed $20,000 per separate and distinct installation. When a separate and distinct installation is used for both residential and business purposes, both award limitations apply and are calculated separately based on the proportion of the installation used for business purposes and for residential purposes. The taxpayer may use any reasonable method to establish the business and residential proportions, but the burden is on the taxpayer to prove the proper proportions. If the taxpayer does not provide adequate evidence to prove that the amounts of the business and residential proportions and the method for determining those proportions are reasonable, and if the department is unable to determine reasonable proportions from the information provided by the taxpayer, the entire installation shall be deemed used for residential purposes. The term "separate and distinct installation" is described in subrule 304.48(5).

Example 1: Taxpayer A is a farmer who installs solar energy property during 2020 that provides power to two farm buildings and A's residence. Taxpayer A submits one application for the Iowa solar energy system tax credit showing $100,000 of total eligible expenditures. Taxpayer A provides evidence to the department that adequately explains A's method of allocating the solar energy system's total usage between business use and personal use, and shows that 40 percent of the solar energy property is used for residential purposes and 60 percent is used for farm business purposes. The department determines the amounts and the method for determining those proportions to be reasonable and therefore considers the taxpayer to have submitted a tax credit application requesting both a residential solar energy system tax credit and a business solar energy system tax credit. The residential tax credit request includes $40,000 ($100,000 × 40%) of eligible expenditures, subject to the $5,000

tax credit cap. Therefore, A is eligible for a residential tax credit of $5,000 ($40,000 × 13% Iowa credit rate = $5,200, less $200 in excess of cap). The business tax credit request includes $60,000 ($100,000 × 60%) of eligible expenditures, subject to the $20,000 tax credit cap. Therefore, A is eligible for a business tax credit of $7,800 ($60,000 × 13% Iowa credit rate). Taxpayer A receives a total Iowa tax credit of $12,800 ($5,000 + $7,800). Although A submitted one tax credit application in this situation, the resulting tax credit amount would have been the same if A had instead submitted two separate tax credit applications: one residential application with $40,000 of eligible expenditures and one business application with $60,000 of eligible expenditures.

Example 2: Same facts as Example 1, except that taxpayer A does not submit adequate evidence to the department supporting a reasonable method of determining the proportion of the solar energy property used for residential and business purposes, and the department is unable to determine reasonable proportions from the information provided by A. The department deems the entire installation used for residential purposes, subject to the $5,000 tax credit cap. Therefore, A receives a total Iowa tax credit of $5,000 ($100,000 × 13% Iowa credit rate = $13,000, less $8,000 in excess of cap).

d. Recomputation of federal credit.

(1) Because the Iowa credit is a percentage of the applicable federal credit, when the federal credit under Section 48 of the Internal Revenue Code is recomputed under 26 CFR §1.47-1, the Iowa credit amount must also be recomputed and reduced by the same percentage that the federal credit was reduced. The federal credit recomputation is required on the federal Form 4255, Recapture of Investment Credit.

(2) In the year of the recomputation, if the amount of the Iowa credit previously claimed is less than the recomputed Iowa credit amount, the taxpayer must reduce any remaining available carryforward amount to reflect the Iowa credit carryforward remaining after the recomputation.

(3) If the amount of the Iowa credit previously claimed is more than the recomputed Iowa credit amount, the taxpayer must include the amount that was overclaimed in prior tax years as a negative credit amount on Form IA 148, Iowa Tax Credit Schedule, and any remaining unused credit carryforward amount expires immediately. The negative credit amount represents the overclaimed Iowa credit and will be netted against the taxpayer's other nonrefundable tax credits on Form IA 148, Iowa Tax Credit Schedule, if any. After applying the negative credit amount against other available nonrefundable credits, if the taxpayer's net total nonrefundable credits for the year is a negative amount, that negative amount must be entered on the appropriate line of the taxpayer's income tax return for reporting nonrefundable Iowa credits from Form IA 148, Iowa Tax Credit Schedule, and will increase the taxpayer's tax liability.

304.48(3) *Tax credit award program limitations.* The following program limitations apply:

a. Aggregate tax credit award limit. No more than $5 million of tax credits per year will be issued for calendar years beginning on or after January 1, 2015. The annual tax credit allocation cap also includes the solar energy system tax credits provided in rule 701—501.44(422) for corporation income tax and in rule 701—601.22(422) for franchise tax.

b. Allocation for residential installations. Beginning with tax year 2014, at least $1 million of the annual tax credit allocation cap for each tax year is reserved for residential installations qualifying under Section 25D of the Internal Revenue Code. If the total amount of credits for residential installations for a tax year is less than $1 million, the remaining amount below $1 million will be allowed for nonresidential installations qualifying under Section 48 of the Internal Revenue Code.

c. Rollover of unallocated credits. Beginning with calendar year 2014, if the annual tax credit allocation cap is not reached, the remaining amount below the cap shall be made available for the following tax year in addition to, and cumulated with, the cap for that year.

304.48(4) *How to apply for the credit.* Timely and complete applications shall be reviewed and approved on a first-come, first-served basis. Applications for the tax credit shall be submitted through the tax credit submission system, which applicants may access through the department's website.

a. Application deadline. For installations completed on or after January 1, 2014, the application must be filed by May 1 following the year of installation of the solar energy system. Notwithstanding the foregoing sentence, the following extensions are applicable to installations completed in 2014 and 2015:

(1) Solar energy systems installed during the 2014 calendar year shall be eligible for approval under Iowa Code section 422.11L even if the application is filed after May 1, 2015. Valid and complete applications shall be accepted and approved on a first-come, first-served basis and shall first be eligible for approval for the tax year during which the application is received, but not before the tax year beginning January 1, 2016.

(2) Solar energy systems installed during the 2015 calendar year shall be eligible for approval under Iowa Code section 422.11L even if the application is filed after May 1, 2016. Valid and complete applications shall be accepted and approved on a first-come, first-served basis and shall first be eligible for approval for the tax year during which the application is received, but not before the tax year beginning January 1, 2017.

b. Contents of the application. The application must contain the following information:

(1) Name, address, and federal identification number of the taxpayer.

(2) Date of installation of the solar energy system. This is the same as the date the installation was placed in service by the taxpayer.

(3) The kilowatt capacity of the solar energy system.

(4) Copies of invoices or other documents showing the cost of the solar energy system.

(5) Amount of federal income tax credit claimed for the solar energy system.

(6) Amount of Iowa tax credit requested.

(7) All applicants must provide a completion sheet from a local utility company or similar documentation verifying that installation of the system has been completed. For nonresidential installations, the completion sheet must indicate the date the installation was placed in service. If a completion sheet from the local utility company or similar documentation is not available, a statement shall be provided that is similar to the one required to be attached to federal Form 3468 when claiming the federal energy credit and that specifies the date the system was placed in service.

(8) A copy of any signed agreement made regarding the solar energy system that verifies the applicant is a qualified applicant. This includes, but is not limited to, lease agreements. When an applicant is entitled to the Iowa solar energy system tax credit for a leased solar energy system, the other party to the lease will not be entitled to such a credit for the same leased solar energy system.

(9) For nonresidential installations, the date on which construction began.

(10) Any other information requested by the department in order to verify eligibility for or amount of the Iowa tax credit requested.

c. Previously claimed expenditures disallowed. An applicant may not include on an application any expenditure for which the taxpayer previously received, or was denied, a tax credit award or any expenditure that was part of an approved separate and distinct installation but was disallowed due to exceeding the maximum Iowa tax credit amount.

d. Waitlist. If the department receives applications for tax credits in excess of the annual aggregate award limitation, the department shall establish a waitlist for the next year's allocation of tax credits. Valid and complete applications will be placed on the waitlist in the order they are received by the department. However, in the event the department denies an application or part of an application, and upon appeal by the taxpayer a previously denied tax credit amount is allowed, the date the appeal is closed will be used to determine the placement of the allowed tax credit amount on the waitlist. Waitlisted applications are reviewed and, if approved, funded in the order they are listed on the waitlist. With the exception of the extension described in subparagraphs 304.48(4)*"a"*(1) and 304.48(4)*"a"*(2) above, only valid applications filed by the taxpayer by May 1 of the year following the year of the installation of the solar energy property shall be eligible for the waitlist. If the annual aggregate cap is reached for the final year in which the federal credit is available, no applications will be carried over to the next year. This tax credit limitation shall apply as follows:

(1) Residential property tax credit claims. The federal credits related to residential property under Sections 25D(a)(1) and 25D(a)(2) of the Internal Revenue Code expire and are unavailable for Iowa tax purposes for installations completed on or after January 1, 2022. Therefore, any residential tax credit request related to an installation completed prior to January 1, 2022, that does not receive a tax credit award by the time the 2021 aggregate award limitation is met shall expire and shall not be carried over on the waitlist to any future year.

(2) Business property tax credit claims. The federal credit related to business property under Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code does not expire for Iowa tax purposes. It is available for installations that begin construction prior to January 1, 2022, in any future tax year the installation is placed in service. Therefore, any business tax credit request related to an installation that begins construction prior to January 1, 2022, but that does not receive a tax credit award by the time the annual aggregate award limitation is met will not expire and will be eligible to be carried over on the waitlist to future years, and receive a tax credit award in a future year, provided the authorization to approve and issue tax credits under Iowa Code section 422.11L(4)*"a"* is not repealed.

Placement on a waitlist shall not constitute a promise binding the state that persons placed on the waitlist will actually receive the credit in a future year. The availability of a tax credit and approval of a tax credit application pursuant to this rule in a future year is contingent upon the availability of tax credits in that particular year.

e. Certificate issuance. If the application is approved, the department will send a letter to the taxpayer including the amount of the tax credit and providing a tax credit certificate.

f. Claiming the tax credit. The solar energy system tax credit will be claimed on Form IA 148, Tax Credits Schedule. The taxpayer must include with any Iowa tax return claiming the solar energy system tax credit federal Form 5695, Residential Energy Credits, if claiming the residential energy credit or federal Form 3468, Investment Credit, if claiming the business energy credit.

g. Nonrefundable. Any credit in excess of the taxpayer's tax liability is nonrefundable.

h. Carryforward. Any tax credit in excess of the taxpayer's tax liability for the tax year may be credited to the taxpayer's tax liability for the following ten years or until depleted, whichever is earlier.

i. Nontransferable. The credit may not be transferred to any other person.

304.48(5) *Separate and distinct installation requirement.* Only one tax credit may be awarded and claimed for each separate and distinct solar installation. Each separate and distinct installation requires a separate application. For purposes of this subrule, unless the context otherwise requires, use of the term "installation" or "solar installation" refers to the physical equipment that generates electricity using solar energy in a manner that qualifies that equipment for a tax credit. In order for an installation that otherwise meets the requirements of Iowa Code section 422.11L and this rule to be considered a separate and distinct solar installation, both of the factors in paragraphs 304.48(5)*"a"* and *"b"* must be met. This determination is made by the department and requires a review of the current application received by the department and all prior applications received by the department from any taxpayer. When determining whether a solar installation is separate and distinct from other solar installations, the department will consider the totality of the facts and circumstances surrounding the solar installations. The taxpayer bears the burden of showing that an installation qualifies as separate and distinct. For a safe harbor rule relating to solar installations that begin construction prior to June 1, 2021, see paragraph 304.48(5)*"c."*

a. A repair or maintenance shall not constitute a solar installation. If the installed equipment repairs or otherwise maintains the working order of another solar installation or part of another solar installation, it will not be considered separate and distinct from that other solar installation, even if the installed equipment results in increased production capacity because of its superior quality, performance, or efficiency, or other similar reason. Evidence that part of the other solar installation was removed or replaced at or around the time the equipment was installed is a strong indication that the equipment is a repair or maintenance, but it is not required for such a determination.

Example 3: Taxpayer B applies for and is awarded an Iowa solar tax credit for a solar installation that powers taxpayer B's workshop. Two years after that solar installation is placed in service, the solar inverter malfunctions. Taxpayer B purchases and installs a new solar inverter, which keeps the solar installation in working order. At the same time, B also replaces several functioning solar panels on the solar installation with new, higher quality panels that increase the solar installation's production capacity. Taxpayer B submits a second application for the costs of the solar inverter and the solar panels. These costs are considered a repair or maintenance and do not qualify as separate and distinct from the prior installation. Therefore, they do not qualify for the Iowa solar tax credit. This is the result even if the costs qualify for the federal tax credit and even though the solar panels improve the productivity of the solar installation.

b. The solar installation must be a replacement installation or an independent installation.

(1) Replacement installation. When previous solar installations have been completely decommissioned, whether from disposal by the applicant or casualty loss or theft, the new solar installation may be considered a replacement installation of the decommissioned solar installation. A solar installation that ceases operation but that has not been physically removed and discarded by a person is not decommissioned unless it cannot operate and is incapable of being repaired to working order. A solar installation that merely changes location or ownership has not been decommissioned and thus may not qualify as a replacement installation. Expenditures that are subject to an insurance reimbursement do not qualify for the solar energy system tax credit.

Example 4: Taxpayer C applies for and is awarded an Iowa solar tax credit for a solar installation that powers taxpayer C's business. One year after that solar installation is placed in service, it is destroyed beyond repair by a severe storm. Taxpayer C's insurance policy does not cover damage to a solar installation. Taxpayer C purchases and places in service another solar installation that powers taxpayer C's business and timely applies for the Iowa solar energy system tax credit. Taxpayer C's subsequent installation may be eligible for the Iowa solar energy system installation credit as a replacement installation.

(2) Independent installation. An independent installation is one that has a sufficiently remote association with other solar installations that received the Iowa solar energy system tax credit such that it can be considered independent from those other solar installations. When determining whether a particular solar installation qualifies as an independent installation, the department will first consider the electrical generation purpose of the relevant solar installations, as described in numbered paragraph 304.48(5)*"b"*(2)"1" below. Only if the department finds that it cannot make a determination from that criteria alone will the department consider other criteria. A nonexhaustive list of other criteria that may be considered by the department is provided in numbered paragraph 304.48(5)*"b"*(2)"2" below.

1. Electrical generation purpose. The department will review the electrical generation purpose of each solar installation. As described below, this involves a review of the building(s) or structure(s) being powered by each solar installation. When two or more solar installations have the same electrical generation purpose, they are not independent installations. When two or more solar installations have different electrical generation purposes, this is an indication that they may be independent installations. With respect only to a multiple housing cooperative under Iowa Code chapter 499A or a horizontal property regime under Iowa Code chapter 499B, each apartment shall constitute a building or structure, and each cooperative or regime owner's proportionate share of qualifying expenses incurred by the cooperative or regime shall constitute a solar installation paid by the cooperative or regime owner.

- Same building(s) or structure(s). If the applied-for solar installation will power buildings or structures that are also being powered by another solar installation, or that were being powered by another solar installation at some point during the 12-month period before the applied-for solar installation was placed in service, then the installations have the same electrical generation purpose. However, adequate proof from the taxpayer of a substantial increase in electricity demand is evidence tending to indicate that the solar installations do not have the same electrical generation purpose. A

"substantial increase in electricity demand" exists when the sum of the average monthly electricity consumption of each building or structure powered by the applied-for solar installation for the 12-month period before the applied-for solar installation is placed in service is at least 50 percent greater than the sum of the average monthly electricity consumption of each building or structure powered by the other solar installation for the 12-month period before the other solar installation was placed in service. Average electricity consumption shall be measured in kilowatt hours. With respect to the other solar installation, if any applicable building or structure was not in service for a period of 12 months before the other solar installation was placed in service, the average monthly electricity consumption for that building or structure shall be the average electricity consumption for the first 12 months the building or structure was in service. With respect to the applied-for solar installation, the calculation of the average monthly electricity consumption for any building or structure that was not placed in service prior to the other solar installation shall be calculated using a denominator of 12 even if that building or structure was not in service for a period of 12 months before the applied-for solar installation was placed in service. The reason for the increased electricity consumption shall not be relevant in determining if a substantial increase in electricity demand exists.

Example 5: Taxpayer D is awarded a solar energy system tax credit for a solar installation that provides power to D's home. Three years later, D installs a second solar installation that also provides power to D's home. Absent additional information from D that would show a substantial increase in electricity demand, the second solar installation has the same electrical generation purpose as the first installation because they both provide power to D's home. Therefore, the second solar installation would not be considered an independent installation.

Example 6: Taxpayer E owns an apartment building with ten apartment units. In 2021, taxpayer E installs solar energy business property with a cost of $300,000 that will power the apartment building. Taxpayer E submits solar tax credit applications for ten different solar installations, one for each unit within the apartment building. Each application claims $30,000 in qualifying costs and requests an Iowa solar credit of $3,300 ($30,000 × 11%) for business property, for a sum total of $33,000 in tax credits. Because the solar installations claimed on all ten applications provide power to the same apartment building, they all have the same electrical generation purpose. Therefore, only one of the solar installations could qualify for the tax credit as an independent installation, subject to the $20,000 per-installation tax credit cap. The other nine installations would all fail to qualify as independent installations. The result is the same whether or not the apartment units have separate utility meters. See Example 10 for a different result if the building were organized as a multiple housing cooperative or horizontal property regime.

Example 7: Taxpayer F, a machinist, is awarded a solar energy system tax credit for a solar installation that provides power to F's machine shop. Several years later, F installs a second solar installation that will provide power to F's machine shop but also to F's office building. Taxpayer F submits a complete and timely application for the solar energy system tax credit. Absent additional information from F that would show a substantial increase in electricity demand, the second solar installation has the same electrical generation purpose as the first solar installation because they both provide power to F's machine shop. Therefore, the second solar installation would not be considered an independent installation.

Example 8: Assume the same facts as Example 7, except that taxpayer F provides additional information to the department regarding the electricity consumption of F's machine shop and office building. Taxpayer F provides utility bills which show that for the 12-month period before the first solar installation was placed in service, the average monthly electricity consumption for the machine shop was 1,000 kilowatt hours. For the 12-month period before the second solar installation was placed in service, the average monthly electricity consumption for the machine shop was 1,200 kilowatt hours. Additionally, the office building was constructed and placed in service three months before the second solar installation was placed in service. Taxpayer F provides utility bills which show that for the three months the office building was in service, the monthly electricity consumption for the office building was 1,400 kilowatt hours, 1,600 kilowatt hours, and 1,800 kilowatt hours,

respectively. This means that the average monthly electricity consumption of the office building for purposes of the "substantial increase in energy demand" test is 400 kilowatt hours [i.e., (1,400 + 1,600 + 1,800) ÷ 12 = 400]. Therefore, for the 12-month period before the second solar installation was placed in service, the average monthly electricity consumption for the machine shop and office building was 1,600 kilowatt hours [i.e., 1,200 + 400 = 1,600]. Because this 1,600 monthly kilowatt hour average applicable to the second solar installation exceeds by at least 50 percent the 1,000 monthly kilowatt hour average applicable to the first solar installation, taxpayer F has shown a substantial increase in electricity demand and the second solar installation may qualify as an independent installation.

- Different building(s) or structure(s). If the applied-for solar installation will not power any building or structure that is also being powered by another solar installation, or that was also being powered by another solar installation at some point during the 12-month period before the applied-for solar installation was placed in service, this is an indication that the solar installations may have a different electrical generation purpose.

Example 9: Taxpayer G, a farmer, is awarded a solar energy system tax credit for a solar installation that provides power to G's equipment barn. Later, G installs a second solar installation that will only provide power to G's livestock building. Because the first solar installation only provides power to G's barn and the second solar installation only provides power to G's livestock building, this is an indication that each solar installation has a different electrical generation purpose. The second solar installation would be considered an independent installation, unless additional information shows the contrary to be true.

Example 10: Taxpayer H, a multiple housing cooperative under Iowa Code chapter 499A, owns an apartment building with ten apartment units. In 2021, H installs solar energy property with a cost of $300,000 that will power the apartment building. The owner of each apartment unit submits a solar tax credit application for a solar installation claiming a proportionate share of H's qualifying expenditures for the solar energy property, which in this case is $30,000 per owner, and requesting an Iowa credit of $3,300 ($30,000 × 11%), for a sum total of $33,000 in tax credits. Since this building is organized as a multiple housing cooperative under Iowa Code chapter 499A, each apartment constitutes a building or structure and each owner's proportionate share of qualifying expenses incurred by the cooperative constitutes a solar installation paid by the owner. This is the first solar installation with respect to each of these apartments, so they are not being powered by another solar installation that received an Iowa tax credit. Therefore, this is an indication that each solar installation has a different electrical generation purpose. Each of the ten solar installations would be considered an independent installation, unless additional information shows the contrary to be true. The result would be the same if the building were organized as a horizontal property regime under Iowa Code chapter 499B. However, see Example 7 regarding apartment buildings not organized as a multiple housing cooperative or horizontal property regime.

2. Other criteria.

- Location. The department will consider the physical location of each solar installation. When two or more solar installations are in close physical proximity, this is an indication that the installations may not be independent installations. The farther in physical proximity the installations are, the stronger the likelihood that they are independent installations. Locating an installation at the same address or on the same or adjacent parcel as another installation is a stronger indication that the two installations are not independent installations than if they were located at different addresses or on nonadjacent parcels. The expansion in physical size or production capacity of an existing solar installation is an indication that the installations are not independent installations. If two or more solar installations are physically attached or connected to the same building or structure, this is an indication that the installations are not independent installations.

Example 11: Taxpayer Q submits a complete and timely solar energy system tax credit application for a solar installation located at an address that is adjacent to the address of a prior solar installation for which taxpayer Q received a solar energy system tax credit award. Based on the information

provided by the taxpayer, the department is unable to determine the electrical generation purpose of the solar installations. Without additional information, the proximity of the two solar installations supports a determination by the department that the second solar installation is not an independent installation.

- Billing. The department will consider the manner in which a utility company issues bills associated with solar installations. Even when a solar installation does not actually provide electricity to any buildings or structures that are also being powered by another solar installation, if a utility company issues bills associated with a solar installation under a net metering agreement in a manner that allows credits from the net outflow of one solar installation to be applied against the utility costs of buildings or structures that are powered by another solar installation, the department will evaluate the solar installations subject to the net metering agreement as if they were powering the same buildings or structures for purposes of determining electrical generation purpose in numbered paragraph 304.48(5)*"b"*(2)"1" above.
- Utility metering. The department will consider whether each solar installation is connected to a separate utility meter and the business reason, if any, for using separate utility meters. For purposes of this subrule, "utility meter" means a device installed by a utility company used to monitor the amount of electricity consumed or produced by a consumer. When a metering agreement requires a person to install two unidirectional meters, the set will be considered a single utility meter for purposes of this subrule. The department will not consider a measuring device installed and used by a person for personal monitoring of electricity production or consumption to be a "utility meter" for purposes of this subrule. This should not be interpreted to require a person to connect the person's solar installation to a utility provider's grid in order to be eligible for the tax credit.
- Payment for installation or service. The department will consider how expenses incurred for construction or servicing of a solar installation are paid. When expenses incurred for two or more solar installations are paid by related parties, it may indicate that the installations are not independent installations. However, the department may request additional information to evaluate the relationship between the person who pays for such expenses and the person who claims the tax credit.
- Contract terms. The department will consider the terms of installation and service contracts related to the solar installation and may require a person to provide installation and service contracts related to any prior solar installation for which the department has received a tax credit application. When contract terms indicate that the solar installations have been installed as or are serviced as a single, functional unit or system, the department will consider that as evidence that the installations are not independent installations.
- Timing of installation or application. The department will consider when the applied-for solar installation was placed in service and when a person submits the tax credit application as compared to other solar installations.

c. Safe harbor for solar installations that begin construction prior to June 1, 2021. For any solar installation for which the taxpayer begins construction prior to June 1, 2021, the taxpayer may rely on the factors in the prior version of paragraph 304.48(7)*"a"* in determining whether the solar installation is a separate and distinct installation. Prior versions of the Iowa Administrative Code are located here: www.legis.iowa.gov/law/administrativeRules/agencies.

304.48(6) *Unavailable to those eligible for renewable energy tax credit.* A taxpayer who is eligible to receive a renewable energy tax credit provided in rule 701—304.28(422,476C) is not eligible for the solar energy system tax credit.

304.48(7) *Allocation of tax credit to owners of a business entity or beneficiaries of an estate or trust.* If the taxpayer claiming the tax credit based on a percentage of the federal energy credit under Section 48 of the Internal Revenue Code is a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual, the individual may claim the tax credit. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, estate, or trust. The maximum amount of credit available to a partnership, limited liability company, S corporation, estate,

or trust shall be limited to $15,000 for installations placed in service in tax years 2012 and 2013 and $20,000 for installations placed in service in tax years beginning on or after January 1, 2014.

This rule is intended to implement Iowa Code section 422.11L.

[**ARC 0361C**, IAB 10/3/12, effective 11/7/12; **ARC 1303C**, IAB 2/5/14, effective 3/12/14; **ARC 1666C**, IAB 10/15/14, effective 11/19/14; **ARC 2925C**, IAB 2/1/17, effective 3/8/17; **ARC 5590C**, IAB 4/21/21, effective 5/26/21; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—304.49(422) Volunteer fire fighter, volunteer emergency medical services personnel member, and reserve peace officer tax credit. Effective for tax years beginning on or after January 1, 2014, a tax credit is available for individual income tax for volunteer fire fighters, volunteer emergency medical services (EMS) personnel members, and reserve peace officers.

304.49(1) *Definitions.* The following definitions are applicable to this rule:

"Emergency medical services personnel member" or *"EMS personnel member"* means an emergency medical care provider, as defined in Iowa Code section 147A.1, who is certified as a first responder in accordance with Iowa Code chapter 147A. For tax years beginning on or after January 1, 2014, "emergency medical services personnel member" or "EMS personnel member" also includes an individual who is a paid employee of an emergency medical services program and who is also a volunteer emergency medical services personnel member in a city, county, or area governed by an agreement pursuant to Iowa Code chapter 28E.

"Reserve peace officer" means a reserve peace officer as defined in Iowa Code section 80D.1A who has met the minimum state training standards established by the Iowa law enforcement academy in accordance with Iowa Code chapter 80D.

"Volunteer fire fighter" means a volunteer fire fighter, as defined in Iowa Code section 85.61, who has met the minimum training standards established by the fire service training bureau pursuant to Iowa Code chapter 100B. For tax years beginning on or after January 1, 2014, "volunteer fire fighter" means an individual who is an active member of an organized volunteer fire department in Iowa or is performing services as a volunteer fire fighter for a municipality, township, or benefited fire district at the request of the chief or other person in command and who has met the minimum training standards established by the fire service training bureau pursuant to Iowa Code chapter 100B. For tax years beginning on or after January 1, 2014, a volunteer fire fighter also includes an individual who is a paid employee of a fire department and who is also a volunteer fire fighter in a city, county, or area governed by an agreement pursuant to Iowa Code chapter 28E.

304.49(2) *Calculation of the credit.*

a. The credit is equal to $250 for tax years beginning on or after January 1, 2021, if the volunteer fire fighter, volunteer EMS personnel member, or reserve peace officer was a volunteer for the entire year. The credit is equal to $50 for tax year 2013 and $100 for tax years 2014 through 2020.

b. If the individual was not a volunteer fire fighter, volunteer EMS personnel member, or reserve peace officer for the entire calendar year, the credit is prorated based on the number of months the individual was a volunteer. If the individual was a volunteer during any part of a month, the individual will be considered a volunteer for the entire month. The amount of credit will be rounded to the nearest dollar.

EXAMPLE: An individual became a volunteer fire fighter on April 15, 2021, and remained a volunteer for the rest of calendar year 2021. The individual is considered a volunteer for nine months of 2021. The tax credit for 2021 is equal to $188 ($250 multiplied by 9/12 equals $187.50; rounding to the nearest dollar results in a $188 credit).

c. If an individual holds more than one volunteer position as a volunteer fire fighter, a volunteer EMS personnel member, or a reserve peace office during the same month, a credit can be claimed for only one volunteer position for that month. For example, if an individual was both a volunteer fire fighter and volunteer EMS personnel member for all of calendar year 2021, the tax credit will equal $250.

304.49(3) *Verification of eligibility for the tax credit.* An individual is required to have a written statement from the fire chief or other appropriate supervisor verifying that the individual was a

volunteer fire fighter or volunteer EMS personnel member for the months for which the tax credit is being claimed. An individual who is a reserve peace officer must have a written statement from the chief of police, sheriff, commissioner of public safety, or other appropriate supervisor verifying that the individual was a reserve peace officer for the months for which the tax credit is being claimed. The written statement does not have to be attached to a tax return claiming the credit. However, the department may request that the individual provide the written statement.

This rule is intended to implement Iowa Code section 422.12.

[**ARC 0398C**, IAB 10/17/12, effective 11/21/12; **ARC 1665C**, IAB 10/15/14, effective 11/19/14; **ARC 6227C**, IAB 4/13/22, effective 4/13/22; Editorial change: IAC Supplement 11/2/22]

701—304.50(422) Taxpayers trust fund tax credit. For tax years beginning on or after January 1, 2013, a taxpayers trust fund tax credit is available for Iowa individual income tax. The credit is available for all individual income tax filers, including residents, nonresidents and part-year residents of Iowa, and individuals who file as part of a composite return as described in rule 701—404.1(422), as long as the Iowa return is filed within the extended due date to file an Iowa return. Therefore, a fiscal-year filer whose tax year does not begin on January 1 is eligible to claim the taxpayers trust fund tax credit as long as the return is filed within the extended due date of the Iowa return.

304.50(1) *Calculation of the amount of tax credit.* The credit is calculated by taking the amount in the Iowa taxpayers trust fund and dividing it by the number of individual income taxpayers who filed Iowa returns by October 31 of the year preceding the year in which the credit is allowed.

EXAMPLE: There is $120 million in the Iowa taxpayers trust fund at the end of the fiscal year ending June 30, 2013. There were 2,200,000 individuals who filed Iowa income tax returns by October 31, 2013, for tax years beginning on or after January 1, 2012, but beginning before January 1, 2013. This results in an Iowa taxpayers trust fund tax credit of $54 for the tax year beginning on or after January 1, 2013, but beginning before January 1, 2014 ($120,000,000 divided by 2,200,000 equals $54.55, which is rounded down to the nearest whole dollar). All taxpayers who file their Iowa individual income tax return by October 31, 2014, for the tax period beginning on or after January 1, 2013, but beginning before January 1, 2014, will be entitled to claim a $54 Iowa taxpayers trust fund tax credit.

If the amount of Iowa taxpayers trust fund tax credits claimed on tax returns for a particular year is less than the amount authorized, the difference will be transferred to the Iowa taxpayers trust fund for the next year and will be available as an Iowa taxpayers trust fund tax credit for the next year. There must be a balance in the Iowa taxpayers trust fund of at least $30 million in order for the Iowa taxpayers trust fund tax credit to be available.

EXAMPLE: There is $120 million in the Iowa taxpayers trust fund at the end of the fiscal year ending June 30, 2013. The total amount of Iowa taxpayers trust fund tax credit claimed on Iowa tax returns for tax years beginning on or after January 1, 2013, but beginning before January 1, 2014, which were filed on or before October 31, 2014, is $90 million. The difference of $30 million will be transferred to the Iowa taxpayers trust fund for the fiscal year ending June 30, 2014. The legislature approves an additional $60 million to be deposited in the Iowa taxpayers trust fund for the fiscal year ending June 30, 2014. This will result in $90 million in the Iowa taxpayers trust fund for the fiscal year ending June 30, 2014. If 2,200,000 individuals file Iowa individual income tax returns for tax years beginning on or after January 1, 2013, but beginning before January 1, 2014, by October 31, 2014, this will result in a $40 Iowa taxpayers trust fund tax credit for the tax year beginning on or after January 1, 2014, but beginning before January 1, 2015 ($90,000,000 divided by 2,200,000 equals $40.90, which is rounded down to the nearest whole dollar).

304.50(2) *Claiming the credit on the tax return.* The Iowa taxpayers trust fund is claimed on the amount of Iowa tax computed after all other nonrefundable credits allowed in division II of Iowa Code chapter 422 (excluding the Iowa taxpayers trust fund tax credit) are deducted, after the amount of school district surtax described in rule 701—304.1(257,422) and emergency medical services income surtax described in rule 701—304.2(422D) is added, and after all refundable credits (excluding

estimated payments and tax withheld) allowed in division II of Iowa Code chapter 422 are deducted. Any Iowa taxpayers trust fund tax credit in excess of the tax liability is not refundable and shall not be carried back to the tax year prior to the tax year in which the credit is claimed and cannot be carried forward to a tax year for any following year.

EXAMPLE: A taxpayer reported a tax liability of $100 on the taxpayer's 2013 Iowa income tax return. The taxpayer claimed a $40 personal exemption credit and a $25 franchise tax credit. This resulted in tax due of $35 before applying the school district surtax. Taxpayer was subject to a $2 school district surtax which resulted in total tax due of $37. Taxpayer was entitled to claim a $54 Iowa taxpayers trust fund tax credit, but only $37 of credit could be applied on the 2013 Iowa return. The remaining $17 of credit cannot be refunded, cannot be applied to a prior year tax liability, and cannot be carried forward to be applied to a subsequent year tax liability.

This rule is intended to implement Iowa Code section 422.11E.

[**ARC 1102C**, IAB 10/16/13, effective 11/20/13; **ARC 1665C**, IAB 10/15/14, effective 11/19/14; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—304.51(422) From farm to food donation tax credit. A taxpayer that donates a food commodity that the taxpayer produces may claim a tax credit for Iowa individual income tax. The credit is equal to 15 percent of the value of the commodities donated during the tax year for which the credit is claimed or $5,000, whichever is less. The value of the commodities shall be determined in the same manner as a charitable contribution of food for federal tax purposes under Section 170(e)(3)(C) of the Internal Revenue Code.

304.51(1) To qualify for the tax credit, the taxpayer (1) must produce the donated food commodity; (2) must transfer title to the donated food commodity to an Iowa food bank or Iowa emergency feeding organization recognized by the department; and (3) shall not receive remuneration for the transfer. The donated food commodity cannot be damaged or out-of-condition and declared to be unfit for human consumption by a federal, state, or local health official. A food commodity that meets the requirements for donated foods pursuant to the federal Emergency Food Assistance Program satisfies this requirement.

304.51(2) To be recognized by the department, a food bank or emergency feeding organization must either be a recognized affiliate of one of the eight partner food banks with the Iowa Food Bank Association or must register with the department. To register with the department, the organization must meet the definition of "emergency feeding organization," "food bank," or "food pantry" as defined by the department of human services in 441—66.1(234). A food bank or emergency feeding organization that seeks recognition by the department shall register with the department in the form and manner prescribed by the department. The department will maintain a list of recognized organizations on the department's website.

304.51(3) Food banks and emergency feeding organizations that receive eligible donations shall be required to issue receipts in a format prescribed by the department for all donations received and must annually submit to the department a receipt log of all the receipts issued during the calendar year. The receipt log must be submitted in the form of a spreadsheet with column specifications as provided by the department. Receipt logs showing the donations for the previous calendar year must be delivered electronically or mailed to the department postmarked by January 15 of each year. If a receipt for a taxpayer's claim is not provided by the organization, the taxpayer's claim will be denied.

304.51(4) To claim the credit for tax years beginning before January 1, 2022, a taxpayer shall submit to the department the original receipts that were issued by the food bank or emergency feeding organization. The receipt must include quantity information completed by the food bank or emergency feeding organization, taxpayer information, and a donation valuation consistent with Section 170(e)(3)(C) of the Internal Revenue Code completed by the taxpayer. Claims must be postmarked on or before January 15 of the year following the tax year for which the claim is requested. Once the department verifies the amount of the tax credit, a letter will be sent to the taxpayer providing the amount of the tax credit and a tax credit certificate number.

304.51(5) To claim the credit for tax years beginning on or after January 1, 2022, a taxpayer shall complete the required tax credit form provided by the department and shall submit the form with the taxpayer's income tax return for the tax year the taxpayer made the qualifying donations. The required tax credit form shall be available on the department's website.

304.51(6) Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is earlier. The tax credit shall not be carried back to a tax year prior to the year in which the owner redeems the credit. The credit is not transferable to any other person.

304.51(7) If the producer is a partnership, limited liability company, S corporation, estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code chapter 190B, subchapter I, and section 422.11R.

[**ARC 1138C**, IAB 10/30/13, effective 12/4/13; Editorial change: IAC Supplement 11/2/22; **ARC 6901C**, IAB 2/22/23, effective 3/29/23]

701—304.52(422) Adoption tax credit. Effective for tax years beginning on or after January 1, 2014, an adoption tax credit is available for individual income tax equal to the amount of qualified adoption expenses paid or incurred by a taxpayer related to the adoption of a child. For an adoption finalized on or after January 1, 2014, but before January 1, 2017, the total adoption tax credit claimed for the adoption may not exceed $2,500. For an adoption finalized on or after January 1, 2017, the total adoption tax credit claimed for the adoption may not exceed $5,000.

304.52(1) *Adoption.* For purposes of the credit, an adoption occurs when a child is permanently placed in Iowa by any of the following:

a. The department of human services;

b. An adoption service provider as defined in Iowa Code section 600A.2; or

c. An agency that meets the provisions of the interstate compact in Iowa Code section 232.158.

304.52(2) *Child.* A "child" is an individual who is under the age of 18 years. "Child" does not include any individual who is 18 years of age or older.

304.52(3) *Qualified adoption expenses.*

a. Generally. "Qualified adoption expenses" means unreimbursed expenses paid or incurred in connection with the adoption of a child. Qualified adoption expenses include all fees and costs related to the adoption of a child, such as:

(1) Medical and hospital expenses of the biological mother that are incident to the child's birth;

(2) Welfare agency fees and other reasonable and necessary adoption fees;

(3) Court costs, attorney fees, and other legal fees;

(4) Travel expenses, including amounts spent for meals and lodging while away from home; and

(5) All other fees and costs related to the adoption of a child.

b. Limitations. Expenses that are eligible for the federal adoption credit as provided in Section 23(d)(1) of the Internal Revenue Code will be considered qualified adoption expenses. Expenses paid or incurred in violation of state or federal law are not qualified adoption expenses. Expenses that have been reimbursed are not qualified adoption expenses.

304.52(4) *Claiming the credit.*

a. Amount eligible for credit. For tax years beginning on or after January 1, 2014, but beginning before January 1, 2017, the first $2,500 of qualified adoption expenses is eligible for the credit. For tax years beginning on or after January 1, 2017, the first $5,000 of qualified adoption expenses is eligible for the credit. The maximum credit amount is determined at the time the adoption becomes final. If the qualified adoption expenses are less than the maximum credit amount, then the total amount of qualified expenses can be claimed as a credit. The amount of tax credit claimed cannot be used as an itemized deduction for adoption expenses provided in 701—subrule 303.5(3).

b. Claiming the credit in tax years beginning on or after January 1, 2014, but before January 1, 2019.

(1) Claiming the credit in the year the adoption becomes final. For tax years beginning on or after January 1, 2014, but before January 1, 2019, to claim an adoption tax credit, a taxpayer must claim the credit for all qualified adoption expenses paid or incurred in the tax year the adoption becomes final, up to the maximum credit amount provided in paragraph 304.52(4)*"a."*

EXAMPLE: Michael and Lori are married. Michael and Lori adopt a child who is permanently placed in Iowa. The adoption process begins and becomes final in 2015. Because the adoption becomes final on or after January 1, 2014, but prior to January 1, 2017, Michael and Lori qualify for a maximum credit amount of $2,500. Michael and Lori incur and pay unreimbursed qualified adoption expenses of $20,000 in 2015. Michael and Lori jointly file their Iowa individual income tax return in 2015. Michael and Lori may claim an Iowa adoption tax credit of $2,500 in 2015.

(2) Claiming the credit in years other than the year the adoption becomes final. For tax years beginning on or after January 1, 2014, but before January 1, 2019, if a taxpayer cannot claim the maximum credit amount provided in paragraph 304.52(4)*"a"* for the year the adoption becomes final, the taxpayer may amend a prior year's return to claim any remaining credit for expenses paid in that prior year, or the taxpayer may claim any remaining credit on a subsequent year's return for expenses paid in that subsequent year. If a qualified adoption expense was incurred in one tax year and paid in another tax year, the taxpayer may only claim a credit for that expense in one year. The total adoption tax credit claimed for all years combined may not exceed the maximum credit amount per adoption provided in paragraph 304.52(4)*"a."* An adjustment to a prior's year return is subject to the limitations in rule 701—302.20(422).

EXAMPLE: Erin adopts a child as a single parent. The child is permanently placed in Iowa. The adoption process begins in 2016 and becomes final in 2017. Because the adoption becomes final on or after January 1, 2017, Erin qualifies for a maximum credit amount of $5,000. Erin pays and incurs unreimbursed qualified adoption expenses of $20,000 in 2016 and $1,000 in 2017. In tax year 2017, Erin may claim an Iowa adoption tax credit equal to the $1,000 in unreimbursed qualified adoption expenses paid and incurred in 2017. After claiming the credit for tax year 2017, Erin may amend the 2016 return to claim the remaining $4,000 credit for unreimbursed qualified adoption expenses paid and incurred in 2016.

c. Claiming the credit in tax years beginning on or after January 1, 2019.

(1) Claiming the credit in the year the adoption becomes final. For tax years beginning on or after January 1, 2019, to claim an adoption tax credit, a taxpayer must claim the credit in the tax year the adoption is finalized for all qualified adoption expenses paid or incurred prior to or in the tax year the adoption becomes final, up to the maximum credit amount of $5,000. A taxpayer shall not amend a prior year return in an attempt to claim the credit for unreimbursed qualified adoption expenses paid or incurred prior to the tax year in which the adoption becomes final.

EXAMPLE: Y and Z are married. Y and Z adopt a child who is permanently placed in Iowa. The adoption process begins in 2016 and becomes final in 2019. Because the adoption becomes final on or after January 1, 2017, Y and Z qualify for a maximum credit amount of $5,000. Additionally, because the adoption becomes final on or after January 1, 2019, Y and Z may claim an Iowa adoption tax credit for unreimbursed qualified adoption expenses paid or incurred prior to or in the year the adoption becomes final. Y and Z incur and pay unreimbursed qualified adoption expenses of $5,000 in 2016, $10,000 in 2017, $2,000 in 2018, and $2,000 in 2019. Y and Z jointly file their Iowa individual income tax return in 2019. Y and Z may claim an Iowa adoption tax credit of $5,000 on their 2019 Iowa income tax return. Y and Z are not allowed to amend a prior year return in an attempt to claim the credit for unreimbursed qualified adoption expenses paid or incurred prior to the tax year in which the adoption became final.

(2) Claiming the credit in years after the adoption becomes final. For tax years beginning on or after January 1, 2019, if a taxpayer cannot claim the maximum credit amount of $5,000 for the year the adoption becomes final, the taxpayer may claim an adoption tax credit for any unreimbursed

qualified adoption expenses paid or incurred after the tax year in which the adoption becomes final in the tax year in which unreimbursed qualified adoption expenses are paid or incurred.

EXAMPLE: W and X are married. W and X adopt a child who is permanently placed in Iowa. The adoption process begins in 2018 and becomes final in 2019. Because the adoption becomes final on or after January 1, 2017, W and X qualify for a maximum credit amount of $5,000. W and X incur and pay unreimbursed qualified adoption expenses of $1,000 in 2018, and $1,000 in 2019. W and X jointly file their Iowa individual income tax return in 2019. W and X may claim the Iowa adoption tax credit in 2019 in the amount of $2,000. In 2020, W and X incur and pay $5,000 in unreimbursed qualified adoption expenses in connection to the adoption finalized in 2019. W and X may claim the remaining $3,000 credit on their jointly filed Iowa individual income tax return for 2020 for unreimbursed qualified adoption expenses incurred and paid in 2020. W and X shall not amend their 2019 return to reflect the additional unreimbursed qualified adoption expenses from 2020.

d. Claiming the credit by two adoptive parents. The adoption tax credit may only be claimed by a person who adopted the child. When a married couple adopts a child together and the couple files jointly on the same return, the credit may only be claimed once between the couple. When any other two persons adopt a child together, including married persons filing separately on the same or different returns or any unmarried persons filing on separate returns, the credit must be divided between the adoptive parents. Two adoptive parents, other than persons who are married filing jointly, may agree to divide the credit in any way. The total adoption tax credit claimed for all years by both parents combined may not exceed the maximum credit amount per adoption provided in paragraph 304.52(4)*"a."*

EXAMPLE: Peyton and Kerry are unmarried individuals. Peyton and Kerry adopt a child together. The child is permanently placed in Iowa. The adoption process begins and ends in 2018. Because the adoption becomes final on or after January 1, 2017, Peyton and Kerry qualify for a maximum credit amount of $5,000. However, Peyton and Kerry pay and incur unreimbursed qualified adoption expenses of only $3,000 in 2018. Accordingly, Peyton and Kerry may claim an Iowa adoption tax credit of $3,000 in 2018, which must be divided between them. Peyton and Kerry agree that Peyton will claim $2,000 of the credit, and Kerry will claim $1,000 of the credit.

e. Adoption of a special needs child. If a taxpayer adopts a special needs child, the credit under this rule cannot exceed the amount of qualified adoption expenses paid or incurred by the taxpayer during the tax year. The amount of the federal adoption tax credit claimed for the adoption of a special needs child does not affect the amount of the credit under this rule.

EXAMPLE: Francis and Mandy are married. Francis and Mandy adopt a special needs child who is permanently placed in Iowa. The adoption process begins and ends in 2017. Francis and Mandy paid and incurred $2,000 in unreimbursed qualified adoption expenses related to the adoption during 2017. For federal purposes, Francis and Mandy qualify for a maximum adoption tax credit of $13,570 for the adoption of a special needs child. For Iowa purposes, Francis and Mandy qualify for a maximum adoption tax credit of $2,000, which is equal to the amount of unreimbursed qualified adoption expenses they paid or incurred related to the adoption during the tax year.

f. Adoption tax credit in excess of tax liability. Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

This rule is intended to implement Iowa Code section 422.12A as amended by 2016 Iowa Acts, House File 2468; 2017 Iowa Acts, Senate File 433; and 2019 Iowa Acts, House File 779.

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701—304.53(15) Workforce housing tax incentives program. A business which qualifies under the workforce housing tax incentives program is eligible to receive tax incentives for individual income tax. The workforce housing tax incentives program replaced the eligible housing business enterprise zone program. An eligible business under the workforce housing tax incentives program must be

approved by the economic development authority. The administrative rules for the workforce housing tax incentives program for the economic development authority may be found at 261—Chapter 48. The general assembly has mandated that the economic development authority and the department of revenue adopt rules to jointly administer Iowa Code sections 15.351 to 15.356. In general, the economic development authority is responsible for evaluating whether projects meet the requirements for a workforce housing tax incentives program while the department of revenue administers tax credit claims and transfers.

304.53(1) *Definitions.*

"Costs directly related" means the same as defined in rule 261—48.3(15).

"Qualifying new investment" means the same as defined in rule 261—48.3(15).

304.53(2) *Workforce housing tax incentives.* The economic development authority will allocate no more than $20 million in tax incentives for this program for any fiscal year, $5 million of which shall be reserved for allocation to qualified housing projects in small cities, as defined in Iowa Code section 15.352(10), that are registered on or after July 1, 2017. A housing business that has entered into an agreement with the economic development authority is eligible to receive the tax incentives described in the following paragraphs:

a. Sales tax refund. A housing business may claim a refund of the sales and use tax described in rule 701—278.1(15).

b. Investment tax credit.

(1) Computation of the credit. A housing business may claim a tax credit in an amount not to exceed 10 percent of the qualifying new investment in a housing project not located in a small city, or 20 percent of the qualifying new investment in a housing project located in a small city.

(2) Allocation of the tax credit to the individual owners of the entity or beneficiaries of an estate or trust. An individual may claim a tax credit if the housing business is a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

(3) Refundability. Any tax credit in excess of the taxpayer's liability for the tax year is not refundable.

(4) Carryforward. Any tax credit in excess of the taxpayer's liability may be credited to the tax liability for the following five years or until depleted, whichever is earlier.

304.53(3) *Claiming the tax credit—information required.* The taxpayer must receive a tax credit certificate from the economic development authority to claim the eligible housing business tax credit. The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the date the project was completed, the amount of the eligible housing business tax credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 304.53(5). The tax credit certificate must be included with the income tax return for the tax period in which the housing is ready for occupancy.

304.53(4) *Basis adjustment.* The increase in the basis of the property that would otherwise result from the qualifying new investment shall be reduced by the amount of the investment tax credit. For example, if a new housing project had qualifying new investment of $1 million which resulted in a $100,000 investment tax credit for Iowa tax purposes, the basis of the property for Iowa income tax purposes would be $900,000.

304.53(5) *Transfer of the credit.*

a. Submission of transferred tax credit certificate to the department—information required. Tax credit certificates issued under an agreement entered into pursuant to subrule 304.53(3) may be transferred to any person. Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number, and address, the denomination that each replacement tax credit certificate is to carry, and any other information required by the department of revenue. However, tax credit

certificate amounts of less than the minimum amount established in rule by the economic development authority shall not be transferable.

b. Issuance of replacement certificate by the department. Within 30 days of receiving the transferred tax credit certificate and the transferee's statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared on the transferred tax credit certificate.

c. Claiming the transferred tax credit. A tax credit shall not be claimed by a transferee under this rule until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income, or franchise tax purposes.

d. Unlimited number of transferees and subsequent transfers. There is no limitation on the number of transferees to whom the credit may be transferred. There is no limitation on the number of times that the credit may be retransferred by a transferee. The transferor may divide the credit into multiple credits of alternate denominations so long as the resulting credits are for amounts of no less than the minimum amount established in rule by the economic development authority.

e. Carryforward limitations on transferees. The transferee may use the amount of the transferred tax credit for any tax year that the original transferor could have claimed the tax credit. The carryforward limitations described in subparagraph 304.53(2)*"b"*(4) shall apply.

304.53(6) *Repayment of benefits.* If the housing business fails to maintain the requirements of Iowa Code section 15.353, the taxpayer may be required to repay all or a portion of the tax incentives the taxpayer received. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the income tax credit may have expired, the department may proceed to collect the tax incentives forfeited by failure of the taxpayer to maintain the requirements of Iowa Code section 15.353. This repayment is required because it is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability. Details on the calculation of the repayment can be found in 261—subrule 187.5(4) of the administrative rules of the economic development authority. If the business is a partnership, limited liability company, S corporation, estate or trust where the income of the taxpayer is taxed to the individual owner(s) of the business, the department may proceed to collect the tax incentives against the partners, members, shareholders or beneficiaries to whom the tax incentives were passed through. See Decision of the Administrative Law Judge in *Damien & Colette Trebilcock, et al.,* Docket No. 11DORF 042-044, June 11, 2012.

This rule is intended to implement Iowa Code sections 15.354 and 15.355.

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701—304.54(404A,422) Historic preservation and cultural and entertainment district tax credit for projects registered on or after July 1, 2014, and before August 15, 2016. For projects registered before August 15, 2016, the department of cultural affairs is authorized by the general assembly to award tax credits for a percentage of the qualified rehabilitation expenditures on a qualified rehabilitation project as described in the historic preservation and cultural and entertainment district tax credit program, Iowa Code chapter 404A. The program is administered by the department of cultural affairs with the assistance of the department of revenue. The general assembly has mandated that the department of cultural affairs and the department of revenue adopt rules to jointly administer Iowa Code chapter 404A. In general, the department of cultural affairs is responsible for evaluating whether projects comply with the prescribed standards for rehabilitation while the department of revenue is responsible for evaluating whether projects comply with the tax aspects of the program.

2014 Iowa Acts, House File 2453, amended the historic preservation and cultural and entertainment district tax credit program effective July 1, 2014. The department of revenue's provisions for projects with Part 2 applications approved and tax credits reserved prior to July 1, 2014, are found in rule 701—304.19(404A,422). The department of revenue's provisions for projects registered on or after July 1, 2014, and before August 15, 2016, are found in this rule. The department of cultural affairs' rules related to this program may be found at 223—Chapter 48.

2016 Iowa Acts, House File 2443, amended the program and transferred primary responsibility for its administration to the economic development authority effective August 15, 2016. Effective August 15, 2016, the program is administered by the economic development authority with the assistance of the department of cultural affairs and the department of revenue. The department of revenue's provisions for projects registered on or after August 15, 2016, are found in rule 701—304.55(404A,422). The economic development authority's rules related to the program may be found at 261—Chapter 49. When adopted, the department of cultural affairs' rules related to the program will be found in 223—Chapter 48.

Notwithstanding anything contained herein to the contrary, the department of cultural affairs shall not reserve tax credits under 2013 Iowa Code chapter 404A as amended by 2013 Iowa Acts, chapter 112, section 1, for applicants that do not have an approved Part 2 application and a tax credit reservation on or before June 30, 2014. Projects with approved Part 2 applications and provisional tax credit reservations on or before June 30, 2014, shall be governed by 2013 Iowa Code chapter 404A as amended by 2013 Iowa Acts, chapter 112, section 1; by 223—Chapter 48, Division I; and by rule 701—304.19(404A,422). Projects registered on or after July 1, 2014, but before August 15, 2016, shall be governed by 2014 Iowa Code chapter 404A as amended by 2014 Iowa Acts, House File 2453; by 223—Chapter 48, Division II; and by this rule. Projects registered on or after August 15, 2016, shall be governed by 2016 Iowa Code chapter 404A as amended by 2016 Iowa Acts, House File 2443; by 261—Chapter 49; and by rule 701—304.55(404A,422).

304.54(1) *Application, registration, and agreement for the historic preservation and cultural and entertainment district tax credit.* Taxpayers that want to claim an income tax credit for completing a qualified rehabilitation project must submit an application for approval of the project. The application forms and instructions for the historic preservation and cultural and entertainment district tax credit are available on the department of cultural affairs' website. Once a project is registered, the taxpayer must enter into an agreement with the department of cultural affairs to be eligible for the credit.

304.54(2) *Computation of the amount of the historic preservation and cultural and entertainment district tax credit.* The amount of the historic preservation and cultural and entertainment district tax credit is a maximum of 25 percent of the qualified rehabilitation expenditures verified by the department of cultural affairs and the department of revenue following project completion, up to the amount specified in the agreement between the taxpayer and the department of cultural affairs.

304.54(3) *Qualified rehabilitation expenditures.* "Qualified rehabilitation expenditures" means the same as defined in rule 223—48.22(404A) of the historical division of the department of cultural affairs. In general, the department of cultural affairs evaluates whether expenditures comply with the prescribed standards for rehabilitation while the department of revenue evaluates whether expenditures comply with the tax requirements to be considered qualified rehabilitation expenditures, including whether the expenditures are in accordance with the requirements of Internal Revenue Code Section 47 and its related regulations.

a. Type of property and services eligible. In accordance with Iowa Code section 404A.1(6), the types of property and services claimed for the state tax credit must be "qualified rehabilitation expenditures" in accordance with Internal Revenue Code Section 47. Notwithstanding the foregoing sentence, expenditures incurred by an eligible taxpayer that is a nonprofit organization as defined in Iowa Code section 404A.1(4) shall be considered "qualified rehabilitation expenditures" if they are for "structural components," as that term is defined in Treasury Regulation § 1.48-1(e)(2), and for

amounts incurred for architectural and engineering fees, site survey fees, legal expenses, insurance premiums, development fees and other construction-related costs.

b. Effect of financing sources on eligibility of expenditures. Qualified rehabilitation expenditures do not include expenditures financed by federal, state, or local government grants or forgivable loans unless otherwise allowed under Section 47 of the Internal Revenue Code. For an eligible taxpayer that is a nonprofit organization as defined in Iowa Code section 404A.1(4) that is not eligible for the federal rehabilitation credit, or another person that is not eligible for the federal rehabilitation credit, expenditures financed with federal, state, or local government grants or forgivable loans are not qualified rehabilitation expenditures.

304.54(4) *Completion of the qualified rehabilitation project and claiming the tax credit on the Iowa return.* After the taxpayer completes a qualified rehabilitation project, the taxpayer will be issued a certificate of completion of the project from the department of cultural affairs if the project complies with the federal standards, as defined in rule 223—48.22(404A). After the department of cultural affairs and the department of revenue verify the taxpayer's eligibility for the tax credit, the department of cultural affairs shall issue a tax credit certificate.

a. Claiming the credit. For the taxpayer to claim the credit, the certificate must be included with the taxpayer's income tax return for the tax year in which the rehabilitation project is completed or the income tax return for any tax year within the five years following the tax year of project completion. Taxpayers that elect to delay claiming the credit to a later tax year return as described in this paragraph are subject to the carryforward limitations described in paragraph 304.54(4)*"d"* below. The credit may be claimed on an amended return so long as the amended return is filed within the statute of limitations applicable to the tax year for which the amended tax return is being filed.

b. Information required. The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the address or location of the rehabilitation project, the date the project was completed, the amount of the historic preservation and cultural and entertainment district tax credit, and, if applicable, an indication of whether the credit is nonrefundable (see paragraph 304.54(4)*"c"* below). In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 304.54(5). In addition, if the taxpayer is a partnership, limited liability company, estate or trust, and the tax credit is allocated to the owners or beneficiaries of the entity, a list of the owners or beneficiaries and the amount of credit allocated to each owner or beneficiary shall be provided with the certificate.

c. Refundability. A historic preservation and cultural and entertainment district tax credit in excess of the taxpayer's tax liability is fully refundable with interest computed under Iowa Code section 422.25. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year. To receive a refundable credit, the taxpayer must elect to receive the credit as refundable at the Part 3 stage of the application process administered by the department of cultural affairs. Once the taxpayer elects to receive a nonrefundable credit, the taxpayer cannot elect to change the credit to a refundable credit or vice versa. See department of cultural affairs' 223—Chapter 48. If the taxpayer is a transferee, the taxpayer may elect to receive the credit as refundable or nonrefundable when the taxpayer applies to the department of revenue for transfer of the tax credit as described in subrule 304.54(5).

d. Carryforward. If the taxpayer elects to receive a nonrefundable historic preservation and cultural and entertainment district tax credit as described in paragraph 304.54(4)*"b,"* the amount in excess of the taxpayer's tax liability may be carried forward for five years following the tax year in which the project is completed, or until it is depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer is first eligible to claim the credit. Regardless of whether the taxpayer elects to claim the tax credit on a tax return for a year that is later than the year of project completion as described in paragraph 304.54(4)*"a,"* the taxpayer must utilize the entire credit within five years following the tax year of the project completion as described in this paragraph; any credit amount that is not utilized within the five-year carryforward period is forfeited.

The five-year carryforward limitation does not apply if the taxpayer elects to receive a refundable credit, the excess of which may be credited to future tax years as an overpayment.

e. Allocation of historic preservation and cultural and entertainment district tax credits to the individual owners of the entity or beneficiaries of an estate or trust. A partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. The credit does not have to be allocated based on the pro rata share of earnings of the partnership, limited liability company or S corporation. For an individual claiming a tax credit of an estate or trust, the amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the estate or trust.

304.54(5) *Transfer of the historic preservation and cultural and entertainment district tax credit.* The historic preservation and cultural and entertainment district tax credit certificates may be transferred to any person or entity. The transferee may use the amount of the tax credit transferred against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, for any tax year the original transferor could have claimed the tax credit. Transferees must elect to receive either a refundable or nonrefundable tax credit. Once the transferee elects to receive a nonrefundable credit, the transferee cannot elect to change the credit to a refundable credit or vice versa. A tax credit certificate of less than $1,000 shall not be transferable.

a. Transfer process—information required. Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue along with a statement that contains the transferee's name, address and tax identification number, the amount of the tax credit being transferred, an election to receive either a refundable or nonrefundable tax credit, and the amount of all consideration provided in exchange for the tax credit and the names of recipients of any consideration provided in exchange for the tax credit. If a payment of money was any part of the consideration provided in exchange for the tax credit, the transferee shall list the amount of the payment of money in its statement to the department of revenue. If any part of the consideration provided in exchange for the tax credit included nonmonetary consideration, including but not limited to any promise, representation, performance, discharge of debt or nonmonetary rights or property, the tax credit transferee shall describe the nature of the nonmonetary consideration and disclose any value the transferor and transferee assigned to the nonmonetary consideration. The tax credit transferee must indicate on its statement to the department of revenue if no consideration was provided in exchange for the tax credit. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue the replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company or S corporation, the transferee shall provide a list of the partners, members or shareholders and information on how the historic preservation and cultural and entertainment district tax credit should be divided among the partners, members or shareholders. The transferee shall also provide the tax identification numbers and addresses of the partners, members or shareholders. The certificate must have the same information required for the original tax certificate and must have the same expiration date as the original tax credit certificate. The transferee may not claim a tax credit until a replacement certificate identifying the transferee as the proper holder has been issued.

b. Consideration. Any consideration received for the transfer of the tax credit shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

c. Unlimited number of transferees and subsequent transfers. There is no limitation on the number of transferees to whom the credit may be transferred. There is no limitation on the number of times that the credit may be retransferred by a transferee. The transferor may divide the credit into multiple credits of alternate denominations so long as the resulting credits are for amounts of no less than $1,000.

d. Carryforward limitations on transferees. The transferee may use the amount of the transferred tax credit for any tax year that the original transferor could have claimed the tax credit. The carryforward limitations described in paragraph 304.54(4)*"d"* shall apply.

304.54(6) *Appeals.* Challenges to an action by the department of revenue related to tax credit transfers, the claiming of tax credits, tax credit revocation, or repayment or recovery of tax credits must be brought pursuant to 701—Chapter 7.

This rule is intended to implement Iowa Code chapter 404A as amended by 2016 Iowa Acts, House File 2443, and Iowa Code section 422.11D.

[**ARC 1968C**, IAB 4/15/15, effective 5/20/15; **ARC 2928C**, IAB 2/1/17, effective 3/8/17; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—304.55(404A,422) Historic preservation and cultural and entertainment district tax credit for projects registered on or after August 15, 2016. The economic development authority is authorized by the general assembly to award tax credits for a percentage of the qualified rehabilitation expenditures on a qualified rehabilitation project as described in the historic preservation and cultural and entertainment district tax credit program, Iowa Code chapter 404A. The program is administered by the economic development authority with the assistance of the department of cultural affairs and the department of revenue. The general assembly has mandated that the economic development authority, the department of cultural affairs and the department of revenue adopt rules as necessary to administer Iowa Code chapter 404A. In general, the department of revenue is responsible for administering tax credit transfers and processing and auditing tax credits claimed on returns. For the economic development authority's rules on the credit program, see 261—Chapter 49. For the department of cultural affairs' rules on the credit program, see 223—Chapter 48.

304.55(1) *Program transition.* 2016 Iowa Acts, House File 2443, made several changes to the credit program, including transferring primary responsibility for the program's administration from the department of cultural affairs to the economic development authority. Projects registered prior to August 15, 2016, remain under the purview of the department of cultural affairs, with assistance from the department of revenue. For department of revenue rules related to projects registered prior to August 15, 2016, see rules 701—304.54(404A,422) and 701—304.19(404A,422).

304.55(2) *Application, registration, and agreement for the historic preservation and cultural and entertainment district tax credit.* For rules on the application, registration, and agreement process, see economic development authority rules, 261—Chapter 49.

304.55(3) *Computation of the amount of the historic preservation and cultural and entertainment district tax credit.* The amount of the historic preservation and cultural and entertainment district tax credit is a maximum of 25 percent of the qualified rehabilitation expenditures verified by the economic development authority following project completion, up to the amount specified in the agreement between the taxpayer and the economic development authority. For more information on the credit computation, see economic development authority rules, 261—Chapter 49. The amount remains subject to audit by the department of revenue when the credit is claimed on the taxpayer's tax return.

304.55(4) *Qualified rehabilitation expenditures.* "Qualified rehabilitation expenditures" means the same as defined in Iowa Code section 404A.1(7) and rule 261—49.5(404A) of economic development authority rules. In the event of an audit, the department of revenue evaluates whether expenditures comply with the agreement between the economic development authority and the eligible taxpayer, as well as with applicable statutes and rules, including Internal Revenue Code Section 47 and its related regulations.

304.55(5) *Completion of the qualified rehabilitation project and claiming the tax credit.* After the economic development authority verifies the taxpayer's eligibility for the tax credit, the economic development authority shall issue a tax credit certificate. For more information on credit certificate issuance, see economic development authority rules, 261—Chapter 49.

a. Claiming the credit. For the taxpayer to claim the credit, the certificate must be included with the taxpayer's income tax return for the tax year in which the rehabilitation project is completed or the income tax return for any year within the five years following the year of project completion. Taxpayers that elect to delay claiming the credit to a later year's return as described in this paragraph are subject to the carryforward limitations described in paragraph 304.55(5)*"d"* below. The credit may be claimed on an amended return so long as the amended return is filed within the statute of limitations applicable to the tax year for which the amended tax return is being filed.

b. Information required. The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the address or location of the rehabilitation project, the date the project was completed, the amount of the historic preservation and cultural and entertainment district tax credit, and, if applicable, an indication of whether the credit is nonrefundable (see paragraph 304.55(5)*"c"* below). In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 304.55(6). In addition, if the taxpayer is a partnership, limited liability company, estate or trust, and the tax credit is allocated to the owners or beneficiaries of the entity, a list of the owners or beneficiaries and the amount of credit allocated to each owner or beneficiary shall be provided with the certificate.

c. Refundability. A historic preservation and cultural and entertainment district tax credit in excess of the taxpayer's tax liability is fully refundable with interest computed under Iowa Code section 422.25. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year. To receive a refundable credit, the taxpayer must elect to receive the credit as refundable at the Part 3 stage of the application process administered by the economic development authority. See the economic development authority's rule 261—49.15(404A). Once the taxpayer elects to receive a nonrefundable credit, the taxpayer cannot elect to change the credit to a refundable credit or vice versa. If the taxpayer is a transferee, the taxpayer may elect to receive the credit as refundable when the taxpayer applies to the department of revenue for transfer of the tax credit as described in subrule 304.55(6).

d. Carryforward. If the taxpayer elects to receive a nonrefundable historic preservation and cultural and entertainment district tax credit as described in paragraph 304.55(5)*"b,"* the amount in excess of the taxpayer's tax liability may be carried forward for five years following the tax year in which the project is completed, or until it is depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer is first eligible to claim the credit. Regardless of whether the taxpayer elects to claim the tax credit on a tax return for a year that is later than the year of project completion as described in paragraph 304.55(5)*"a,"* the taxpayer must utilize the entire credit within five years following the tax year of the project completion as described in this paragraph; any credit amount that is not utilized within the five-year carryforward period is forfeited. The five-year carryforward limitation does not apply if the taxpayer elects to receive a refundable credit, the excess of which may be credited to future tax years as an overpayment.

e. Allocation of historic preservation and cultural and entertainment district tax credits to the individual owners of the entity or beneficiaries of an estate or trust. A partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. The credit does not have to be allocated based on the pro rata share of earnings of the partnership, limited liability company or S corporation. For an individual claiming a tax credit of an estate or trust, the amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the estate or trust.

304.55(6) *Transfer of the historic preservation and cultural and entertainment district tax credit.* The historic preservation and cultural and entertainment district tax credit certificates may be transferred to any person or entity. The transferee may use the amount of the tax credit transferred against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, for any tax year that the original transferor could have claimed the tax credit. Transferees must elect to receive either a refundable or nonrefundable tax credit. Once the transferee elects to receive

a nonrefundable credit, the transferee cannot elect to change the credit to a refundable credit or vice versa. A tax credit certificate of less than $1,000 shall not be transferable.

a. Transfer process—information required. Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue along with a statement that contains the transferee's name, address and tax identification number, the amount of the tax credit being transferred, an election to receive either a refundable or nonrefundable tax credit, and the amount of all consideration provided in exchange for the tax credit and the names of recipients of any consideration provided in exchange for the tax credit. If a payment of money was any part of the consideration provided in exchange for the tax credit, the transferee shall list the amount of the payment of money in its statement to the department of revenue. If any part of the consideration provided in exchange for the tax credit included nonmonetary consideration, including but not limited to any promise, representation, performance, discharge of debt or nonmonetary rights or property, the tax credit transferee shall describe the nature of the nonmonetary consideration and disclose any value the transferor and transferee assigned to the nonmonetary consideration. The tax credit transferee must indicate on its statement to the department of revenue if no consideration was provided in exchange for the tax credit. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue the replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company or S corporation, the transferee shall provide a list of the partners, members or shareholders and information on how the historic preservation and cultural and entertainment district tax credit should be divided among the partners, members or shareholders. The transferee shall also provide the tax identification numbers and addresses of the partners, members or shareholders. The certificate must have the same information required for the original tax credit certificate and must have the same expiration date as the original tax credit certificate. The transferee may not claim a tax credit until a replacement certificate identifying the transferee as the proper holder has been issued.

b. Consideration. Any consideration received for the transfer of the tax credit shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

c. Unlimited number of transferees and subsequent transfers. There is no limitation on the number of transferees to whom the credit may be transferred. There is no limitation on the number of times that the credit may be retransferred by a transferee. The transferor may divide the credit into multiple credits of alternate denominations so long as the resulting credits are for amounts of no less than $1,000.

d. Carryforward limitations on transferees. The transferee may use the amount of the transferred tax credit for any tax year that the original transferor could have claimed the tax credit. The carryforward limitations described in paragraph 304.55(4)*"d"* shall apply.

304.55(7) *Appeals.* Challenges to an action by the department of revenue related to tax credit transfers, the claiming of tax credits, tax credit revocation, or repayment or recovery of tax credits must be brought pursuant to 701—Chapter 7.

This rule is intended to implement Iowa Code chapter 404A as amended by 2016 Iowa Acts, House File 2443, and Iowa Code section 422.11D.

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701—304.56(15,422) Renewable chemical production tax credit program. An eligible business that has received a renewable chemical production tax credit certificate from the economic development authority may claim a tax credit against individual income tax. The credit is equal to the product of five cents multiplied by the number of pounds of renewable chemicals produced in Iowa from biomass feedstock by the eligible business during a given production year, subject to the limitations described in Iowa Code sections 15.315 through 15.322, 261—Chapter 81, and

this rule. The economic development authority's rules on eligibility for the credit may be found in 261—Chapter 81.

304.56(1) *Application and agreement for the credit.* To be eligible for the tax credit, the eligible business must apply to and enter into an agreement with the economic development authority. The economic development authority's rules on the application and agreement process may be found in 261—Chapter 81.

304.56(2) *Computation of the amount of credit and certificate issuance.* Upon establishing that all requirements of the program and the agreement have been fulfilled and verifying the taxpayer's eligibility for the tax credit, the economic development authority calculates the credit. Then the economic development authority issues the related tax credit certificate to the eligible business stating the amount of the renewable chemical production tax credit that the eligible business may claim. A tax credit certificate shall not be issued by the economic development authority prior to July 1, 2018. The economic development authority's rules on credit certificate issuance may be found in 261—Chapter 81.

304.56(3) *Claiming the tax credit.*

a. Claiming the credit, generally. To claim the credit, a taxpayer must include one or more tax credit certificates with the taxpayer's tax return for the tax year during which the eligible business was issued the tax credit certificate or certificates. If the taxpayer claiming the credit has already filed a return for the tax year for which the credit certificate was issued, the taxpayer may claim the credit on an amended return. The taxpayer must file the amended return within the statute of limitations applicable to such amended return. No tax credit may be claimed under this program by a taxpayer prior to September 1, 2018.

b. Claiming the credit of a pass-through entity. To claim the credit of an eligible business that is a pass-through entity, an individual taxpayer must claim the credit on the tax return for the tax year during which the eligible business received the tax credit certificate. Such tax year may be either the tax year of the eligible business or of the individual.

EXAMPLE: A partnership has a fiscal year of September 2017 through August 2018. The partnership receives a renewable chemical production tax credit certificate under this program in July 2018, which is during the partnership's 2017 tax year. A partner in the partnership files individual returns on a calendar year basis, which means that the credit was issued in the partner's 2018 tax year. That partner may file an amended 2017 tax return to claim the credit based on the partnership's tax year, or that partner may claim the credit on the partner's 2018 tax return based on the partner's own tax year.

c. Information required. The tax credit certificate shall include the taxpayer's name, address, tax identification number, the amount of the credit, the name of the eligible business, and any other information required by the department of revenue.

d. Allocation to the individual owners of the entity or beneficiaries of an estate or trust. An individual may claim the credit of a partnership, limited liability company, S corporation, cooperative organized under Iowa Code chapter 501 and filing as a partnership for tax purposes, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based on the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, cooperative, estate, or trust.

e. Refundability. Any credit in excess of the tax liability is refundable. In lieu of claiming a refund, the taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following tax year.

f. Transferability. Tax credit certificates shall not be transferred to any other person.

g. Rescission and recapture. The tax credit certificate, unless rescinded by the economic development authority, shall be accepted by the department of revenue, subject to any conditions or restrictions placed upon the face of the tax credit certificate by the economic development authority and subject to the limitations of the program. Should the economic development authority reduce, terminate, or rescind any tax credits issued under the program, the eligible business may be subject

to the repayment or recapture of any credits already claimed. The economic development authority's rules related to the program may be found in 261—Chapter 81. The repayment of tax credits or recapture by the department of revenue shall be accomplished in the same manner as provided in Iowa Code section 15.330(2).

This rule is intended to implement Iowa Code section 422.10B.

[**ARC 3008C**, IAB 3/29/17, effective 5/3/17; Editorial change: IAC Supplement 11/2/22]

701—304.57(15E,422) Hoover presidential library tax credit.

304.57(1) *In general.*

a. A taxpayer who makes an unconditional charitable donation to the Hoover presidential foundation for the Hoover presidential library and museum renovation project fund may qualify for a Hoover presidential library tax credit, subject to the availability of the credit and approval by the economic development authority.

b. The credit is equal to 25 percent of a donor's unconditional charitable donation that meets both of the following requirements:

(1) The donation is made on or after July 1, 2021.

(2) The donation is made during a donor's tax year beginning on or after January 1, 2021, but before January 1, 2024.

c. The amount of the donation for which the tax credit is claimed is not deductible in determining taxable income for Iowa tax purposes.

d. The administrative rules for the economic development authority's administration of this program are found in 261—Chapter 43 and describe the tax credit program cap limitations including reserved amounts, donor cap limitations, the application process and waitlist, and other requirements.

304.57(2) *Claiming the credit.*

a. Issuance of tax credit certificates. The economic development authority shall issue a tax credit certificate to each taxpayer who makes a qualifying donation and whose tax credit application has been approved. The tax credit certificate, designed by the department, will contain the name, address, and tax identification number of the taxpayer; the amount and date the contribution was made; the amount of the credit; the tax year to which the credit may be applied; the tax credit certificate number; and any other information required by the department. The tax credit certificate must be included with the tax return for the tax year during which the tax credit is claimed.

b. Year of claim. The tax credit shall be claimed for the tax year during which the donation is made. However, for a donor who has an application placed on the waitlist described in 261—subrule 43.5(3) and later has the waitlisted application approved for a reserved tax credit amount, the waitlisted donor shall claim the tax credit for the tax year during which the tax credit certificate is issued.

c. Allocation of credit to owners of a business entity or to beneficiaries of an estate or trust. If the taxpayer claiming the Hoover presidential library tax credit is a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual, an individual may claim the credit. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

d. Carryforward. Any tax credit in excess of the donor's tax liability for the tax year is not refundable but may be credited to the tax liability for the following five years or until depleted, whichever occurs first. A tax credit shall not be carried back to a tax year prior to the tax year for which the donor claims the tax credit.

e. Transferability. The credit may not be transferred to any other person.

This rule is intended to implement Iowa Code sections 15E.364 and 422.11T as enacted by 2021 Iowa Acts, House File 588, sections 1 and 2.

[**ARC 6267C**, IAB 4/6/22, effective 5/11/22; Editorial change: IAC Supplement 11/2/22]

701—304.58(237A) Employer child care tax credit.

304.58(1) *In general—eligibility.* For tax years beginning on or after January 1, 2023, a taxpayer who has received an employer child care tax credit certificate from the economic development authority and who properly claims the federal employer-provided child care tax credit provided in Section 45F of the Internal Revenue Code may qualify for an employer child care tax credit, subject to the limitations described in Iowa Code section 237A.31, 261—Chapter 57, and this rule. The economic development authority's rules on eligibility for the tax credit may be found in 261—Chapter 57.

304.58(2) *Definitions.* Unless otherwise indicated in this rule or required by the context, all words and phrases used in this rule that are defined under Section 45F of the Internal Revenue Code shall have the same meaning as provided to them under that section. In addition, the following definitions are applicable to this rule:

"Internal Revenue Code" means the Internal Revenue Code of 1986 as amended and in effect on July 1, 2022.

"Iowa-source qualified child care expenditures" means the qualified child care expenditures paid or incurred with respect to qualified child care facilities in Iowa.

"Iowa-source qualified child care resource and referral expenditures" means the qualified child resource and referral expenditures paid or incurred with respect to Iowa employees.

304.58(3) *Calculating the tax credit.*

a. Components of tax credit calculation. To calculate the tax credit, the taxpayer must determine the eligible federal credit ratio, the federal child care expenditure credit for Iowa purposes, the federal child care resource and referral expenditure credit for Iowa purposes, the Iowa share of qualified child care expenditures, and the Iowa share of qualified child care resource and referral expenditures.

b. Eligible federal credit ratio. The eligible federal credit ratio shall be calculated as follows: The sum of 25 percent of the qualified child care expenditures and 10 percent of the qualified child care resource and referral expenditures, less $150,000, shall be divided by the sum of 25 percent of the qualified child care expenditures and 10 percent of the qualified child care resource and referral expenditures. This quotient, expressed as a percentage rounded to the nearest hundredth percent, shall be subtracted from 100 percent. The resulting percentage is the eligible federal credit ratio.

c. Federal qualified child care expenditure credit for Iowa purposes. The federal qualified child care expenditure credit for Iowa purposes shall be 25 percent of the product of the qualified child care expenditures multiplied by the eligible federal credit ratio.

d. Federal qualified child care resource and referral credit for Iowa purposes. The federal child care resource and referral expenditure credit for Iowa purposes shall be 10 percent of the product of the qualified child care resource and referral expenditures multiplied by the eligible federal credit ratio.

e. Iowa share of qualified child care expenditures. The Iowa share of qualified child care expenditures is a ratio equal to the Iowa-source qualified child care expenditures divided by the qualified child care expenditures, rounded to the nearest hundredth percent.

f. Iowa share of qualified child care resource and referral expenditures. The Iowa share of qualified child care resource and referral expenditures is a ratio equal to the Iowa-source qualified child resource and referral expenditures divided by the qualified child care resource and referral expenditures, rounded to the nearest hundredth percent.

g. Amount of tax credit. The Iowa tax credit amount shall be the lesser of the following:

(1) The amount awarded by the economic development authority.

(2) An amount equal to the sum of the following:

1. The Iowa share of qualified child care expenditures multiplied by the federal qualified child care expenditure credit for Iowa purposes, plus

2. The Iowa share of qualified child care resource and referral expenditures multiplied by the federal qualified child care resource and referral credit for Iowa purposes.

304.58(4) *Claiming the tax credit.*

a. Certificate issuance. The taxpayer must receive a tax credit certificate from the economic development authority in order to be eligible to claim the Iowa employer child care tax credit. The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the amount of the Iowa employer child care tax credit award, the tax year for which the tax credit may be claimed, and any other information required by the department. The tax credit certificate must be included with the Iowa tax return for the tax year in which the tax credit is claimed. The amount of the tax credit certificate represents the maximum amount of tax credit the taxpayer may claim.

b. Filing a claim with the department. The tax credit will be calculated and claimed on Form IA 8882. The taxpayer shall submit the form with the taxpayer's Iowa tax return for the tax year in which the tax credit is claimed. The tax credit shall be claimed for the same tax year in which the federal credit was claimed.

c. Allocation of credit to owners of a business entity or to beneficiaries of an estate or trust. If the taxpayer claiming the employer child care tax credit is a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual, an individual may claim the credit. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

d. Carryforward. Any tax credit in excess of the taxpayer's tax liability for the tax year is not refundable but may be credited to the tax liability for the following five years or until depleted, whichever occurs first. A tax credit shall not be carried back to a tax year prior to the tax year for which the taxpayer claims the tax credit.

e. Transferability. The credit shall not be transferred to any other person.

304.58(5) *Recalculation of federal credit.*

a. Federal audit. If the Internal Revenue Service reviews the taxpayer's return and disallows, in whole or in part, the federal employer-provided child care tax credit under Section 45F of the Internal Revenue Code, the taxpayer must file amended Iowa tax returns, including an amended Form IA 8882, to recalculate the Iowa credit and add back the disallowed Iowa credit to the extent not previously disallowed by the department.

b. Federal recapture event. When the taxpayer's federal employer-provided child care tax credit under Section 45F of the Internal Revenue Code is subject to a recapture event described in Section 45F(d) of the Internal Revenue Code, the Iowa credit must be recalculated by excluding from the Iowa credit calculation the percentage of qualified child care expenditures that is equal to the taxpayer's applicable recapture percentage in Section 45F(d)(2)(A) of the Internal Revenue Code. The taxpayer must file amended Iowa tax returns, including an amended Form IA 8882, to recalculate the Iowa credit and add back any ineligible Iowa credit to the extent not previously disallowed by the Internal Revenue Service or the department.

c. Authority of the department. Nothing in this rule shall limit the department's authority to review, examine, audit, or otherwise challenge an Iowa tax credit claim under Iowa Code section 237A.31, regardless of inaction, a settlement, or a determination by the Internal Revenue Service.

This rule is intended to implement Iowa Code section 237A.31.

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◊ Two or more ARCs

CHAPTER 501
FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST, AND TAX CREDITS

[Prior to 12/17/86, Revenue Department[730]]
[Prior to 11/2/22, see Revenue Department[701] Ch 52]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

701—501.1(422) Who must file. Every corporation, organized under the laws of Iowa or qualified to do business within this state or doing business within Iowa, regardless of net income, shall file a true and accurate return of its income or loss for the taxable period. The return shall be signed by the president or other duly authorized officer. If the corporation was inactive or not doing business within Iowa, although qualified to do so, during the taxable year, the return must contain a statement to that effect.

For tax years beginning on or after January 1, 1989, every corporation organized under the laws of Iowa, doing business within Iowa, or deriving income from sources consisting of real or tangible property located or having a situs within Iowa, shall file a true and accurate return of its income or loss for the taxable period. The return shall be signed by the president or other duly authorized officer.

For tax years beginning on or after January 1, 1995, every corporation organized under the laws of Iowa, doing business within Iowa, or deriving income from sources consisting of real, tangible, or intangible property located or having a situs within Iowa, shall file a true and accurate return of its income or loss for the taxable period. The return shall be signed by the president or other duly authorized officer. For tax years beginning on or after January 1, 1999, every corporation doing business within Iowa, or deriving income from sources consisting of real, tangible, or intangible property located or having a situs within Iowa, shall file a true and accurate return of its income or loss for the taxable period. The return shall be signed by the president or other duly authorized officer.

Political organizations described in Internal Revenue Code Section 527 which are domiciled in this state and are required to file federal Form 1120POL and pay federal corporation income tax are subject to Iowa corporation income tax to the same extent as they are subject to federal corporation income tax.

Homeowners associations described in Internal Revenue Code Section 528 which are domiciled in this state and are required to file federal Form 1120H and pay federal corporation income tax are subject to Iowa corporation income tax to the same extent as they are subject to federal corporation income tax.

501.1(1) *Definitions.*

a. Doing business. The term "doing business" is used in a comprehensive sense and includes all activities or any transactions for the purpose of financial or pecuniary gain or profit. Irrespective of the nature of its activities, every corporation organized for profit and carrying out any of the purposes of its organization shall be deemed to be "doing business." In determining whether a corporation is doing business, it is immaterial whether its activities actually result in a profit or loss.

b. Representative. A person may be considered a representative even though that person may not be considered an employee for other purposes such as withholding of income tax from commissions.

c. Tangible property having a situs within this state. The term "tangible property having a situs within this state" means that tangible property owned or used by a foreign corporation is habitually present in Iowa or it maintains a fixed and regular route through Iowa sufficient so that Iowa could constitutionally under the 14th Amendment and Commerce Clause of the United States Constitution impose an apportioned ad valorem tax on the property. *Central R. Co. v. Pennsylvania,* 370 U.S. 607, 82 S.Ct. 1297, 8 L.Ed.2d (1962); *New York Central & H. Railroad Co. v. Miller,* 202 U.S. 584, 26 S.Ct. 714, 50 L.Ed. 1155 (1906); *American Refrigerator Transit Company v. State Tax Commission,* 395 P.2d 127 (Or. 1964); *Upper Missouri River Corporation v. Board of Review,* Woodbury County, 210 N.W.2d 828.

d. Intangible property located or having a situs within Iowa. Intangible property does not have a situs in the physical sense in any particular place. *Wheeling Steel Corporation v. Fox,* 298 U.S. 193, 80 L.Ed. 1143, 56 S.Ct. 773 (1936); *McNamara v. George Engine Company, Inc.,* 519 So.2d 217 (La. App. 1988). The term "intangible property located or having a situs within Iowa" means generally that the intangible property belongs to a corporation with its commercial domicile in Iowa or, regardless of where the corporation which owns the intangible property has its commercial domicile, the intangible property has become an integral part of some business activity occurring regularly in Iowa. *Beidler v. South Carolina Tax Commission,* 282 U.S. 1, 75 L.Ed. 131, 51 S.Ct. 54 (1930); *Geoffrey, Inc. v. South Carolina Tax Commission,* 437 S.E.2d 13 (S.C. 1993), cert. denied, 114 S.Ct. 550 (1993); *Kmart Properties, Inc. v. Taxation & Revenue Department of New Mexico,* 131 P. 3d 27 (N.M. Ct. App. 2001), rev'd on other issues, 131 P. 3d 22 (N.M. 2005); *Secretary, Department of Revenue v. Gap (Apparel), Inc.,* 886 So. 2d 459 (La.Ct.App. 2004); *A & F Trademark v. Tolson,* 605 S.E. 2d 187 (N.C.App. 2004), cert. denied 126 S.Ct. 353 (2005); *Lanco, Inc. v. Director, Division of Taxation,* 879 A.2d 1234 (N.J.Super.A.D. 2005), aff'd, 908 A.2d 176 (N.J. 2006) (per curiam), cert. denied 127 S.Ct. 2974 (June 18, 2007); *Geoffrey, Inc. v. Oklahoma Tax Commission,* 132 P. 3d 632 (Okla. Ct. Civ. App. 2005), cert. denied (Mar. 20, 2006), as corrected (Apr. 12, 2006); *FIA Card Services, Inc. v. Tax Comm'r,* 640 S.E.2d 226 (W. Va. 2006), cert. denied, 127 S.Ct. 2997 (June 18, 2007); *Capital One Bank v. Commissioner of Revenue,* 899 N.E.2d 76 (Mass. 2009); *Geoffrey, Inc. v. Commissioner of Revenue,* 899 N.E.2d 87 (Mass. 2009); *KFC Corporation v. Iowa Department of Revenue,* 792 N.W. 2d 308 (Iowa 2010), cert. denied 132 S. Ct. 97 (October 3, 2011). The following is a noninclusive list of types of intangible property: copyrights, patents, processes, trademarks, trade names, franchises, contracts, bank deposits including certificates of deposit, repurchase agreements, mortgage loans, consumer loans, business loans, shares of stocks, bonds, licenses, partnership interests including limited partnership interests, leaseholds, money, evidences of an interest in property, evidences of debts such as credit card debt, leases, an undivided interest in a loan, rights-of-way, and interests in trusts.

The term also includes every foreign corporation which has acquired a commercial domicile in Iowa and whose property has not acquired a constitutional tax situs outside of Iowa.

501.1(2) *Corporate activities not creating taxability.* Public Law 86-272, 15 U.S.C.A., Sections 381-385, in general prohibits any state from imposing an income tax on income derived within the state from interstate commerce if the only business activity within the state consists of the solicitation of orders of tangible personal property by or on behalf of a corporation by its employees or representatives. Such orders must be sent outside the state for approval or rejection and, if approved, must be filled by shipment or delivery from a point outside the state to be within the purview of Public Law 86-272. Public Law 86-272 does not extend to those corporations which sell services, real estate, or intangibles in more than one state or to domestic corporations. For example, Public Law 86-272 does not extend to brokers or manufacturers' representatives or other persons or entities selling products for another person or entity.

a. If the only activities in Iowa of a foreign corporation selling tangible personal property are those of the type described in the noninclusive listing below, the corporation is protected from the Iowa corporation income tax law by Public Law 86-272.

(1) The free distribution by salespersons of product samples, brochures, and catalogues which explain the use of or laud the product, or both.

(2) The lease or ownership of motor vehicles for use by salespersons in soliciting orders.

(3) Salespersons' negotiation of a price for a product, subject to approval or rejection outside the taxing state of such negotiated price and solicited order.

(4) Demonstration by salesperson, prior to the sale, of how the corporation's product works.

(5) The placement of advertising in newspapers, radio, and television.

(6) Delivery of goods to customers by foreign corporation in its own or leased vehicles from a point outside the taxing state. Delivery does not include nonimmune activities, such as picking up damaged goods.

(7) Collection of state or local-option sales taxes or state use taxes from customers.

(8) Audit of inventory levels by salespersons to determine if corporation's customer needs more inventory.

(9) Recruitment, training, evaluation, and management of salespersons pertaining to solicitation of orders.

(10) Salespersons' intervention/mediation in credit disputes between customers and non-Iowa located corporate departments.

(11) Use of hotel rooms and homes for sales-related meetings pertaining to solicitation of orders.

(12) Salespersons' assistance to wholesalers in obtaining suitable displays for products at retail stores.

(13) Salespersons' furnishing of display racks to retailers.

(14) Salespersons' advice to retailers on the art of displaying goods to the public.

(15) Rental of hotel rooms for short-term display of products.

(16) Mere forwarding of customer questions, concerns, or problems by salespersons to non-Iowa locations.

b. For tax years beginning on or after January 1, 1996, a foreign corporation will not be considered doing business in this state or deriving income from sources within this state if its only activities within this state are one or more of the following activities:

(1) Holding meetings of the board of directors or shareholders, or holiday parties, or employee appreciation dinners.

(2) Maintaining bank accounts.

(3) Borrowing money, with or without security.

(4) Utilizing Iowa courts for litigation.

(5) Owning and controlling a subsidiary corporation which is incorporated in or which is transacting business within this state where the holding or parent company has no physical presence in the state as that presence relates to the ownership or control of the subsidiary.

(6) Recruiting personnel where hiring occurs outside the state.

c. For tax years beginning on or after January 1, 1997, a foreign corporation will not be considered doing business in this state or deriving income from sources within this state if its only activities within this state, in addition to the activities listed in paragraph *"b"* above, are training its employees or educating its employees, or using facilities in this state for this purpose.

d. For tax years beginning on or after January 1, 2006, a foreign corporation will not be considered to be doing business in Iowa or deriving income from sources within Iowa if its only activities within Iowa, in addition to the activities listed in paragraphs "b" and "c" of this subrule, are utilizing a distribution facility in Iowa, owning or leasing property at a distribution facility in Iowa, or selling property shipped or distributed from a distribution facility in Iowa.

A distribution facility is an establishment at which shipments of tangible personal property are processed for delivery to customers. A distribution facility does not include an establishment at which retail sales of tangible personal property or returns of such property are undertaken with respect to retail customers more than 12 days in a year. However, an exception to the 12-day requirement is allowed for distribution facilities that process customer orders by mail, telephone, or electronic means, if the distribution facility also processes shipments of tangible personal property to customers, as long as no more than 10 percent of the goods are delivered or shipped to a purchaser in Iowa.

The following nonexclusive examples illustrate how this subrule applies:

EXAMPLE 1: A, a foreign corporation, stores its inventory of books at a facility in Iowa. The facility processes orders for these books solely by mail, telephone and the Internet on behalf of A, and customers are not allowed to purchase books at the facility's site in Iowa. The facility processes shipments of these books, and 5 percent of the books at this facility are delivered to purchasers located in Iowa. A does not conduct any other business activities in Iowa. A is not considered to be doing business in Iowa because less than 10 percent of the books at the facility are delivered to an Iowa customer.

EXAMPLE 2: B, a foreign corporation, stores its inventory of compact disks at a facility in Iowa. The facility processes orders for these compact disks solely by mail, telephone and the Internet on behalf of B, and customers are not allowed to purchase compact disks at the facility's site in Iowa. The facility processes shipments of these compact disks, and 15 percent of the compact disks at the facility are delivered to purchasers located in Iowa. B does not conduct any other business activities in Iowa. B is considered to be doing business in Iowa because more than 10 percent of the compact disks at the facility are delivered to an Iowa customer.

EXAMPLE 3: C, a foreign corporation, stores its inventory of doors and windows at a facility in Iowa. The facility processes orders for these windows and doors solely by mail, telephone and the Internet, and customers are not allowed to purchase these windows and doors at the facility's site in Iowa. The facility processes shipments of these windows and doors, and 7 percent of the windows and doors are delivered to purchasers located in Iowa. C will also install these windows and doors in Iowa upon customer request. C is considered to be doing business in Iowa even though less than 10 percent of the windows and doors are delivered to Iowa customers because C is also conducting installation activities in Iowa which are not protected under Public Law 86-272.

EXAMPLE 4: D, a foreign corporation, stores its inventory of home decorating and craft kits at a facility in Iowa. The facility does not process any customer orders by mail, telephone or the Internet, and does not process any shipments of these kits directly to customers. D allows customers to come to the facility 14 days each year to directly purchase these kits, and customers must arrange for their own delivery of the kits. D is considered to be doing business in Iowa because sales to retail customers are conducted more than 12 days in a year, and the facility does not process customer orders or shipments to customers.

501.1(3) *Corporate activities creating taxability.* "Solicitation of orders" within Public Law 86-272 is limited to those activities which explicitly or implicitly propose a sale or which are entirely ancillary to requests for purchases. Activities that are entirely ancillary to requests for purchases are ones that serve no independent business function apart from their connection to the soliciting of orders. An activity that is not ancillary to requests for purchases is one that a corporation (taxpayer) has a reason to do anyway whether or not it chooses to allocate it to its sales force operating in Iowa (such as repair, installation, service-type activities, or collection on accounts). Activities that take place after a sale ordinarily will not be entirely ancillary to a request for purchases and, therefore, ordinarily will not be considered in "solicitation of orders." *Wisconsin Department of Revenue v. William Wrigley, Jr. Company,* 505 U.S. 214, 120 L.Ed.2d 174, 112 S.Ct. 2447 (1992).

De minimis activities which are not "solicitation of orders" are protected under Public Law 86-272. Whether in-state nonsolicitation activities are sufficiently de minimis to avoid loss of tax immunity depends upon whether those activities establish only a trivial additional connection with the taxing state. Whether a corporation's nonsolicitation in-state activities are de minimis should not be decided solely by the quantity of one type of such activity but, rather, all types of nonsolicitation activities of the taxpayer should be considered in their totality. *Wisconsin v. Wrigley,* 505 U.S. 214, 120 L.Ed.2d 174, 112 S.Ct. 2447 (1992). Frequency of the activity may be relevant, but an isolated activity is not invariably trivial. The mere fact that an activity involves small amounts of money or property does not invariably mean it is trivial.

If a foreign corporation has greater than a de minimis amount of Iowa nonsolicitation activity which includes activity of the types described in the noninclusive listing below, whether done by the salesperson, other employee, or other representative, it is not immunized from the Iowa corporation income tax by Public Law 86-272.

a. Installation or assembly of the corporate product.

b. Ownership or lease of real estate by corporation.

c. Solicitation of orders for, or sale of, services or real estate.

d. Sale of tangible personal property (as opposed to solicitation of orders) or performance of services within Iowa.

e. Maintenance of a stock of inventory.

f. Existence of an office or other business location.

g. Managerial activities pertaining to nonsolicitation activities.

h. Collections on regular or delinquent accounts.

i. Technical assistance and training given after the sale to purchaser and user of corporate products.

j. The repair or replacement of faulty or damaged goods.

k. The pickup of damaged, obsolete, or returned merchandise from purchaser or user.

l. Rectification of or assistance in rectifying any product complaints, shipping complaints, etc., if more is involved than relaying complaints to a non-Iowa location.

m. Delivery of corporate merchandise inventory to corporation's distributors or dealers on consignment.

n. Maintenance of personal property which is not related to solicitation of orders.

o. Participation in recruitment, training, monitoring, or approval of servicing distributors, dealers, or others where purchasers of corporation's products can have such products serviced or repaired.

p. Inspection or verification of faulty or damaged goods.

q. Inspection of the customer's installation of the corporate product.

r. Research.

s. Salespersons' use of part of their homes or other places as an office if the corporation pays for such use.

t. The use of samples for replacement or sale; storage of such samples at home or in rented space.

u. Removal of old or defective products.

v. Verification of the destruction of damaged merchandise.

w. Independent contractors, agents, brokers, representatives and other individuals or entities who act on behalf of or at the direction of the corporation (taxpayer) and who do non-de minimis amounts of nonsolicitation activities remove the corporation from the protection of Public Law 86-272. However, the maintenance of an office in Iowa or the making of sales in Iowa by independent contractors does not remove the corporation from the protection of Public Law 86-272. The term "independent contractors" means commission agents, brokers, or other independent contractors who are engaged in selling or soliciting orders for the sale of tangible personal property or perform other services for more than one principal and who hold themselves out as such in the regular course of their business activities. If a person is subject to the direct control of the foreign corporation that person may not qualify as an independent contractor.

501.1(4) *Taxation of corporations having only intangible property located or having a situs in Iowa.* For tax years beginning on or after January 1, 1995, corporations whose only connection with Iowa is their ownership of intangible property located or having a situs in Iowa are subject to Iowa income tax and must file an Iowa income tax return. Intangible property is located or has a situs in Iowa if the corporation's commercial domicile is in Iowa and the intangible property has not become an integral part of some business activity occurring regularly within or without Iowa. Regardless whether the corporation's commercial domicile is in or out of Iowa, intangible property is located or has a situs in Iowa if the intangible property has become an integral part of some business activity occurring regularly in Iowa. *Geoffrey, Inc. v. South Carolina Tax Commission,* 437 S.E.2d 13 (S.C. 1993), cert. denied, 114 S.Ct. 550 (1993); *Arizona Tractor Company v. Arizona State Tax Commission,* 115 Ariz. 602, 566 P.2d 1348 (Ariz. App. 1977); *KFC Corporation v. Iowa Department of Revenue,* 792 N.W. 2d 308 (Iowa 2010), cert. denied 132 S.Ct. 97 (October 3, 2011). In the event that the intangible property interest is a general or limited partnership interest, the location or situs of that partnership interest is the place(s) where the partnership conducts business. *Arizona Tractor Company v. Arizona State Tax Commission,* supra.

The following nonexclusive examples illustrate how this subrule applies:

EXAMPLE 1: A, a corporation with a commercial domicile in State X, has a limited partnership interest in a partnership which does a regular business in Iowa. A has no physical presence in Iowa and has no other contact with Iowa. A's interest in the limited partnership is intangible personal property. A is required to file an Iowa income tax return because A's intangible personal property limited partnership interest has a business situs in Iowa. *Arizona Tractor Company v. Arizona State Tax Commission,* supra.

EXAMPLE 2: B, a corporation with a commercial domicile in State X, owns stock in a subsidiary corporation doing business regularly in Iowa. B has no physical presence in Iowa and has no other contact with Iowa. B controls the subsidiary and has a unitary relationship with it. B pledged the subsidiary stock to secure a line of credit from a bank and used the loaned funds in B's business. Under these circumstances, the subsidiary stock is not an integral part of the subsidiary's business and, therefore, the stock does not have a location or situs in Iowa. Accordingly, B is not required to file an Iowa income tax return as a result of any dividends received by B or capital gains received by B from the sale of the stock. *McNamara v. George Engine Company, Inc.,* 519 So.2d 217 (La. App. 1988).

EXAMPLE 3: C, a corporation with a commercial domicile in State X, owns trademarks and trade names which it, by license agreements, allows other corporations to use. Some of those other corporations do business in Iowa. The trademarks and trade names are used by these other corporations at their Iowa stores in connection with their business activities at those stores. C has no physical presence in Iowa and has no other contact with Iowa. C is paid royalties of 1 percent of net sales of the licensed products or services. C is required to file an Iowa income tax return because C's intangible property interests in the trademarks and trade names have situses in Iowa. *Geoffrey, Inc. v. South Carolina Tax Commission,* 437 S.E.2d 13 (S.C. 1993), cert. denied, 114 S.Ct. 550 (1993).

EXAMPLE 4: D, a corporation with a commercial domicile in Iowa, is a holding company which does not sell any tangible personal property or sell any business service but which does own the stock of five subsidiaries, all of which do business outside of Iowa. D has no physical presence outside of Iowa and has no other contact outside of Iowa. D has a unitary relationship with each subsidiary. Under these circumstances, the stock is not an integral part of each subsidiary's business so the stock does not have a location or situs outside of Iowa. The location or situs of the stock is in Iowa because D's commercial domicile is in Iowa. Accordingly, all of the dividends from the stock paid to D and any capital gains incurred as a result of D's sale of the stock are wholly taxed by Iowa.

EXAMPLE 5: E, a corporation with a commercial domicile in Iowa, owns trademarks and trade names which it, by license agreements, allows other corporations, located outside of Iowa, to use. The trademarks and trade names are used by these other corporations at their non-Iowa stores in connection with their business activities at those stores. E has no physical presence outside of Iowa and has no other contact outside of Iowa. E has business activities in Iowa. The fees and royalties paid to E are part of E's unitary business income. Under these circumstances, E is entitled to apportion its net income within and without Iowa because E's intangible property interests in the trademarks and trade names have situses outside of Iowa and E has business activities in Iowa.

EXAMPLE 6: F, a corporation with a commercial domicile in State X, owns all of the stock of a subsidiary corporation doing business in Iowa. F has no physical presence in Iowa and no other contact with Iowa. F loans funds to the subsidiary which the subsidiary uses in its Iowa business. Under these circumstances, the interest-bearing asset is not an integral part of the subsidiary's business and, therefore, that intangible asset does not have a location or situs in Iowa. Accordingly, F is not required to file an Iowa income tax return. *Beidler v. South Carolina Tax Commission,* 282 U.S. 1, 75 L.Ed.131, 51 S.Ct. 54 (1930).

EXAMPLE 7: G, a corporation with a commercial domicile in State X, earns fees from the licensing of custom computer software. G has no physical presence in Iowa and no other contact with Iowa. G licenses the software to other corporations which do business in Iowa and which use the software in that business in Iowa. Under these circumstances, regardless whether the fees constitute royalties or something else, the license fees are earned from intangible personal property with a location or situs in Iowa. Accordingly, G is required to file an Iowa income tax return.

EXAMPLE 8: H, a corporation with a commercial domicile in State X, has no physical presence in Iowa. H has entered into a contract with an independent contractor to solicit sales of H's magazines in Iowa. The independent contractor does business in Iowa and receives payment for the magazines and deposits the funds in an Iowa bank for H's account. H earns interest on this account. Under these circumstances which are H's only contact with Iowa, H's interest-bearing account is an integral part of business activity in Iowa. Accordingly, H is required to file an Iowa income tax return and include the interest income in the numerator of the business activity formula.

EXAMPLE 9: J, a corporation with a commercial domicile in State X, earns income from mortgages that the corporation has purchased. J has no physical presence in Iowa and no other contact with Iowa. J earns interest income from the mortgages on property located in Iowa. Under these circumstances, the interest income is an integral part of business activity in Iowa. Accordingly, J is required to file an Iowa income tax return and include the interest income from the mortgages related to Iowa property in the numerator of the apportionment factor.

501.1(5) *Taxation of "S" corporations, domestic international sales corporations and real estate investment trusts.* Certain corporations and other types of entities, which are taxable as corporations for federal purposes, may by federal election and qualification have a portion or all of their income taxable to the shareholders or the beneficiaries. Generally, the state of Iowa follows the federal provisions (with adjustments provided by Iowa law) for determining the amount and to whom the income is taxable. Examples of entities which may avail themselves of pass-through provisions for taxation of at least part of their net income are real estate investment trusts, small business corporations electing to file under Sections 1371-1378 of the Internal Revenue Code, domestic international sales corporations as authorized under Sections 991-997 of the Internal Revenue Code, and certain types of cooperatives and regulated investment companies. The entity's portion of the net income which is taxable as corporation net income for federal purposes is generally also taxable as Iowa corporation income (with adjustments as provided by Iowa law) and the shareholders or beneficiaries will report on their Iowa returns their share of the organization's income reportable for federal purposes as shareholder income (with adjustments provided by Iowa law). Nonresident shareholders or beneficiaries are required to report their distributive share of said income reasonably attributable to Iowa sources. Schedules shall be filed with the individual's return showing the computation of the income attributable to Iowa sources and the computation of the nonresident taxpayer's distributive share thereof. Entities with a nonresident beneficiary or shareholder shall include a schedule in the return computing the amount of income as determined under 701—Chapter 503. It will be the responsibility of the entity to make the apportionment of the income and supply the nonresident taxpayer with information regarding the nonresident taxpayer's Iowa taxable income.

For tax years beginning on or after January 1, 1995, S corporations which are subject to tax on built-in gains under Section 1374 of the Internal Revenue Code or passive investment income under Section 1375 of the Internal Revenue Code are subject to Iowa corporation income tax on this income to the extent received from business carried on in this state or from sources in this state.

a. The starting point for computing the Iowa tax on built-in gains is the amount of built-in gains subject to federal tax after considering the federal income limitation. The starting point for computing the capital gains subject to Iowa tax is the amount of capital gains subject to federal tax. The starting point for computing the passive investment income subject to Iowa income tax is the amount of passive investment income subject to federal tax. To the extent that any of the above three types of income exist for federal income tax purposes, they are combined for Iowa income tax purposes.

b. No adjustment is made to the above amounts for either 50 percent of federal income tax or Iowa corporation income tax deducted in computing the federal net income of the S corporation for tax years beginning prior to January 1, 2008, and for tax years beginning on or after January 1, 2014. The 50 percent of federal income tax and Iowa corporation income tax deducted in computing federal net income are adjustments to the Iowa net income which flows through to the shareholders for tax years beginning prior to January 1, 2008, and for tax years beginning on or after January 1, 2014.

For tax years beginning on or after January 1, 2008, but before January 1, 2014, an adjustment is made to the above amounts for either 50 percent of federal income tax or Iowa corporation income tax deducted in computing the federal net income of the S corporation.

c. The allocation and apportionment rules of 701—Chapter 503 apply to nonresident shareholders if the S corporation is carrying on business within and without the state of Iowa.

d. Any net operating loss carryforward arising in a taxable year for which the corporation was a C corporation shall be allowed as a deduction against the net recognized built-in gain, capital gains, or passive investment income of the S corporation for the taxable year. For purposes of determining the amount of any such loss which may be carried to any of the 15 subsequent taxable years, after the year of the net operating loss, the amount of the net recognized built-in gain shall be treated as taxable income. For taxable years beginning after August 5, 1997, a net operating loss can be carried forward 20 taxable years.

e. Except for estimated and other advance tax payments and any credit carryforward under Iowa Code section 422.33 arising in a taxable year for which the corporation was a C corporation no credits shall be allowed against the built-in gains tax or the tax on capital gains or passive investment income.

For tax years beginning after 1996, Iowa recognizes the federal election to treat subsidiaries of a parent corporation that has elected S corporation status as "qualified subchapter S subsidiaries" (QSSSs). To the extent that, for federal income tax purposes, the incomes and expenses of the QSSSs are combined with the parent's income and expenses, they must be combined for Iowa tax purposes.

501.1(6) *Exempted corporations and organizations filing requirements.*

a. Exempt status. An organization that is exempt from federal income tax under Section 501 of the Internal Revenue Code, unless the exemption is denied under Section 501, 502, 503 or 504 of the Internal Revenue Code, is exempt from Iowa corporation income tax except as set forth in paragraph *"e"* of this subrule. The department may, if a question arises regarding the exempt status of an organization, request a copy of the federal determination letter.

b. Information returns. Every corporation shall file returns of information as provided by Iowa Code sections 422.15 and 422.16 and any regulations regarding information returns.

c. Annual return. An organization or association which is exempt from Iowa corporation income tax because it is exempt from federal income tax is not required to file an annual income tax return unless it is subject to the tax on unrelated business income. The organization shall inform the director in writing of any revocation of or change of exempt status by the Internal Revenue Service within 30 days after the federal determination.

d. Tax on unrelated business income for tax years beginning on or after January 1, 1988. A tax is imposed on the unrelated business income of corporations, associations, and organizations exempt from the general business tax on corporations by Iowa Code section 422.34(2) to the extent this income is subject to tax under the Internal Revenue Code. The exempt organization is also subject to the alternative minimum tax imposed by Iowa Code section 422.33(4).

The exempt corporation, association, or organization must file Form IA 1120, Iowa Corporation Income Tax Return, to report its income and complete Form IA 4626 if subject to the alternative minimum tax. The exempt organization must make estimated tax payments if its expected income tax liability for the year is $1,000 or more.

The tax return is due the last day of the fourth month following the last day of the tax year and may be extended for six months by filing Form IA 7004 prior to the due date. For tax years beginning on or after January 1, 1991, the tax return is due on the fifteenth day of the fifth month following close of the tax year and may be extended six months if 90 percent of the tax is paid prior to the due date.

The starting point for computing Iowa taxable income is federal taxable income as properly computed before deduction for net operating losses. Federal taxable income shall be adjusted as required in Iowa Code section 422.35.

If the activities which generate the unrelated business income are carried on partly within and partly without the state, then the taxpayer should determine the portion of unrelated business income attributable to Iowa by the apportionment and allocation provisions of Iowa Code section 422.33.

The provisions of 701—Chapters 500, 501, 502, 503, 504 and 505 apply to the unrelated business income of organizations exempt from the general business tax on corporations.

e. Certain posts or organizations of past or present armed forces members may be tax-exempt corporations for tax years beginning after May 21, 2003. An organization that would have qualified as an organization exempt from federal income tax under Section 501(c)(19) of the Internal Revenue Code but for the fact that the requirement that 75 percent of the members need to be past or present armed forces members is not met because the membership includes ancestors or lineal descendants is considered to be an organization exempt from federal income tax.

This change is effective for tax years beginning after May 21, 2003.

f. Out-of-state business performing work in Iowa due to state-declared disaster. On or after January 1, 2016, see 701—Chapter 276 for filing requirements for an out-of-state business who enters Iowa to perform disaster and emergency-related work during a disaster response period as those terms are defined in Iowa Code section 29C.24.

501.1(7) *Income tax of corporations in liquidation.* When a corporation is in the process of liquidation, or in the hands of a receiver, the income tax returns must be made under oath or affirmation of the persons responsible for the conduct of the affairs of such corporations, and must be filed at the same time and in the same manner as required of other corporations.

501.1(8) *Income tax returns for corporations dissolved.* Corporations which have been dissolved during the income year must file income tax returns for the period prior to dissolution which has not already been covered by previous returns. Officers and directors are responsible for the filing of the returns and for the payment of taxes, if any, for the audit period provided by law.

Where a corporation dissolves and disposes of its assets without making provision for the payment of its accrued Iowa income tax, liability for the tax follows the assets so distributed and upon failure to secure the unpaid amount, suit to collect the tax may be instituted against the stockholders and other persons receiving the property, to the extent of the property received, except bona fide purchasers or others as provided by law.

501.1(9) *Income tax returns for corporations storing goods in an Iowa warehouse.* For tax years beginning on or after January 1, 2001, foreign corporations are not required to file income tax returns if their only activities in Iowa are the storage of goods for a period of 60 consecutive days or less in a warehouse for hire located in Iowa, provided that the foreign corporation transports or causes a carrier to transport such goods to that warehouse and that none of these goods are delivered or shipped to a purchaser in Iowa.

The following nonexclusive examples illustrate how this subrule applies:

EXAMPLE 1: A, a foreign corporation, stores goods in a warehouse for hire in Iowa for a period of 45 consecutive days. The goods are then delivered to a purchaser outside Iowa. If this is A's only activity in Iowa, A is not required to file an Iowa income tax return.

EXAMPLE 2: B, a foreign corporation, stores goods in a warehouse for hire in Iowa for a period of 75 consecutive days. The goods are then delivered to a purchaser outside Iowa. B is required to file an Iowa income tax return because the goods were stored in Iowa for more than 60 consecutive days.

EXAMPLE 3: C, a foreign corporation, stores goods in a warehouse for hire in Iowa for a period of 30 consecutive days. One percent of these goods are shipped to a purchaser in Iowa, and the other 99 percent are shipped to a purchaser outside Iowa. C is required to file an Iowa income tax return because a portion of the goods were shipped to a purchaser in Iowa.

EXAMPLE 4: D, a foreign corporation, has retail stores in Iowa. D also stores goods in a warehouse for hire in Iowa for a period of 30 consecutive days. The goods are then delivered to a purchaser outside Iowa. D is required to file an Iowa income tax return because its Iowa activities are not limited to the storage of goods in a warehouse for hire in Iowa.

EXAMPLE 5: E, a foreign corporation, has goods delivered by a common carrier, F, into a warehouse for hire in Iowa. The goods are stored in the warehouse for a period of 40 consecutive days, and are then delivered to a purchaser outside Iowa. If this is E's only activity in Iowa, E is not

required to file an Iowa income tax return. However, F is required to file an Iowa income tax return because it derives income from transportation operations in Iowa.

501.1(10) *Deferment of income for start-up companies.* For tax periods beginning on or after January 1, 2002, but before January 1, 2008, a business that qualifies as a "start-up" business can defer taxable income for the first three years that the business is in operation. The deferment of income for start-up companies is repealed effective for tax years beginning on or after January 1, 2008.

a. Definition of start-up business. A start-up business for purposes of this subrule does not include any of the following:

(1) An existing business locating in Iowa from another state.

(2) An existing business locating in Iowa from another location in Iowa.

(3) A newly created business which is the result of the merger of two or more businesses.

(4) A newly created subsidiary or new business of a corporation.

(5) A previously existing business which has been dissolved and reincorporated.

(6) An existing business operating under a different name and located in a different location.

(7) A newly created partnership owned by two or more of the same partners as an existing business and engaging in similar business activity as the existing business.

(8) A business entity that reorganizes or experiences a change in either the legal or trade name of the business.

(9) A joint venture.

b. Criteria for deferment of taxable income. In order to qualify for the deferment of taxable income for a start-up business, each of the following criteria must be met:

(1) The taxpayer is a business that is a wholly new start-up business beginning operations during the first tax year for which the deferment of taxable income is claimed.

(2) The business has its commercial domicile, as defined by Iowa Code section 422.32, in Iowa.

(3) The operations of the business are funded by at least 25 percent venture capital moneys. "Venture capital moneys" means an equity investment from an individual or a private seed and venture capital fund whose only business is investing in seed and venture capital opportunities. "Venture capital moneys" does not mean a loan or other nonequity financing from a person, financial institution or other entity.

(4) The taxpayer does not have any delinquent taxes or other debt outstanding and owing to the state of Iowa.

c. Request for deferment of income. A taxpayer must submit a request to the department for the deferment of taxable income. The request must provide evidence that all of the criteria to qualify as a start-up business have been met. The request should be made as soon as possible after the close of the first tax year of the business. The request is to be filed with the Iowa Department of Revenue, Policy Section, Compliance Division, P.O. Box 10457, Des Moines, Iowa 50306-0457. Upon determination that the criteria have been met, the department will notify the taxpayer that the deferment of taxable income is approved. If the request for deferment of taxable income is denied, the taxpayer may file a protest within 60 days of the date of the letter denying the request for deferment of taxable income. The department's determination letter shall set forth the taxpayer's rights to protest the department's determination.

d. Filing of tax returns. If the request for deferment of taxable income is approved, taxable income for the first three years that the business is in operation is deferred. The taxpayer shall pay taxes on the deferred taxable income in five equal annual installments during the five tax years following the three years of deferment. Tax returns must be filed for each tax year in which the deferment is approved. If the taxpayer has a net loss during any tax year during the three-year deferment period, the loss may be applied to any deferred taxable income during that period. For purposes of assessing penalty and interest, the tax on any deferred income is not due and payable until the tax years in which the five equal annual installments are due and payable.

The following nonexclusive examples illustrate how this subrule applies:

EXAMPLE 1: A qualifying start-up business reports Iowa taxable income of $1,000 in year one, $5,000 in year two and $10,000 in year three. The total tax deferred is $60 in year 1, $300 in year two and $600 in year three, or $960. The taxpayer shall pay $192 ($960 divided by 5) in deferred tax for each of the next five tax returns. No penalty or interest is due on the deferred annual tax of $192 if the returns for years four through eight are filed by the due date and the tax is timely paid. After the return for year three is filed, the department will issue a schedule to the qualifying business indicating that $192 of additional tax is due annually for years four through eight, and when the additional payments of $192 are due.

EXAMPLE 2: A qualifying start-up business reports an Iowa taxable loss of $10,000 in year one, a loss of $2,000 in year two and taxable income of $22,000 in year three. The losses for year one and year two can be netted against the income in year three, resulting in deferred taxable income of $10,000. The tax of $600 computed on income of $10,000 will be paid in five equal installments of $120 for the next five tax returns. No penalty or interest is due on the deferred annual tax of $120 if the returns for years four through eight are filed by the due date and the tax is timely paid. After the return for year three is filed, the department will issue a schedule to the qualifying business indicating that $120 of additional tax is due annually for years four through eight and when the additional payments of $120 are due.

This rule is intended to implement Iowa Code sections 422.21, 422.32, 422.33, 422.34, 422.34A, and 422.36 and Iowa Code section 422.24A as amended by 2008 Iowa Acts, Senate File 2400, section 66.

[**ARC 7761B**, IAB 5/6/09, effective 6/10/09; **ARC 1303C**, IAB 2/5/14, effective 3/12/14; **ARC 1665C**, IAB 10/15/14, effective 11/19/14; **ARC 3085C**, IAB 5/24/17, effective 6/28/17; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.2(422) Time and place for filing return.

501.2(1) *Returns of corporations.* A return of income for all corporations must be filed on or before the due date. The due date for all corporations except for cooperative associations as defined in Section 6072(d) of the Internal Revenue Code is the last day of the fourth month following the close of the taxpayer's taxable year, whether the return be made on the basis of the calendar year or the fiscal year; or the last day of the period covered by an extension of time granted by the director. When the due date falls on a Saturday, Sunday, or holiday, the return will be due the following day that is not a Saturday, Sunday, or holiday. Iowa Code section 421.9A contains additional information on due dates that fall on a Saturday, Sunday, or holiday. If a return is placed in the mail, properly addressed and postage paid in ample time to reach the department on or before the due date for filing, no penalty will attach should the return not be received until after that date. Mailed returns should be addressed to Corporate Income Tax Processing, Hoover State Office Building, Des Moines, Iowa 50319.

501.2(2) *Returns of cooperatives.* A return of income for cooperatives, defined in Section 6072(d) of the Internal Revenue Code, must be filed on or before the fifteenth day of the ninth month following the close of the taxpayer's taxable year.

501.2(3) *Short period returns.* Where under a provision of the Internal Revenue Code, a corporation is required to file a tax return for a period of less than 12 months, a short period Iowa return must be filed for the same period. The short period Iowa return is due 45 days after the federal due date, not considering any federal extension of time to file.

501.2(4) *Extension of time for filing returns for tax years beginning on or after January 1, 1991.* See 701—subrule 301.2(4).

This rule is intended to implement Iowa Code sections 422.21 and 422.24.

[**ARC 6551C**, IAB 10/5/22, effective 11/9/22; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.3(422) Form for filing.

501.3(1) *Use and completeness of prescribed forms.* Returns shall be made by corporations on forms supplied by the department. Taxpayers not supplied with the proper forms shall make

application for same to the department in ample time to have their returns made, verified and filed on or before the due date. Each taxpayer shall carefully prepare the taxpayer's return so as to fully and clearly set forth the data required. For lack of a prescribed form, a statement made by a taxpayer disclosing the taxpayer's gross income and the deductions therefrom may be accepted as a tentative return, and if verified and filed within the prescribed time, will relieve the taxpayer from liability to penalties, provided that without unnecessary delay such a tentative return is replaced by a return made on the proper form. Each question shall be answered and each direction complied with in the same manner as if the forms and instructions were embodied in these rules.

Failure to receive the proper forms does not relieve the taxpayer from the obligation of making any return required by the statute.

Returns received which are not completed, but merely state "see schedule attached" are not considered to be a properly filed return and may be returned to the taxpayer for proper completion. This may result in the imposition of penalties and interest due to the return being filed after the due date.

501.3(2) *Form for filing—domestic corporations.* A domestic corporation, as defined by Iowa Code section 422.32(5), is required to file a complete Iowa return for each year of its existence regardless of whether the corporation has income, loss, or inactivity. For tax periods beginning on or after January 1, 1999, domestic corporations are required to file a complete Iowa return only if they are doing business in Iowa, or deriving income from sources within Iowa. For tax periods beginning on or after July 1, 2012, domestic corporations must also include a true and accurate copy of their federal corporation income tax return as filed with the Internal Revenue Service with the filing of their Iowa return. At a minimum this return includes the following federal schedules: income statement, balance sheet, reconciliation of income per books with income per return, analysis of unappropriated retained earnings per books, dividend income and special deductions, cost of goods sold, capital gains, tax computation and tax deposits, alternative minimum tax computation, and statements detailing other income and other deductions.

When a domestic corporation is included in the filing of a consolidated federal income tax return, the Iowa corporation income tax return shall include a schedule of the consolidating income statements as properly computed for federal income tax purposes showing the income and expenses of each member of the consolidated group, and a schedule of capital gains on a separate basis.

If a domestic corporation claims a foreign tax credit, research activities credit, alcohol fuel credit, employer social security credit, or work opportunity credit on its federal income tax return, a detailed computation of the credits claimed shall be included with the Iowa return upon filing. In those instances where the domestic corporation is involved in the filing of a consolidated federal income tax return, the credit computations shall be reported on a separate entity basis.

Similarly, where a domestic corporation is charged with a holding company tax or an alternative minimum tax, the details of the taxes levied shall be put forth in a schedule to be included with the Iowa return. Furthermore, these taxes shall be identified on a separate company basis where the domestic corporation files as a member of a consolidated group for federal purposes.

501.3(3) *Form for filing—foreign corporations.* Foreign corporations, as defined by Iowa Code section 422.32(6), must include a true and accurate copy of their federal corporation income tax return as filed with the Internal Revenue Service with the filing of their Iowa return. At a minimum this return includes the following federal schedules: income statement, balance sheet, reconciliation of income per books with income per return, analysis of unappropriated retained earnings per books, dividend income and special deductions, cost of goods sold, capital gains, tax computation and tax deposits, research activities credit computation, work opportunity credit computation, foreign tax credit computation, alcohol fuel credit computation, employer social security credit computation, alternative minimum tax computation, and statements detailing other income and other deductions.

When a foreign corporation whose income is included in a consolidated federal income tax return files an Iowa return, federal consolidating income statements as properly computed for federal income

tax purposes showing the income and expenses of each member of the consolidated group shall be required together with the following additional schedules on a separate basis:

a. Capital gains.

b. Dividend income and special deductions.

c. Research activities credit, alcohol fuel credit and employer social security credit computations.

d. Work opportunity credit computation.

e. Foreign tax credit computation.

f. Holding company tax computation.

g. Alternative minimum tax computation.

h. Schedules detailing other income and other deductions.

501.3(4) *Amended returns.* If it becomes known to the taxpayer that the amount of income reported to be federal net income or Iowa taxable income was erroneously stated on the Iowa return, or changed by Internal Revenue Service audit, or otherwise, the taxpayer shall file an amended Iowa return along with supporting schedules, to include the amended federal return and a copy of the federal revenue agent's report if applicable. A copy of the federal revenue agent's report and notification of final federal adjustments provided by the taxpayer will be acceptable in lieu of an amended return. The assessment or refund of tax shall be dependent on the statute of limitations as set forth in 701—subrule 500.2(1) and rule 701—504.3(422).

This rule is intended to implement Iowa Code section 422.21 and section 422.36 as amended by 2012 Iowa Acts, Senate File 2328.

[**ARC 0337C**, IAB 9/19/12, effective 10/24/12; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.4(422) Payment of tax.

501.4(1) *Quarterly estimated payments.* Effective for taxable years beginning on or after July 1, 1977, corporations are required to make quarterly payments of estimated income tax. Rules pertaining to the estimated tax are contained in 701—Chapter 505.

501.4(2) Reserved.

501.4(3) *Penalty and interest on unpaid tax.* See rule 701—10.6(421) for penalty for tax periods beginning on or after January 1, 1991. See rule 701—10.7(421) for statutory exemptions to penalty for tax periods beginning on or after January 1, 1991.

Interest shall accrue on tax due from the original due date of the return. Interest on refunds of any portion of the tax imposed by statute which has been erroneously refunded and which is recoverable by the department shall bear interest as provided by law from the date of payment of the refund, considering each fraction of a month as an entire month. See rule 701—10.2(421) for the statutory interest rate.

All payments shall be first applied to the penalty and then to the interest, and the balance, if any, to the amount of tax due.

501.4(4) *Payment of tax by uncertified checks.* The department will accept uncertified checks in payment of income taxes, provided the checks are collectible for their full amount without any deduction for exchange or other charges unless requirements for electronic transmission of remittances and related information specify otherwise. The date on which the department receives the check will be considered the date of payment, so far as the taxpayer is concerned, unless the check is dishonored. If one check is remitted to cover two or more corporations' taxes, the remittance must be accompanied by a letter of transmittal stating: (a) the name of the drawer of the check; (b) the amount of the check; (c) the amount of any cash, money order or other instrument included in the same remittance; (d) the name of each corporation whose tax is to be paid by the remittance; and (e) the amount of payment on account of each corporation.

501.4(5) *Procedure with respect to dishonored checks.* If any check is returned unpaid, all expenses incidental to the collection thereof will be charged to the taxpayer. If any taxpayer whose

check has been returned by the depository bank uncollected should fail at once to make the check good, the director will proceed to collect the tax as though no check had been given. A taxpayer who tenders a certified check in payment for taxes is not relieved from his obligation until the check has been paid.

This rule is intended to implement Iowa Code sections 422.21, 422.24, 422.25, 422.33 and 422.86.
[Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.5(422) Minimum tax.

501.5(1) Reserved.

501.5(2) For tax years beginning after 1997, a small business corporation or a new corporation for its first year of existence, which through the operation of Internal Revenue Code Section 55(e) is exempt from the federal alternative minimum tax, is not subject to Iowa alternative minimum tax. A small business corporation may apply any alternative minimum tax credit carryforward to the extent of its regular corporation income tax liability.

For tax years beginning on or after January 1, 1987, the minimum tax is imposed only to the extent that it exceeds the taxpayer's regular tax liability computed under Iowa Code section 422.33(1). The minimum tax rate is 60 percent of the maximum corporate tax rate rounded to the nearest one-tenth of 1 percent or 7.2 percent. Minimum taxable income is computed as follows:

	State taxable income as adjusted by Iowa Code section 422.35
Plus:	Tax preference items, adjustments and losses added back
Less:	Allocable income including allocable preference items and adjustments under Section 56 of the Internal Revenue Code including adjusted current earnings related to allocable income including the allocable preference items
	Subtotal
Times:	Apportionment percentage
	Result
Plus:	Income allocable to Iowa including allocable preference items and adjustments under Section 56 of the Internal Revenue Code including adjusted current earnings related to allocable income including the allocable preference items
Less:	Iowa alternative tax net operating less deduction
	$40,000 exemption amount
Equals:	Iowa alternative minimum taxable income

For tax years beginning on or after January 1, 1987, the items of tax preference are the same items of tax preference under Section 57 except for Subsections (a)(1) and (a)(5) of the Internal Revenue Code used to compute federal alternative minimum taxable income. The adjustments to state taxable income are those adjustments required by Section 56 except for Subsections (a)(4) and (d) of the Internal Revenue Code used to compute federal alternative minimum taxable income. In making the adjustment under Section 56(c)(1) of the Internal Revenue Code, interest and dividends from federal securities net of amortization of any discount or premium shall be subtracted. For tax years beginning on or after January 1, 1988, in making the adjustment under Section 56(c)(1) of the Internal Revenue Code, interest and dividends from state and other political subdivisions and from regulated investment companies exempt from federal income tax under the Internal Revenue Code shall be subtracted net of amortization of any discount or premium. In making the adjustment for adjusted current earnings, subtract Foreign Sales Company (FSC) dividend income and Puerto Rican dividend income computed under Internal Revenue Code Section 936 to the extent they are included in the federal computation of adjusted current earnings. Losses to be added are those losses required to be added by Section 58 of the Internal Revenue Code in computing federal alternative minimum taxable income.

a. Tax preference items are:

1. Intangible drilling costs;

2. Incentive stock options;
3. Reserves for losses on bad debts of financial institutions;
4. Appreciated property charitable deductions;
5. Accelerated depreciation or amortization on certain property placed in service before January 1, 1987.

b. Adjustments are:

1. Depreciation;
2. Mining exploration and development;
3. Long-term contracts;
4. Iowa alternative minimum net operating loss deduction;
5. Book income or adjusted earnings and profits.

c. Losses added back are:

1. Farm losses;
2. Passive activity losses.

Computation of Iowa alternative minimum tax net operating loss deduction.

Net operating losses computed under rule 701—502.2(422) carried forward from tax years which begin before January 1, 1987, are deductible without adjustment.

Net operating losses from tax years which begin after December 31, 1986, which are carried back or carried forward to the current tax year shall be reduced by the amount of tax preferences and adjustments taken into account in computing the net operating loss prior to applying rule 701—502.2(422). The deduction for a net operating loss from a tax year beginning after December 31, 1986, which is carried back or carried forward shall not exceed 90 percent of the alternative minimum taxable income computed without regard for the net operating loss deduction.

The exemption amount shall be reduced by 25 percent of the amount that the alternative minimum taxable income computed without regard to the $40,000 exemption exceeds $150,000. The exemption shall not be reduced below zero.

EXAMPLE: The following example shows the computation of the alternative minimum tax when there are net operating loss carryforwards and carrybacks including an alternative minimum tax net operating loss.

For tax year 1987, the following information is available:

Federal taxable income before NOL	$182,000
Federal NOL carryforward	<97,000>
Federal income tax	19,750
Tax preferences and adjustments	48,000
Iowa income tax expensed on federal	2,570
Iowa NOL carryforward	147,000

For tax year 1988, the following information is available:

Federal taxable income before NOL	$<154,000>
Federal income tax refund	15,460
Tax preferences and adjustments	78,000
Iowa income tax refund reported on federal	2,570

The alternative minimum tax for 1987 before the 1988 net operating loss carryback should be computed as follows:

Regular Iowa Tax	
Federal taxable income	$182,000
less 50% federal tax	<9,875>
add Iowa income tax expensed	2,570
Iowa taxable income before NOL carryforward	$174,695
less NOL carryforward	<147,000>
Iowa taxable income	$ 27,695

Iowa income tax	$ 1,716
Alternative Minimum Tax	
Iowa taxable income before NOL	$174,695
add preferences and adjustments	48,000
Total	$222,695
less NOL carryforward*	<147,000>
Iowa alternative taxable income	$ 75,695
less exemption amount	<40,000>
Total	$ 35,695
Times 7.2%	2,570
Less regular tax	<1,715>
Alternative minimum tax	$ 855

*Net operating loss carryforwards from tax years beginning before January 1, 1987, are deductible at 100 percent without reduction for items of tax preference or adjustments arising in the tax year.

The alternative minimum tax for 1987 after the 1988 net operating loss carryback should be computed as follows:

Regular Iowa Tax	
Federal taxable income	$ 182,000
less 50% federal tax	<9,875>
add Iowa income tax expensed	2,570
Iowa taxable income before NOL carryforward	$ 174,695
less NOL carryforward	<147,000>
	$ 27,695
less NOL carryback from 1988[1]	<148,840>
NOL carryforward	$ <121,145>
Alternative Minimum Tax	
Iowa taxable income before NOL	$ 174,695
add preferences and adjustments	48,000
Total	$ 222,695
less NOL carryforward from pre-1987 tax year	<147,000>
Total	$ 75,695
less alternative minimum tax NOL[2]	<68,126>
Total	$ 7,569
less exemption	<40,000>
Alternative minimum taxable income after NOL	$ -0-

[1]Computation of 1988 Iowa NOL

Federal NOL	$<154,000>
add 50% of federal refund	7,730
less Iowa refund in federal income	<2,570>
Iowa NOL	$<148,840>

[2]Computation of 1988 Alternative Minimum Tax NOL

Iowa NOL	$<148,840>
add preferences and adjustments	78,000
Total	$ <70,840>
NOL carryback limited to 90% of alternative minimum	
income before NOL and exemption*	$ <68,126>
Alternative minimum tax NOL carryforward	$ 2,705

*For purposes of the alternative minimum tax, net operating loss carryforward or carryback from tax years beginning after December 31, 1986, must be reduced by items of tax preference and adjustments, and are limited to 90 percent of alternative minimum taxable income before deduction of the post-1986 NOL and the $40,000 exemption amount ($75,695 × 90% = $68,126).

501.5(3) Effective for tax years beginning on or after January 1, 1986, estimated payments are required for minimum tax.

501.5(4) Alternative minimum tax credit for minimum tax paid in a prior tax year. Minimum tax paid by a taxpayer in prior tax years commencing with tax years beginning on or after January 1, 1987, can be claimed as a tax credit against the taxpayer's regular income tax liability in a subsequent tax year. Therefore, 1988 is the first tax year that the minimum tax credit is available for use, and the credit is based on the minimum tax paid by the taxpayer for 1987. The minimum tax credit may only be used against regular income tax for a tax year to the extent that the regular tax is greater than the minimum tax for the tax year. If the minimum tax credit is not used up against the regular tax for a tax year, the remaining credit is carried to the following tax year to be applied against the regular income tax liability for that period.

a. Computation of minimum tax credit on Schedule IA 8827. The minimum tax credit is computed on Schedule IA 8827 from information on Schedule IA 4626 for prior tax years, from Form IA 1120 and Schedule IA 4626 for the current year and from Schedule IA 8827 for prior tax years.

b. Examples of computation of the minimum tax credit and carryover of the credit.

EXAMPLE 1. Taxpayer reported $5,000 of minimum tax for 2007. For 2008, taxpayer reported regular tax of $8,000 and the minimum tax liability is $6,000. The minimum tax credit is $2,000 for 2008 because, although the taxpayer had an $8,000 regular tax liability, the credit is allowed only to the extent that the regular tax exceeds the minimum tax. Since only $2,000 of the carryover credit from 2007 was used, there is a $3,000 minimum tax carryover credit to 2009.

EXAMPLE 2. Taxpayer reported $2,500 of minimum tax for 2007. For 2008, taxpayer reported regular tax of $8,000 and the minimum tax liability is $5,000. The minimum tax credit is $2,500 for 2008 because, although the regular tax exceeded the minimum tax by $3,000, the credit is allowed only to the extent of minimum tax paid for prior tax years. There is no minimum tax carryover credit to 2009.

c. Computation of the minimum tax credit attributable to a member leaving an affiliated group filing a consolidated Iowa corporation income tax return. The amount of minimum tax credit available for carryforward attributable to a member of a consolidated Iowa income tax return shall be computed as follows: The consolidated minimum tax credit available for carryforward from each tax year is multiplied by a fraction, the numerator of which is the separate member's tax preferences and adjustments for the tax year and the denominator of which is the total tax preferences and adjustments of all members of the consolidated Iowa income tax return for the tax year.

d. Computation of the amount of minimum tax credit which may be used by a new member of a consolidated Iowa corporation income tax return. The amount of minimum tax credit carryforward which may be used by a new member of a consolidated Iowa income tax return is limited to the separate member's contribution to the amount by which the regular income tax set forth in Iowa Code section 422.33 exceeds the tentative minimum tax.

The separate member's contribution to the amount by which the regular income tax exceeds the tentative minimum tax shall be computed as follows:

$$\frac{\left[\frac{A}{B} \times C + D\right] \times F}{E} = \text{Separate member's contribution to the amount by which regular income tax set forth in section 422.33 exceeds the tentative minimum tax.}$$

A = Separate corporation gross sales within Iowa after elimination of all intercompany transactions.

B = Consolidated gross sales within and without Iowa after elimination of all intercompany transactions.

C = Iowa consolidated income subject to apportionment.
D = Separate corporation income allocable to Iowa.
E = Iowa consolidated income subject to tax.
F = The amount by which the regular income tax set forth in Iowa Code section 422.33 exceeds the tentative minimum tax.

e. Minimum tax credit after merger. When two or more corporations merge or consolidate into one corporation, the minimum tax credit of the merged or consolidated corporations is available for use by the survivor of the merger or consolidation.

This rule is intended to implement Iowa Code section 422.33.

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701—501.6(422) Motor fuel credit. A corporation may elect to receive an income tax credit in lieu of the motor fuel tax refund provided by Iowa Code chapter 452A. A corporation which holds a motor fuel tax refund permit when it makes this election must cancel the permit within 30 days after the first day of the tax year. However, if the refund permit is not canceled within this period, the permit becomes invalid at the time the election to receive an income tax credit is made. The election will continue for subsequent tax years unless a new motor fuel tax refund permit is obtained.

The amount of the income tax credit must be the amount of Iowa motor fuel tax paid on qualifying fuel purchases as determined by Iowa Code chapter 452A and Iowa Code section 422.110 less any state sales tax as determined by 701—subrule 220.2(2). The credit must be claimed on the tax return covering the tax year in which the motor fuel tax was paid. If the motor fuel credit results in an overpayment of income tax, the overpayment may be refunded or may be credited to income tax due in the subsequent tax year.

Shareholders of S corporations may claim an income tax credit on their individual income tax returns for their respective shares of the motor vehicle fuel taxes paid by the corporations. The credit for a shareholder is that person's pro rata share of the fuel tax paid by the corporation. A schedule must be attached to the individual's return showing the distribution of gallons and the amount of credit claimed by each shareholder.

The corporation must attach to its return a schedule showing the allocation to each shareholder of the motor fuel purchased by the corporation.

This rule is intended to implement Iowa Code section 422.33.

[Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.7(422) Research activities credit. The taxes imposed on corporate income shall be reduced by a state tax credit for increasing research activities in this state. For corporate income tax, the requirements of the research activities credit are described in Iowa Code section 422.33. This rule explains terms not defined in the statute and procedures for claiming the credit.

501.7(1) *Definitions.*

"Accountant" means a person authorized under Iowa Code chapter 542 to engage in the practice of public accounting in Iowa as defined in Iowa Code section 542.3(23) or authorized to engage in such practice in another state under a similar law of another state.

"Architect" means a person licensed under Iowa Code chapter 544A or a similar law of another state.

"Aviation and aerospace" means the design, development or production of aircraft, rockets, missiles, spacecraft and other machinery and equipment that operate in aerospace.

"Collection agency" means a person primarily engaged in the business of collecting debt, including but not limited to consumer debt collection subject to the provisions of the federal Fair Debt Collections Practices Act in 15 U.S.C. §1692 et seq., the Iowa debt collection practices Act in Iowa Code sections 537.7101 through 537.7103, or other similar state law.

"Finance or investment company" means a person primarily engaged in finance or investment activities broadly consisting of the holding, depositing, or management of a customer's money or

assets for investment purposes, or the provision of loans or other similar financing or credit to customers. "Finance or investment company" includes but is not limited to a person organized or licensed under Iowa Code chapter 524, 533, or 533D or other similar state or federal law, or an investment company as defined in 15 U.S.C. §80a-3.

"Life sciences" means the sciences concerned with the study of living organisms, including agriscience, biology, botany, zoology, microbiology, physiology, biochemistry, and related subjects.

"Manufacturing" means the same as defined in 2018 Iowa Acts, Senate File 2417, section 183.

"Publisher" means a person whose primary business is the publishing of books, periodicals, newspapers, music, or other works for sale in any format.

"Real estate company" means a person licensed under Iowa Code chapter 543B or otherwise primarily engaged in acts constituting dealing in real estate as described in Iowa Code section 543B.6.

"Retailer" means a person that primarily engages in sales of personal property as defined in 2018 Iowa Acts, Senate File 2417, section 158, or services directly to an ultimate consumer. A business that primarily makes sales for resale is not a retailer.

"Software engineering" means the detailed study of the design, development, operation, and maintenance of software.

"Transportation company" means a person whose primary business is the transportation of persons or property from one place to another.

"Wholesaler" means a person that primarily engages in buying large quantities of goods and reselling them in smaller quantities to retailers or other merchants who in turn sell those goods to the ultimate consumer.

501.7(2) *Requirement that the business claim and be allowed the federal credit.* To claim this credit, a taxpayer's business must claim and be allowed a research credit for such qualified research expenses under Section 41 of the Internal Revenue Code for the same taxable year as the taxpayer's business is claiming the credit.

a. Being "allowed" the federal credit. For purposes of this subrule, a federal credit is "allowed" if the taxpayer meets all requirements to claim the credit under Section 41 of the Internal Revenue Code and any applicable federal regulation and Internal Revenue Service guidance and such credit has not been disallowed by the Internal Revenue Service.

b. Applicability of requirement to pass-throughs. If the individual received the Iowa credit through a pass-through entity, the pass-through entity that conducted the research must have claimed and been allowed the federal credit in order for the individual to claim the Iowa credit.

c. Impact of federal audit. If the Internal Revenue Service audits or otherwise reviews the return and disallows the credit, the taxpayer shall file an amended Iowa return along with supporting schedules, including an amended federal return or a copy of the federal revenue agent's report and notification of final federal adjustments, to add back the Iowa credit to the extent not previously disallowed by the department.

d. Authority of the department. Nothing in this subrule shall limit the department's authority to review, examine, audit, or otherwise challenge an Iowa tax credit claim under Iowa Code section 422.33, regardless of inaction, a settlement, or a determination by the Internal Revenue Service under Section 41 of the Internal Revenue Code.

501.7(3) *Calculating the credit.* For information on how the credit is calculated, see Iowa Code section 422.33.

501.7(4) *Claiming the tax credit.*

a. Forms. The credit must be claimed on the forms provided on the department's website and must include all information required by the forms.

b. Allocation to the individual owners of an entity or beneficiaries of an estate or trust. If the business is a partnership, S corporation, limited liability company, estate or trust where the income from the business is taxed to the individual owners of the business, these individual owners may claim the research activities credit allowed to the business. The research credit is allocated to each of the

individual owners of the business on the basis of the pro rata share of that individual's earnings from the business.

c. Refundability. Any research credit in excess of the corporation's tax liability for the taxable year may be refunded to the taxpayer or credited to the corporation's tax liability for the following year.

d. Transferability. Tax credit certificates shall not be transferred to any other person.

e. Enterprise zone claimants. The enterprise zone program was repealed on July 1, 2014. Any supplemental research activities credit earned by businesses pursuant to Iowa Code section 15.335 and approved under the enterprise zone program prior to July 1, 2014, remains valid and can be claimed on tax returns filed after July 1, 2014.

This rule is intended to implement Iowa Code sections 15.335 and 422.33 as amended by 2018 Iowa Acts, Senate File 2417.

[**ARC 8589B**, IAB 3/10/10, effective 4/14/10; **ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 9104B**, IAB 9/22/10, effective 10/27/10; **ARC 9820B**, IAB 11/2/11, effective 12/7/11; **ARC 0337C**, IAB 9/19/12, effective 10/24/12; **ARC 1101C**, IAB 10/16/13, effective 11/20/13; **ARC 1545C**, IAB 7/23/14, effective 8/27/14; **ARC 1744C**, IAB 11/26/14, effective 12/31/14; **ARC 4143C**, IAB 11/21/18, effective 12/26/18; Editorial change: IAC Supplement 11/2/22]

701—501.8(422) New jobs credit. A tax credit is available to a corporation which has entered into an agreement under Iowa Code chapter 260E and has increased employment by at least 10 percent.

501.8(1) *Definitions.*

a. The term *"new jobs"* means those jobs directly resulting from a project covered by an agreement authorized by Iowa Code chapter 260E (Iowa Industrial New Jobs Training Act) but does not include jobs of recalled workers or replacement jobs or other jobs that formerly existed in the industry in the state.

b. The term *"jobs directly related to new jobs"* means those jobs which directly support the new jobs but does not include in-state employees transferred to a position which would be considered to be a job directly related to new jobs unless the transferred employee's vacant position is filled by a new employee.

EXAMPLE A. A taxpayer who has entered into a chapter 260E agreement to train new employees for a new product line transfers an in-state employee to be supervisor of the new product line but does not fill the transferred employee's position. The new supervisor's position would not be considered a job directly related to new jobs even though it directly supports the new jobs because the transferred employee's old position was not refilled.

EXAMPLE B. A taxpayer who has entered into a chapter 260E agreement to train new employees for a new product line transfers an in-state employee to be supervisor of the new product line and fills the transferred employee's position with a new employee. The new supervisor's position would be considered a job directly related to new jobs because it directly supports the new jobs and the transferred employee's old position was filled by a new employee.

The burden of proof that a job is directly related to new jobs is on the taxpayer.

c. The term *"taxable wages"* means those wages upon which an employer is required to contribute to the state unemployment fund as defined in Iowa Code section 96.1A(36) for the year in which the taxpayer elects to take the new jobs tax credit. For fiscal-year taxpayers, "taxable wages" shall not be greater than the maximum wage upon which an employer is required to contribute to the state unemployment fund for the calendar year in which the taxpayer's fiscal year begins.

d. The term *"agreement"* means an agreement entered into under Iowa Code chapter 260E after July 1, 1985, an amendment to that agreement, or an amendment to an agreement entered into before July 1, 1985, if the amendment sets forth the base employment level as of the date of the amendment. The term "agreement" also includes a preliminary agreement entered into under Iowa Code chapter 260E provided the preliminary agreement contains all the elements of a contract and includes the necessary elements and commitment relating to training programs and new jobs.

e. The term *"base employment level"* means the number of full-time jobs an industry employs at a plant site which is covered by an agreement under chapter 260E on the date of the agreement.

f. The term *"project"* means a training arrangement which is the subject of an agreement entered into under Iowa Code chapter 260E.

g. The term *"industry"* means a business engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products, conducting research and development, or providing services in interstate commerce, but excludes retail, health or professional services. Industry does not include a business which closes or substantially reduces its operations in one area of the state and relocates substantially the same operation in another area of the state. Industry is a business engaged in the above listed activities rather than the generic definition encompassing all businesses in the state engaged in the same activities. For example, in the meat-packing business, an industry is considered to be a single corporate entity or operating division, rather than the entire meat-packing business in the state.

h. The term *"new employees"* means the same as new jobs or jobs directly related to new jobs.

i. The term *"full-time job"* means any of the following:

(1) An employment position requiring an average work week of 35 or more hours;

(2) An employment position for which compensation is paid on a salaried full-time basis without regard to hours worked; or

(3) An aggregation of any number of part-time or job-sharing employment positions which equal one full-time employment position. For purposes of this subrule each part-time or job-sharing employment position shall be categorized with regard to the average number of hours worked each week as one-quarter, half, three-quarters, or full-time position, as set forth in the following table:

Average Number of Weekly Hours	Category
More than 0 but less than 15	¼
15 or more but less than 25	½
25 or more but less than 35	¾
35 or more	1 (full-time)

501.8(2) *How to compute the credit.* The credit is 6 percent of the taxable wages paid to employees in new jobs or jobs directly related to new jobs for the taxable year in which the taxpayer elects to take the credit.

EXAMPLE 1. A taxpayer enters into an agreement to increase employment by 20 new employees which is greater than 10 percent of the taxpayer's base employment level of 100 employees. In year one of the agreement the taxpayer hires 20 new employees but elects not to take the credit in that year. In year two of the agreement only 18 of the new employees hired in year one are still employed and the taxpayer elects to take the credit. The credit would be 6 percent of the taxable wages of the 18 remaining new employees. In year three of the agreement the taxpayer hires two additional new employees under the agreement to replace the two employees which left in year two and elects to take the credit. The credit would be 6 percent of the taxable wages paid to the two replacement employees. In year four of the agreement three of the employees for which a credit had been taken left employment and three additional employees were hired. No credit is available for these employees. A credit can only be taken one time for each new job or job directly related to a new job.

EXAMPLE 2. A taxpayer operating two plants in Iowa enters into a chapter 260E agreement to train new employees for a new product line at one of the taxpayer's plants. The base employment level on the date of the agreement at plant A is 300 and at plant B is 100. Under the agreement 20 new employees will be trained for plant B which is greater than a 10 percent increase of the base employment level for plant B. In the year in which the taxpayer elects to take the credit, the employment level at plant A is 290 and at plant B is 120. The credit would be 6 percent of the wages of 10 new employees at plant B as 10 new jobs were created by the industry in the state. A credit for the remaining 10 employees can be taken if the employment level at plant A increases back to 300 during the period of time that the credit can be taken.

501.8(3) *When the credit can be taken.* The taxpayer may elect to take the credit in any tax year which either begins or ends during the period beginning with the date of the agreement and ending

with the date by which the project is to be completed under the agreement. However, the taxpayer may not take the credit until the base employment level has been exceeded by at least 10 percent.

EXAMPLE: A taxpayer enters into an agreement to increase employment from a base employment level of 200 employees to 225 employees. In year one of the agreement the taxpayer hires 20 new employees which is a 10 percent increase over the base employment level but elects not to take the credit. In year two of the agreement 2 of the new employees leave employment. The taxpayer elects to take the credit which would be 6 percent of the taxable wages of the 18 employees currently employed. In year three the taxpayer hires 7 new employees and elects to take the credit. The credit would be 6 percent of the taxable wages of the seven new employees.

A shareholder in an S corporation may claim the pro rata share of the Iowa new jobs credit on the shareholder's individual tax return. The S corporation shall provide each shareholder with a schedule showing the computation of the corporation's Iowa new jobs credit and the shareholder's pro rata share. The shareholder's pro rata share of the Iowa new jobs credit shall be in the same ratio as the shareholder's pro rata share in the earnings of the S corporation. All shareholders of an S corporation shall elect to take the Iowa new jobs credit the same year.

Any new jobs credit in excess of the corporation's tax liability less the credits authorized in Iowa Code sections 422.33, 422.91, and 422.110 may be carried forward for ten years or until it is used, whichever is the earliest.

This rule is intended to implement Iowa Code section 422.33.

[Editorial change: IAC Supplement 11/2/22]

701—501.9 Reserved.

701—501.10(15) New jobs and income program tax credits. For tax years ending after May 1, 1994, for programs approved after May 1, 1994, but before July 1, 2005, an investment tax credit under Iowa Code section 15.333 and an additional research activities credit under Iowa Code section 15.335 are available to an eligible business. The new jobs and income program was repealed on July 1, 2005, and has been replaced with the high quality job creation program. See rule 701—501.28(15) for information on the investment tax credit and additional research activities credit under the high quality job creation program. Any investment tax credit and additional research activities credit earned by businesses approved under the new jobs and income program prior to July 1, 2005, remains valid, and can be claimed on tax returns filed after July 1, 2005.

501.10(1) *Definitions:*

a. *"Eligible business"* means a business meeting the conditions of Iowa Code section 15.329.

b. *"Improvements to real property"* includes the cost of utility lines, drilling wells, construction of sewage lagoons, parking lots and permanent structures. The term does not include temporary structures.

c. *"Machinery and equipment"* means machinery used in manufacturing establishments and computers except point-of-sale equipment as defined in Iowa Code section 427A.1. The term does not include computer software.

d. *"New investment directly related to new jobs created by the location or expansion of an eligible business under the program"* means the cost of machinery and equipment purchased for use in the operation of the eligible business which has been depreciated in accordance with generally accepted accounting principles and the cost of improvements to real property.

For the cost of improvements to real property to be eligible for an investment tax credit, the improvements to real property must have received an exemption from property taxes under Iowa Code section 15.332. Replacement machinery and equipment and additional improvements to real property placed in service during the period of property tax exemption by an eligible business qualify for an investment tax credit.

For tax years beginning on or after January 1, 2001, the requirement that the improvements to real property must have received an exemption from property taxes under Iowa Code section 15.332 has been eliminated.

501.10(2) *Investment tax credit.* An investment tax credit of up to 10 percent of the new investment which is directly related to new jobs created by the location or expansion of an eligible business is available. The credit is available for machinery and equipment or improvements to real property placed in service after May 1, 1994. The credit is to be taken in the year the qualifying asset is placed in service. For business applications received on or after July 1, 1999, for purposes of the investment tax credit claimed under Iowa Code section 15.333, the cost of land and any buildings and structures located on the land will be considered to be a new investment which is directly related to new jobs for purposes of determining the amount of new investment upon which an investment tax credit may be taken.

For eligible businesses approved by the Iowa department of economic development on or after March 17, 2004, certain lease payments made by eligible businesses to a third-party developer will be considered to be new investment for purposes of computing the investment tax credit. The eligible business shall enter into a lease agreement with the third-party developer for a minimum of ten years. The investment tax credit is based on the annual base rent paid to a third-party developer by the eligible business for a period not to exceed ten years. The total costs of the annual base rent payments for the ten-year period cannot exceed the cost of the land and the third-party developer's cost to build or renovate the building used by the eligible business. The annual base rent is defined as the total lease payment less taxes, insurance and operating and maintenance expenses.

If an eligible business fails to maintain the requirements of the new jobs and income program, the taxpayer may be required to repay all or a portion of the tax incentives taken on Iowa returns. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the tax credits may have expired, the department may proceed to collect the tax incentives forfeited by failure of the taxpayer to maintain the requirements of the new jobs and income program because this is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability. Details on the calculation of the repayment can be found in 261—subrule 187.5(4) of the administrative rules of the economic development authority. If the business is a partnership, limited liability company, S corporation, estate or trust where the income of the taxpayer is taxed to the individual owner(s) of the business, the department may proceed to collect the tax incentives against the partners, members, shareholders or beneficiaries to whom the tax incentives were passed through. See Decision of the Administrative Law Judge in *Damien & Colette Trebilcock, et al.,* Docket No. 11DORF 042-044, June 11, 2012.

If the eligible business, within five years of purchase, sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other existing structures for which tax credit was claimed under this subrule, the income tax liability of the eligible business for the year in which all or part of the property is sold, disposed of, razed, or otherwise rendered unusable shall be increased by one of the following amounts:

a. One hundred percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within one full year after being placed in service.

b. Eighty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within two full years after being placed in service.

c. Sixty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within three full years after being placed in service.

d. Forty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within four full years after being placed in service.

e. Twenty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within five full years after being placed in service.

Any credit in excess of the tax liability for the tax year may be carried forward seven years or until used, whichever is the earlier.

If the business is a partnership, S corporation, limited liability company, or an estate or trust electing to have the income taxed directly to an individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

501.10(3) *Research activities credit.* An additional research activities credit of 6½ percent of the state's apportioned share of "qualifying expenditures" is available to an eligible business. The credit is available for qualifying expenditures incurred after May 1, 1994. The additional research activities credit is in addition to the credit set forth in Iowa Code section 422.33(5).

See rule 701—501.7(422) for the computation of the research activities credit.

See also subrule 501.7(3) for the computation of the research activities credit for tax years beginning on or after January 1, 2000, and subrule 501.7(4) for the research activities credit for an eligible business for tax years beginning on or after January 1, 2000.

Any credit in excess of the tax liability for the tax year may be carried forward seven years or until used, whichever is the earlier. This is in contrast to the research activities credit in Iowa Code section 422.33(5) where any credit in excess of the tax liability for the tax year may be carried forward until used or refunded. For tax years ending on or after July 1, 1996, the additional research activities credit may at the option of the taxpayer be refunded.

If the business is a partnership, S corporation, limited liability company, or an estate or trust electing to have the income taxed directly to an individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

501.10(4) *Investment tax credit—value-added agricultural products.* For tax years beginning on or after July 1, 2001, an eligible business whose project primarily involves the production of value-added agricultural products may elect to receive a refund for all or a portion of an unused investment credit. For tax years beginning on or after July 1, 2001, but before July 1, 2003, an eligible business includes a cooperative described in Section 521 of the Internal Revenue Code which is not required to file an Iowa corporation tax return, and whose project primarily involves the production of ethanol. For tax years beginning on or after July 1, 2003, an eligible business includes a cooperative described in Section 521 of the Internal Revenue Code which is not required to file an Iowa corporation income tax return.

Eligible businesses that elect to receive a refund shall apply to the economic development authority for tax credit certificates between May 1 and May 15 of each fiscal year through the fiscal year ending June 30, 2009. The election to receive a refund of all or a portion of an unused investment tax credit is no longer available beginning with the fiscal year ending June 30, 2010. Only those businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate. The economic development authority will not issue tax credit certificates for more than $4 million during a fiscal year. If applications are received for more than $4 million, the applicants shall receive certificates for a prorated amount.

The economic development authority will issue tax credit certificates within a reasonable period of time. Tax credit certificates are valid for the tax year following project completion. The tax credit certificate must be included with the tax return for the tax year during which the tax credit is claimed. The tax credit certificate shall not be transferred, except for a cooperative described in Section 521 of the Internal Revenue Code which is required to file an Iowa corporation income tax return and whose project primarily involves the production of ethanol for tax years beginning on or after January 1, 2002, or for a cooperative described in Section 521 of the Internal Revenue Code which is required to file an Iowa corporation income tax return for tax years beginning on or after July 1, 2003.

For value-added agricultural projects for cooperatives that are not required to file an Iowa income tax return because they are exempt from federal income tax, the cooperative must submit a list of its members and the share of each member's interest in the cooperative. The economic development authority will issue a tax credit certificate to each member on the list.

For tax years beginning on or after January 1, 2002, but before July 1, 2003, a cooperative described in Section 521 of the Internal Revenue Code which is required to file an Iowa corporation income tax return and whose project primarily involves the production of ethanol may elect to transfer all or a portion of its tax credit to its members. For tax years beginning on or after July 1, 2003, a cooperative described in Section 521 of the Internal Revenue Code which is required to file an Iowa corporation income tax return may elect to transfer all or a portion of its tax credit to its members. The amount of tax credit transferred and claimed by a member shall be based upon the pro rata share of the member's earnings in the cooperative. The economic development authority will issue a tax credit certificate to each member of the cooperative to whom the credit was transferred provided that tax credit certificates which total no more than $4 million are issued during a fiscal year.

The following nonexclusive examples illustrate how this subrule applies:

EXAMPLE 1. Corporation A completes a value-added agricultural project in October 2001 and has an investment tax credit of $1 million. Corporation A is required to file an Iowa income tax return but expects no tax liability for the year ending December 31, 2001. Thus, Corporation A applies for a tax credit certificate for the entire unused credit of $1 million in May 2002. The entire $1 million is approved by the economic development authority, so the tax credit certificate is included with the tax return for the year ending December 31, 2002. Corporation A will request a refund of $1 million on this tax return.

EXAMPLE 2. Corporation B completes a value-added agricultural project in October 2001 and has an investment tax credit of $1 million. Corporation B is required to file an Iowa income tax return but expects no tax liability for the year ending December 31, 2001. Thus, Corporation B applies for a tax credit of $1 million in May 2002. Due to the proration of available credits, Corporation B is awarded a tax credit certificate for $400,000. The tax credit certificate is included with the tax return for the year ending December 31, 2002. Corporation B will request a refund of $400,000 on this tax return. The remaining $600,000 of unused credit can be carried forward for the following seven tax years or until the credit is depleted, whichever occurs first. If Corporation B expects no tax liability for the tax period ending December 31, 2002, Corporation B may apply for a tax credit certificate in May 2003 for this $600,000 amount.

EXAMPLE 3. Corporation C completes a value-added agricultural project in March 2002 and has an investment tax credit of $1 million. Corporation C is required to file an Iowa income tax return and expects a tax liability of $200,000 for the tax period ending December 31, 2002. Thus, Corporation C applies for a tax credit certificate for the unused credit of $800,000 in May 2002. A tax credit certificate is awarded for the entire $800,000. The tax credit certificate for $800,000 shall be included with the tax return for the period ending December 31, 2003, since the certificate is not valid until the year following the project's completion. The tax return for the period ending December 31, 2002, reports a tax liability of $150,000. The investment credit is limited to $150,000 for the period ending December 31, 2002, and the remaining $50,000 can be carried forward for the following seven tax years.

EXAMPLE 4. Corporation D is a cooperative described in Section 521 of the Internal Revenue Code that completes a project involving ethanol in August 2002. Corporation D has an investment tax credit of $500,000. Corporation D is not required to file an Iowa income tax return because Corporation D is exempt from federal income tax. When filing for the tax credit certificate in May 2003 for the $500,000 unused credit, Corporation D must attach a list of its members and the share of each member's interest in the cooperative. The economic development authority will issue tax credit certificates to each member on the list based on each member's interest in the cooperative. The members can include the tax credit certificate with their Iowa income tax returns for the year ending December 31, 2003, since the certificate is not valid until the year following project completion.

EXAMPLE 5. Corporation E is a cooperative described in Section 521 of the Internal Revenue Code that completes a project involving ethanol in August 2002. Corporation E has an investment tax credit of $500,000. Corporation E is required to file an Iowa income tax return because Corporation E is not exempt from federal income tax. Corporation E expects a tax liability of $100,000 on its Iowa income

tax return for the year ending December 31, 2002. Corporation E applies for a tax credit certificate for the unused credit of $400,000 and elects to transfer the $400,000 unused credit to its members. When applying for the tax credit certificate in May 2003, Corporation E must provide a list of its members and the pro rata share of each member's earnings in the cooperative. The economic development authority will issue tax credit certificates to each member of the cooperative. The members can include the tax credit certificate with their Iowa income tax returns for the year ending December 31, 2003, since the certificate is not valid until the year following project completion.

EXAMPLE 6. Corporation F is a cooperative described in Section 521 of the Internal Revenue Code that completes a project involving ethanol in August 2002. Corporation F is a limited liability company that files a partnership return for federal income tax purposes. Corporation F is required to file an Iowa partnership return because Corporation F is not exempt from federal income tax. Corporation F has an investment tax credit of $500,000 which must be claimed by the individual partners of the partnership based on their pro rata share of individual earnings of the partnership. Corporation F expects a tax liability of $200,000 for the individual partners. Corporation F may apply for a tax credit certificate in May 2003 for the unused credit of $300,000. Corporation F must list the names of each partner and the ownership interest of each partner in order to allocate the investment credit for each partner. The tax credit certificate may be claimed on the partner's Iowa income tax return for the period ending December 31, 2003.

501.10(5) *Corporate tax credit—certain sales taxes paid by developer.* For eligible businesses approved by the Iowa department of economic development on or after March 17, 2004, the eligible business may claim a corporate tax credit for certain sales taxes paid by a third-party developer.

a. Sales taxes eligible for the credit. The sales taxes paid by the third-party developer which are eligible for this credit include the following:

(1) Iowa sales and use tax for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered to, furnished to or performed for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility within the economic development area.

(2) Iowa sales and use tax paid for racks, shelving, and conveyor equipment to be used in a warehouse or distribution center within the economic development area.

Any Iowa sales and use tax paid relating to intangible property, furniture and other furnishings is not eligible for the corporate tax credit.

b. How to claim the credit. The third-party developer must provide to the economic development authority the amount of Iowa sales and use tax paid as described in paragraph *"a."* Beginning on July 1, 2009, this information must be provided to the Iowa department of revenue. The amount of Iowa sales and use tax attributable to racks, shelving, and conveyor equipment must be identified separately.

The economic development authority will issue a tax credit certificate to the eligible business equal to the Iowa sales and use tax paid by the third-party developer for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered to, furnished to or performed for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility. In addition, the economic development authority will also issue a separate tax credit certificate to the eligible business equal to the Iowa sales and use tax paid by the third-party developer for racks, shelving, and conveyor equipment to be used in a warehouse or distribution center. Beginning on July 1, 2009, the Iowa department of revenue shall issue these tax credit certificates.

The tax credit certificate shall contain the name, address, and tax identification number of the eligible business, along with the amount of the tax credit and the year in which the tax credit can be claimed. The tax credit certificate must be included with the taxpayer's income tax return for the tax year for which the tax credit is claimed. Any tax credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following seven years or until it is used, whichever is the earlier.

For the tax credit certificate relating to Iowa sales and use tax paid by the third-party developer for racks, shelving, and conveyor equipment, the aggregate amount of tax credit certificates and tax refunds for Iowa sales and use tax paid for racks, shelving, and conveyor equipment to eligible businesses under the new jobs and income program, high quality job creation program, enterprise zone program, new capital investment program and high quality jobs program cannot exceed $500,000 in a fiscal year. The requests for tax credit certificates or refunds will be processed in the order they are received on a first-come, first-served basis until the amount of credits authorized for issuance has been exhausted. If applications for tax credit certificates or refunds exceed the $500,000 limitation for any fiscal year, the applications shall be considered in succeeding fiscal years.

This rule is intended to implement Iowa Code sections 15.331C, 15.333 as amended by 2010 Iowa Acts, Senate File 2380, and 15.335.

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701—501.11(422) Refunds and overpayments.

501.11(1) to **501.11(9)** Reserved.

501.11(10) *For refund claims received by the department after June 11, 1984.* If the amount of tax is reduced as a result of a net operating loss or net capital loss, interest shall accrue on the refund resulting from the loss carryback beginning on the date a claim for refund or amended return carrying back the net operating loss or net capital loss is filed with the department or the first day of the second calendar month following the actual payment date, whichever is later.

501.11(11) to **501.11(13)** Reserved.

501.11(14) *Overpayment—interest accruing on overpayments resulting from returns due on or after April 30, 1981.* If the amount of tax determined to be due by the department is less than the amount paid, the excess to be refunded will accrue interest from the first day of the second calendar month following the date of payment or the date the return was due to be filed or was filed, whichever is the later.

This rule is intended to implement Iowa Code section 422.25.

[Editorial change: IAC Supplement 11/2/22]

701—501.12(422) Deduction of credits.

501.12(1) *Sequencing of credit deductions.* The credits against computed tax set forth in Iowa Code sections 422.33 and 422.110 shall be claimed in the following sequence.

a. Franchise tax credit.

b. Alternative minimum tax credit (for tax years beginning during 2021 only).

c. Qualifying business investment tax credit (also known as angel investor tax credit).

d. Historic preservation tax credit (when the taxpayer has elected that the credit be nonrefundable under Iowa Code section 404A.2(4)).

e. School tuition organization tax credit.

f. Innovation fund investment tax credit.

g. Endow Iowa tax credit.

h. Redevelopment tax credit.

i. From farm to food donation tax credit.

j. Workforce housing tax credit.

k. Hoover presidential library tax credit.

l. Enterprise zone tax credit.

m. High quality jobs investment tax credit.

n. Wind energy production tax credit.

o. Renewable energy tax credit.

p. New jobs tax credit.

q. Beginning farmer tax credit.

r. Agricultural assets transfer tax credit.

s. Custom farming contract tax credit.
t. Solar energy system tax credit.
u. Charitable conservation contribution tax credit.
v. Alternative minimum tax credit (for tax years beginning before January 1, 2021, only).
w. Historic preservation tax credit (when the taxpayer has elected that the credit be refundable under Iowa Code section 404A.2(4)).
x. High quality jobs third-party developer tax credit.
y. Research activities credit.
z. Assistive device tax credit.
aa. Motor fuel tax credit.
ab. E-85 gasoline promotion tax credit.
ac. Biodiesel blended fuel tax credit.
ad. E-15 plus gasoline promotion tax credit.
ae. Renewable chemical production tax credit.
af. Estimated payments, payments with vouchers, and composite tax credits.

501.12(2) *Order of credits carried forward from a previous tax year.* A credit carried forward from a previous tax year shall be applied against computed tax before a credit earned under the same credit program in the current tax year. However, a credit carried forward from a previous tax year cannot be applied against computed tax before a credit awarded under a different credit program in a later year that appears before it in the sequence in subrule 501.12(1). For example, a school tuition organization tax credit awarded in the current tax year must be applied against computed tax before a renewable energy tax credit carried forward from a previous tax year.

This rule is intended to implement Iowa Code sections 422.33, 422.91 and 422.110.

[**ARC 8589B**, IAB 3/10/10, effective 4/14/10; **ARC 9104B**, IAB 9/22/10, effective 10/27/10; **ARC 9876B**, IAB 11/30/11, effective 1/4/12; **ARC 0398C**, IAB 10/17/12, effective 11/21/12; **ARC 1303C**, IAB 2/5/14, effective 3/12/14; **ARC 1744C**, IAB 11/26/14, effective 12/31/14; **ARC 6030C**, IAB 11/3/21, effective 12/8/21; Editorial change: IAC Supplement 11/2/22; **ARC 6900C**, IAB 2/22/23, effective 3/29/23; Editorial change: IAC Supplement 10/18/23]

701—501.13(422) Livestock production credits. For rules relating to the livestock production income tax credit refunds see rule 701—305.8(422).

This rule is intended to implement 1996 Iowa Acts, chapter 1197, sections 19, 20, and 21.

[Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.14(15E) Enterprise zone tax credits. For tax years ending after July 1, 1997, for programs approved after July 1, 1997, but before July 1, 2014, a business which qualifies under the enterprise zone program is eligible to receive tax credits. The enterprise zone program was repealed on July 1, 2014. Any tax credits earned by businesses approved under the enterprise zone program prior to July 1, 2014, remain valid and can be claimed on tax returns filed after July 1, 2014. An eligible business under the enterprise zone program must be approved by the economic development authority and meet the requirements of 2014 Iowa Code section 15E.193. The administrative rules for the enterprise zone program for the economic development authority may be found at 261—Chapter 59.

501.14(1) *Supplemental new jobs credit from withholding.* An eligible business approved under the enterprise zone program is allowed the supplemental new jobs credit from withholding as provided in 701—subrule 46.9(1).

501.14(2) *Investment tax credit.* An eligible business approved under the enterprise zone program is allowed an investment tax credit of up to 10 percent of the new investment which is directly related to new jobs created by the location or expansion of the eligible business.

The provisions under the new jobs and income program for the investment tax credit described in rule 701—501.10(15) are applicable to the enterprise zone program with the following exceptions:

a. The corporate tax credit for certain sales taxes paid by a developer described in subrule 52.10(5) does not apply for the enterprise zone program.

b. For projects approved on or after July 1, 2005, under the enterprise zone program, the investment tax credit will be amortized over a five-year period, as described in subrule 501.28(2).

c. For tax years ending on or after July 1, 2005, an eligible business approved under the enterprise zone program whose project primarily involves biotechnology-related processes may elect to receive a refund for all or a portion of an unused investment credit as described in subrule 501.10(4).

501.14(3) *Research activities credit.* An eligible business approved under the enterprise zone program is eligible for an additional research activities credit as described in subrules 501.7(5) and 501.7(6).

a. Tax years ending on or after July 1, 2005, but before July 1, 2009. For eligible businesses approved under the enterprise zone program, research activities allowable for the Iowa research activities credit include expenses related to the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa; such expenses related to the development and deployment of innovative renewable energy generation components are not eligible for the federal credit for increasing research activities. For purposes of this subrule, innovative renewable energy generation components do not include components with more than 200 megawatts in installed effective nameplate capacity. The research activities credit related to renewable energy generation components under the enterprise zone program and the high quality job creation program described in subrule 501.28(1) shall not exceed $1 million in the aggregate.

These expenses related to the development and deployment of innovative renewable energy generation components are applicable only to the additional research activities credit set forth in subrule 501.7(5) for businesses in enterprise zones and the additional research activities credit set forth in subrule 501.28(1) for businesses approved under the high quality job creation program, and are not applicable to the research activities credit set forth in subrule 501.7(3).

b. Tax years ending on or after July 1, 2009. For eligible businesses approved under the enterprise zone program, research activities allowable for the Iowa research activities credit include expenses related to the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa; such expenses related to the development and deployment of innovative renewable energy generation components are not eligible for the federal credit for increasing research activities.

(1) For purposes of this paragraph, innovative renewable energy generation components do not include components with more than 200 megawatts in installed effective nameplate capacity.

(2) The research activities credit related to renewable energy generation components under the enterprise zone program and the high quality jobs program described in subrule 501.28(1) shall not exceed $2 million for the fiscal year ending June 30, 2010, and $1 million for the fiscal year ending June 30, 2011.

(3) These expenses related to the development and deployment of innovative renewable energy generation components are applicable only to the additional research activities credit set forth in subrule 501.7(5) for businesses in enterprise zones and the additional research activities credit set forth in subrule 501.40(1) for businesses approved under the high quality jobs program, and are not applicable to the research activities credit set forth in subrule 501.7(3).

501.14(4) *Repayment of incentives.* Effective July 1, 2003, eligible businesses in an enterprise zone may be required to repay all or a portion of the tax incentives received on Iowa returns if the eligible business experiences a layoff of employees in Iowa or closes any of its facilities in Iowa. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the tax credits may have expired, the department may proceed to collect the tax incentives forfeited by failure to maintain the requirements of the enterprise zone program because this is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability. Details on the calculation of the repayment can be found in 261—subrule 187.5(4) of the administrative rules of the economic development authority. If the business is a partnership, limited liability company, S corporation, estate or trust where the income of the taxpayer is taxed to the individual owner(s) of the business, the department

may proceed to collect the tax incentives against the partners, members, shareholders or beneficiaries to whom the tax incentives were passed through. See Decision of the Administrative Law Judge in *Damien & Colette Trebilcock, et al.,* Docket No. 11DORF 042-044, June 11, 2012.

This rule is intended to implement 2014 Iowa Code sections 15E.193 and 15E.196.

[**ARC 8589B**, IAB 3/10/10, effective 4/14/10; **ARC 9104B**, IAB 9/22/10, effective 10/27/10; **ARC 1744C**, IAB 11/26/14, effective 12/31/14; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.15(15E) Eligible housing business tax credit. A corporation which qualifies as an eligible housing business may receive a tax credit of up to 10 percent of the new investment which is directly related to the building or rehabilitating of homes in an enterprise zone. The enterprise zone program was repealed on July 1, 2014, and the eligible housing business tax credit has been replaced with the workforce housing tax incentives program. See rule 701—501.46(15) for information on the tax incentives provided under the workforce housing tax incentives program. Any investment tax credit earned by businesses approved under the enterprise zone program prior to July 1, 2014, remains valid and can be claimed on tax returns filed after July 1, 2014. The tax credit may be taken on the tax return for the tax year in which the home is ready for occupancy.

An eligible housing business is one which meets the criteria in 2014 Iowa Code section 15E.193B.

501.15(1) *Computation of tax credit.* New investment which is directly related to the building or rehabilitating of homes includes but is not limited to the following costs: land, surveying, architectural services, building permits, inspections, interest on a construction loan, building materials, roofing, plumbing materials, electrical materials, amounts paid to subcontractors for labor and materials provided, concrete, labor, landscaping, appliances normally provided with a new home, heating and cooling equipment, millwork, drywall and drywall materials, nails, bolts, screws, and floor coverings.

New investment does not include the machinery, equipment, hand or power tools necessary to build or rehabilitate homes.

A taxpayer may claim on the taxpayer's corporation income tax return the pro rata share of the Iowa eligible housing business tax credit from a partnership, limited liability company, estate, or trust. The portion of the credit claimed by the taxpayer shall be in the same ratio as the taxpayer's pro rata share of the earnings of the partnership, limited liability company, or estate or trust, except for projects beginning on or after July 1, 2005, which used low-income housing credits authorized under Section 42 of the Internal Revenue Code to assist in the financing of the housing development. For these projects, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder.

Any Iowa eligible housing business tax credit in excess of the corporation's tax liability may be carried forward for seven years or until it is used, whichever is the earlier.

If the eligible housing business fails to maintain the requirements of Iowa Code section 15E.193B to be an eligible housing business, the taxpayer may be required to repay all or a part of the tax incentives the business received. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the income tax credit may have expired, the department may proceed to collect the tax incentives forfeited by failure to maintain the requirements of Iowa Code section 15E.193B. This is because it is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability. Details on the calculation of the repayment can be found in 261—subrule 187.5(4) of the administrative rules of the economic development authority. If the business is a partnership, limited liability company, S corporation, estate or trust where the income of the taxpayer is taxed to the individual owner(s) of the business, the department may proceed to collect the tax incentives against the partners, members, shareholders or beneficiaries to whom the tax incentives were passed through. See Decision of the Administrative Law Judge in *Damien & Colette Trebilcock, et al.,* Docket No. 11DORF 042-044, June 11, 2012.

Prior to January 1, 2001, the tax credit cannot exceed 10 percent of $120,000 for each home or individual unit in a multiple dwelling unit building. Effective January 1, 2001, the tax credit cannot exceed 10 percent of $140,000 for each home or individual unit in a multiple dwelling unit building.

Effective for tax periods beginning on or after January 1, 2003, the taxpayer must receive a tax credit certificate from the economic development authority to claim the eligible housing business tax credit. The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the date the project was completed, the amount of the eligible housing business tax credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 501.15(2). The tax credit certificate must be included with the income tax return for the tax period in which the home is ready for occupancy. The administrative rules for the eligible housing business tax credit for the economic development authority may be found under 261—Chapter 59.

501.15(2) *Transfer of the eligible housing business tax credit.* For tax periods beginning on or after January 1, 2003, the eligible housing business tax credit certificates may be transferred to any person or entity if low-income housing tax credits authorized under Section 42 of the Internal Revenue Code are used to assist in the financing of the housing development. In addition, the eligible housing business tax credit certificates may be transferred to any person or entity for projects beginning on or after July 1, 2005, if the housing development is located in a brownfield site as defined in Iowa Code section 15.291, or if the housing development is located in a blighted area as defined in Iowa Code section 403.17. No more than $3 million of tax credits for housing developments located in brownfield sites or blighted areas may be transferred in a calendar year, with no more than $1.5 million being transferred for any one eligible housing business in a calendar year.

The excess of the $3 million limitation of tax credits eligible for transfer in the 2013 and 2014 calendar years for housing developments located in brownfield sites or blighted areas cannot be claimed by a transferee prior to January 1, 2016. The eligible housing business must have notified the economic development authority in writing before July 1, 2014, of the business's intent to transfer any tax credits for housing developments located in brownfield sites or blighted areas. If a tax credit certificate is issued by the economic development authority for a housing development approved prior to July 1, 2014, that is located in a brownfield site or blighted area, the tax credit can still be claimed by the eligible business, but the tax credit cannot be transferred by the eligible business if the economic development authority was not notified prior to July 1, 2014.

EXAMPLE 1: A housing development located in a brownfield site was completed in December 2013 and was issued a tax credit certificate totaling $250,000. The $3 million calendar cap for transferred tax credits for brownfield sites and blighted areas has already been reached for the 2013 and 2014 tax years. The $250,000 tax credit is going to be transferred to ABC Company, and the economic development authority was notified of the transfer prior to July 1, 2014. Once a replacement tax credit certificate has been issued, ABC Company cannot file an amended Iowa corporation income tax return for the 2013 tax year until January 1, 2016, to claim the $250,000 tax credit.

EXAMPLE 2: A housing development located in a blighted area was completed in May 2014 and was issued a tax credit certificate totaling $150,000. The $3 million calendar cap for transferred tax credits for brownfield sites and blighted areas has already been reached for the 2014 tax year. The $150,000 tax credit is going to be transferred to XYZ Company, and the economic development authority was notified of the transfer prior to July 1, 2014. Once a replacement tax credit certificate has been issued, XYZ Company cannot file an amended Iowa corporation income tax return for the 2014 tax year until January 1, 2016, to claim the $150,000 tax credit.

Within 90 days of transfer of the tax credit certificate for transfers prior to July 1, 2006, the transferee must submit the transferred tax credit certificate to the economic development authority, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. For transfers on or after July 1, 2006, the transferee must submit the transferred tax credit certificate to the department of revenue. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee for transfers prior to July 1, 2006, the economic development authority will issue a replacement tax credit certificate to the transferee. For transfers on or after July 1, 2006, the department of revenue will

issue the replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company or S corporation, the transferee shall provide a list of the partners, members or shareholders and information on how the housing business tax credit should be divided among the partners, members or shareholders. The transferee shall also provide the tax identification numbers and addresses of the partners, members or shareholders. The replacement tax credit certificate must contain the same information that was on the original certificate and must have the same expiration date as the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax period for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

This rule is intended to implement 2014 Iowa Code section 15E.193B.

[**ARC 1744C**, IAB 11/26/14, effective 12/31/14; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.16(422) Franchise tax credit. A shareholder in a financial institution as defined in Section 581 of the Internal Revenue Code that has elected to have its income taxed directly to the shareholders may take a tax credit equal to the shareholder's pro rata share of the Iowa franchise tax paid by the financial institution.

501.16(1) *Credit calculation.*

a. The credit must be calculated by recomputing the amount of tax calculated under Iowa Code section 422.33 by reducing the shareholder's taxable income by the shareholder's pro rata share of the items of income and expenses of the financial institution and deducting from the recomputed tax the credits allowed by Iowa Code section 422.33. The recalculated tax must be subtracted from the amount of tax calculated under Iowa Code section 422.33 reduced by the credits allowed in Iowa Code section 422.33.

b. The resulting amount, not to exceed the shareholder's pro rata share of the franchise tax paid by the financial institution, is the amount of tax credit allowed the shareholder.

501.16(2) *Credit calculation for combined return filers.*

a. Where the financial institution has elected to file a combined return with one or more investment subsidiaries pursuant to rule 701—602.33(422), the franchise tax paid by the financial institution for purposes of calculating this credit is a portion of the tax paid by the combined group equal to the portion of the combined group's total taxable income attributable to the financial institution. The portion attributable to the financial institution is determined using the formula provided in 701—subrule 304.16(3).

b. This credit is not available to shareholders or members of investment subsidiaries included on a combined return under rule 701—602.33(422) for that portion of the tax shown due on the return attributable to the investment subsidiary.

This rule is intended to implement Iowa Code section 422.33.

[Editorial change: IAC Supplement 11/2/22; **ARC 0028D**, IAB 1/21/26, effective 2/25/26]

701—501.17(422) Assistive device tax credit. Effective for tax years beginning on or after January 1, 2000, a taxpayer who is a small business that purchases, rents, or modifies an assistive device or makes workplace modifications for an individual with a disability who is employed or will be employed by the taxpayer may qualify for an assistive device tax credit, subject to the availability of the credit. The assistive device credit is equal to 50 percent of the first $5,000 paid during the tax year by the small business for the purchase, rental, or modification of an assistive device or for making workplace modifications. Any credit in excess of the tax liability may be refunded or applied to the taxpayer's tax liability for the following tax year. If the taxpayer elects to take the assistive device tax credit, the taxpayer is not to deduct for Iowa income tax purposes any amount of the cost of the assistive device or workplace modification that is deductible for federal income tax purposes. A small

business will not be eligible for the assistive device credit if the device is provided for an owner of the small business unless the owner is a bona fide employee of the small business.

501.17(1) *Submitting applications for the credit.* A small business wanting to receive the assistive device tax credit must submit an application for the credit to the Iowa department of economic development and provide other information and documents requested by the Iowa department of economic development. If the taxpayer meets the criteria for qualification for the credit, the Iowa department of economic development will issue the taxpayer a certificate of entitlement for the credit. However, the aggregate amount of assistive device tax credits that may be granted by the Iowa department of economic development to all small businesses during a fiscal year cannot exceed $500,000. The certificate for entitlement of the assistive device credit is to include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the estimated amount of the tax credit, the date on which the taxpayer's application was approved and the date when it is anticipated that the assistive device project will be completed and a space on the application where the taxpayer is to enter the date that the assistive device project was completed. The certificate for entitlement will not be considered to be valid for purposes of claiming the assistive device credit on the taxpayer's Iowa income tax return until the taxpayer has completed the assistive device project and has entered the completion date on the certificate of entitlement form. The tax year of the small business in which the assistive device project is completed is the tax year for which the assistive device credit may be claimed. For example, in a case where taxpayer A received a certificate of entitlement for an assistive device credit on September 15, 2000, and completed the assistive device workplace modification project on January 15, 2001, taxpayer A could claim the assistive device credit on taxpayer A's 2001 Iowa return assuming that taxpayer A is filing returns on a calendar-year basis.

The department of revenue will not allow the assistive device credit on a taxpayer's return if the certificate of entitlement or a legible copy of the certificate is not included with the taxpayer's income tax return. If the taxpayer has been granted a certificate of entitlement and the taxpayer is an S corporation, where the income of the taxpayer is taxed to the individual owner(s) of the business entity, the taxpayer must provide a copy of the certificate to each of the shareholders with a statement showing how the credit is to be allocated among the individual owners of the S corporation. An individual owner is to include a copy of the certificate of entitlement and the statement of allocation of the assistive device credit with the individual's state income tax return.

501.17(2) *Definitions.* The following definitions are applicable to this subrule:

"Assistive device" means any item, piece of equipment, or product system which is used to increase, maintain, or improve the functional capabilities of an individual with a disability in the workplace or on the job. "Assistive device" does not mean any medical device, surgical device, or organ implanted or transplanted into or attached directly to an individual. "Assistive device" does not include any device for which a certificate of title is issued by the state department of transportation, but does include any item, piece of equipment, or product system otherwise meeting the definition of "assistive device" that is incorporated, attached, or included as a modification in or to such a device issued a certificate of title.

"Business entity" means partnership, limited liability company, S corporation, estate or trust, where the income of the business is taxed to the individual owners of the business, whether the individual owner is a partner, member, shareholder, or beneficiary.

"Disability" means the same as defined in Iowa Code section 15.102. Therefore, "disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of the individual, a record of physical or mental impairment that substantially limits one or more of the major life activities of the individual, or being regarded as an individual with a physical or mental impairment that substantially limits one or more of the major life activities of the individual. "Disability" does not include any of the following:

1. Homosexuality or bisexuality;
2. Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders, or other sexual behavior disorders;

3. Compulsive gambling, kleptomania, or pyromania;
4. Psychoactive substance abuse disorders resulting from current illegal use of drugs;
5. Alcoholism.

"Employee" means an individual who is employed by the small business who meets the criteria in Treasury Regulation § 31.3401(c)-1(b), which is the definition of an employee for federal income tax withholding purposes. An individual who receives self-employment income from the small business is not to be considered to be an employee of the small business for purposes of this rule.

"Small business" means that the business either had gross receipts in the tax year before the current tax year of $3 million or less or employed not more than 14 full-time employees during the tax year prior to the current tax year.

"Workplace modifications" means physical alterations to the office, factory, or other work environment where the disabled employee is working or is to work.

501.17(3) *Allocation of credit to owners of a business entity.* If the taxpayer that was entitled to an assistive device credit is a business entity, the business entity is to allocate the allowable credit to each of the individual owners of the entity on the basis of each owner's pro rata share of the earnings of the entity to the total earnings of the entity. Therefore, if an S corporation has an assistive device credit for a tax year of $2,500 and one shareholder of the S corporation receives 25 percent of the earnings of the corporation, that shareholder would receive an assistive device credit for the tax year of $625 or 25 percent of the total assistive device credit of the S corporation.

This rule is intended to implement Iowa Code section 422.33.

[**ARC 1744C**, IAB 11/26/14, effective 12/31/14; Editorial change: IAC Supplement 11/2/22]

701—501.18(404A,422) Historic preservation and cultural and entertainment district tax credit for projects with Part 2 applications approved and tax credits reserved prior to July 1, 2014. A historic preservation and cultural and entertainment district tax credit, subject to the availability of the credit, may be claimed against a taxpayer's Iowa corporate income tax liability for 25 percent of the qualified costs of rehabilitation of property to the extent the costs were incurred on or after July 1, 2000, for the approved rehabilitation projects of eligible property in Iowa.

The general assembly has mandated that the department of cultural affairs and the department of revenue adopt rules to jointly administer Iowa Code chapter 404A. 2014 Iowa Acts, House File 2453, amended the historic preservation and cultural and entertainment district tax credit program effective July 1, 2014. The department of revenue's provisions for projects with tax credits reserved prior to July 1, 2014, are found in this rule. The department of revenue's provisions for projects with agreements entered into on or after July 1, 2014, are found in rule 701—501.47(404A,422). The department of cultural affairs' rules related to this program may be found at 223—Chapter 48. Division I of 223—Chapter 48 applies to projects with reservations approved prior to July 1, 2014. Division II of 223—Chapter 48 applies to projects with agreements entered into on or after July 1, 2014.

Notwithstanding anything contained herein to the contrary, the department of cultural affairs shall not reserve tax credits under 2013 Iowa Code chapter 404A as amended by 2013 Iowa Acts, chapter 112, section 1, for applicants that do not have an approved Part 2 application and a tax credit reservation on or before June 30, 2014. Projects with approved Part 2 applications and provisional tax credit reservations on or before June 30, 2014, shall be governed by 2013 Iowa Code chapter 404A as amended by 2013 Iowa Acts, chapter 112, section 1; by 223—Chapter 48, Division I; and by rule 701—501.18(404A,422). Projects for which Part 2 applications were approved and agreements entered into after June 30, 2014, shall be governed by 2014 Iowa Acts, House File 2453; by 223—Chapter 48, Division II; and by rule 701—501.47(404A,422).

501.18(1) *Eligible property for the historic preservation and cultural and entertainment district tax credit.* The following types of property are eligible for the historic preservation and cultural and entertainment district tax credit:

a. Property verified as listed on the National Register of Historic Places or eligible for such listing.

b. Property designated as of historic significance to a district listed in the National Register of Historic Places or eligible for such designation.

c. Property or district designated a local landmark by a city or county ordinance.

d. Any barn constructed prior to 1937.

501.18(2) *Application and review process for the historic preservation and cultural and entertainment district tax credit.*

a. Taxpayers who want to claim an income tax credit for completing a historic preservation and cultural and entertainment district project must submit an application for approval of the project. The application forms for the historic preservation and cultural and entertainment district tax credit may be requested from the State Tax Credit Program Manager, State Historic Preservation Office, Department of Cultural Affairs, 600 E. Locust, Des Moines, Iowa 50319-0290. The telephone number for this office is (515)281-4137. Applications for the credit will be accepted by the state historic preservation office on or after July 1, 2000, until such time as all the available credits allocated for each fiscal year are encumbered.

b. Applicants for the historic preservation and cultural and entertainment district tax credit must include all information and documentation requested on the application forms for the credit in order for the applications to be processed.

501.18(3) *Computation of the amount of the historic preservation and cultural and entertainment district tax credit.* The amount of the historic preservation and cultural and entertainment district tax credit is 25 percent of the qualified rehabilitation costs made to eligible property in a project. Qualified rehabilitation costs are those rehabilitation costs approved by the state historic preservation office for a project for a particular taxpayer to the extent those rehabilitation costs are actually expended by that taxpayer.

a. In the case of commercial property, qualified rehabilitation costs must equal at least $50,000 or 50 percent of the assessed value of the property, excluding the value of the land, prior to rehabilitation, whichever is less. In the case of property other than commercial property, the qualified rehabilitation costs must equal at least $25,000 or 25 percent of the assessed value, excluding the value of the land, prior to the rehabilitation, whichever amount is less.

b. In computing the tax credit, the only costs which may be included are the qualified rehabilitation costs incurred commencing from the date on which the first qualified rehabilitation cost is incurred and ending with the end of the taxable year in which the property is placed in service. The rehabilitation period may include dates that precede approval of a project, provided that any qualified rehabilitation costs incurred prior to the date of approval of the project must be qualified rehabilitation costs.

c. For purposes of the historic preservation and cultural and entertainment district tax credit, qualified rehabilitation costs include those costs properly included in the basis of the eligible property for income tax purposes. Costs treated as expenses and deducted in the year paid or incurred and amounts that are otherwise not added to the basis of the property for income tax purposes are not qualified rehabilitation costs. Amounts incurred for architectural and engineering fees, site survey fees, legal expenses, insurance premiums, development fees, and other construction-related costs are qualified rehabilitation costs to the extent they are added to the basis of the eligible property for tax purposes. Costs of sidewalks, parking lots, and landscaping do not constitute qualified rehabilitation costs. Any rehabilitation costs used in the computation of the historic preservation and cultural and entertainment district tax credit are not added to the basis of the property for Iowa income tax purposes if the rehabilitation costs were incurred in a tax year beginning on or after January 1, 2000, but prior to January 1, 2001. Any rehabilitation costs incurred in a tax year beginning on or after January 1, 2001, are added to the basis of the rehabilitated property for income tax purposes except those rehabilitation costs that are equal to the amount of the computed historic preservation and cultural and entertainment district tax credit for the tax year.

EXAMPLE: The basis of a commercial building in a historic district was $500,000, excluding the value of the land, before the rehabilitation project. During a project to rehabilitate this building, $600,000 in rehabilitation costs were expended to complete the project and $500,000 of those rehabilitation costs were qualified rehabilitation costs which were eligible for the historic preservation and cultural and entertainment district tax credit of $125,000. Therefore, the basis of the building for Iowa income tax purposes was $975,000, since the qualified rehabilitation costs of $125,000, which are equal to the amount of the historic preservation and cultural and entertainment district tax credit for the tax year, are not added to the basis of the rehabilitated property. The basis of the building for federal income tax purposes was $1,100,000. It should be noted that this example does not consider any possible reduced basis for the building for federal income tax purposes due to the rehabilitation investment credit provided in Section 47 of the Internal Revenue Code.

501.18(4) *Completion of the historic preservation and cultural and entertainment district project and claiming the historic preservation and cultural and entertainment district tax credit on the Iowa return.* After the taxpayer completes an authorized rehabilitation project, the taxpayer must get a certificate of completion of the project from the state historic preservation office of the department of cultural affairs. After verifying the taxpayer's eligibility for the historic preservation and cultural and entertainment district tax credit, the state historic preservation office shall issue a historic preservation and cultural and entertainment district tax credit certificate, which shall be included with the taxpayer's income tax return for the tax year in which the rehabilitation project is completed or the year the credit was reserved, whichever is later. For example, if a project was completed in 2008 and the credit was reserved for the state fiscal year ending June 30, 2010, the credit can be claimed on the 2009 calendar year return that is due on April 30, 2010. The tax credit certificate is to include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the address or location of the rehabilitation project, the date the project was completed, the year the tax credit was reserved, and the amount of the historic preservation and cultural and entertainment district tax credit. In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, and any consideration received in exchange for the tax credit, as provided in subrule 501.18(6). In addition, if the taxpayer is a partnership, limited liability company, estate or trust, where the tax credit is allocated to the owners or beneficiaries of the entity, a list of the owners or beneficiaries and the amount of credit allocated to each owner or beneficiary should be provided with the certificate. The tax credit certificate should be included with the income tax return for the period in which the project was completed.

For tax years ending on or after July 1, 2007, any historic preservation and cultural and entertainment district tax credit in excess of the taxpayer's tax liability is fully refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

501.18(5) *Allocation of historic preservation and cultural and entertainment district tax credits to individual owners of the entity for tax credits reserved for fiscal years beginning on or after July 1, 2012.* For tax credits reserved for fiscal years beginning on or after July 1, 2012, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. The credit does not have to be allocated based on the pro rata share of earnings of the partnership, limited liability company or S corporation.

501.18(6) *Transfer of the historic preservation and cultural and entertainment district tax credit.* For tax periods beginning on or after January 1, 2003, the historic preservation and cultural and entertainment district tax credit certificates may be transferred to any person or entity. A tax credit certificate of less than $1,000 shall not be transferable.

a. For transfers on or after July 1, 2006, the department of revenue will issue the replacement tax credit certificate to the transferee. Within 90 days of the transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number and address, the denomination that each replacement tax credit certificate is to carry, the amount of all consideration provided in

exchange for the tax credit and the names of recipients of any consideration provided in exchange for the tax credit. If a payment of money was any part of the consideration provided in exchange for the tax credit, the transferee shall list the amount of the payment of money in its statement to the department of revenue. If any part of the consideration provided in exchange for the tax credit included nonmonetary consideration, including but not limited to any promise, representation, performance, discharge of debt or nonmonetary rights or property, the tax credit transferee shall describe the nature of nonmonetary consideration and disclose any value the transferor and transferee assigned to the nonmonetary consideration. The tax credit transferee must indicate on its statement to the department of revenue if no consideration was provided in exchange for the tax credit. If the transferee is a partnership, limited liability company or S corporation, the transferee shall provide a list of the partners, members or shareholders and information on how the historic preservation and cultural and entertainment district tax credit should be divided among the partners, members or shareholders. The transferee shall also provide the tax identification numbers and addresses of the partners, members or shareholders. The replacement tax credit certificate must contain the same information that was on the original certificate and must have the same expiration date as the original tax credit certificate.

b. The transferee may use the amount of the tax credit for any tax period for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

c. If the historic preservation and cultural and entertainment district tax credit of the transferee exceeds the tax liability shown on the transferee's return, the tax credit shall be fully refundable.

This rule is intended to implement Iowa Code chapter 404A as amended by 2013 Iowa Acts, Senate File 436, and Iowa Code section 422.33.

[**ARC 7761B**, IAB 5/6/09, effective 6/10/09; **ARC 8589B**, IAB 3/10/10, effective 4/14/10; **ARC 9104B**, IAB 9/22/10, effective 10/27/10; **ARC 9876B**, IAB 11/30/11, effective 1/4/12; **ARC 0398C**, IAB 10/17/12, effective 11/21/12; **ARC 1138C**, IAB 10/30/13, effective 12/4/13; **ARC 1968C**, IAB 4/15/15, effective 5/20/15; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.19(422) Ethanol blended gasoline tax credit. Effective for tax years beginning on or after January 1, 2002, an ethanol blended gasoline tax credit may be claimed against a taxpayer's corporation income tax liability for retail dealers of gasoline. The taxpayer must operate at least one retail motor fuel site at which more than 60 percent of the total gallons of gasoline sold and dispensed through one or more motor fuel pumps by the taxpayer in the tax year is ethanol blended gasoline. The tax credit shall be calculated separately for each retail motor fuel site operated by the taxpayer. The amount of the credit for each eligible retail motor fuel site is two and one-half cents multiplied by the total number of gallons of ethanol blended gasoline sold and dispensed through all motor fuel pumps located at that retail motor fuel site during the tax year in excess of 60 percent of all gasoline sold and dispensed through motor fuel pumps at that retail motor fuel site during the tax year.

For fiscal years ending in 2002, the tax credit is available for each eligible retail motor fuel site based on the total number of gallons of ethanol blended gasoline sold and dispensed through all motor fuel pumps located at the taxpayer's retail motor fuel site from January 1, 2002, until the end of the taxpayer's fiscal year. Assuming a tax period that began on July 1, 2001, and ended on June 30, 2002, the taxpayer would be eligible for the tax credit based on the gallons of ethanol blended gasoline sold from January 1, 2002, through June 30, 2002. For taxpayers having a fiscal year ending in 2002, a claim for refund to claim the ethanol blended gasoline tax credit must be filed before October 1, 2003, even though the statute of limitations for refund set forth in 701—subrule 504.3(5) has not yet expired.

EXAMPLE: A taxpayer sold 100,000 gallons of gasoline at the taxpayer's retail motor fuel site during the tax year, 70,000 gallons of which was ethanol blended gasoline. The taxpayer is eligible for the credit since more than 60 percent of the total gallons sold was ethanol blended gasoline. The number

of gallons in excess of 60 percent of all gasoline sold is 70,000 less 60,000, or 10,000 gallons. Two and one-half cents multiplied by 10,000 equals a $250 credit available.

The credit may be calculated on Form IA 6478. The credit must be calculated separately for each retail motor fuel site operated by the taxpayer. Therefore, if the taxpayer operates more than one retail motor fuel site, it is possible that one retail motor fuel site may be eligible for the credit while another retail motor fuel site may not. The credit can be taken only for those retail motor fuel sites for which more than 60 percent of gasoline sales involve ethanol blended gasoline.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

Starting with the 2006 calendar tax year, a taxpayer may claim the ethanol blended gasoline tax credit even if the taxpayer also claims the E-85 gasoline promotion tax credit provided in rule 701—501.30(422) for the same tax year for the same ethanol gallons.

EXAMPLE: A taxpayer sold 200,000 gallons of gasoline at a retail motor fuel site in 2006, of which 160,000 gallons was ethanol blended gasoline. Of these 160,000 gallons, 1,000 gallons was E-85 gasoline. Taxpayer is entitled to claim the ethanol blended gasoline tax credit of two and one-half cents multiplied by 40,000 gallons, since this constitutes the gallons in excess of 60 percent of the total gasoline gallons sold. Taxpayer may also claim the E-85 gasoline promotion tax credit on the 1,000 gallons of E-85 gasoline sold.

501.19(1) *Definitions.* The following definitions are applicable to this rule:

"Ethanol blended gasoline" means the same as defined in Iowa Code section 214A.1 as amended by 2006 Iowa Acts, House File 2754, section 3.

"Gasoline" means any liquid product prepared, advertised, offered for sale or sold for use as, or commonly and commercially used as, motor fuel for use in a spark-ignition, internal combustion engine, and which meets the specifications provided in Iowa Code section 214A.2.

"Motor fuel pump" means a pump, meter, or similar commercial weighing and measuring device used to measure and dispense motor fuel for sale on a retail basis.

"Retail dealer" means a person engaged in the business of storing and dispensing motor fuel from a motor fuel pump for sale on a retail basis, regardless of whether the motor fuel pump is located at a retail motor fuel site including a permanent or mobile location.

"Retail motor fuel site" means a geographic location in this state where a retail dealer sells and dispenses motor fuel on a retail basis. For example, tank wagons are considered retail motor fuel sites.

"Sell" means to sell on a retail basis.

501.19(2) *Allocation of credit to owners of a business entity.* If the taxpayer that was entitled to the ethanol blended gasoline tax credit is a partnership, limited liability company, S corporation, estate, or trust, the business entity shall allocate the allowable credit to each of the individual owners of the entity on the basis of each owner's pro rata share of the earnings of the entity to the total earnings of the entity. Therefore, if a partnership has an ethanol blended gasoline tax credit of $3,000 and one partner of the partnership receives 25 percent of the earnings of the partnership, that partner would receive an ethanol blended gasoline tax credit for the tax year of $750 or 25 percent of the total ethanol blended gasoline tax credit of the partnership.

501.19(3) *Repeal of ethanol blended gasoline tax credit.* The ethanol blended gasoline tax credit is repealed on January 1, 2009. However, the tax credit is available for taxpayers whose fiscal year ends after December 31, 2008, for those ethanol gallons sold beginning on the first day of the taxpayer's fiscal year until December 31, 2008. The ethanol promotion tax credit described in rule 701—501.36(422) is available beginning January 1, 2009, for retail dealers of gasoline.

EXAMPLE: A taxpayer who is a retail dealer of gasoline has a fiscal year end of April 30, 2009. The taxpayer sold 150,000 gallons of gasoline from May 1, 2008, through December 31, 2008, at the taxpayer's retail motor fuel site, of which 110,000 gallons was ethanol blended gasoline. The number of gallons in excess of 60 percent of all gasoline sold is 110,000 less 90,000, or 20,000 gallons. The taxpayer may claim the ethanol blended gasoline tax credit for the fiscal year ending April 30, 2009, in the amount of $500, or 20,000 gallons times two and one-half cents.

This rule is intended to implement Iowa Code section 422.33 as amended by 2006 Iowa Acts, House File 2754.

[Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.20(15E) Eligible development business investment tax credit. Effective for tax years beginning on or after January 1, 2001, a business which qualifies as an eligible development business may receive a tax credit of up to 10 percent of the new investment which is directly related to the construction, expansion or rehabilitation of building space to be used for manufacturing, processing, cold storage, distribution, or office facilities.

An eligible development business must be approved by the Iowa department of economic development prior to March 17, 2004, and meet the qualifications of Iowa Code section 15E.193C. Effective March 17, 2004, the eligible development business program is repealed.

New investment includes the purchase price of land and the cost of improvements made to real property. The tax credit may be claimed by an eligible development business in the tax year in which the construction, expansion or rehabilitation is completed.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until used, whichever is the earlier.

If the business is a partnership, S corporation, limited liability company, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

If the eligible development business fails to meet and maintain any one of the requirements to be an eligible business, the business shall be subject to repayment of all or a portion of the amount of tax incentives received. For example, if within five years of project completion the development business sells or leases any space to any retail business, the development business shall proportionally repay the value of the investment credit. The proportion of the investment credit that would be due for repayment by an eligible development business for selling or leasing space to a retail business would be determined by dividing the square footage of building space occupied by the retail business by the square footage of the total building space.

An eligible business, which is not a development business, which operates in an enterprise zone cannot claim an investment tax credit if the property is owned, or was previously owned, by an approved development business that has already received an investment tax credit. An eligible business, which is not a development business, can claim an investment tax credit only on additional, new improvements made to real property that was not included in the development business's approved application for the investment tax credit.

This rule is intended to implement Iowa Code section 15E.193C.

[Editorial change: IAC Supplement 11/2/22]

701—501.21(15E,422) Venture capital credits.

501.21(1) *Investment tax credit for an equity investment in a community-based seed capital fund or qualifying business.*

a. Equity investments in a qualifying business or community-based seed capital fund before January 1, 2011. See rule 123—2.1(15E) for the discussion of the investment tax credit for an equity investment in a community-based seed capital fund or an equity investment made on or after January 1, 2004, in a qualifying business, along with the issuance of tax credit certificates by the Iowa capital investment board, for equity investments made before January 1, 2011.

b. Equity investments in a qualifying business or community-based seed capital fund on or after January 1, 2011, and before July 2, 2015. For equity investments made on or after January 1, 2011, see 261—Chapter 115 for information regarding eligibility for qualifying businesses and community-based seed capital funds, applications for the investment tax credit for equity investments in a qualifying business or community-based seed capital fund, and the issuance of tax credit certificates by the economic development authority.

(1) Certificate issuance. The department of revenue will be notified by the economic development authority when the tax credit certificates are issued.

(2) Amount of the tax credit. The credit is equal to 20 percent of the taxpayer's equity investment in a qualifying business or community-based seed capital fund.

(3) Year in which the tax credit may be claimed. An investment shall be deemed to have been made on the same date as the date of acquisition of the equity interest as determined by the Internal Revenue Code. For investments made prior to January 1, 2014, a taxpayer shall not claim the tax credit prior to the third tax year following the tax year in which the investment is made. For investments made in qualifying businesses on or after January 1, 2014, the credit can be claimed in the year of the investment, but these investments cannot be redeemed prior to January 1, 2016. For example, if a corporation taxpayer whose tax year ends on December 31, 2012, makes an equity investment during the 2012 calendar year, the corporation taxpayer cannot claim the tax credit until the tax year ending December 31, 2015. For fiscal years beginning July 1, 2011, the amount of tax credits authorized cannot exceed $2 million. The tax credit certificate must be included with the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate.

(4) Carried over tax credits. If a tax credit is carried over and issued for the tax year immediately following the year in which the investment was made because the $2 million cap has been reached, the tax credit may be claimed by the taxpayer for the third tax year following the tax year for which the credit is issued. For example, if a corporation taxpayer whose tax year ends on December 31, 2012, makes an equity investment in December 2012 and the $2 million cap for the fiscal year ending June 30, 2013, had already been reached, the tax credit will be issued for the tax year ending December 31, 2013, and cannot be redeemed until the tax year ending December 31, 2016.

(5) Limitations. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier. The tax credit cannot be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit. The tax credit is not transferable to any other taxpayer.

(6) Pro rata tax credit claims for certain business entities. For equity investments made in a community-based seed capital fund and equity investments made on or after January 1, 2004, in a qualifying business, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

c. Equity investments in a qualifying business on or after July 2, 2015. For equity investments made on or after July 2, 2015, see 261—Chapter 115 for information regarding eligibility for qualifying businesses, applications for the investment tax credit for equity investments in a qualifying business, and the issuance of tax credit certificates by the economic development authority.

(1) Certificate issuance. The department of revenue will be notified by the economic development authority when the tax credit certificates are issued.

(2) Amount of the tax credit. For fiscal years beginning July 1, 2011, the amount of the tax credits authorized cannot exceed $2 million. The credit is equal to 25 percent of the taxpayer's equity investment in a qualifying business. In any one calendar year, the amount of tax credits issued for any one qualifying business shall not exceed $500,000. For purposes of this paragraph, a tax credit issued to a partnership, limited liability company, S corporation, estate or trust electing to have income taxed directly to the individual shall be deemed to be issued to the individual owners based upon a pro rata share of the individual's earnings from the entity.

(3) Year in which the credit may be claimed. A taxpayer shall not claim a tax credit prior to September 1, 2016. The tax credit certificate must be included with the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate. For the purposes of

this paragraph, an investment shall be deemed to have been made on the same date as the date of acquisition of the equity interest as determined by the Internal Revenue Code.

(4) Pro rata tax credit claims for certain business entities. An individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust. Any credits claimed by an individual are subject to the limitations provided in 701—paragraph 304.22(1)*"c."*

(5) Carryforward period. For a tax credit claimed against the taxes imposed in Iowa Code chapter 422, division III, any tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following three years or until depleted, whichever is earlier.

(6) Refunds, transfers, and carryback prohibited. The tax credit cannot be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit. The tax credit is not refundable and is not transferable to any other taxpayer.

501.21(2) *Investment tax credit for an equity investment in a venture capital fund.* See rule 123—3.1(15E) for the discussion of the investment tax credit for an equity investment in a venture capital fund, along with the issuance of tax credit certificates by the Iowa capital investment board. This credit is repealed for investments in venture capital funds made after July 1, 2010.

The department of revenue will be notified by the Iowa capital investment board when the tax credit certificates are issued. The tax credit certificate must be attached to the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier.

For equity investments made in a venture capital fund, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

501.21(3) *Contingent tax credit for investments in Iowa fund of funds.* See rule 123—4.1(15E) for the discussion of the contingent tax credit available for investments made in the Iowa fund of funds organized by the Iowa capital investment corporation. Tax credit certificates related to the contingent tax credits will be issued by the Iowa capital investment board.

The department of revenue will be notified by the Iowa capital investment board when these tax credit certificates are issued and, if applicable, when they are redeemed. If the tax credit certificate is redeemed, the certificate must be attached to the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate.

If the tax credit certificate is redeemed, any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until used, whichever is the earlier.

If the tax credit certificate is redeemed, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

501.21(4) *Innovation fund investment tax credit.* See 261—Chapter 116 for information regarding eligibility for an innovation fund, applications for the investment tax credit for investments in an innovation fund, and the issuance of tax credit certificates by the economic development authority.

The department of revenue will be notified by the economic development authority when the tax credit certificates are issued. The credit is equal to 20 percent of the taxpayer's equity investment in the form of cash in an innovation fund for tax years beginning and investments made on or after January 1, 2011, and before January 1, 2013. For tax years beginning and investments made on or

after January 1, 2013, the taxpayer may claim a tax credit equal to 25 percent of the taxpayer's equity investment in the form of cash in an innovation fund. An investment shall be deemed to have been made on the same date as the date of acquisition of the equity interest as determined by the Internal Revenue Code. A taxpayer shall claim the tax credit for the tax year in which the investment is made. For fiscal years beginning July 1, 2011, the amount of tax credits authorized cannot exceed $8 million. No tax credit certificates will be issued prior to September 1, 2014. The tax credit certificate must be attached to the taxpayer's return for the tax year in which the investment was made as stated on the tax credit certificate.

If a tax credit is carried over and issued for the tax year immediately following the year in which the investment was made because the $8 million cap has been reached, the tax credit may be claimed by the taxpayer for the tax year following the tax year for which the credit is issued. For example, if a corporation taxpayer whose tax year ending on December 31, 2013, makes an equity investment in December 2013 and the $8 million cap for the fiscal year ending June 30, 2014, had already been reached, the tax credit will be issued for the tax year ending December 31, 2014, and can be redeemed for the tax year ending December 31, 2014.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is the earlier. The tax credit cannot be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit.

The innovation fund tax credit certificate may be transferred once to any person or entity.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the innovation fund tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year and the same expiration date as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

For equity investments made in an innovation fund, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

This rule is intended to implement Iowa Code sections 15E.42, 15E.52, 15E.66 and 422.33 and section 15E.43 as amended by 2015 Iowa Acts, chapter 138.

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701—501.22(15) New capital investment program tax credits. Effective for tax periods beginning on or after January 1, 2003, a business which qualifies under the new capital investment program is

eligible to receive tax credits. An eligible business under the new capital investment program must be approved by the Iowa department of economic development and meet the qualifications of 2003 Iowa Acts, chapter 125, section 4. The new capital investment program was repealed on July 1, 2005, and has been replaced with the high quality job creation program. See rule 701—501.28(15) for information on the tax credits available under the high quality job creation program. Any tax credits earned by businesses approved under the new capital investment program prior to July 1, 2005, remain valid, and can be claimed on tax returns filed after July 1, 2005.

501.22(1) *Research activities credit.* A business approved under the new capital investment program is eligible for an additional research activities credit as described in subrule 501.7(5). This credit for increasing research activities is in lieu of the research activities credit described in subrule 501.7(3).

501.22(2) *Investment tax credit.*

a. General rule. An eligible business can claim an investment tax credit equal to a percentage of the new investment directly related to new jobs created by the location or expansion of an eligible business. The percentage is equal to the amount provided in paragraph *"b."* New investment directly related to new jobs created by the location or expansion of an eligible business includes the following:

(1) The cost of machinery and equipment, as defined in Iowa Code section 427A.1(1), paragraphs *"e"* and *"j,"* purchased for use in the operation of the eligible business. The purchase price shall be depreciated in accordance with generally accepted accounting principles.

(2) The purchase price of real property and any buildings and structures located on the real property.

(3) The cost of improvements made to real property which is used in the operation of the eligible business.

For eligible businesses approved by the Iowa department of economic development on or after March 17, 2004, certain lease payments made by eligible businesses to a third-party developer will be considered to be new investment for purposes of computing the investment tax credit. The eligible business shall enter into a lease agreement with the third-party developer for a minimum of five years. The investment tax credit is based on the annual base rent paid to a third-party developer by the eligible business for a period not to exceed ten years. The total costs of the annual base rent payments for the ten-year period cannot exceed the cost of the land and the third-party developer's cost to build or renovate the building used by the eligible business. The annual base rent is defined as the total lease payment less taxes, insurance and operating and maintenance expenses.

Any credit in excess of the tax liability for the tax period may be carried forward seven years or until used, whichever is the earlier.

If the business is a partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to an individual, an individual may claim the credit. The amount of the credit claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 and filing as a partnership for federal tax purposes, or estate or trust.

b. Tax credit percentage. The amount of tax credit claimed shall be based on the number of high-quality jobs created as determined by the Iowa department of economic development:

(1) If no high-quality jobs are created but economic activity within Iowa is advanced, the eligible business may claim a tax credit of up to 1 percent of the new investment.

(2) If 1 to 5 high-quality jobs are created, the eligible business may claim a tax credit of up to 2 percent of the new investment.

(3) If 6 to 10 high-quality jobs are created, the eligible business may claim a tax credit of up to 3 percent of the new investment.

(4) If 11 to 15 high-quality jobs are created, the eligible business may claim a tax credit of up to 4 percent of the new investment.

(5) If 16 or more high-quality jobs are created, the eligible business may claim a tax credit of up to 5 percent of the new investment.

c. Investment tax credit—value-added agricultural products or biotechnology-related processes. An eligible business whose project primarily involves the production of value-added agricultural products or uses biotechnology-related processes may elect to receive a refund for all or a portion of an unused investment tax credit. An eligible business includes a cooperative described in Section 521 of the Internal Revenue Code whose project primarily involves the production of ethanol.

Eligible businesses that elect to receive a refund shall apply to the Iowa department of economic development for tax credit certificates between May 1 and May 15 of each fiscal year through the fiscal year ending June 30, 2009. The election to receive a refund of all or a portion of an unused investment tax credit is no longer available beginning with the fiscal year ending June 30, 2010. Only those businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate. The Iowa department of economic development shall not issue tax credit certificates for more than $4 million during a fiscal year to eligible businesses for this program and eligible businesses described in subrule 501.10(4). If applications are received for more than $4 million, the applicants shall receive certificates for a prorated amount.

The economic development authority shall issue tax credit certificates within a reasonable period of time. Tax credit certificates are valid for the tax year following project completion. The tax credit certificate must be included with the tax return for the tax year during which the tax credit is claimed. The tax credit certificate shall not be transferred, except for a cooperative described in Section 521 of the Internal Revenue Code whose project primarily involves the production of ethanol, as provided in subrule 501.10(4). For value-added agricultural projects involving ethanol, the cooperative must submit a list of its members and the share of each member's interest in the cooperative. The economic development authority shall issue a tax credit certificate to each member on the list.

d. Repayment of benefits. If an eligible business fails to maintain the requirements of the new capital investment program, the taxpayer may be required to repay all or a portion of the tax incentives taken on Iowa returns. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the tax credits may have expired, the department may proceed to collect the tax incentives forfeited by failure of the taxpayer to maintain the requirements of the new capital investment program. This is because it is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability. Details on the calculation of the repayment can be found in 261—subrule 187.5(4) of the administrative rules of the economic development authority. If the business is a partnership, limited liability company, S corporation, estate or trust where the income of the taxpayer is taxed to the individual owner(s) of the business, the department may proceed to collect the tax incentives against the partners, members, shareholders or beneficiaries to whom the tax incentives were passed through. See Decision of the Administrative Law Judge in *Damien & Colette Trebilcock, et al.,* Docket No. 11DORF 042-044, June 11, 2012.

An eligible business in the new capital investment program may also be required to repay all or a portion of the tax incentives received on Iowa returns if the eligible business experiences a layoff of employees in Iowa or closes any of its facilities in Iowa.

If, within five years of purchase, the eligible business sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other existing structures for which a tax credit was claimed under this subrule, the income tax liability of the eligible business shall be increased by one of the following amounts:

(1) One hundred percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within one full year after being placed in service.

(2) Eighty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within two full years after being placed in service.

(3) Sixty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within three full years after being placed in service.

(4) Forty percent of the tax credit claimed if the property ceases to be eligible for the tax credit within four full years after being placed in service.

(5) Twenty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within five full years after being placed in service.

501.22(3) *Corporate tax credit—certain sales taxes paid by developer.* For eligible businesses approved by the Iowa department of economic development on or after March 17, 2004, the eligible business may claim a corporate tax credit for certain sales taxes paid by a third-party developer.

a. Sales taxes eligible for the credit. The sales taxes paid by the third-party developer which are eligible for this credit include the following:

(1) Iowa sales and use tax for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered to, furnished to or performed for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility within the economic development area.

(2) Iowa sales and use tax paid for racks, shelving, and conveyor equipment to be used in a warehouse or distribution center within the economic development area.

Any Iowa sales and use tax paid relating to intangible property, furniture and other furnishings is not eligible for the corporate tax credit.

b. How to claim the credit. The third-party developer must provide to the Iowa department of economic development the amount of Iowa sales and use tax paid as described in paragraph *"a."* The amount of Iowa sales and use tax attributable to racks, shelving, and conveyor equipment must be identified separately.

The Iowa department of economic development will issue a tax credit certificate to the eligible business equal to the Iowa sales and use tax paid by the third-party developer for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered to, furnished to or performed for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility. In addition, the Iowa department of economic development will also issue a separate tax credit certificate to the eligible business equal to the Iowa sales and use tax paid by the third-party developer for racks, shelving, and conveyor equipment to be used in a warehouse or distribution center.

The tax credit certificate shall contain the name, address, and tax identification number of the eligible business, along with the amount of the tax credit and the year in which the tax credit can be claimed. The tax credit certificate must be attached to the taxpayer's income tax return for the tax year for which the tax credit is claimed. Any tax credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following seven years or until it is used, whichever is the earlier.

For the tax credit certificate relating to Iowa sales and use tax paid by the third-party developer for racks, shelving, and conveyor equipment, the aggregate amount of tax credit certificates and tax refunds for Iowa sales and use tax paid for racks, shelving, and conveyor equipment to eligible businesses under the new jobs and income program, enterprise zone program and new capital investment program cannot exceed $500,000 in a fiscal year. The requests for tax credit certificates or refunds will be processed in the order they are received on a first-come, first-served basis until the amount of credits authorized for issuance has been exhausted. If applications for tax credit certificates or refunds exceed the $500,000 limitation for any fiscal year, the applications shall be considered in succeeding fiscal years.

This rule is intended to implement Iowa Code sections 15.331C, 15.333 as amended by 2010 Iowa Acts, Senate File 2380, and 15.381 to 15.387.

[**ARC 9104B**, IAB 9/22/10, effective 10/27/10; **ARC 1744C**, IAB 11/26/14, effective 12/31/14; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.23(15E,422) Endow Iowa tax credit. Effective for tax years beginning on or after January 1, 2003, a taxpayer who makes an endowment gift to an endow Iowa qualified community foundation

may qualify for an endow Iowa tax credit, subject to the availability of the credit. For tax years beginning on or after January 1, 2003, but before January 1, 2010, the credit is equal to 20 percent of a taxpayer's endowment gift to an endow Iowa qualified community foundation approved by the Iowa department of economic development. For tax years beginning on or after January 1, 2010, the credit is equal to 25 percent of a taxpayer's endowment gift to an endow Iowa qualified community foundation approved by the Iowa department of economic development. For tax years beginning on or after January 1, 2010, a taxpayer cannot claim a deduction for charitable contributions under Section 170 of the Internal Revenue Code for the amount of the contribution for which the tax credit is claimed for Iowa tax purposes. The administrative rules for the endow Iowa tax credit for the Iowa department of economic development may be found under 261—Chapter 47.

The total amount of endow Iowa tax credits available is $2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is $2 million annually for the 2005-2007 calendar years, and $200,000 of these tax credits on an annual basis is reserved for endowment gifts of $30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed $100,000 for the 2003-2007 calendar years. The total amount of endow Iowa tax credits annually for the 2008 and 2009 calendar years is $2 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2010 is $2.7 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2011 is $3.5 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The maximum amount of tax credit granted to a single taxpayer shall not exceed 5 percent of the total endow Iowa tax credit amount authorized for 2008 and subsequent years. For calendar year 2012 and subsequent calendar years, the total amount of endow Iowa tax credits is $6 million; the maximum amount of tax credit authorized to a single taxpayer is $300,000 ($6 million multiplied by 5 percent). The endow Iowa tax credit cannot be transferred to any other taxpayer.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier.

If a taxpayer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code section 15E.305 as amended by 2013 Iowa Acts, House File 620, and Iowa Code section 422.33.

[**ARC 8589B**, IAB 3/10/10, effective 4/14/10; **ARC 9104B**, IAB 9/22/10, effective 10/27/10; **ARC 9876B**, IAB 11/30/11, effective 1/4/12; **ARC 0398C**, IAB 10/17/12, effective 11/21/12; **ARC 1138C**, IAB 10/30/13, effective 12/4/13; Editorial change: IAC Supplement 11/2/22]

701—501.24(422) Soy-based cutting tool oil tax credit. Effective for tax periods ending after June 30, 2005, and beginning before January 1, 2007, a manufacturer may claim a soy-based cutting tool oil tax credit. A manufacturer, as defined in Iowa Code section 428.20, may claim the credit equal to the costs incurred during the tax year for the purchase and replacement costs relating to the transition from using nonsoy-based cutting tool oil to using soy-based cutting tool oil.

All of the following conditions must be met to qualify for the tax credit.

1. The costs must be incurred after June 30, 2005, and before January 1, 2007.
2. The costs must be incurred in the first 12 months of the transition from using nonsoy-based cutting tool oil to using soy-based cutting tool oil.
3. The soy-based cutting tool oil must contain at least 51 percent soy-based products.
4. The costs of the purchase and replacement must not exceed $2 per gallon of soy-based cutting tool oil used in the transition.
5. The number of gallons used in the transition cannot exceed 2,000 gallons.

6. The manufacturer shall not deduct for Iowa income tax purposes the costs incurred in the transition to using soy-based cutting tool oil which are deductible for federal tax purposes.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

If a taxpayer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to an individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code section 422.33 as amended by 2005 Iowa Acts, Senate File 389.

[Editorial change: IAC Supplement 11/2/22]

701—501.25(15I,422) Wage-benefits tax credit. Effective for tax years ending on or after June 9, 2006, a wage-benefits tax credit equal to a percentage of the annual wages and benefits paid for a qualified new job created by the location or expansion of the business in Iowa is available for qualified businesses.

501.25(1) *Definitions.* The following definitions are applicable to this rule:

"Average county wage" means the annualized average hourly wage calculated by the Iowa department of economic development using the most current four quarters of wage and employment information as provided in the Quarterly Covered Wage and Employment Data report provided by the department of workforce development. Agricultural/mining and governmental employment categories are deleted in compiling the wage information.

"Benefits" means all of the following:

1. Medical and dental insurance plans.
2. Pension and profit-sharing plans.
3. Child care services.
4. Life insurance coverage.
5. Vision insurance plan.
6. Disability coverage.

"Department" means the Iowa department of revenue.

"Full-time" means the equivalent of employment of one person:

1. For 8 hours per day for a 5-day, 40-hour workweek for 52 weeks per year, including paid holidays, vacations, and other paid leave, or
2. The number of hours or days per week, including paid holidays, vacations, and other paid leave, currently established by schedule, custom or otherwise, as constituting a week of full-time work for the kind of service an individual performs for an employing unit.

"Grow Iowa values fund" means the grow Iowa values fund created in Iowa Code Supplement section 15G.108.

"Nonqualified new job" means any one of the following:

1. A job previously filled by the same employee in Iowa.
2. A job that was relocated from another location in Iowa.
3. A job that is created as a result of a consolidation, merger, or restructuring of a business entity if the job does not represent a new job in Iowa.

"Qualified new job" or *"job creation"* means a job that meets all of the following criteria:

1. Is a new full-time job that has not existed in the business within the previous 12 months in Iowa.
2. Is filled by a new employee for at least 12 months.
3. Is filled by a resident of the state of Iowa.
4. Is not created as a result of a change in ownership.
5. Was created on or after June 9, 2005.

"Retail business" means a business which sells its product directly to a consumer.

"Retained qualified new job" or *"job retention"* means the continued employment, after the first 12 months of employment, of the same employee in a qualified new job for another 12 months.

"Service business" means a business which is not engaged in the sale of tangible personal property, and which provides services to a local consumer market and does not have a significant proportion of its sales coming from outside the state.

501.25(2) *Calculation of credit.* A business which is not a retail or service business may claim the wage-benefits tax credit which is determined as follows:

a. If the annual wages and benefits for the qualified new job equal less than 130 percent of the average county wage, the credit is 0 percent of the annual wage and benefits paid.

b. If the annual wages and benefits for the qualified new job equal at least 130 percent but less than 160 percent of the average county wage, the credit is 5 percent of the annual wage and benefits paid for each qualified new job.

c. If the annual wages and benefits for the qualified new job equal at least 160 percent of the average county wage, the credit is 10 percent of the annual wage and benefits paid for each qualified new job.

If the business is a partnership, S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

501.25(3) *Application for the tax credit, tax credit certificate and amount of tax credit available.*

a. In order to claim the wage-benefits tax credit, the business must submit an application to the department along with information on the qualified new job or retained qualified new job. The application cannot be submitted until the end of the twelfth month after the qualified job was filled. For example, if the new job was created on June 9, 2005, the application cannot be submitted until June 9, 2006. The following information must be submitted in the application:

(1) Name, address and federal identification number of the business.

(2) A description of the activities of the business. If applicable, the proportion of the sales of the business which come from outside Iowa should be included.

(3) The amount of wages and benefits paid to each employee for each new job for the previous 12 months.

(4) A computation of the amount of credit being requested.

(5) The address and state of residence of each new employee.

(6) The date that the qualified new job was filled.

(7) An indication of whether the job is a qualified new job or a retained qualified new job for which an application was filed for a previous year.

(8) The type of tax for which the credit will be applied.

(9) If the business is a partnership, S corporation, limited liability company, or estate or trust, a schedule of the partners, shareholders, members or beneficiaries. This schedule shall include the names, addresses and federal identification number of the partners, shareholders, members or beneficiaries, along with their percentage of the pro rata share of earnings of the partnership, S corporation, limited liability company, or estate or trust.

b. Upon receipt of the application, the department has 45 days either to approve or disapprove the application. If the department does not act on the application within 45 days, the application is deemed to be approved. If the department disapproves the application, the business may appeal the decision to the Iowa economic development board within 30 days of the notice of disapproval.

c. If the application is approved, or if the Iowa economic development board approves the application that was previously denied by the department, a tax credit certificate will be issued by the department to the business, subject to the availability of the amount of credits that may be issued. The tax credit certificate will contain the name, address and tax identification number of the business (or

individual, estate or trust, if applicable), the date of the qualified new job(s), the wage and benefits paid for each job(s) for the 12-month period, the amount of the credit, the tax period for which the credit may be applied, and the type of tax for which the credit will be applied.

d. The tax credit certificates that are issued in a fiscal year cannot exceed $10 million for the fiscal year ending June 30, 2007, and shall not exceed $4 million for the fiscal years ending June 30, 2008, through June 30, 2011. The tax credit certificates are issued on a first-come, first-served basis. Therefore, if tax credit certificates have already been issued for the $10 million limit for the fiscal year ending June 30, 2007, any applications for tax credit certificates received after the $10 million limit has been reached will be denied. Similarly, if tax credit certificates have already been issued for the $4 million limit for the fiscal years ending June 30, 2008, through June 30, 2011, any applications for tax credit certificates received after the $4 million limit has been reached will be denied. If a business failed to receive all or a part of the tax credit due to the $10 million or $4 million limitation, the business may reapply for the tax credit for the retained new job for a subsequent tax period.

e. A business which qualifies for the tax credit for the fiscal year ending June 30, 2007, is eligible to receive the tax credit certificate for each of the fiscal years ending June 30, 2008, through June 30, 2011, subject to the $4 million limit for tax credits for the fiscal years ending June 30, 2008, through June 30, 2011, if the business retains the qualified new job during each of the fiscal years ending June 30, 2008, through June 30, 2011. The business must reapply by June 30 of each fiscal year for the tax credit, and the percentage of the wages and benefits allowed for the credit set forth in subrule 501.25(2) for the first year is applicable for each subsequent period. Preference will be given in issuing tax credit certificates for those businesses that retain qualified new jobs, and preference will be given in the order in which applications were filed for the fiscal year ending June 30, 2007. Therefore, those businesses which received the first $4 million of tax credits for the year ending June 30, 2007, in which the qualified jobs were created will automatically receive a tax credit for the fiscal years ending June 30, 2008, through June 30, 2011, as long as the qualified jobs are retained and an application is completed.

f. For the fiscal years ending June 30, 2008, through June 30, 2011, if credits become available because the jobs were not retained by businesses which received the first $4 million of credits for the year ending June 30, 2007, an application which was originally denied will be considered in the order in which the application was received for the fiscal year ending June 30, 2007.

EXAMPLE: Wage-benefits tax credits of $4 million were issued for the fiscal year ending June 30, 2007, relating to applications filed between July 1, 2006, and March 31, 2007. For the next fiscal year ending June 30, 2008, the same businesses that received the $4 million in wage-benefits tax credits filed applications totaling $3 million for the retained jobs for which the application for the prior year was filed on or before March 31, 2007. The first $3 million of the available $4 million will be allowed to these same businesses. The remaining $1 million that is still available for the year ending June 30, 2008, will be allowed for those retained jobs for which applications for the prior year were filed starting on April 1, 2007, until the remaining $1 million in tax credits is issued.

g. A business may apply in writing to the Iowa economic development board for a waiver of the average wage and benefit requirement. See 261—subrule 68.3(2) for more detail on the procedures to apply for a waiver of the wage and benefit requirement. If a waiver is granted, the business must provide the department with the waiver and it must be attached to the application.

h. A business may receive other federal, state, and local incentives and tax credits in addition to the wage-benefits tax credit. However, a business that receives a wage-benefits tax credit cannot receive tax incentives under the high quality job creation program set forth in Iowa Code chapter 15 as amended by 2005 Iowa Acts, chapter 150, or moneys from the grow Iowa values fund.

501.25(4) *Examples.* The following noninclusive examples illustrate how this rule applies:

EXAMPLE 1: Business A operates a grocery store and hires five new employees, each of whom will earn wages and benefits in excess of 130 percent of the average county wage. Business A would not qualify for the wage-benefits tax credit because Business A is a retail business.

EXAMPLE 2: Business B operates an accounting firm and hires two new accountants, each of whom will earn wages and benefits in excess of 160 percent of the average county wage. The accounting firm provides services to clients wholly within Iowa. Business B would not qualify for the wage-benefits tax credit because it is a service business. The majority of its sales are generated from within the state of Iowa and thus Business B, because it is a service business, is not eligible for the credit.

EXAMPLE 3: Business C operates a software development business and hires two new programmers, each of whom will earn wages and benefits in excess of 160 percent of the average county wage. Over 50 percent of the customers of Business C are located outside Iowa. Business C would qualify for the wage-benefits tax credit because a majority of its sales are coming from outside the state, even though Business C is engaged in the performance of services.

EXAMPLE 4: Business D is a manufacturer that hires a new employee in Clayton County, Iowa, on July 8, 2005. The average county wage for Clayton County for the third quarter of 2005 is $11.86 per hour. If the average county wage per hour for Clayton County is $11.95 for the fourth quarter of 2005, $12.05 for the first quarter of 2006, and $12.14 for the second quarter of 2006, the annualized average county wage for this 12-month period is $12.00 per hour. This wage equates to an average annual wage of $24,960 ($12.00 × 40 hours × 52 weeks). In order to qualify for the 5 percent wage-benefits tax credit, the new employee must receive wages and benefits totaling $32,448 (130 percent of $24,960) for the 12-month period from July 8, 2005, through July 7, 2006. In order to qualify for the 10 percent wage-benefits tax credit, the new employee must receive wages and benefits totaling $39,936 (160 percent of $24,960) for the 12-month period from July 8, 2005, through July 7, 2006.

EXAMPLE 5: Business E is a manufacturer that hires three new employees in Grundy County, Iowa, on July 1, 2005. If the average county wage for the 12-month period from July 1, 2005, through June 30, 2006, is $13.75 per hour in Grundy County, this wage equates to an average county wage of $28,600. The wages and benefits for each of these three new employees is $40,000 for the period from July 1, 2005, through June 30, 2006, which is 140 percent of the average county wage. Business E is entitled to a wage-benefits tax credit of $2,000 for each employee ($40,000 × 5 percent), for a total wage-benefits tax credit of $6,000. If Business E files on a calendar-year basis, the $6,000 wage-benefits tax credit can be claimed on the tax return for the period ending December 31, 2006.

EXAMPLE 6: Business F is a manufacturer that hires ten new employees on July 1, 2005, and qualifies for the wage-benefits tax credit because the wages and benefits paid exceed 130 percent of the average county wage. Business F receives a wage-benefits tax credit in July 2006 for these ten employees, which can be used on the tax return for the period ending December 31, 2006. On August 31, 2006, two of the employees leave the business and are replaced by two new employees. Business F is entitled to a wage-benefits tax credit for only eight employees in July 2007 because only eight employees continued employment for the subsequent 12 months, which meets the definition of a retained qualified new job. Business F cannot request a wage-benefits tax credit for the two employees hired on August 31, 2006. Business F cannot request the wage-benefits tax credit because these two full-time jobs existed in the business within the previous 12 months in Iowa, and these jobs do not meet the definition of a qualified new job or retained qualified new job.

EXAMPLE 7: Business G is a manufacturer that hires ten new employees on July 1, 2005, and qualifies for the wage-benefits tax credit because the wages and benefits paid exceed 130 percent of the average county wage. Business G receives a wage-benefits tax credit in July 2006 for these ten employees equal to 5 percent of the wages and benefits paid. On October 1, 2006, Business G hires an additional five employees, each of whom receives wages and benefits in excess of 130 percent of the average county wage. Business G can apply for the wage-benefits tax credit on October 1, 2007, for these five employees, since these employees have now been employed for 12 months. However, the credit may not be allowed if more than $4 million of retained job applications is received for the fiscal year ending June 30, 2008.

EXAMPLE 8: Assume the same facts as Example 6, except that the $10 million limit of tax credits has already been met for the fiscal year ending June 30, 2007, and Business F hired five new employees on August 31, 2006. Business F can apply for the wage-benefits tax credit for the three employees on August 31, 2007, a number which is above the ten full-time jobs originally created, but Business F may not receive the tax credit if more than $4 million of retained job applications is received for the fiscal year ending June 30, 2008.

EXAMPLE 9: Assume the same facts as Example 7, except that the ten employees hired on July 1, 2005, by Business G received wages and benefits equal to 155 percent of the average county wage, and the five employees hired on October 1, 2006, by Business G received wages equal to 161 percent of the average county wage. Business G can apply for the tax credit on October 1, 2007, equal to 10 percent of the wages and benefits paid for the employees hired on October 1, 2006. On July 1, 2007, Business G can reapply for the tax credit equal to 5 percent of the wages and benefits paid only for the ten employees originally hired on July 1, 2005, even if the wages and benefits for these ten employees exceed 160 percent of the average county wage for the period from July 1, 2006, through June 30, 2007.

501.25(5) *Repeal of the wage-benefits tax credit.* The wage-benefits tax credit is repealed effective July 1, 2008. However, the wage-benefits tax credit is still available through the fiscal year ending June 30, 2011, as provided in paragraphs 501.25(3)*"d," "e,"* and *"f."* A business is not entitled to a wage-benefits tax credit for a qualified new job created on or after July 1, 2008.

This rule is intended to implement Iowa Code chapter 15I as amended by 2008 Iowa Acts, House File 2700, section 167, and Iowa Code section 422.33(18).

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701—501.26(422,476B) Wind energy production tax credit. Effective for tax years beginning on or after July 1, 2006, an owner of a qualified wind energy production facility that has been approved by the Iowa utilities board may claim a wind energy production tax credit for qualified electricity sold by the owner or used for on-site consumption against a taxpayer's Iowa corporation income tax liability. The administrative rules for the certification of eligibility for the wind energy production tax credit for the Iowa utilities board may be found in rule 199—15.18(476B).

501.26(1) *Application and review process for the wind energy production tax credit.* An owner of a wind energy production facility must be approved by the Iowa utilities board in order to qualify for the wind energy production tax credit. The facility must be an electrical production facility that produces electricity from wind, is located in Iowa, and must be placed in service on or after July 1, 2005, but before July 1, 2012. For applications filed on or after March 1, 2008, a facility must consist of one or more wind turbines which have a combined nameplate generating capacity of at least 2 megawatts and no more than 30 megawatts. For applications filed on or after July 1, 2009, by a private college or university, community college, institution under the control of the state board of regents, public or accredited nonpublic elementary and secondary school, or public hospital as defined in Iowa Code section 249J.3, the facility must have a combined nameplate capacity of no less than ¾ of a megawatt.

The maximum amount of nameplate generating capacity for all qualified wind energy production facilities cannot exceed 50 megawatts of nameplate generating capacity. An owner shall not own more than two qualified facilities. A facility that is not operational within 18 months after issuance of the approval from the Iowa utilities board will no longer be considered a qualified facility. However, a facility that is not operational within 18 months due to the unavailability of necessary equipment shall be granted an additional 12 months to become operational.

An owner of the qualified facility must apply to the Iowa utilities board for the wind energy production tax credit. The application for the tax credit must be filed no later than 30 days after the close of the tax year for which the credit is applied. The information to be included in the application is set forth in 199—subrule 15.20(1).

501.26(2) *Computation of the credit.* The wind energy production credit equals one cent multiplied by the number of kilowatt-hours of qualified electricity sold or used for on-site consumption by the owner during the tax year. For the first tax year in which the credit is applied, the kilowatt-hours of qualified electricity sold may exceed 12 months.

EXAMPLE: A qualified facility was placed in service on April 1, 2006, and the taxpayer files on a calendar-year basis. The first year for which the credit can be claimed is the period ending December 31, 2007, since that is the first tax year that began on or after July 1, 2006. The credit for the 2007 tax year can include electricity sold between April 1, 2006, and December 31, 2007.

The credit is not allowed for any kilowatt-hours of electricity sold to a related person. The definition of "related person" uses the same criteria set forth in Section 45(e)(4) of the Internal Revenue Code relating to the federal renewable electricity production credit. Persons shall be treated as related to each other if such persons are treated as a single employer under Treasury Regulation §1.52-1. In the case of a corporation that is a member of an affiliated group of corporations filing a federal consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to the person by another member of the affiliated group.

The utilities board will notify the department of the number of kilowatt-hours of electricity sold by the qualified facility or generated and used on site by the qualified facility during the tax year. The department will calculate the credit and issue a tax credit certificate to the owner. The tax credit certificate will include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit certificate, as provided in subrule 501.26(3). If the department refuses to issue the tax credit certificate, the taxpayer shall be notified in writing and the taxpayer will have 60 days from the date of denial to file a protest in accordance with rule 701—7.9(17A). The department will not issue a tax credit certificate if the facility is not operational within 18 months after approval was given by the utilities board, unless a 12-month extension is granted by the utilities board as provided in subrule 501.26(1).

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on the partner's, member's, shareholder's or beneficiary's pro rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust, except when the taxpayer is eligible to receive renewable electricity production tax credits authorized under Section 45 of the Internal Revenue Code. In cases where the taxpayer is eligible to receive renewable electricity production tax credits under Section 45 of the Internal Revenue Code, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. In addition, if a taxpayer is a partnership, limited liability company, S corporation, or estate or trust that is eligible to receive renewable electricity production tax credits under Section 45 of the Internal Revenue Code, the taxpayer may distribute the tax credit to an equity holder or beneficiary as a liquidating distribution or portion thereof, of an equity holder's interest in the partnership, limited liability company or S corporation, or the beneficiary's interest in the estate or trust.

The credit can be allowed for a ten-year period beginning on the date the qualified facility was originally placed in service. For example, if a facility was placed in service on April 1, 2006, the credit can be claimed for kilowatt-hours of electricity sold between April 1, 2006, and March 31, 2016.

To claim the tax credit, the taxpayer must include the tax credit certificate with the tax return for the tax year set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for seven years or until it is used, whichever is the earlier.

501.26(3) *Transfer of the wind energy production tax credit certificate.* The wind energy production tax credit certificate may be transferred to any person or entity.

Within 30 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the wind energy production tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year and the same expiration date as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

This rule is intended to implement Iowa Code section 422.33 and chapter 476B as amended by 2011 Iowa Acts, House File 672.

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701—501.27(422,476C) Renewable energy tax credit. Effective for tax years beginning on or after July 1, 2006, a purchaser or producer of renewable energy whose facility has been approved by the Iowa utilities board may claim a renewable energy tax credit for qualified renewable energy against a taxpayer's Iowa corporation income tax liability.

501.27(1) *Eligible facility application process.*

a. Eligible facility application process, generally. A producer or purchaser of a renewable energy facility must be approved as an eligible renewable energy facility by the Iowa utilities board in order to qualify for the renewable energy tax credit. The eligible renewable energy facility can be a wind energy conversion facility, biogas recovery facility, biomass conversion facility, methane gas recovery facility, solar energy conversion facility or refuse conversion facility. The facility must be located in Iowa and placed in service on or after July 1, 2005, and before January 1, 2018. The administrative rules for the certification of eligibility for the renewable energy tax credit for the Iowa utilities board may be found in rule 199—15.19(476C).

b. Limitations on maximum energy production and nameplate generating capacity. The maximum amount of nameplate generating capacity of all wind energy conversion facilities cannot exceed 363 megawatts of nameplate generating capacity. For tax years beginning prior to January 1, 2015, the maximum amount of energy production capacity for biogas recovery facilities, biomass conversion facilities, methane gas recovery facilities, solar energy conversion facilities and refuse conversion facilities cannot exceed a combined output of 53 megawatts of nameplate generating capacity and 167 billion British thermal units of heat for a commercial purpose. For tax years beginning on or after January 1, 2015, the maximum amount of energy production for biogas recovery facilities, biomass conversion facilities, methane gas recovery facilities, solar energy conversion facilities and refuse conversion facilities cannot exceed a combined output of 63 megawatts of nameplate generating capacity and, annually, 167 billion British thermal units of heat for a commercial purpose. A facility that is not operational within 30 months after issuance of approval from the utilities board will no longer be considered a qualified facility. However, if the facility is a wind energy

conversion property and is not operational within 18 months due to the unavailability of necessary equipment, the facility may apply for a 12-month extension of the 30-month limit. Extensions can be renewed for succeeding 12-month periods if the facility applies for the extension prior to expiration of the current extension period. A producer of renewable energy, which is the person who owns the renewable energy facility, cannot own more than two eligible renewable energy facilities. A person that has an equity interest equal to or greater than 51 percent in an eligible renewable energy facility cannot have an equity interest greater than 10 percent in any other renewable energy facility. However, for tax years beginning on or after January 1, 2015, an entity described in Iowa Code section 476C.1(6)*"b"*(4) or (5) may have an ownership interest in up to four solar energy conversion facilities described in Iowa Code section 476C.3(4)*"b"*(3).

501.27(2) *Tax credit certificate procedure.*

a. Tax credit application process. A producer or purchaser of a renewable energy facility must apply to the utilities board for the renewable energy tax credit. The application for the tax credit must be filed no later than 30 days after the close of the tax year for which the credit is applied. The information to be included in the application is set forth in 199—subrule 15.21(1). The utilities board will notify the department of the number of kilowatt-hours, standard cubic feet or British thermal units that were generated and purchased from an eligible facility or used for on-site consumption by the producer during the tax year for which the credit is applied.

b. Tax credit calculation. The department shall calculate the amount of the credit for which the applicant is eligible in accordance with subrules 501.27(3) and 501.27(4) and shall issue a tax credit certificate for that amount or shall notify the applicant in writing of its refusal to do so.

c. Tax credit certificate issuance. The tax credit certificate will include the taxpayer's name, address and federal identification number; the tax type for which the credit will be claimed; the amount of the credit; and the tax year for which the credit may be claimed. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit certificate, as provided in subrule 501.27(5). Once a tax credit certificate is issued pursuant to Iowa Code chapter 476C, it shall not be terminated or rescinded.

d. Taxpayers that are partnerships, limited liability companies, S corporations, or estates or trusts. If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on the partner's, member's, shareholder's or beneficiary's pro rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust, except when the taxpayer is eligible to receive renewable electricity production tax credits authorized under Section 45 of the Internal Revenue Code. In cases where the taxpayer is eligible to receive renewable electricity production tax credits under Section 45 of the Internal Revenue Code, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. In addition, if a taxpayer is a partnership, limited liability company, S corporation, or estate or trust that is eligible to receive renewable electricity production tax credits under Section 45 of the Internal Revenue Code, the taxpayer may distribute the tax credit to an equity holder or beneficiary as a liquidating distribution, or portion thereof, of an equity holder's interest in the partnership, limited liability company or S corporation or of the beneficiary's interest in the estate or trust.

e. Carryforward. To claim the tax credit, the taxpayer must include the tax credit certificate with the tax return for the tax period set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for seven years or until it is used, whichever is the earlier.

501.27(3) *Limitations.*

a. Energy production. Of the maximum amount of energy production capacity equivalent for biogas recovery facilities, biomass conversion facilities, methane gas recovery facilities, solar energy conversion facilities and refuse conversion facilities;

(1) No single facility may be allocated more than ten megawatts of nameplate generating capacity or energy production capacity equivalent.

(2) For tax years beginning on or after January 1, 2015, ten megawatts of nameplate generating capacity or energy production capacity equivalent shall be reserved for solar energy conversion facilities described in Iowa Code section 476C.3(4)*"b"*(3) that have a generating capacity of one and one-half megawatts or less.

(3) For tax years beginning on or after January 1, 2014, 55 billion British thermal units of heat for a commercial purpose shall be reserved annually for an eligible facility that is a refuse conversion facility for processed, engineered fuel from a multicounty solid waste management planning area.

(4) For tax years beginning on or after January 1, 2014, the maximum annual amount of energy production capacity for a single refuse conversion facility is 55 billion British thermal units of heat for a commercial purpose.

b. Related persons. The credit is not allowed for any kilowatt-hours, standard cubic feet or British thermal units that are purchased from an eligible facility by a related person. Persons shall be treated as related to each other if either person owns an 80 percent or more equity interest in the other person.

c. Operation. The facility must be operational within 30 months after approval was given by the utilities board, unless a 12-month extension is granted by the utilities board as provided in subrule 501.27(1).

d. Prohibited for persons that have received a credit under Iowa Code chapter 476B. A person that has received a wind energy production tax credit pursuant to Iowa Code chapter 476B may not be issued a renewable energy tax credit certificate.

e. Ten-year award limitation. The credit is allowed for a ten-year period beginning on the date the purchaser first purchases renewable energy from a qualified facility or on the date the qualified facility first began producing renewable energy for on-site consumption. For example, if a renewable energy facility first began producing energy for on-site consumption on April 1, 2006, the credit can be claimed for kilowatt-hours, standard cubic feet or British thermal units generated and used for on-site consumption by the producer between April 1, 2006, and March 31, 2016. Tax credit certificates cannot be issued for renewable energy purchased or produced for on-site consumption after December 31, 2027.

501.27(4) *Computation of the credit.* The renewable energy tax credit equals 1½ cents per kilowatt-hour of electricity, or $1.44 per 1000 standard cubic feet of hydrogen fuel, or $4.50 per 1 million British thermal units of methane gas or other biogas used to generate electricity, or $4.50 per 1 million British thermal units of heat for a commercial purpose generated by and purchased from an eligible renewable energy facility or used for on-site consumption by the producer during the tax year. For the first tax year in which the credit is applied, the kilowatt-hours, standard cubic feet or British thermal units generated by and purchased from the facility or used for on-site consumption by the producer may exceed 12 months if the facility was operational for fewer than 12 months in its initial year of operation.

EXAMPLE: A qualified wind energy production facility was placed in service on April 1, 2006, and the taxpayer files on a calendar-year basis. The first year for which the credit can be claimed is the year ending December 31, 2007, since that is the first tax year that began on or after July 1, 2006. The credit for the 2007 tax year can include electricity generated and purchased or used for on-site consumption by the producer between April 1, 2006, and December 31, 2007.

501.27(5) *Transfer of the renewable energy tax credit certificate.*

a. One-transfer limitation. The renewable energy tax credit certificate may be transferred once to any person or entity. A decision between a producer and purchaser of renewable energy regarding who may claim the tax credit is not considered a transfer.

b. Transfer process—information required. Within 30 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department, along with a statement which contains the transferee's name, address and tax identification number; the amount of the tax credit being transferred; the value of any consideration provided by the transferee to the transferor; and any other information required by the department. Within 30 days of receiving

the transferred tax credit certificate and the statement from the transferee, the department will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the renewable energy tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year and the same expiration date as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

c. Tax year. The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit.

d. Consideration. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

501.27(6) *Small wind innovation zones.* Effective for tax years beginning on or after January 1, 2009, an owner of a small wind energy system operating within a small wind innovation zone which has been approved by the Iowa utilities board is eligible for the renewable energy tax credit. The administrative rules of the Iowa utilities board for the certification of eligibility for owners of small wind energy systems operating within a small wind innovation zone may be found in rule 199—15.22(476).

501.27(7) *Appeals.* If the department refuses to issue the tax credit certificate, the taxpayer shall be notified in writing and the taxpayer will have 60 days from the date of denial to file a protest in accordance with rule 701—7.9(17A).

This rule is intended to implement Iowa Code section 422.33 and chapter 476C as amended by 2015 Iowa Acts, chapter 124, and 2016 Iowa Acts, House File 2468.

[**ARC 8589B**, IAB 3/10/10, effective 4/14/10; **ARC 8605B**, IAB 3/10/10, effective 4/14/10; **ARC 9876B**, IAB 11/30/11, effective 1/4/12; **ARC 0251C**, IAB 8/8/12, effective 9/12/12; **ARC 1665C**, IAB 10/15/14, effective 11/19/14; **ARC 2772C**, IAB 10/12/16, effective 11/16/16; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.28(15) High quality job creation program. Effective for tax periods ending on or after July 1, 2005, for programs approved on or after July 1, 2005, but before July 1, 2009, a business which qualifies under the high quality job creation program is eligible to receive tax credits. The high quality job creation program replaces the new jobs and income program and the new capital investment program. An eligible business under the high quality job creation program must be approved by the Iowa department of economic development and meet the qualifications of Iowa Code section 15.329. The administrative rules for the high quality job creation program for the Iowa department of economic development may be found at 261—Chapter 68.

The high quality job creation program was repealed on July 1, 2009, and has been replaced with the high quality jobs program. See rule 701—501.40(15) for information on the investment tax credit and additional research activities credit under the high quality jobs program. Any investment tax credit and additional research activities credit earned by businesses approved under the high quality job creation program prior to July 1, 2009, remains valid and can be claimed on tax returns filed after July 1, 2009.

501.28(1) *Research activities credit.* An eligible business approved under the high quality job creation program is eligible for an additional research activities credit as subrule described in 501.7(4).

Research activities allowable for the Iowa research activities credit include expenses related to the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa; such expenses related to the development and deployment of innovative renewable

energy generation components are not eligible for the federal credit for increasing research activities. For purposes of this subrule, innovative renewable energy generation components do not include components with more than 200 megawatts in installed effective nameplate capacity. The research activities credit related to renewable energy generation components under the high quality job creation program and the enterprise zone program shall not exceed $1 million in the aggregate.

These expenses related to the development and deployment of innovative renewable energy generation components are applicable only to the additional research activities credit set forth in this subrule and are not applicable to the research activities credit set forth in subrule 501.7(3). The research activities credit is subject to the threshold amounts of qualifying investment set forth in Iowa department of economic development 261—subrule 68.4(7).

501.28(2) *Investment tax credit.*

a. General rule. An eligible business can claim an investment tax credit equal to a percentage of the new investment directly related to new jobs created by the location or expansion of an eligible business. The percentage is equal to the amount provided in Iowa department of economic development 261—subrule 68.4(7). New investment directly related to new jobs created by the location or expansion of an eligible business includes the following:

(1) The cost of machinery and equipment, as defined in Iowa Code section 427A.1(1), paragraphs *"e"* and *"j,"* purchased for use in the operation of the eligible business. The purchase price shall be depreciated in accordance with generally accepted accounting principles.

(2) The purchase price of real property and any buildings and structures located on the real property.

(3) The cost of improvements made to real property which is used in the operation of the eligible business.

In addition, certain lease payments made by eligible businesses to a third-party developer will be considered to be new investment for purposes of computing the investment tax credit. The eligible business shall enter into a lease agreement with the third-party developer for a minimum of five years. The investment tax credit is based on the annual base rent paid to a third-party developer by the eligible business for a period not to exceed ten years. The total costs of the annual base rent payments for the ten-year period cannot exceed the cost of the land and the third-party developer's cost to build or renovate the building used by the eligible business. The annual base rent is defined as the total lease payment less taxes, insurance and operating and maintenance expenses.

The investment tax credit can be claimed in the tax year in which the qualifying assets are placed in service. The investment tax credit will be amortized over a five-year period. Any credit in excess of the tax liability for the tax period may be carried forward seven years or until used, whichever is the earlier.

EXAMPLE: An eligible business which files tax returns on a calendar-year basis earned $100,000 of investment tax credits for new investment made in 2006. The business can claim $20,000 of investment tax credits for each of the years from 2006 through 2010. The $20,000 of investment tax credit that can be claimed in 2006 can be carried forward to the 2007-2013 tax years if the entire credit cannot be claimed on the 2006 return. Similarly, the $20,000 investment tax credit that can be claimed in 2007 can be carried forward to the 2008-2014 tax years if the entire credit cannot be claimed on the 2007 return.

If the business is a partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to an individual, an individual may claim the credit. The amount of the credit claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to an individual.

EXAMPLE: An eligible business which files tax returns on a calendar-year basis was awarded $500,000 in investment tax credits in December 2008. The credits were amortized over a five-year

period, with $100,000 of investment tax credits being available for the fiscal years ending June 30, 2009, through June 30, 2013. This equates to the investment tax credit being available for the 2008-2012 calendar year returns since the due date of these returns range from April 30, 2009, through April 30, 2013, which falls within the fiscal years ending June 30, 2009, through June 30, 2013. The eligible business placed the qualifying assets in service during the 2010 calendar year. The eligible business can claim $300,000 of investment tax credit for 2010, $100,000 of investment tax credit for 2011 and $100,000 of investment tax credit for 2012. Of the $300,000 claimed for the 2010 tax year, $100,000 can be carried forward until the 2015 tax year, $100,000 can be carried forward to the 2016 tax year, and $100,000 can be carried forward to the 2017 tax year. The seven-year carryforward period is determined by the amortization schedule, not the initial year in which the investment tax credit can be claimed on an Iowa tax return.

b. Investment tax credit—value-added agricultural products or biotechnology-related processes. An eligible business whose project primarily involves the production of value-added agricultural products or uses biotechnology-related processes may elect to receive a refund for all or a portion of an unused investment tax credit. An eligible business includes a cooperative described in Section 521 of the Internal Revenue Code whose project primarily involves the production of ethanol.

Eligible businesses that elect to receive a refund shall apply to the Iowa department of economic development for tax credit certificates between May 1 and May 15 of each fiscal year through the fiscal year ending June 30, 2009. The election to receive a refund of all or a portion of an unused investment tax credit is no longer available beginning with the fiscal year ending June 30, 2010. Only those businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate. The Iowa department of economic development shall not issue tax credit certificates for more than $4 million during a fiscal year to eligible businesses for this program and the enterprise zone program described in subrule 501.14(2). If applications are received for more than $4 million, the applicants shall receive certificates for a prorated amount.

The economic development authority shall issue tax credit certificates within a reasonable period of time. Tax credit certificates are valid for the tax year following project completion. The tax credit certificate must be included with the tax return for the tax year during which the tax credit is claimed. The tax credit certificate shall not be transferred, except for a cooperative described in Section 521 of the Internal Revenue Code whose project primarily involves the production of ethanol, as provided in subrule 501.10(4). For value-added agricultural projects involving ethanol, the cooperative must submit a list of its members and the share of each member's interest in the cooperative. The economic development authority shall issue a tax credit certificate to each member on the list.

c. Repayment of benefits. If an eligible business fails to maintain the requirements of the high quality job creation program, the taxpayer may be required to repay all or a portion of the tax incentives taken on Iowa returns. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the tax credits may have expired, the department may proceed to collect the tax incentives forfeited by failure of the eligible business to maintain the requirements of the high quality job creation program because it is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability. Details on the calculation of the repayment can be found in 261—subrule 187.5(4) of the administrative rules of the economic development authority. If the business is a partnership, limited liability company, S corporation, estate or trust where the income of the taxpayer is taxed to the individual owner(s) of the business, the department may proceed to collect the tax incentives against the partners, members, shareholders or beneficiaries to whom the tax incentives were passed through. See Decision of the Administrative Law Judge in *Damien & Colette Trebilcock, et al.,* Docket No. 11DORF 042-044, June 11, 2012.

An eligible business in the high quality job creation program may also be required to repay all or a portion of the tax incentives received on Iowa returns if the eligible business experiences a layoff of employees in Iowa or closes any of its facilities in Iowa.

If, within five years of purchase, the eligible business sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other existing structures for which a tax credit was

claimed under this subrule, the income tax liability of the eligible business shall be increased by one of the following amounts:

(1) One hundred percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within one full year after being placed in service.

(2) Eighty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within two full years after being placed in service.

(3) Sixty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within three full years after being placed in service.

(4) Forty percent of the tax credit claimed if the property ceases to be eligible for the tax credit within four full years after being placed in service.

(5) Twenty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within five full years after being placed in service.

501.28(3) *Determination of tax credit amounts.* The amount of tax credit claimed under the high quality job creation program shall be based on the number of high quality jobs created and the amount of qualifying investment made as determined by the Iowa department of economic development.

a. If the high quality jobs have a starting wage, including benefits, equal to or greater than 130 percent of the average county wage but less than 160 percent of the average county wage, see Iowa department of economic development 261—paragraph 68.4(7)*"a"* for the amount of tax credits that may be claimed.

b. If the high quality jobs have a starting wage, including benefits, equal to or greater than 160 percent of the average county wage, see Iowa department of economic development 261—paragraph 68.4(7)*"b"* for the amount of tax credits that may be claimed.

c. An eligible business approved under the high quality job creation program is not eligible for the wage-benefits tax credit set forth in rule 701—501.25(15H).

This rule is intended to implement Iowa Code Supplement chapter 15.

[**ARC 8589B**, IAB 3/10/10, effective 4/14/10; **ARC 9104B**, IAB 9/22/10, effective 10/27/10; **ARC 0398C**, IAB 10/17/12, effective 11/21/12; **ARC 1744C**, IAB 11/26/14, effective 12/31/14; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.29(15E,422) Economic development region revolving fund tax credit. Effective for tax years ending on or after July 1, 2005, but beginning before January 1, 2010, a taxpayer who makes a contribution to an economic development region revolving fund may claim a tax credit, subject to the availability of the credit. The credit is equal to 20 percent of a taxpayer's contribution to the economic development region revolving fund approved by the Iowa department of economic development. The administrative rules for the economic development region revolving fund tax credit for the Iowa department of economic development may be found at 261—Chapter 32. The tax credit is repealed for tax years beginning on or after January 1, 2010.

The total amount of economic development region revolving fund tax credits available shall not exceed $2 million per fiscal year. The tax credit shall not be carried back to a tax year prior to the year in which the taxpayer redeems the credit. The economic development region revolving fund tax credit is not transferable to any other taxpayer.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten years or until used, whichever is the earlier.

If a taxpayer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code sections 15E.232 and 422.33 as amended by 2010 Iowa Acts, Senate File 2380.

[**ARC 9104B**, IAB 9/22/10, effective 10/27/10; Editorial change: IAC Supplement 11/2/22]

701—501.30(422) E-85 gasoline promotion tax credit. Effective for tax years beginning on or after January 1, 2006, a retail dealer of gasoline may claim an E-85 gasoline promotion tax credit. "E-85 gasoline" means ethanol blended gasoline formulated with a minimum percentage of between 70 percent and 85 percent of volume of ethanol, if the formulation meets the standards provided in Iowa Code section 214A.2. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA 135.

501.30(1) *Claiming the credit.*

a. Amount of credit. The credit is calculated by multiplying the total number of E-85 gallons sold by the retail dealer during the tax year by the following designated rates:

Calendar years 2006, 2007, and 2008	25 cents
Calendar years 2009 and 2010	20 cents
Calendar year 2011	10 cents
Calendar years 2012 through 2024	16 cents

b. Claiming the credit with other credits. A taxpayer may claim the E-85 gasoline promotion tax credit even if the taxpayer also claims the ethanol blended gasoline tax credit provided in rule 701—501.19(422) for gallons sold prior to January 1, 2009, or the ethanol promotion tax credit provided in rule 701—501.36(422) for gallons sold on or after January 1, 2009, but prior to January 1, 2021, for the same tax year for the same ethanol gallons.

c. Refundability. Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

d. Transferability. The credit may not be transferred to any other person.

e. Example. A taxpayer operated one retail motor fuel site in 2006 and sold 200,000 gallons of gasoline, of which 160,000 gallons was ethanol blended gasoline. Of these 160,000 gallons, 1,000 gallons was E-85 gasoline. Taxpayer may claim the E-85 gasoline promotion tax credit on the 1,000 gallons of E-85 gasoline sold during 2006. Taxpayer is also entitled to claim the ethanol blended gasoline tax credit of two and one-half cents multiplied by 40,000 gallons, since this constitutes the gallons in excess of 60 percent of the total gasoline gallons sold for the 2006 tax year.

501.30(2) *Fiscal year filers.* For taxpayers whose tax year is not on a calendar-year basis, the taxpayer may compute the tax credit on the gallons of E-85 gasoline sold during the year using the designated rates as shown above. Because the tax credit is repealed on January 1, 2025, a taxpayer whose tax year ends prior to December 31, 2024, can continue to claim the tax credit in the following tax year for any E-85 gallons sold through December 31, 2024. For a retail dealer whose tax year is not on a calendar-year basis and who did not claim the E-85 credit on the previous return, the dealer may claim the credit for the current tax year for the period beginning on January 1 of the previous tax year until the last day of the previous tax year.

EXAMPLE 1: A taxpayer who is a retail dealer of gasoline has a fiscal year ending March 31, 2009. The taxpayer sold 2,000 gallons of E-85 gasoline for the period from April 1, 2008, through December 31, 2008, and sold 500 gallons of E-85 gasoline for the period from January 1, 2009, through March 31, 2009. The taxpayer is entitled to a total E-85 gasoline promotion tax credit of $600 for the fiscal year ending March 31, 2009, which consists of a $500 credit (2,000 gallons multiplied by 25 cents) for the period from April 1, 2008, through December 31, 2008, and a credit of $100 (500 gallons multiplied by 20 cents) for the period from January 1, 2009, through March 31, 2009.

EXAMPLE 2: A taxpayer who is a retail dealer of gasoline has a fiscal year ending April 30, 2006. The taxpayer sold 800 gallons of E-85 gasoline for the period from January 1, 2006, through April 30, 2006. The taxpayer is entitled to claim an E-85 gasoline promotion tax credit of $200 (800 gallons multiplied by 25 cents) on the taxpayer's Iowa income tax return for the period ending April 30, 2006. In lieu of claiming the credit on the return for the period ending April 30, 2006, the taxpayer can

claim the E-85 gasoline promotion tax credit on the tax return for the period ending April 30, 2007, including all E-85 gallons sold for the period from January 1, 2006, through April 30, 2007.

501.30(3) *Allocation of credit to owners of a business entity or to beneficiaries of an estate or trust.* If a taxpayer claiming the E-85 gasoline promotion tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code section 422.33 as amended by 2016 Iowa Acts, Senate File 2309.

[**ARC 9821B**, IAB 11/2/11, effective 12/7/11; **ARC 3043C**, IAB 4/26/17, effective 5/31/17; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.31(422) Biodiesel blended fuel tax credit. Effective for tax years beginning on or after January 1, 2006, a retail dealer of biodiesel blended fuel may claim a biodiesel blended fuel tax credit. "Biodiesel blended fuel" means a blend of biodiesel with petroleum-based diesel fuel that meets the standards provided in Iowa Code section 214A.2. In determining the minimum percentage by volume of biodiesel, the department will take into account reasonable variances due to testing and other limitations. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA 8864.

501.31(1) *Calculating the credit.*

a. Gallonage requirement.

(1) Tax years beginning on or after January 1, 2006, but prior to January 1, 2009. In order for a retail dealer to qualify for the biodiesel blended fuel tax credit for tax years beginning on or after January 1, 2006, but prior to January 1, 2009, of the total gallons of diesel fuel that the retail dealer sells and dispenses during the tax year, 50 percent or more of those gallons must be biodiesel blended fuel formulated with a minimum percentage of 2 percent by volume of biodiesel. The gallonage amounts for all motor fuel sites of a retail dealer are combined when calculating this gallonage requirement.

(2) Tax years beginning on or after January 1, 2009, but prior to January 1, 2012. For tax years beginning on or after January 1, 2009, but prior to January 1, 2012, the biodiesel blended fuel tax credit is calculated separately for each retail motor fuel site for which 50 percent or more of the total gallons of diesel fuel sold at the motor fuel site was biodiesel blended fuel formulated with a minimum percentage of 2 percent by volume of biodiesel.

(3) Tax years beginning on or after January 1, 2012. For tax years beginning on or after January 1, 2012, the requirement that 50 percent of all diesel fuel gallons sold be biodiesel gallons to be eligible for the tax credit is eliminated. A retail dealer may qualify for the biodiesel fuel tax credit even if the gallons of biodiesel blended fuel sold is less than 50 percent of the total gallons of diesel fuel sold.

b. Amount of credit.

(1) Fuel sold on or after January 1, 2006, but prior to January 1, 2012. For biodiesel blended fuel sold on or after January 1, 2006, but prior to January 1, 2012, the tax credit equals three cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year. Qualifying biodiesel blended fuel must be formulated with a minimum percentage of 2 percent by volume of biodiesel.

(2) Fuel sold on or after January 1, 2012, but prior to January 1, 2013. For biodiesel blended fuel sold on or after January 1, 2012, but prior to January 1, 2013, the tax credit equals the sum of two cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year that have a minimum percentage of 2 percent by volume of biodiesel but less than 5 percent by volume of biodiesel plus four and one-half cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year that have a minimum

percentage of 5 percent by volume of biodiesel. In addition, the gallonage requirements described in paragraph 501.31(1)*"a"* do not apply to fuel sold on or after January 1, 2012.

(3) Fuel sold on or after January 1, 2013, but prior to January 1, 2018. For biodiesel blended fuel sold on or after January 1, 2013, but prior to January 1, 2018, the tax credit equals four and one-half cents multiplied by the qualifying number of biodiesel blended fuel gallons that have a minimum percentage of 5 percent by volume of biodiesel. Diesel fuel sold that contains less than 5 percent by volume of biodiesel does not qualify for the biodiesel blended fuel tax credit.

(4) Fuel sold on or after January 1, 2018, but prior to January 1, 2025.

1. Amount of credit. For biodiesel blended fuel sold on or after January 1, 2018, but prior to January 1, 2025, the tax credit equals the sum of three and one-half cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year that have a minimum percentage of 5 percent by volume of biodiesel but less than 11 percent by volume of biodiesel plus five and one-half cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year that have a minimum percentage of 11 percent by volume of biodiesel.

2. Blending errors. Where a blending error occurs and an insufficient amount of biodiesel has inadvertently been blended with petroleum-based diesel fuel so that the mixture fails to contain 11 percent by volume of biodiesel, a 1 percent tolerance applies in determining the credit amount for the blended product as described in 501.31(1)*"b"*(4)"2":

- If the amount of the biodiesel erroneously blended with petroleum-based diesel is at least 10 percent of the total blended product by volume, the entire blended product qualifies for the credit amount available for biodiesel blended fuel that has a minimum percentage of 11 percent by volume of biodiesel.
- If the amount of biodiesel blended with petroleum-based diesel is at least 5 percent but less than 10 percent of the total blended product by volume, the entire blended product qualifies for the credit amount available for biodiesel blended fuel that has a minimum percentage of 5 percent by volume of biodiesel but less than 11 percent by volume of biodiesel.
- Numbered paragraph 501.31(1)*"b"*(4)"2" applies only if a retail dealer intends to sell and dispense biodiesel blended fuel that has a minimum percentage of 11 percent by volume of biodiesel. If a retail dealer does not intend to sell and dispense biodiesel blended fuel that has a minimum percentage of 11 percent by volume of biodiesel and the product sold and dispensed contains less than 11 percent biodiesel by volume, no error has occurred and the product does not qualify for the credit amount available for biodiesel blended fuel that has a minimum percentage of 11 percent by volume of biodiesel.

c. Refundability. Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

d. Transferability. The credit may not be transferred to any other person.

e. Examples.

EXAMPLE 1: A taxpayer operated four retail motor fuel sites during 2006 and sold a combined total at all four sites of 100,000 gallons of diesel fuel, of which 55,000 gallons was biodiesel blended fuel containing a minimum percentage of 2 percent by volume of biodiesel. Because 50 percent or more of the diesel fuel sold was biodiesel blended fuel, the taxpayer may claim the biodiesel blended fuel tax credit totaling $1,650, which is 55,000 gallons multiplied by three cents.

EXAMPLE 2: A taxpayer operated two retail motor fuel sites during 2006, and each site sold 40,000 gallons of diesel fuel. One site sold 25,000 gallons of biodiesel blended fuel containing a minimum percentage of 2 percent by volume of biodiesel, and the other site sold 10,000 gallons of biodiesel blended fuel containing a minimum percentage of 2 percent by volume of biodiesel. The taxpayer would not be eligible for the biodiesel blended fuel tax credit because only 35,000 gallons of the total 80,000 gallons, or 43.75 percent of the total diesel fuel gallons sold, was biodiesel blended fuel. The 50 percent requirement is based on the aggregate number of diesel fuel gallons sold by the taxpayer,

and the fact that one retail motor fuel site met the 50 percent requirement does not allow the taxpayer to claim the biodiesel blended fuel tax credit for the 2006 tax year.

EXAMPLE 3: Same facts as in example 2, except the fuel sales occurred in 2009. The taxpayer can claim a biodiesel blended fuel tax credit totaling $750, which is 25,000 gallons multiplied by three cents, since one of the retail motor fuel sites met the 50 percent biodiesel blended fuel requirement.

EXAMPLE 4: Same facts as in example 2, except the fuel sales occurred in 2016, and all biodiesel blended fuel sold contains a minimum percentage of 5 percent by volume of biodiesel. The taxpayer can claim a biodiesel blended fuel tax credit totaling $1,575, which is 35,000 gallons multiplied by four and one-half cents, since the 50 percent biodiesel blended fuel requirement has been eliminated.

501.31(2) *Fiscal year filers.* For taxpayers whose tax year is not on a calendar-year basis and whose tax year ends before December 31, 2006, the taxpayer may compute the tax credit on the gallons of biodiesel blended fuel sold during the period from January 1, 2006, through the end of the tax year, provided that 50 percent of all diesel fuel sold during that period was biodiesel blended fuel. Because the tax credit is repealed on January 1, 2025, a taxpayer whose tax year ends prior to December 31, 2024, may continue to claim the tax credit in the following tax year for any biodiesel blended fuel sold through December 31, 2024.

EXAMPLE 1: A taxpayer who operates one retail motor fuel site has a fiscal year ending April 30, 2006. The taxpayer sold 60,000 gallons of diesel fuel for the period from May 1, 2005, through April 30, 2006, of which 28,000 gallons was biodiesel blended fuel. However, for the period from January 1, 2006, through April 30, 2006, the taxpayer sold 20,000 gallons of diesel fuel, of which 12,000 gallons was biodiesel blended fuel. The taxpayer is entitled to claim the biodiesel blended fuel tax credit of $360 (12,000 gallons multiplied by 3 cents) on the taxpayer's Iowa income tax return for the period ending April 30, 2006, since more than 50 percent of all diesel fuel sold during the period from January 1, 2006, through April 30, 2006, was biodiesel blended fuel.

EXAMPLE 2: A taxpayer who operates one retail motor fuel site has a fiscal year ending June 30, 2006. The taxpayer sold 80,000 gallons of diesel fuel for the period from July 1, 2005, through June 30, 2006, of which 42,000 gallons was biodiesel blended fuel. However, for the period from January 1, 2006, through June 30, 2006, the taxpayer sold 40,000 gallons of diesel fuel, of which 19,000 gallons was biodiesel blended fuel. The taxpayer is not entitled to claim the biodiesel blended fuel tax credit on the taxpayer's Iowa income tax return for the period ending June 30, 2006, since less than 50 percent of all diesel fuel sold during the period from January 1, 2006, through June 30, 2006, was biodiesel blended fuel, even though more than 50 percent of all diesel fuel sold during the period from July 1, 2005, through June 30, 2006, was biodiesel blended fuel.

EXAMPLE 3: A taxpayer who operates one retail motor fuel site has a fiscal year ending February 28, 2025. The taxpayer sold 100,000 gallons of diesel fuel for the period from March 1, 2024, through February 28, 2025, of which 60,000 gallons was biodiesel blended fuel containing a minimum percentage of 5 percent by volume of biodiesel. For the period from March 1, 2024, through December 31, 2024, the taxpayer sold 85,000 gallons of diesel fuel, of which 50,000 gallons was biodiesel fuel. The taxpayer is entitled to claim the biodiesel blended fuel tax credit of $2,250 (50,000 gallons multiplied by 4.5 cents) on the taxpayer's Iowa income tax return for the period ending February 12, 2025, since the credit is computed only on gallons sold through December 31, 2024.

501.31(3) *Allocation of credit to owners of a business entity or to beneficiaries of an estate or trust.* If a taxpayer claiming the biodiesel blended fuel tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code section 422.33 as amended by 2016 Iowa Acts, Senate File 2309.

[**ARC 9821B**, IAB 11/2/11, effective 12/7/11; **ARC 3043C**, IAB 4/26/17, effective 5/31/17; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.32(422) Soy-based transformer fluid tax credit. Effective for tax periods ending after June 30, 2006, and beginning before January 1, 2009, an electric utility may claim a soy-based transformer fluid tax credit. An electric utility, which is a public utility, city utility, or electric cooperative which furnishes electricity, may claim a credit equal to the costs incurred during the tax year for the purchase and replacement costs relating to the transition from using nonsoy-based transformer fluid to using soy-based transformer fluid.

501.32(1) *Eligibility requirements for the tax credit.* All of the following conditions must be met for the electric utility to qualify for the soy-based transformer fluid tax credit.

a. The costs must be incurred after June 30, 2006, and before January 1, 2009.

b. The costs must be incurred in the first 18 months of the transition from using nonsoy-based transformer fluid to using soy-based transformer fluid.

c. The soy-based transformer fluid must be dielectric fluid that contains at least 98 percent soy-based products.

d. The costs of the purchase and replacement must not exceed $2 per gallon of soy-based transformer fluid used in the transition.

e. The number of gallons used in the transition must not exceed 20,000 gallons per electric utility, and the total number of gallons eligible for the credit must not exceed 60,000 gallons in the aggregate.

f. The electric utility shall not deduct for Iowa income tax purposes the costs incurred in the transition to using soy-based transformer fluid which are deductible for federal income tax purposes.

501.32(2) *Applying for the tax credit.* An electric utility must apply to the department for the soy-based transformer fluid tax credit. The application for the tax credit must be filed no later than 30 days after the close of the tax year for which the credit is claimed. The application must include the following information:

a. A copy of the signed purchase agreement or other agreement to purchase soy-based transformer fluid.

b. The number of gallons of soy-based transformer fluid purchased during the tax year, along with the cost per gallon of each purchase made during the tax year.

c. The name, address, and tax identification number of the electric utility.

d. The type of tax for which the credit will be claimed, and the first year in which the credits will be claimed.

e. If the application is filed by a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, a list of the partners, members, shareholders or beneficiaries of the entity. This list shall include the name, address, tax identification number and pro rata share of earnings from the entity for each of the partners, members, shareholders or beneficiaries.

501.32(3) *Claiming the tax credit.* After the application is reviewed, the department will issue a tax credit certificate to the electric utility. The tax credit certificate will include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit and the tax year for which the credit may be claimed. Once the tax credit certificate is issued, the credit may be claimed only against the type of tax reflected on the certificate. If the department refuses to issue the tax credit certificate, the taxpayer shall be notified in writing; and the taxpayer will have 60 days from the date of denial to file a protest in accordance with rule 701—7.9(17A).

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on the partner's, member's, shareholder's or beneficiary's pro rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

This rule is intended to implement Iowa Code Supplement section 422.33 as amended by 2008 Iowa Acts, Senate File 572.

[**ARC 0251C**, IAB 8/8/12, effective 9/12/12; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.33(16,422) Agricultural assets transfer tax credit and custom farming contract tax credit.

501.33(1) *Agricultural assets transfer tax credit.* For tax years beginning on or after January 1, 2007, but before January 1, 2013, an owner of agricultural assets that rents assets to qualified beginning farmers may claim an agricultural assets transfer tax credit for Iowa corporation income tax equal to 5 percent of the rental income received by the owner for cash rental agreements and 15 percent of the rental income received by the owner for commodity share agreements. Effective for tax years beginning on or after January 1, 2013, an owner of agricultural assets that rents assets to qualified beginning farmers may claim an agricultural assets transfer tax credit for Iowa corporation income tax equal to 7 percent of the rental income received by the owner for cash rental agreements and 17 percent of the rental income received by the owner for commodity share agreements.

Also effective for tax years beginning on or after January 1, 2013, if the beginning farmer is a veteran, the credit is equal to 8 percent of the rental income received by the owner for cash rental agreements, and the credit is equal to 18 percent of the rental income received by the owner for commodity share agreements for the first year that the credit is allowed. However, the taxpayer may only claim 7 percent of the rental income for cash rental agreements and 17 percent of the rental income for commodity share agreements in subsequent years if the agreement is renewed or a new agreement is executed by the same parties. The administrative rules for the agricultural assets transfer tax credit for the Iowa finance authority may be found under 265—Chapter 44.

To qualify for the tax credit, an owner of agricultural assets must enter into a lease or rental agreement with a beginning farmer for a term of at least two years but not more than five years. Both the owner of agricultural assets and the beginning farmer must meet certain qualifications set forth by the Iowa finance authority, and the beginning farmer must be eligible to receive financial assistance under Iowa Code section 16.75.

The Iowa finance authority will issue a tax credit certificate to the owner of agricultural assets which will include the name, address and tax identification number of the owner, the amount of the credit, and the tax period for which the credit may be applied. To claim the tax credit, the owner must include the tax credit certificate with the tax return for the tax period set forth on the certificate. The tax credit certificates will be issued on a first-come, first-served basis. For fiscal years beginning on or after July 1, 2009, but before July 1, 2013, the amount of tax credit certificates issued by the Iowa agricultural development authority for the agricultural assets transfer tax credit program cannot exceed $6 million. For fiscal years beginning on or after July 1, 2013, the amount of tax credit certificates issued by the Iowa finance authority for the agricultural assets transfer tax credit program cannot exceed $8 million and the amount of the credit issued to an individual taxpayer cannot exceed $50,000. However, effective December 31, 2017, the amount of tax credits issued by the Iowa finance authority for the agricultural assets transfer tax credit shall revert back to $6 million.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier. However, for any agricultural assets transfer credits originally issued for tax years beginning on or after January 1, 2008, any credit in excess of the tax liability may be credited to the tax liability for the following ten years. The tax credit shall not be carried back to a tax year prior to the year in which the owner redeems the credit. The credit is not transferable to any other person other than the taxpayer's estate or trust upon the death of the taxpayer.

If an owner of agricultural assets is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

The lease or rental agreement may be terminated by either the owner or the beginning farmer. If the Iowa finance authority determines that the owner is not at fault for the termination, the authority will not issue a tax credit certificate for subsequent years, but any prior tax credit certificates issued will be allowed. If the Iowa finance authority determines that the owner is at fault for the termination, any prior tax credit certificates will be disallowed. The amount of tax credits previously allowed will be recaptured, and the owner will be required to repay the entire amount of tax credits previously claimed on Iowa returns.

501.33(2) *Custom farming contract tax credit.* Effective for tax years beginning on or after January 1, 2013, a landowner that hires a beginning farmer to custom farm agricultural land in this state may claim a custom farming contract tax credit for Iowa corporation income tax. The credit is equal to 7 percent of the value of the contract. If the beginning farmer is a veteran, the credit is equal to 8 percent of the value of the contract for the first year. However, the taxpayer may only claim 7 percent of the value of the contract in subsequent years if the agreement is renewed or a new agreement is executed by the same parties. The administrative rules for the custom farming contract tax credit for the Iowa finance authority may be found under 265—Chapter 44.

To qualify for the tax credit, the taxpayer must enter into a lease or rental agreement with a beginning farmer for a term of at least two years but not more than five years. Both the taxpayer and the beginning farmer must meet certain qualifications set forth by the Iowa finance authority, and the beginning farmer must be eligible to receive financial assistance under Iowa Code section 16.75.

The Iowa finance authority will issue a tax credit certificate to the taxpayer which will include the name, address and tax identification number of the owner, the amount of the credit, and the tax period for which the credit may be applied. To claim the tax credit, the owner must include the tax credit certificate with the tax return for the tax period set forth on the certificate. For fiscal years beginning on or after July 1, 2013, the amount of tax credit certificates issued by the Iowa finance authority for the custom farming contract tax credit program cannot exceed $4 million, and the credit certificates will be issued on a first-come, first-served basis. The amount of the credit issued to an individual taxpayer cannot exceed $50,000. However, effective December 31, 2017, the Iowa finance authority will no longer issue custom farming contract tax credits.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten years or until used, whichever is the earlier. The tax credit shall not be carried back to a tax year prior to the year in which the owner redeems the credit. The credit is not transferable to any other person other than the taxpayer’s estate or trust upon the death of the taxpayer.

If the party entering into the custom farming contract with the beginning farmer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual’s pro rata share of the individual’s earnings of the partnership, limited liability company, S corporation, or estate or trust.

The custom farming contract may be terminated by either the taxpayer or the beginning farmer. If the Iowa finance authority determines that the taxpayer is not at fault for the termination, the authority will not issue a tax credit certificate for subsequent years, but any prior tax credit certificates issued will be allowed. If the Iowa finance authority determines that the taxpayer is at fault for the termination, any prior tax credit certificates will be disallowed. The amount of tax credits previously allowed will be recaptured, and the taxpayer will be required to repay the entire amount of tax credits previously claimed on Iowa returns.

This rule is intended to implement Iowa Code section 422.33; 2014 Iowa Acts, Senate File 2328, sections 60 and 61, as amended by 2014 Iowa Acts, House File 2454; and 2014 Iowa Acts, Senate File 2328, sections 120 and 122.

[**ARC 8589B**, IAB 3/10/10, effective 4/14/10; **ARC 1138C**, IAB 10/30/13, effective 12/4/13; **ARC 1665C**, IAB 10/15/14, effective 11/19/14; Editorial change: IAC Supplement 11/2/22]

701—501.34(15,422) Film qualified expenditure tax credit. Effective for tax years beginning on or after January 1, 2007, a film qualified expenditure tax credit is available for corporation income tax. The tax credit cannot exceed 25 percent of the taxpayer's qualified expenditures in a film, television, or video project registered with the film office of the Iowa department of economic development (IDED). The film office may negotiate the amount of the tax credit. The administrative rules for the film qualified expenditure tax credit for IDED may be found at 261—Chapter 36.

501.34(1) *Qualified expenditures.* A qualified expenditure is a payment to an Iowa resident or an Iowa-based business for the sale, rental or furnishing of tangible personal property or services directly related to the registered project. The qualified expenditures include, but are not limited to, the following:

1. Aircraft.
2. Vehicles.
3. Equipment.
4. Materials.
5. Supplies.
6. Accounting services.
7. Animals and animal care services.
8. Artistic and design services.
9. Graphics.
10. Construction.
11. Data and information services.
12. Delivery and pickup services.
13. Labor and personnel. For limitations on the amount of labor and personnel expenditures, see Iowa department of economic development 261—paragraph 36.7(2)*"b."*
14. Lighting services.
15. Makeup and hairdressing services.
16. Film.
17. Music.
18. Photography.
19. Sound.
20. Video and related services.
21. Printing.
22. Research.
23. Site fees and rental.
24. Travel related to Iowa distant locations.
25. Trash removal and cleanup.
26. Wardrobe.

A detailed list of all qualified expenditures for each of these categories is available from the film office of IDED.

501.34(2) *Claiming the tax credit.* Upon completion of the registered project in Iowa, the taxpayer must submit, in a format approved by IDED prior to production, a listing of the qualified expenditures. Upon verification of the qualified expenditures, IDED will issue a tax credit certificate to the taxpayer. The certificate will list the taxpayer's name, address, and tax identification number; the date of project completion; the amount of the credit; the tax period for which the credit may be applied; and the type of tax for which the credit will be applied.

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on each partner's, member's, shareholder's or beneficiary's pro rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust.

To claim the tax credit, the taxpayer must include the tax credit certificate with the tax return for the tax period set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for five years or until the tax credit is used, whichever is the earlier. The tax credit cannot be carried back to a tax year prior to the year in which the taxpayer claimed the tax credit.

501.34(3) *Transfer of the film qualified expenditure tax credit.* The film qualified expenditure tax credit may be transferred no more than two times to any person or entity.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the film qualified expenditure tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

501.34(4) *Repeal of film qualified expenditure tax credit.* The film qualified expenditure tax credit is repealed for tax years beginning on or after January 1, 2012. However, the credit is still available for tax years beginning prior to January 1, 2012, if the contract or agreement related to a film project was entered into on or before May 25, 2012.

This rule is intended to implement 2012 Iowa Acts, House File 2337, sections 38 to 40, and Iowa Code section 422.33 as amended by 2012 Iowa Acts, House File 2337, section 34.

[**ARC 8589B**, IAB 3/10/10, effective 4/14/10; **ARC 0398C**, IAB 10/17/12, effective 11/21/12; **ARC 1744C**, IAB 11/26/14, effective 12/31/14; Editorial change: IAC Supplement 11/2/22]

701—501.35(15,422) Film investment tax credit. Effective for tax years beginning on or after January 1, 2007, a film investment tax credit is available for corporation income tax. The tax credit cannot exceed 25 percent of the taxpayer's investment in a film, television, or video project registered with the film office of the Iowa department of economic development (IDED). The film office may negotiate the amount of the tax credit. The administrative rules for the film investment tax credit for IDED may be found at 261—Chapter 36.

501.35(1) *Claiming the tax credit.* Upon completion of the project in Iowa and verification of the investment in the project, IDED will issue a tax credit certificate to the taxpayer. The certificate will list the taxpayer's name, address, and tax identification number; the date of project completion; the amount of the credit; the tax period for which the credit may be applied; and the type of tax for which the credit will be applied.

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on each partner's, member's, shareholder's or beneficiary's pro rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust.

To claim the tax credit, the taxpayer must include the tax credit certificate with the tax return for the tax period set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for five years or until the tax credit is used, whichever is the earlier. The tax credit cannot be carried back to a tax year prior to the year in which the taxpayer claimed the tax credit. In addition, a taxpayer cannot claim the film investment tax credit for qualified expenditures for which the film expenditure tax credit set forth in rule 701—501.34(15,422) is claimed.

The total of all film investment tax credits for a particular project cannot exceed 25 percent of the qualified expenditures as set forth in subrule 501.34(1) for the particular project. If the amount of investment exceeds the qualified expenditures, the tax credit will be allocated proportionately. For example, if three investors each invested $100,000 in a project but the qualified expenditures in Iowa only totaled $270,000, each investor would receive a tax credit based on a $90,000 investment amount.

501.35(2) *Transfer of the film investment tax credit.* The film investment tax credit may be transferred no more than two times to any person or entity.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the film investment tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

501.35(3) *Repeal of film investment tax credit.* The film investment tax credit is repealed for tax years beginning on or after January 1, 2012. However, the credit is still available for tax years beginning prior to January 1, 2012, if the contract or agreement related to a film project was entered into on or before May 25, 2012.

This rule is intended to implement 2012 Iowa Acts, House File 2337, sections 38 to 40, and Iowa Code section 422.33 as amended by 2012 Iowa Acts, House File 2337, section 34.

[**ARC 8589B**, IAB 3/10/10, effective 4/14/10; **ARC 0398C**, IAB 10/17/12, effective 11/21/12; **ARC 1744C**, IAB 11/26/14, effective 12/31/14; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.36(422) Ethanol promotion tax credit. Effective for tax years beginning on or after January 1, 2009, a retail dealer of gasoline may claim an ethanol promotion tax credit. For purposes of this rule, tank wagon sales are considered retail sales. The ethanol promotion tax credit is computed on Form IA 137.

501.36(1) *Definitions.* The following definitions are applicable to this rule:

"Biodiesel gallonage" means the total number of gallons of biodiesel which the retail dealer sells from motor fuel pumps during a determination period. For example, 5,000 gallons of biodiesel

blended fuel with a 2 percent by volume of biodiesel sold during a determination period results in a biodiesel gallonage of 100 (5,000 times 2%).

"Biofuel distribution percentage" means the sum of the retail dealer's total ethanol gallonage plus the retail dealer's total biodiesel gallonage expressed as a percentage of the retail dealer's total gasoline gallonage.

"Biofuel threshold percentage" is dependent on the aggregate number of gallons of motor fuel sold by a retail dealer during a determination period, as set forth below:

Determination Period	More than 200,000 Gallons Sold by Retail Dealer	200,000 Gallons or Less Sold by Retail Dealer
2009	10%	6%
2010	11%	6%
2011	12%	10%
2012	13%	11%
2013	14%	12%
2014	15%	13%
2015	17%	14%
2016	19%	15%
2017	21%	17%
2018	23%	19%
2019	25%	21%
2020	25%	25%

"Biofuel threshold percentage disparity" means the positive percentage difference between the retail dealer's biofuel threshold percentage and the retail dealer's biofuel distribution percentage. For example, if a retail dealer that sells more than 200,000 gallons of motor fuel in 2009 has a biofuel distribution percentage of 8 percent, the biofuel threshold percentage disparity equals 2 percent (10% minus 2%).

"Determination period" means any 12-month period beginning on January 1 and ending on December 31.

"Ethanol gallonage" means the total number of gallons of ethanol which the retail dealer sells from motor fuel pumps during a determination period. For example, 10,000 gallons of ethanol blended gasoline formulated with a 10 percent by volume of ethanol sold during a determination period results in an ethanol gallonage of 1,000 (10,000 gallons times 10%).

"Gasoline gallonage" means the total number of gallons of gasoline sold by the retail dealer during a determination period.

501.36(2) *Calculation of tax credit.*

a. The tax credit is calculated by multiplying the retail dealer's total ethanol gallonage by the tax credit rate, which is adjusted based upon the retail dealer's biofuel threshold percentage disparity. The tax credit rate is set forth below:

Biofuel Threshold Percentage Disparity	Tax Credit Rate per Gallon 2009-2010	Tax Credit Rate per Gallon 2011	Tax Credit Rate per Gallon 2012-2020
0%	6.5 cents	8 cents	8 cents
0.01% to 2.00%	4.5 cents	6 cents	6 cents
2.01% to 4.00%	2.5 cents	2.5 cents	4 cents
4.01% or more	0 cents	0 cents	0 cents

b. For use in calculating a retail dealer's total ethanol gallonage, the department is required to establish a schedule regarding the average amount of ethanol contained in E-85 gasoline.

c. A taxpayer may claim the ethanol promotion tax credit even if the taxpayer also claims the E-85 gasoline promotion tax credit provided in rule 701—501.30(422) or the E-15 plus gasoline promotion tax credit provided in rule 701—501.43(422) for the same tax year for the same ethanol gallons.

d. The tax credit must be calculated separately for each retail motor fuel site operated by the taxpayer for tax years beginning prior to January 1, 2011. The biofuel threshold percentage disparity of the taxpayer is computed on a statewide basis based on the total ethanol gallonage sold in Iowa. The taxpayer must determine the ethanol gallonage sold at each retail motor fuel site and multiply this ethanol gallonage by the applicable tax credit rate based on the biofuel threshold percentage disparity to calculate the ethanol promotion tax credit.

e. For tax years beginning on or after January 1, 2011, the taxpayer may elect to compute the biofuel threshold percentage disparity and the tax credit on either a site-by-site basis or on a companywide basis. The election made on the first return beginning on or after January 1, 2011, for either the site-by-site method or the companywide method is binding on the taxpayer for subsequent tax years unless the taxpayer petitions the department for a change in the method. Any petition for a change in the method should be made within a reasonable period of time prior to the due date of the return for which the change is requested. For example, if a change is requested for the tax return beginning January 1, 2012, the petition should be made by January 31, 2013, which is 90 days prior to the due date of the return.

The mere fact that a change in the method will result in a larger tax credit for subsequent years is not, of itself, sufficient grounds for changing the method for computing the credit. An example of a case for which the department may grant a change in the method is if the taxpayer has a significant change in the type of fuel sold at the taxpayer's retail sites in Iowa. For example, if a retail dealer opted to start selling E-85 gasoline at all the taxpayer's retail sites in Iowa for a subsequent tax year, the department may grant a change in the method.

If a taxpayer chooses the site-by-site method to compute the biofuel threshold percentage disparity, the gallons sold at all sites in Iowa must be considered in determining if the biofuel threshold percentage as defined in subrule 501.36(1) is based on more than 200,000 gallons, or 200,000 gallons or less. For example, if a taxpayer operates three motor fuel sites in Iowa and each site sells 80,000 gallons of motor fuel during 2011, the biofuel threshold percentage of 12 percent must be used for each retail site if the tax credit is computed on a site-by-site basis, even though each retail site sold less than 200,000 gallons of motor fuel.

f. Any tax credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming a refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

501.36(3) *Fiscal year filers.* or taxpayers whose tax year is not on a calendar year basis, the taxpayer may compute the ethanol promotion tax credit on the total ethanol gallonage sold during the year using the designated tax credit rates as shown in paragraph 501.36(2)*"a."* Because the tax credit is repealed on January 1, 2021, a taxpayer whose tax year ends prior to December 31, 2020, may continue to claim the tax credit in the following tax year for the total ethanol gallonage sold through December 31, 2020. For a taxpayer whose tax year is not on a calendar year basis and that did not claim the ethanol promotion tax credit on the previous return, the taxpayer may claim the tax credit for the current tax year for the period beginning on January 1 of the previous tax year until the last day of the previous tax year.

501.36(4) *Allocation of tax credit to owners of a business entity.* If a taxpayer claiming the ethanol promotion tax credit is a partnership, limited liability company, S corporation, estate, or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by the individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, estate, or trust.

501.36(5) *Examples.* The following noninclusive examples illustrate how this rule applies:

EXAMPLE 1. A taxpayer that is a retail dealer of gasoline operates only one motor fuel site in Iowa. The number of gallons of gasoline sold at this site in 2009 equals 100,000 gallons. This consisted of 5,000 gallons of E-85 gasoline, 80,000 gallons of E-10 (10% ethanol blended gasoline) and 15,000 gallons not containing ethanol. The average ethanol content of E-85 gasoline is assumed to be 79%. The taxpayer also sold at this site during 2009 15,000 gallons of diesel fuel, of which 5,000 gallons

was B-2 (2% biodiesel). The ethanol gallonage is 11,950 (5,000 E-85 gallons times 79% equals 3,950; 80,000 E-10 gallons times 10% equals 8,000; and thus 3,950 plus 8,000 equals 11,950). The biodiesel gallonage sold is 100, or 5,000 times 2%. The sum of 11,950 and 100, or 12,050, is divided by the total gasoline gallonage of 100,000 to arrive at a biofuel distribution percentage of 12.05%. Since this exceeds the biofuel threshold percentage of 6% for a retail dealer selling 200,000 gallons or less, the biofuel threshold disparity percentage is 0%. This results in an ethanol promotion tax credit of 6.5 cents times 11,950, or $776.75.

In addition, the taxpayer is entitled to claim the E-85 gasoline promotion tax credit equal to 20 cents multiplied by 5,000 gallons, or $1,000.

EXAMPLE 2. A taxpayer that is a retail dealer of gasoline operates only one motor fuel site in Iowa. The number of gallons of gasoline sold at this site in 2010 equals 300,000 gallons. This consisted of 10,000 gallons of E-85 gasoline, 230,000 gallons of E-10 (10% ethanol blended gasoline) and 60,000 gallons not containing ethanol. The average ethanol content of E-85 gasoline is assumed to be 79%. The taxpayer also sold at this site during 2010 60,000 gallons of diesel fuel, of which 25,000 gallons was B-2 (2% biodiesel). The ethanol gallonage is 30,900 (10,000 E-85 gallons times 79% equals 7,900; 230,000 E-10 gallons times 10% equals 23,000; and thus 7,900 plus 23,000 equals 30,900). The biodiesel gallonage sold is 500, or 25,000 times 2%. The sum of 30,900 and 500, or 31,400, is divided by the total gasoline gallonage of 300,000 to arrive at a biofuel distribution percentage of 10.47%. Since this is less than the biofuel threshold percentage of 11% for a retail dealer selling more than 200,000 gallons, the biofuel threshold disparity percentage is .53%. This results in an ethanol promotion tax credit of 4.5 cents times 30,900, or $1,390.50.

In addition, the taxpayer is entitled to claim the E-85 gasoline promotion tax credit equal to 20 cents multiplied by 10,000 gallons, or $2,000.

EXAMPLE 3. A taxpayer that is a retail dealer of gasoline operates three motor fuel sites in Iowa during 2009, and each site sold 80,000 gallons of gasoline. Sites A and B each sold 70,000 gallons of E-10 (10% ethanol blended gasoline) and 10,000 gallons not containing ethanol. Site C sold 60,000 gallons of E-10, 10,000 gallons of E-85, and 10,000 gallons not containing ethanol. The average ethanol content of E-85 gasoline is assumed to be 79%. The retail dealer did not sell any diesel fuel at any of the motor fuel sites. The ethanol gallonage is 27,900, as shown below:

Site A – 70,000 times 10% equals	7,000
Site B – 70,000 times 10% equals	7,000
Site C – 60,000 times 10% equals	6,000
Site C – 10,000 times 79% equals	7,900
Total	27,900

The ethanol gallonage of 27,900 is divided by the gasoline gallonage of 240,000 to arrive at a biofuel distribution percentage of 11.63%. Since this exceeds the biofuel threshold percentage of 10% for a retail dealer selling more than 200,000 gallons, the biofuel threshold disparity percentage is 0%. The credit is computed separately for each motor fuel site, and the ethanol promotion credit equals $1,813.50, as shown below:

Site A – 7,000 times 6.5 cents equals	$455.00
Site B – 7,000 times 6.5 cents equals	$455.00
Site C – 13,900 times 6.5 cents equals	$903.50
Total	$1,813.50

Since the biofuel distribution percentage and the biofuel threshold percentage disparity are computed on a statewide basis for all gallons sold in Iowa, the 6.5 cent tax credit rate is applied to the total ethanol gallonage, even if Sites A and B did not meet the biofuel threshold percentage of 10% for 2009.

In addition, the taxpayer is entitled to claim the E-85 gasoline promotion tax credit equal to 20 cents multiplied by 10,000 gallons, or $2,000.

EXAMPLE 4. A taxpayer that is a retail dealer of gasoline has a fiscal year ending March 31, 2011, and operates one motor fuel site in Iowa. The taxpayer sold more than 200,000 gallons of gasoline during the 2010 calendar year and expects to sell more than 200,000 gallons of gasoline during the 2011 calendar year. The ethanol gallonage is 30,000 for the period from April 1, 2010, through December 31, 2010, and the ethanol gallonage is 8,000 for the period from January 1, 2011, through March 31, 2011. The biofuel distribution percentage is 11.5% for the period from April 1, 2010, through December 31, 2010, and the biofuel distribution percentage is 11.8% for the period from January 1, 2011, through March 31, 2011. This results in a biofuel threshold percentage disparity of 0% (11.0 minus 11.5) for the period from April 1, 2010, through December 31, 2010, and a biofuel threshold percentage disparity of .2% (12.0 minus 11.8) for the period from January 1, 2011, through March 31, 2011. The taxpayer is entitled to an ethanol promotion tax credit of $2,310 for the fiscal year ending March 31, 2011, as shown below:

30,000 times 6.5 cents equals	$1,950
8,000 times 4.5 cents equals	360
Total	$2,310

EXAMPLE 5. A taxpayer that is a retail dealer of gasoline has a fiscal year ending April 30, 2009, and operates one motor fuel site in Iowa. The taxpayer expects to sell more than 200,000 gallons of gasoline during the 2009 calendar year. The ethanol gallonage is 50,000 gallons for the period from January 1, 2009, through April 30, 2009. The biofuel distribution percentage is 7.7% for the period from January 1, 2009, through April 30, 2009, which results in a biofuel threshold percentage disparity of 2.3% (10.0 minus 7.7). The taxpayer is entitled to claim an ethanol promotion tax credit of $1,250 (50,000 gallons times 2.5 cents) on the taxpayer's Iowa income tax return for the period ending April 30, 2009.

In lieu of claiming the credit on the return for the period ending April 30, 2009, the taxpayer may claim the ethanol promotion tax credit on the tax return for the period ending April 30, 2010, including the ethanol gallonage for the period from January 1, 2009, through April 30, 2010. In this case, the taxpayer will compute the biofuel distribution percentage for the period from January 1, 2009, through December 31, 2009, to determine the proper tax credit rate to be applied to the ethanol gallonage for the period from January 1, 2009, through December 31, 2009.

EXAMPLE 6. Assume the same facts as Example 3, except that the gallons were sold in 2011. The taxpayer chose the companywide method to compute the biofuel threshold percentage disparity and the tax credit. The biofuel distribution percentage is 11.63%, and since the biofuel threshold percentage is 12% for retailers selling more than 200,000 gallons of motor fuel, the biofuel threshold percentage disparity is 0.37%. This results in an ethanol promotion tax credit on a companywide basis of 6 cents multiplied by the ethanol gallonage of 27,900 or $1,674.

EXAMPLE 7. Assume the same facts as Example 3, except that the gallons were sold in 2011. The taxpayer chose the site-by-site method to compute the biofuel threshold percentage disparity and the tax credit. The biofuel threshold percentage is still 12% since the retailer sold more than 200,000 gallons of motor fuel at all sites in Iowa. The biofuel distribution percentage for Site A and Site B is 7,000 divided by 80,000, or 8.75%. The biofuel threshold percentage disparity for Site A and Site B is 3.25%, or 12% less 8.75%. The biofuel distribution percentage for Site C is 13,900 divided by 80,000, or 17.38%. The biofuel threshold percentage disparity for Site C is 0% since the biofuel distribution percentage exceeds the biofuel threshold percentage. This results in an ethanol promotion tax credit on a site-by-site basis of $1,462, as shown below:

Site A – 7,000 times 2.5 cents equals	$175
Site B – 7,000 times 2.5 cents equals	$175
Site C – 13,900 times 8 cents equals	$1,112
Total	$1,462

This rule is intended to implement Iowa Code section 422.33 as amended by 2011 Iowa Acts, Senate File 531.

[**ARC 9821B**, IAB 11/2/11, effective 12/7/11; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.37(422) Charitable conservation contribution tax credit. Effective for tax years beginning on or after January 1, 2008, a charitable conservation contribution tax credit is available for corporation income tax which is equal to 50 percent of the fair market value of a qualified real property interest located in Iowa that is conveyed as an unconditional charitable donation in perpetuity by a taxpayer to a qualified organization exclusively for conservation purposes.

501.37(1) *Definitions.* The following definitions are applicable to this rule:

"Conservation purpose" means the same as defined in Section 170(h)(4) of the Internal Revenue Code, with the exception that a conveyance of land for open space for the purpose of fulfilling density requirements to obtain subdivision or building permits is not considered a conveyance for a conservation purpose.

"Qualified organization" means the same as defined in Section 170(h)(3) of the Internal Revenue Code.

"Qualified real property interest" means the same as defined in Section 170(h)(2) of the Internal Revenue Code. Conservation easements and bargain sales are examples of a qualified real property interest.

501.37(2) *Computation of the credit.* The credit equals 50 percent of the fair market value of the qualified real property interest. There are numerous federal revenue regulations, rulings, court cases and other provisions relating to the determination of the value of a qualified real property interest, and these are equally applicable in determining the amount of the charitable conservation contribution tax credit.

The maximum amount of the tax credit is $100,000. The amount of the contribution for which the tax credit is claimed shall not be claimed as a deduction for charitable contributions for Iowa income tax purposes.

501.37(3) *Claiming the tax credit.* The tax credit is claimed on Form IA 148, Tax Credits Schedule. The taxpayer must include a copy of federal Form 8283, Noncash Charitable Contributions, which reflects the calculation of the fair market value of the real property interest, with the Iowa return for the year in which the contribution is made. If a qualified appraisal of the property or other relevant information is required to be included with federal Form 8283 for federal tax purposes, the appraisal and other relevant information must also be included with the Iowa return.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following 20 years or until used, whichever is the earlier.

If the taxpayer claiming the credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

501.37(4) *Examples.* The following noninclusive examples illustrate how this rule applies:

EXAMPLE 1: A taxpayer conveys a real property interest with a fair market value of $150,000 to a qualified organization during 2008. The tax credit is equal to $75,000, or 50 percent of the $150,000 fair market value of the real property. The taxpayer cannot claim the $150,000 as a deduction for charitable contributions on the Iowa corporation income tax return for 2008.

EXAMPLE 2: A taxpayer conveys a real property interest with a fair market value of $500,000 to a qualified organization during 2009. The tax credit is limited to $100,000, which equates to $200,000 of the contribution being eligible for the tax credit. The remaining amount of $300,000 ($500,000 less $200,000) can be claimed as a deduction for charitable contributions on the Iowa corporation income tax return for 2009.

This rule is intended to implement Iowa Code Supplement section 422.33 as amended by 2008 Iowa Acts, House File 2700, section 63.

[**ARC 1744C**, IAB 11/26/14, effective 12/31/14; Editorial change: IAC Supplement 11/2/22]

701—501.38(422) School tuition organization tax credit. For tax years beginning prior to January 1, 2021, a school tuition organization tax credit is available which is equal to 65 percent of the amount of the voluntary cash or noncash contribution made by a corporation taxpayer to a school tuition organization. For tax years beginning on or after January 1, 2021, the tax credit is equal to 75 percent of the amount of the voluntary cash or noncash contribution made by a corporation taxpayer to a school tuition organization. For S corporations, partnerships, limited liability companies, estates and trusts where the income is taxed directly to the individual shareholders, partners, members or beneficiaries, an individual may claim the credit. The amount of credit claimed by an individual shall be based on the pro rata share of the individual's earnings of the S corporation, partnership, limited liability company, estate or trust. For information on the initial registration, participation forms and reporting requirements for school tuition organizations, see rule 701—304.32(422).

501.38(1) *Amount of tax credit authorized—additional limitation for corporations.*

a. Of the $7.5 million of school tuition organization tax credits authorized for the 2009 through 2011 calendar years, no more than 25 percent, or $1,875,000, can be authorized for corporation income tax taxpayers.

b. Of the $8.75 million of school tuition organization tax credits authorized for 2012 and 2013, no more than 25 percent, or $2,187,500, can be authorized for corporation income tax taxpayers.

c. Of the $12 million of school tuition organization tax credits authorized for 2014 through 2018, no more than 25 percent, or $3 million, can be authorized for corporation income tax taxpayers.

d. Of the $13 million of school tuition organization tax credits authorized for 2019, no more than 25 percent, or $3,250,000, can be authorized for corporation income tax taxpayers.

e. Effective July 1, 2020, the prohibition against authorizing more than 25 percent of the total authorized tax credits for corporation income tax purposes was repealed. On or after July 1, 2020, of the total school tuition organization tax credits authorized for a year, any amount can be authorized for corporation income taxpayers.

501.38(2) *Issuance of tax credit certificates.* The school tuition organization shall issue tax credit certificates to each taxpayer who made a cash or noncash contribution to the school tuition organization. The tax credit certificate shall contain the name, address and tax identification number of the taxpayer; the amount and date that the contribution was made; the amount of the credit; the tax year that the credit may be applied; the school tuition organization to which the contribution was made; and the tax credit certificate number.

501.38(3) *Claiming the tax credit.* The taxpayer must include the tax credit certificate with the tax return for which the credit is claimed. The tax credit shall be claimed in the tax year during which the contribution is made. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier. The taxpayer shall not claim a deduction for charitable contributions for Iowa corporation income tax purposes for the amount of the contribution made to the school tuition organization.

This rule is intended to implement Iowa Code section 422.33.

[**ARC 8589B**, IAB 3/10/10, effective 4/14/10; **ARC 9876B**, IAB 11/30/11, effective 1/4/12; **ARC 1102C**, IAB 10/16/13, effective 11/20/13; **ARC 1744C**, IAB 11/26/14, effective 12/31/14; **ARC 5978C**, IAB 10/20/21, effective 11/24/21; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.39(15,422) Redevelopment tax credit. The economic development authority is authorized by the general assembly and the governor to oversee the implementation and administration of the redevelopment tax credit program. Effective for tax years beginning on or after July 1, 2009, a taxpayer whose project has been approved by the Iowa brownfield redevelopment advisory council and the economic development authority may claim a redevelopment tax credit once the taxpayer has been issued a tax credit certificate for the project by the economic development authority. The credit

is based on the taxpayer's qualifying investment in a brownfield or grayfield site. The administrative rules for the economic development authority's administration of this program, including definitions of brownfield and grayfield sites, may be found in rules 261—65.11(15) and 261—65.12(15).

501.39(1) *Eligibility for the credit.* The economic development authority is responsible for developing a system for registration and authorization of projects receiving redevelopment tax credits. For more information, see Iowa Administrative Code 261—Chapter 65.

501.39(2) *Amount of the credit.*

a. Maximum credit total. For the fiscal year beginning July 1, 2009, the maximum amount of tax credits allowed is $1 million, and the amount of credit authorized for any one redevelopment project cannot exceed $100,000. For the fiscal year beginning July 1, 2011, the maximum amount of tax credits allowed cannot exceed $5 million, and the amount of credit authorized for any one redevelopment project cannot exceed $500,000. For the fiscal year beginning July 1, 2012, the maximum amount of tax credits allowed cannot exceed $10 million, and the amount of credit authorized for any one redevelopment project cannot exceed $1 million. For the fiscal year beginning July 1, 2013, and for each subsequent fiscal year, the maximum amount of tax credits issued by the authority shall be an amount determined by the economic development authority board but not in excess of the amount established pursuant to Iowa Code section 15.119.

b. Maximum credit per project. The maximum amount of a tax credit for a qualifying investment in any one qualifying redevelopment project shall not exceed 10 percent of the maximum amount of tax credits available in any one fiscal year pursuant to paragraph 501.39(2)*"a."*

c. Percentage computation. The amount of the tax credit shall equal one of the following:

(1) Twelve percent of the taxpayer's qualifying investment in a grayfield site.

(2) Fifteen percent of the taxpayer's qualifying investment in a grayfield site if the qualifying redevelopment project meets the requirements of green development as defined in rule 261—65.2(15).

(3) Twenty-four percent of the taxpayer's qualifying investment in a brownfield site.

(4) Thirty percent of the taxpayer's qualifying investment in a brownfield site if the qualifying redevelopment project meets the requirements of green development as defined in rule 261—65.2(15).

501.39(3) *Claiming the credit.*

a. Certificate issuance. Upon completion of the project, the economic development authority will issue a tax credit certificate to the taxpayer. The tax credit certificate shall include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit, the tax year for which the credit may be claimed and the tax credit certificate number. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 501.39(4). To claim the tax credit, the taxpayer must include the tax credit certificate with the tax return for the tax period set forth on the certificate.

b. Pro rata share. If a taxpayer claiming the tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

c. Carryforward. Except as provided in paragraph 501.39(3)*"d,"* any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier. The tax credit shall not be carried back to a tax year prior to the year in which the taxpayer redeems the credit.

d. Refundability. A tax credit in excess of the taxpayer's liability for the tax year is refundable if all of the conditions of economic development authority 261—paragraph 65.11(4)*"b"* are met.

501.39(4) *Transfer of the credit.* The redevelopment tax credit can be transferred to any person or entity. However, a certificate indicating that the credit is refundable is only transferrable to the extent permitted by economic development authority 261—paragraph 65.11(4)*"b."*

a. Submission of transferred tax credit certificate to the department—information required. Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred, the amount of all consideration provided in exchange for the tax credit, and the names of recipients of any consideration provided in exchange for the tax credit. If a payment of money was any part of the consideration provided in exchange for the tax credit, the transferee shall list the amount of the payment of money in its statement to the department of revenue. If any part of the consideration provided in exchange for the tax credit included nonmonetary consideration, including but not limited to any promise, representation, performance, discharge of debt or nonmonetary rights or property, the transferee shall describe the nature of nonmonetary consideration and disclose any value the transferor and transferee assigned to the nonmonetary consideration. The transferee must indicate on its statement to the department of revenue if no consideration was provided in exchange for the tax credit. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the redevelopment tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries.

b. Issuance of replacement certificate by the department. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue a replacement tax credit certificate to the transferee.

c. Claiming the transferred tax credit. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate. The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income tax, corporation income tax, or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income tax, corporation income tax, or franchise tax purposes.

501.39(5) *Basis reduction of the redevelopment property.* The increase in the basis of the redevelopment property that would otherwise result from the qualified redevelopment costs shall be reduced by the amount of the redevelopment tax credit. For example, if a qualifying investment in a grayfield site totaled $100,000 for which a $12,000 redevelopment tax credit was issued, the increase in the basis of the property would total $88,000 for Iowa tax purposes ($100,000 less $12,000).

This rule is intended to implement Iowa Code sections 15.293A, 422.33 and 15.119.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 9876B**, IAB 11/30/11, effective 1/4/12; **ARC 1102C**, IAB 10/16/13, effective 11/20/13; **ARC 1949C**, IAB 4/1/15, effective 5/6/15; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.40(15) High quality jobs program. Effective for tax periods beginning on or after July 1, 2009, a business which qualifies under the high quality jobs program is eligible to receive tax credits. The high quality jobs program replaces the high quality job creation program. An eligible business under the high quality jobs program must be approved by the Iowa department of economic development and meet the qualifications of Iowa Code section 15.329. The tax credits available under the high quality jobs program are based upon the number of jobs created or retained that pay a qualifying wage threshold and the amount of qualifying investment. The administrative rules for the high quality jobs program for the Iowa department of economic development may be found at 261—Chapter 68.

501.40(1) *Research activities credit.* An eligible business approved under the high quality jobs program is eligible for an additional research activities credit as described in subrule 501.7(4) for

awards issued by the Iowa department of economic development prior to July 1, 2010. The eligible business is eligible for the research activities credit as described in subrule 501.7(6) for awards issued by the Iowa department of economic development on or after July 1, 2010.

Research activities allowable for the Iowa research activities credit include expenses related to the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa; such expenses related to the development and deployment of innovative renewable energy generation components are not eligible for the federal credit for increasing research activities. For purposes of this subrule, innovative renewable energy generation components do not include components with more than 200 megawatts in installed effective nameplate capacity. The research activities credit related to renewable energy generation components under the high quality jobs program and the enterprise zone program shall not exceed $2 million for the fiscal year ending June 30, 2010, and $1 million for the fiscal year ending June 30, 2011.

These expenses related to the development and deployment of innovative renewable energy generation components are applicable only to the additional research activities credit set forth in this subrule and in subrule 501.7(5) for businesses in enterprise zones, and are not applicable to the research activities credit set forth in subrule 501.7(3).

501.40(2) *Investment tax credit.* An eligible business can claim an investment tax credit equal to a percentage of the new investment directly related to new jobs created or retained by the location or expansion of an eligible business. The percentage is equal to the amount provided in Iowa department of economic development 261—subrule 68.4(7).

The determination of the new investment eligible for the investment tax credit, the eligibility of a refundable investment tax credit for value-added agricultural product or biotechnology-related projects and the repayment of investment tax credits for the high quality jobs program is the same as set forth in subrule 501.28(2) for the high quality job creation program.

501.40(3) *Repayment of benefits.* If an eligible business fails to maintain the requirements of the high quality jobs program, the taxpayer may be required to repay all or a portion of the tax incentives taken on Iowa returns. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the tax credits may have expired, the department may proceed to collect the tax incentives forfeited by failure of the eligible business to maintain the requirements of the high quality jobs program because the repayment is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability. Details on the calculation of the repayment can be found in 261—subrule 187.5(4) of the administrative rules of the economic development authority. If the business is a partnership, limited liability company, S corporation, estate or trust where the income of the taxpayer is taxed to the individual owner(s) of the business, the department may proceed to collect the tax incentives against the partners, members, shareholders or beneficiaries to whom the tax incentives were passed through. See Decision of the Administrative Law Judge in *Damien & Colette Trebilcock, et al.,* Docket No. 11DORF 042-044, June 11, 2012.

This rule is intended to implement Iowa Code chapter 15.

[**ARC 8589B**, IAB 3/10/10, effective 4/14/10; **ARC 9104B**, IAB 9/22/10, effective 10/27/10; **ARC 1744C**, IAB 11/26/14, effective 12/31/14; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.41(15) Aggregate tax credit limit for certain economic development programs. Effective for the fiscal year beginning July 1, 2009, awards made under certain economic development programs cannot exceed $185 million during a fiscal year. Effective for fiscal years beginning on or after July 1, 2010, but beginning before July 1, 2012, awards made under these economic development programs cannot exceed $120 million during a fiscal year. Effective for fiscal years beginning on or after July 1, 2012, awards made under these economic development programs cannot exceed $170 million. For fiscal years beginning on or after July 1, 2010, but beginning before July 1, 2014, these programs include the assistive device tax credit program, the enterprise zone program, the housing enterprise zone program, the high quality jobs program, the redevelopment tax credit program, tax credits for investments in qualifying businesses and community-based seed capital funds, and the

innovation fund tax credit program. For fiscal years beginning on or after July 1, 2014, these programs include the assistive device tax credit program, the workforce housing tax incentives program, the high quality jobs program, the redevelopment tax credit program, tax credits for investments in qualifying businesses and community-based seed capital funds, and the innovation fund tax credit program. The administrative rules for the aggregate tax credit limit for the economic development authority may be found at 261—Chapter 76.

This rule is intended to implement Iowa Code section 15.119 as amended by 2014 Iowa Acts, House File 2448.

[**ARC 8589B**, IAB 3/10/10, effective 4/14/10; **ARC 9104B**, IAB 9/22/10, effective 10/27/10; **ARC 1102C**, IAB 10/16/13, effective 11/20/13; **ARC 1744C**, IAB 11/26/14, effective 12/31/14; Editorial change: IAC Supplement 11/2/22]

701—501.42(16,422) Disaster recovery housing project tax credit. For tax years beginning on or after January 1, 2011, but before January 1, 2015, a disaster recovery housing project tax credit is available for corporation income tax. The credit is equal to 75 percent of the taxpayer's qualifying investment in a disaster recovery housing project and is administered by the Iowa finance authority. Qualifying investments are costs incurred on or after May 12, 2009, and prior to July 1, 2010, related to a disaster recovery housing project. Eligible properties must have applied for and received an allocation of federal low-income housing tax credits under Section 42 of the Internal Revenue Code to be eligible for the tax credit. The administrative rules of the Iowa finance authority for the disaster recovery housing project tax credit may be found at 265—Chapter 34. The tax credit is repealed effective January 1, 2015.

501.42(1) *Issuance of tax credit certificates.* Upon completion of the project and verification of the amount of investment made in the disaster recovery housing project, the Iowa finance authority will issue a tax credit certificate to the taxpayer. The tax credit certificate shall include the taxpayer's name, address, tax identification number, amount of credit, and the tax year for which the credit may be claimed. The tax credit certificates will be issued on a first-come, first-served basis. The tax credit cannot be transferred to any other person or entity.

501.42(2) *Limitation of tax credits.* The tax credit shall not exceed 75 percent of the taxpayer's qualifying investment in a disaster recovery housing project. The maximum amount of tax credits issued by the Iowa finance authority shall not exceed $3 million in each of the five consecutive years beginning in the 2011 calendar year. A tax credit certificate shall be issued by the Iowa finance authority for each year that the credit can be claimed.

501.42(3) *Claiming the tax credit.* The amount of the tax credit earned by the taxpayer will be divided by five and an amount equal thereto will be claimed on the Iowa corporation income tax return commencing with the tax year beginning on or after January 1, 2011. A taxpayer is not entitled to a refund of the excess tax for any tax credit in excess of the tax liability, and also is not entitled to carry forward any excess credit to a subsequent tax year.

If the taxpayer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

The increase in the basis of the property that would otherwise result from the disaster recovery housing investment shall be reduced by the amount of the tax credit allowed.

EXAMPLE: A corporation whose tax year ends on December 31 incurs $100,000 of costs related to an eligible disaster recovery housing project. The taxpayer receives a tax credit of $75,000, and $15,000 of credit can be claimed on each Iowa corporation income tax return for the periods ending December 31, 2011, through December 31, 2015. If the tax liability for the corporation for the period ending December 31, 2011, is $10,000, the credit is limited to $10,000, and the remaining $5,000 credit cannot be used. If the tax liability for the corporation for the period ending December 31, 2012, is $25,000, the credit is limited to $15,000, and the remaining $5,000 credit from 2011 cannot be used to reduce the tax for 2012.

501.42(4) *Potential recapture of tax credits.* If the taxpayer fails to comply with the eligibility requirements of the project or violates local zoning and construction ordinances, the Iowa finance authority can void the tax credit and the department of revenue shall seek recovery of the value of any tax credit claimed on a corporation income tax return.

This rule is intended to implement Iowa Code sections 16.211, 16.212 and 422.33 as amended by 2014 Iowa Acts, Senate File 2328.

[**ARC 8605B**, IAB 3/10/10, effective 4/14/10; **ARC 9104B**, IAB 9/22/10, effective 10/27/10; **ARC 1665C**, IAB 10/15/14, effective 11/19/14; Editorial change: IAC Supplement 11/2/22]

701—501.43(422) E-15 plus gasoline promotion tax credit. Effective for eligible gallons sold on or after July 1, 2011, a retail dealer of gasoline may claim an E-15 plus gasoline promotion tax credit. "E-15 plus gasoline" means ethanol blended gasoline formulated with a minimum percentage of between 15 percent and 69 percent of volume of ethanol, if the formulation meets the standards provided in Iowa Code section 214A.2. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA 138.

501.43(1) *Calculating the credit.*

a. Amount of credit. The tax credit is calculated by multiplying the total number of E-15 plus gallons sold by the retail dealer during the tax year by the following designated rates:

Gallons sold from July 1, 2011, through December 31, 2013	3 cents
Gallons sold from January 1 through May 31 and from September 16 through December 31 for the 2014-2024 calendar years	3 cents
Gallons sold from June 1 through September 15 for the 2014-2024 calendar years	10 cents

b. Claiming the credit with other credits. A taxpayer may claim the E-15 plus gasoline promotion tax credit even if the taxpayer also claims the ethanol promotion tax credit provided in rule 701—52.36(422) for gallons sold on or after January 1, 2011, but prior to January 1, 2021, for the same tax year for the same ethanol gallons.

c. Refundability. Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

d. Transferability. The credit may not be transferred to any other person.

501.43(2) *Fiscal year filers.* For taxpayers whose tax year is not on a calendar-year basis, the taxpayer may compute the tax credit on the gallons of E-15 plus gasoline sold during the year using the designated rates as shown above. Because the tax credit is repealed on January 1, 2025, a taxpayer whose tax year ends prior to December 31, 2024, may continue to claim the tax credit in the following tax year for any E-15 plus gallons sold through December 31, 2024. For a retail dealer whose tax year is not on a calendar-year basis and who did not claim the E-15 plus credit on the previous return, the dealer may claim the credit for the current tax year for gallons sold for the period beginning on July 1 of the previous tax year until the last day of the previous tax year. However, for taxpayers whose fiscal year ends prior to December 31, 2011, the dealer must claim the credit for the current tax year for gallons sold for the period beginning on July 1 of the previous tax year until the last day of the previous tax year.

EXAMPLE 1: A taxpayer who is a retail dealer of gasoline has a fiscal year ending October 31, 2011. The taxpayer sold 2,000 gallons of E-15 plus gasoline for the period from July 1, 2011, through October 31, 2011, and sold 7,000 gallons of E-15 plus gasoline for the period from November 1, 2011, through October 31, 2012. The taxpayer is entitled to a total E-15 plus gasoline promotion tax credit of $270 for the fiscal year ending October 31, 2012, which consists of a $60 credit (2,000 gallons multiplied by 3 cents) for the period from July 1, 2011, through October 31, 2011, and a credit of $210 (7,000 gallons multiplied by 3 cents) for the period from November 1, 2011, through October 31, 2012.

EXAMPLE 2: A taxpayer who is a retail dealer of gasoline has a fiscal year ending April 30, 2012. The taxpayer sold 4,000 gallons of E-15 plus gasoline between July 1, 2011, and April 30, 2012. The taxpayer sold 9,000 gallons of E-15 plus gasoline between May 1, 2012, and April 30, 2013. The taxpayer is entitled to claim an E-15 plus gasoline promotion tax credit of $120 (4,000 gallons multiplied by 3 cents) for the fiscal year ending April 30, 2012. In lieu of claiming the credit on the return for the period ending April 30, 2012, the taxpayer can claim the E-15 plus gasoline promotion tax credit on the tax return for the period ending April 30, 2013, for all E-15 plus gasoline gallons sold for the period from July 1, 2011, through April 30, 2013.

EXAMPLE 3: A taxpayer who is a retail dealer of gasoline has a fiscal year ending February 28, 2025. The taxpayer sold 20,000 total gallons of E-15 plus gasoline for the entire period from March 1, 2024, through February 28, 2025. For the period from March 1 through May 31, 2024, the taxpayer sold 4,000 gallons of E-15 plus gasoline, which entitles the taxpayer to a credit of $120 (4,000 gallons multiplied by 3 cents). For the period from June 1 through September 15, 2024, the taxpayer sold 6,000 gallons of E-15 plus gasoline, which entitles the taxpayer to a credit of $600 (6,000 gallons multiplied by 10 cents). For the period from September 16 through December 31, 2024, the taxpayer sold 6,000 gallons of E-15 plus gasoline, which entitles the taxpayer to a credit of $180 (6,000 gallons multiplied by 3 cents). For the period from January 1 through February 28, 2025, the taxpayer sold 4,000 gallons of E-15 plus gasoline, which occurred after expiration of the credit. The taxpayer is entitled to claim a total E-15 plus gasoline promotion tax credit of $900 ($120 plus $600 plus $180) on the taxpayer's Iowa income tax return for the period ending February 28, 2025.

501.43(3) *Allocation of credit to owners of a business entity or to beneficiaries of an estate or trust.* If a taxpayer claiming the E-15 plus gasoline promotion tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code sections 422.11Y and 422.33 as amended by 2016 Iowa Acts, Senate File 2309.

[**ARC 9821B**, IAB 11/2/11, effective 12/7/11; **ARC 1665C**, IAB 10/15/14, effective 11/19/14; **ARC 3043C**, IAB 4/26/17, effective 5/31/17; Editorial change: IAC Supplement 11/2/22]

701—501.44(422) Solar energy system tax credit. For tax years beginning on or after January 1, 2012, a solar energy system tax credit is available for business property described in Sections 48(a)(2)(A)(i)(II) and 48(a)(2)(A)(i)(III) of the Internal Revenue Code and located in Iowa. The credit is available according to the same requirements, conditions, and limitations as described in rule 701—304.48(422).

This rule is intended to implement Iowa Code section 422.33.

[**ARC 5590C**, IAB 4/21/21, effective 5/26/21; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.45(422) From farm to food donation tax credit. A taxpayer that donates a food commodity that the taxpayer produces may claim a tax credit against Iowa corporation income tax according to the same requirements, conditions, and limitations as described in rule 701—304.51(422).

This rule is intended to implement Iowa Code chapter 190B, subchapter I, and section 422.33.

[**ARC 6901C**, IAB 2/22/23, effective 3/29/23]

701—501.46(15) Workforce housing tax incentives program. A business which qualifies under the workforce housing tax incentives program is eligible to receive tax incentives for corporation income tax. The workforce housing tax incentives program replaced the eligible housing enterprise zone program. An eligible business under the workforce housing tax incentives program must be approved by the economic development authority. The administrative rules for the workforce housing

tax incentives program for the economic development authority may be found at 261—Chapter 48. The general assembly has mandated that the economic development authority and the department of revenue adopt rules to jointly administer Iowa Code sections 15.351 to 15.356. In general, the economic development authority is responsible for evaluating whether projects meet the requirements for a workforce housing tax incentives program while the department of revenue administers tax credit claims and transfers.

501.46(1) *Definitions.*

"Costs directly related" means the same as defined in rule 261—48.3(15).

"Qualifying new investment" means the same as defined in rule 261—48.3(15).

501.46(2) *Workforce housing tax incentives.* The economic development authority will allocate no more than $20 million in tax incentives for this program for any fiscal year, $5 million of which shall be reserved for allocation to qualified housing projects in small cities, as defined in Iowa Code section 15.352(10), that are registered on or after July 1, 2017. A housing business that has entered into an agreement with the economic development authority is eligible to receive the tax incentives described in the following paragraphs:

a. Sales tax refund. A housing business may claim a refund of the sales and use tax described in rule 701—278.1(15).

b. Investment tax credit.

(1) Computation of the credit. A housing business may claim a tax credit in an amount not to exceed 10 percent of the qualifying new investment in a housing project not located in a small city, or 20 percent of the qualifying new investment in a housing project located in a small city.

(2) Allocation of the tax credit to the individual owners of the entity or beneficiaries of an estate or trust. An individual may claim a tax credit if the housing business is a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

(3) Refundability. Any tax credit in excess of the taxpayer's liability for the tax year is not refundable.

(4) Carryforward. Any tax credit in excess of the taxpayer's liability may be credited to the tax liability for the following five years or until depleted, whichever is earlier.

501.46(3) *Claiming the tax credit—information required.* The taxpayer must receive a tax credit certificate from the economic development authority to claim the eligible housing business tax credit. The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the date the project was completed, the amount of the eligible housing business tax credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 501.46(5). The tax credit certificate must be included with the income tax return for the tax period in which the housing is ready for occupancy.

501.46(4) *Basis adjustment.* The increase in the basis of the property that would otherwise result from the qualifying new investment shall be reduced by the amount of the investment tax credit. For example, if a new housing project had qualifying new investment of $1 million which resulted in a $100,000 investment tax credit for Iowa tax purposes, the basis of the property for Iowa income tax purposes would be $900,000.

501.46(5) *Transfer of the credit.*

a. Submission of transferred tax credit certificate to the department—information required. Tax credit certificates issued under an agreement entered into pursuant to subrule 501.46(3) may be transferred to any person. Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number, and address, the denomination that each replacement tax credit certificate is to carry, and any other information required by the department of revenue. However, tax credit

certificate amounts of less than the minimum amount established in rule by the economic development authority shall not be transferable.

b. Issuance of replacement certificate by the department. Within 30 days of receiving the transferred tax credit certificate and the transferee's statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared on the transferred tax credit certificate.

c. Claiming the transferred tax credit. A tax credit shall not be claimed by a transferee under this rule until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income, or franchise tax purposes.

d. Unlimited number of transferees and subsequent transfers. There is no limitation on the number of transferees to whom the credit may be transferred. There is no limitation on the number of times that the credit may be retransferred by a transferee. The transferor may divide the credit into multiple credits of alternate denominations so long as the resulting credits are for amounts of no less than the minimum amount established in rule by the economic development authority.

e. Carryforward limitations on transferees. The transferee may use the amount of the transferred tax credit for any tax year that the original transferor could have claimed the tax credit. The carryforward limitations described in subparagraph 501.46(2)*"b"*(4) shall apply.

501.46(6) *Repayment of benefits.* If the housing business fails to maintain the requirements of Iowa Code section 15.353, the taxpayer may be required to repay all or a portion of the tax incentives the taxpayer received. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the income tax credit may have expired, the department may proceed to collect the tax incentives forfeited by failure of the taxpayer to maintain the requirements of Iowa Code section 15.353. This repayment is required because it is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability. Details on the calculation of the repayment can be found in 261—subrule 187.5(4) of the administrative rules of the economic development authority. If the business is a partnership, limited liability company, S corporation, estate or trust where the income of the taxpayer is taxed to the individual owner(s) of the business, the department may proceed to collect the tax incentives against the partners, members, shareholders or beneficiaries to whom the tax incentives were passed through. See Decision of the Administrative Law Judge in *Damien & Colette Trebilcock, et al.,* Docket No. 11DORF 042-044, June 11, 2012.

This rule is intended to implement Iowa Code sections 15.354 and 15.355.

[**ARC 1744C**, IAB 11/26/14, effective 12/31/14; **ARC 3837C**, IAB 6/6/18, effective 7/11/18; **ARC 6398C**, IAB 7/13/22, effective 7/1/22; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.47(404A,422) Historic preservation and cultural and entertainment district tax credit for projects registered on or after July 1, 2014, and before August 15, 2016. For projects registered before August 15, 2016, the department of cultural affairs is authorized by the general assembly to award tax credits for a percentage of the qualified rehabilitation expenditures on a qualified rehabilitation project as described in the historic preservation and cultural and entertainment district tax credit program, Iowa Code chapter 404A. The program is administered by the department of cultural affairs with the assistance of the department of revenue. The general assembly has mandated that the department of cultural affairs and the department of revenue adopt rules to jointly administer Iowa Code chapter 404A. In general, the department of cultural affairs is responsible for evaluating whether projects comply with the prescribed standards for rehabilitation while the department of revenue is responsible for evaluating whether projects comply with the tax aspects of the program.

2014 Iowa Acts, House File 2453, amended the historic preservation and cultural and entertainment district tax credit program effective July 1, 2014. The department of revenue's provisions for projects with Part 2 applications approved and tax credits reserved prior to July 1, 2014, are found in rule 701—501.18(404A,422). The department of revenue's provisions for projects registered on or after July 1, 2014, and before August 15, 2016, are found in this rule. The department of cultural affairs' rules related to this program may be found at 223—Chapter 48.

2016 Iowa Acts, House File 2443, amended the program and transferred primary responsibility for its administration to the economic development authority effective August 15, 2016. Effective August 15, 2016, the program is administered by the economic development authority with the assistance of the department of cultural affairs and the department of revenue. The department of revenue's provisions for projects registered on or after August 15, 2016, are found in rule 701—501.48(404A,422). The economic development authority's rules related to the program may be found at 261—Chapter 49. When adopted, the department of cultural affairs' rules related to the program will be found in 223—Chapter 48.

Notwithstanding anything contained herein to the contrary, the department of cultural affairs shall not reserve tax credits under 2013 Iowa Code chapter 404A as amended by 2013 Iowa Acts, chapter 112, section 1, for applicants that do not have an approved Part 2 application and a tax credit reservation on or before June 30, 2014. Projects with approved Part 2 applications and provisional tax credit reservations on or before June 30, 2014, shall be governed by 2013 Iowa Code chapter 404A as amended by 2013 Iowa Acts, chapter 112, section 1; by 223—Chapter 48, Division I; and by rule 701—501.18(404A,422). Projects registered on or after July 1, 2014, but before August 15, 2016, shall be governed by 2014 Iowa Acts, House File 2453; by 223—Chapter 48, Division II; and by this rule. Projects registered on or after August 15, 2016, shall be governed by 2016 Iowa Code chapter 404A as amended by 2016 Iowa Acts, House File 2443; by 261—Chapter 49; and by rule 701—501.48(404A,422).

501.47(1) *Application, registration, and agreement for the historic preservation and cultural and entertainment district tax credit.* Taxpayers that want to claim a corporation income tax credit for completing a qualified rehabilitation project must submit an application for approval of the project. The application forms and instructions for the historic preservation and cultural and entertainment district tax credit are available on the department of cultural affairs' website. Once a project is registered, the taxpayer must enter into an agreement with the department of cultural affairs to be eligible for the credit.

501.47(2) *Computation of the amount of the historic preservation and cultural and entertainment district tax credit.* The amount of the historic preservation and cultural and entertainment district tax credit is a maximum of 25 percent of the qualified rehabilitation expenditures verified by the department of cultural affairs and the department of revenue following project completion, up to the amount specified in the agreement between the taxpayer and the department of cultural affairs.

501.47(3) *Qualified rehabilitation expenditures.* "Qualified rehabilitation expenditures" means the same as defined in rule 223—48.22(404A) of the historical division of the department of cultural affairs. In general, the department of cultural affairs evaluates whether expenditures comply with the prescribed standards for rehabilitation while the department of revenue evaluates whether expenditures comply with the tax requirements to be considered qualified rehabilitation expenditures, including whether the expenditures are in accordance with the requirements of Internal Revenue Code Section 47 and its related regulations.

a. Type of property and services eligible. In accordance with Iowa Code section 404A.1(6), the types of property and services claimed for the state tax credit must be "qualified rehabilitation expenditures" in accordance with Internal Revenue Code Section 47. Notwithstanding the foregoing sentence, expenditures incurred by an eligible taxpayer that is a nonprofit organization as defined in Iowa Code section 404A.1(4) shall be considered "qualified rehabilitation expenditures" if they are for "structural components," as that term is defined in Treasury Regulation § 1.48-1(e)(2), and for

amounts incurred for architectural and engineering fees, site survey fees, legal expenses, insurance premiums, development fees and other construction-related costs.

b. Effect of financing sources on eligibility of expenditures. Qualified rehabilitation expenditures do not include expenditures financed by federal, state, or local government grants or forgivable loans unless otherwise allowed under Section 47 of the Internal Revenue Code. For an eligible taxpayer that is a nonprofit organization as defined in Iowa Code section 404A.1(4) that is not eligible for the federal rehabilitation credit, or another person that is not eligible for the federal rehabilitation credit, expenditures financed with federal, state, or local government grants or forgivable loans are not qualified rehabilitation expenditures.

501.47(4) *Completion of the qualified rehabilitation project and claiming the tax credit on the Iowa return.* After the taxpayer completes a qualified rehabilitation project, the taxpayer will be issued a certificate of completion of the project from the department of cultural affairs if the project complies with the federal standards, as defined in rule 223—48.22(404A). After the department of cultural affairs and the department of revenue verify the taxpayer's eligibility for the tax credit, the department of cultural affairs shall issue a tax credit certificate.

a. Claiming the credit. For the taxpayer to claim the credit, the certificate must be included with the taxpayer's corporation income tax return for the tax year in which the rehabilitation project is completed or the corporation income tax return for any tax year within the five years following the tax year of project completion. Taxpayers that elect to delay claiming the credit to a later tax year return as described in this paragraph are subject to the carryforward limitations described in paragraph 501.47(4)*"d"* below. The credit may be claimed on an amended return so long as the amended return is filed within the statute of limitations applicable to the tax year for which the amended return is being filed.

b. Information required. The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the address or location of the rehabilitation project, the date the project was completed, the amount of the historic preservation and cultural and entertainment district tax credit, and, if applicable, an indication of whether the credit is nonrefundable (see paragraph 501.47(4)*"c"* below). In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 501.47(5). In addition, if the taxpayer is a partnership, limited liability company, estate or trust, and the tax credit is allocated to the owners or beneficiaries of the entity, a list of the owners or beneficiaries and the amount of credit allocated to each owner or beneficiary shall be provided with the certificate.

c. Refundability. A historic preservation and cultural and entertainment district tax credit in excess of the taxpayer's tax liability is fully refundable with interest computed under Iowa Code section 422.25. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year. To receive a refundable credit, the taxpayer must elect to receive the credit as refundable at the Part 3 stage of the application process administered by the department of cultural affairs. See department of cultural affairs' 223—Chapter 48. Once the taxpayer elects to receive a nonrefundable credit, the taxpayer cannot select to change the credit to a refundable credit or vice versa. If the taxpayer is a transferee, the taxpayer may elect to receive the credit as refundable or nonrefundable when the taxpayer applies to the department of revenue for transfer of the tax credit as described in subrule 501.47(5).

d. Carryforward. If the taxpayer elects to receive a nonrefundable historic preservation and cultural and entertainment district tax credit as described in paragraph 501.47(4)*"b,"* the amount in excess of the taxpayer's tax liability may be carried forward for five years following the tax year in which the project is completed, or until it is depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer is first eligible to claim the credit. Regardless of whether the taxpayer elects to claim the tax credit on a tax return for a year that is later than the year of project completion as described in paragraph 501.47(4)*"a,"* the taxpayer must utilize the entire credit within five years of project completion as described in this paragraph; any

credit amount that is not utilized within the five-year carryforward period is forfeited. The five-year carryforward limitation does not apply if the taxpayer elects to receive a refundable credit, the excess of which may be credited to future tax years as an overpayment.

e. Allocation of historic preservation and cultural and entertainment district tax credits to the individual owners of the entity or beneficiaries of an estate or trust. A partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. The credit does not have to be allocated based on the pro rata share of earnings of the partnership, limited liability company or S corporation. For an individual claiming a tax credit of an estate or trust, the amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the estate or trust.

501.47(5) *Transfer of the historic preservation and cultural and entertainment district tax credit.* The historic preservation and cultural and entertainment district tax credit certificates may be transferred to any person or entity. The transferee may use the amount of the tax credit transferred against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, for any tax year the original transferor could have claimed the tax credit. Transferees must elect to receive either a refundable or nonrefundable tax credit. Once the transferee elects to receive a nonrefundable credit, the transferee cannot elect to change the credit to a refundable credit or vice versa. A tax credit certificate of less than $1,000 shall not be transferable.

a. Transfer process—information required. Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue along with a statement that contains the transferee's name, address and tax identification number, the amount of the tax credit being transferred, an election to receive either a refundable or nonrefundable tax credit, and the amount of all consideration provided in exchange for the tax credit and the names of recipients of any consideration provided in exchange for the tax credit. If a payment of money was any part of the consideration provided in exchange for the tax credit, the transferee shall list the amount of the payment of money in its statement to the department of revenue. If any part of the consideration provided in exchange for the tax credit included nonmonetary consideration, including but not limited to any promise, representation, performance, discharge of debt or nonmonetary rights or property, the tax credit transferee shall describe the nature of the nonmonetary consideration and disclose any value the transferor and transferee assigned to the nonmonetary consideration. The tax credit transferee must indicate on its statement to the department of revenue if no consideration was provided in exchange for the tax credit. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue the replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company or S corporation, the transferee shall provide a list of the partners, members or shareholders and information on how the historic preservation and cultural and entertainment district tax credit should be divided among the partners, members or shareholders. The transferee shall also provide the tax identification numbers and addresses of the partners, members or shareholders. The certificate must have the same information required for the original tax certificate and must have the same expiration date as the original tax credit certificate. The transferee may not claim a tax credit until a replacement certificate identifying the transferee as the proper holder has been issued.

b. Consideration. Any consideration received for the transfer of the tax credit shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

c. Unlimited number of transferees and subsequent transfers. There is no limitation on the number of transferees to whom the credit may be transferred. There is no limitation on the number of times that the credit may be retransferred by a transferee. The transferor may divide the credit into multiple credits of alternate denominations so long as the resulting credits are for amounts of no less than $1,000.

d. Carryforward limitations on transferees. The transferee may use the amount of the transferred tax credit for any tax year the original transferor could have claimed the tax credit. The carryforward limitations described in paragraph 501.47(4)*"d"* shall apply.

501.47(6) *Appeals.* Challenges to an action by the department of revenue related to tax credit transfers, claiming tax credits, tax credit revocation, or repayment or recovery of tax credits must be brought pursuant to 701—Chapter 7.

This rule is intended to implement Iowa Code chapter 404A as amended by 2016 Iowa Acts, House File 2443, and Iowa Code section 422.33.

[**ARC 1968C**, IAB 4/15/15, effective 5/20/15; **ARC 2928C**, IAB 2/1/17, effective 3/8/17; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.48(404A,422) Historic preservation and cultural and entertainment district tax credit for projects registered on or after August 15, 2016. The economic development authority is authorized by the general assembly to award tax credits for a percentage of the qualified rehabilitation expenditures on a qualified rehabilitation project as described in the historic preservation and cultural and entertainment district tax credit program, Iowa Code chapter 404A. The program is administered by the economic development authority with the assistance of the department of cultural affairs and the department of revenue. The general assembly has mandated that the economic development authority, the department of cultural affairs and the department of revenue adopt rules as necessary to administer Iowa Code chapter 404A. In general, the department of revenue is responsible for administering tax credit transfers and processing and auditing tax returns that include tax credits claimed on returns. For the economic development authority's rules on the credit program, see 261—Chapter 49. For the department of cultural affairs' rules on the credit program, see 223—Chapter 48.

501.48(1) *Program transition.* 2016 Iowa Acts, House File 2443, made several changes to the credit program, including transferring primary responsibility for the program's administration from the department of cultural affairs to the economic development authority. Projects registered prior to August 15, 2016, remain under the purview of the department of cultural affairs, with assistance from the department of revenue. For department of revenue rules related to projects registered prior to August 15, 2016, see rules 701—501.18(404A,422) and 701—501.47(404A,422).

501.48(2) *Application, registration, and agreement for the historic preservation and cultural and entertainment district tax credit.* For rules on the application, registration, and agreement process, see economic development authority rules, 261—Chapter 49.

501.48(3) *Computation of the amount of the historic preservation and cultural and entertainment district tax credit.* The amount of the historic preservation and cultural and entertainment district tax credit is a maximum of 25 percent of the qualified rehabilitation expenditures verified by the economic development authority following project completion, up to the amount specified in the agreement between the taxpayer and the economic development authority. For more information on the credit computation, see economic development authority rules, 261—Chapter 49. The amount remains subject to audit by the department of revenue when the credit is claimed on the taxpayer's tax return.

501.48(4) *Qualified rehabilitation expenditures.* "Qualified rehabilitation expenditures" means the same as defined in Iowa Code section 404A.1(7) and rule 261—49.5(404A) of economic development authority rules. In the event of an audit, the department of revenue evaluates whether expenditures comply with the agreement between the economic development authority and the eligible taxpayer, as well as with applicable statutes and rules, including Internal Revenue Code Section 47 and its related regulations.

501.48(5) *Completion of the qualified rehabilitation project and claiming the tax credit.* After the economic development authority verifies the taxpayer's eligibility for the tax credit, the economic development authority shall issue a tax credit certificate. For more information on credit certificate issuance, see economic development authority rules, 261—Chapter 49.

a. Claiming the credit. For the taxpayer to claim the credit, the certificate must be included with the taxpayer's corporation income tax return for the tax year in which the rehabilitation project is completed or the corporation income tax return for any year within the five years following the year of project completion. Taxpayers that elect to delay claiming the credit to a later year's return as described in this paragraph are subject to the carryforward limitations described in paragraph 501.48(5)*"d"* below. The credit may be claimed on an amended return so long as the amended return is filed within the statute of limitations applicable to the tax year for which the amended tax return is being filed.

b. Information required. The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the address or location of the rehabilitation project, the date the project was completed, the amount of the historic preservation and cultural and entertainment district tax credit, and, if applicable, an indication of whether the credit is nonrefundable (see paragraph 501.48(5)*"c"* below). In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 501.48(6). In addition, if the taxpayer is a partnership, limited liability company, estate or trust, and the tax credit is allocated to the owners or beneficiaries of the entity, a list of the owners or beneficiaries and the amount of credit allocated to each owner or beneficiary shall be provided with the certificate.

c. Refundability. A historic preservation and cultural and entertainment district tax credit in excess of the taxpayer's tax liability is fully refundable with interest computed under Iowa Code section 422.25. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year. To receive a refundable credit, the taxpayer must elect to receive the credit as refundable at the Part 3 stage of the application process administered by the economic development authority. See the economic development authority's rule 261—49.15(404A). Once the taxpayer elects to receive a nonrefundable credit, the taxpayer cannot elect to change the credit to a refundable credit or vice versa. If the taxpayer is a transferee, the taxpayer may elect to receive the credit as refundable or nonrefundable when the taxpayer applies to the department of revenue for transfer of the tax credit as described in subrule 501.48(6).

d. Carryforward. If the taxpayer elects to receive a nonrefundable historic preservation and cultural and entertainment district tax credit as described in paragraph 501.48(5)*"b,"* the amount in excess of the taxpayer's tax liability may be carried forward for five years following the tax year in which the project is completed, or until it is depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer is first eligible to claim the credit. Regardless of whether the taxpayer elects to claim the tax credit on a tax return for a year that is later than the year of project completion as described in paragraph 501.48(5)*"a,"* the taxpayer must utilize the entire credit within five years following the tax year of the project completion as described in this paragraph; any credit that is not utilized within the five-year carryforward period is forfeited. The five-year carryforward limitation does not apply if the taxpayer elects to receive a refundable credit, the excess of which may be credited to future tax years as an overpayment.

e. Allocation of historic preservation and cultural and entertainment district tax credits to the individual owners of the entity or beneficiaries of an estate or trust. A partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. The credit does not have to be allocated based on the pro rata share of earnings of the partnership, limited liability company or S corporation. For an individual claiming a tax credit of an estate or trust, the amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the estate or trust.

501.48(6) *Transfer of the historic preservation and cultural and entertainment district tax credit.* The historic preservation and cultural and entertainment district tax credit certificates may be transferred to any person or entity. The transferee may use the amount of the tax credit transferred against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, for any tax year that the original transferor could have claimed the tax credit. Transferees must

elect to receive either a refundable or nonrefundable tax credit. Once the transferee elects to receive a nonrefundable credit, the transferee cannot elect to change the credit to a refundable credit or vice versa. A tax credit certificate of less than $1,000 shall not be transferable.

a. Transfer process—information required. Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue along with a statement that contains the transferee's name, address and tax identification number, the amount of the tax credit being transferred, an election to receive either a refundable or nonrefundable tax credit, and the amount of all consideration provided in exchange for the tax credit and the names of recipients of any consideration provided in exchange for the tax credit. If a payment of money was any part of the consideration provided in exchange for the tax credit, the transferee shall list the amount of the payment of money in its statement to the department of revenue. If any part of the consideration provided in exchange for the tax credit included nonmonetary consideration, including but not limited to any promise, representation, performance, discharge of debt or nonmonetary rights or property, the tax credit transferee shall describe the nature of the nonmonetary consideration and disclose any value the transferor and transferee assigned to the nonmonetary consideration. The tax credit transferee must indicate on its statement to the department of revenue if no consideration was provided in exchange for the tax credit. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue the replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company or S corporation, the transferee shall provide a list of the partners, members or shareholders and information on how the historic preservation and cultural and entertainment district tax credit should be divided among the partners, members or shareholders. The transferee shall also provide the tax identification numbers and addresses of the partners, members or shareholders. The certificate must have the same information required for the original tax certificate and must have the same expiration date as the original tax credit certificate. The transferee may not claim a tax credit until a replacement certificate identifying the transferee as the proper holder has been issued.

b. Consideration. Any consideration received for the transfer of the tax credit shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

c. Unlimited number of transferees and subsequent transfers. There is no limitation on the number of transferees to whom the tax credit may be transferred. There is no limitation on the number of times that the credit may be retransferred by a transferee. The transferor may divide the credit into multiple credits of alternate denominations so long as the resulting credits are for amounts of no less than $1,000.

d. Carryforward limitations on transferees. The transferee may use the amount of the transferred tax credit for any tax year that the original transferor could have claimed the tax credit. The carryforward limitations described in paragraph 501.48(4)*"d"* shall apply.

501.48(7) *Appeals.* Challenges to an action by the department of revenue related to tax credit transfers, the claiming of tax credits, tax credit revocation, or repayment or recovery of tax credits must be brought pursuant to 701—Chapter 7.

This rule is intended to implement Iowa Code chapter 404A as amended by 2016 Iowa Acts, House File 2443, and Iowa Code section 422.33.

[**ARC 2928C**, IAB 2/1/17, effective 3/8/17; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—501.49(15,422) Renewable chemical production tax credit program. An eligible business that has received a renewable chemical production tax credit certificate from the economic development authority may claim a tax credit against corporation income tax. The credit is equal to the product of five cents multiplied by the number of pounds of renewable chemicals produced in Iowa from biomass feedstock by the eligible business during a given production year, subject to the limitations described in Iowa Code sections 15.315 through 15.322, 261—Chapter 81, and

this rule. The economic development authority's rules on eligibility for the credit may be found in 261—Chapter 81.

501.49(1) *Application and agreement for the credit.* To be eligible for the tax credit, the eligible business must apply to and enter into an agreement with the economic development authority. The economic development authority's rules on the application and agreement process may be found in 261—Chapter 81.

501.49(2) *Computation of the amount of credit and certificate issuance.* Upon establishing that all requirements of the program and the agreement have been fulfilled and verifying the taxpayer's eligibility for the tax credit, the economic development authority calculates the credit. Then the economic development authority issues the related tax credit certificate to the eligible business stating the amount of the renewable chemical production tax credit that the eligible business may claim. A tax credit certificate shall not be issued by the economic development authority prior to July 1, 2018. The economic development authority's rules on credit certificate issuance may be found in 261—Chapter 81.

501.49(3) *Claiming the tax credit.*

a. Claiming the credit, generally. To claim the credit, a taxpayer must include one or more tax credit certificates with the taxpayer's tax return for the tax year during which the eligible business was issued the tax credit certificate or certificates. If the taxpayer claiming the credit has already filed a return for the tax year for which the credit certificate was issued, the taxpayer may claim the credit on an amended return. The taxpayer must file the amended return within the statute of limitations applicable to such amended return. No tax credit may be claimed under this program by a taxpayer prior to September 1, 2018.

b. Claiming the credit of a pass-through entity. To claim the credit of an eligible business that is a pass-through entity, an individual taxpayer must claim the credit on the tax return for the tax year during which the eligible business received the tax credit certificate. Such tax year may be either the tax year of the eligible business or of the individual.

EXAMPLE: A partnership has a fiscal year of September 2017 through August 2018. The partnership receives a renewable chemical production tax credit certificate under this program in July 2018, which is during the partnership's 2017 tax year. A partner in the partnership files individual returns on a calendar year basis, which means that the credit was issued in the partner's 2018 tax year. That partner may file an amended 2017 tax return to claim the credit based on the partnership's tax year, or that partner may claim the credit on the partner's 2018 tax return based on the partner's own tax year.

c. Information required. The tax credit certificate shall include the taxpayer's name, address, and tax identification number, the amount of the credit, the name of the eligible business, and any other information required by the department of revenue.

d. Allocation to the individual owners of the entity or beneficiaries of an estate or trust. An individual may claim the credit of a partnership, limited liability company, S corporation, cooperative organized under Iowa Code chapter 501 and filing as a partnership for tax purposes, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based on the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, cooperative, estate, or trust.

e. Refundability. Any credit in excess of the tax liability is refundable. In lieu of claiming a refund, the taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following tax year.

f. Transferability. Tax credit certificates shall not be transferred to any other person.

g. Rescission and recapture. The tax credit certificate, unless rescinded by the economic development authority, shall be accepted by the department of revenue, subject to any conditions or restrictions placed upon the face of the tax credit certificate by the economic development authority and subject to the limitations of the program. Should the economic development authority reduce, terminate, or rescind any tax credits issued under the program, the eligible business may be subject

to the repayment or recapture of any credits already claimed. The economic development authority's rules related to the program may be found in 261—Chapter 81. The repayment of tax credits or recapture by the department of revenue shall be accomplished in the same manner as provided in Iowa Code section 15.330(2).

This rule is intended to implement Iowa Code section 422.33(22)

[**ARC 3008C**, IAB 3/29/17, effective 5/3/17; Editorial change: IAC Supplement 11/2/22]

701—501.50(15E,422) Hoover presidential library tax credit. A Hoover presidential library tax credit is available according to the same requirements, conditions, and limitations as described in rule 701—403.57(15E,422) and 261—Chapter 43.

This rule is intended to implement Iowa Code sections 15E.364 and 422.33(31) as enacted by 2021 Iowa Acts, House File 588, sections 1 and 3.

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701—501.51(237A) Employer child care tax credit. An employer child care tax credit is available according to the same requirements, conditions, and limitations as described in rule 701—304.58(237A) and 261—Chapter 57.

This rule is intended to implement Iowa Code section 237A.31.

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◊ Two or more ARCs

CHAPTER 602
DETERMINATION OF NET INCOME

[Prior to 12/17/86, Revenue Department[730]]
[Prior to 11/2/22, see Revenue Department[701] Ch 59]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

701—602.1(422) Computation of net income for financial institutions. "Net income" for state purposes shall mean federal taxable income, before deduction for net operating losses, as properly computed under the Internal Revenue Code, and shall include the adjustments in rules 701—602.2(422) to 701—602.13(422). The remaining provisions of this rule and rules 701—602.14(422) to 701—602.24(422) shall also be applicable in determining net income.

In the case of a financial institution which is a member of an affiliated group of corporations filing a consolidated income tax return for the taxable year for federal income tax purposes, but files a separate return for state purposes, taxable income as properly computed for federal purposes is determined as if the financial institution had filed a separate return for federal income tax purposes for the taxable year and each preceding taxable year for which it was a member of an affiliated group. For purposes of this paragraph, the taxpayer's separate taxable income shall be determined as if the election provided by Section 243(b)(2) of the Internal Revenue Code had been in effect for all those years.

When a federal short period return is filed and the federal taxable income is required to be adjusted to an annual basis, the Iowa taxable income shall also be adjusted to an annual basis. The tax liability for a short period is computed by multiplying the taxable income for the short period by 12 and dividing the result by the number of months in the short period. The tax is determined on the resulting total as if it were the taxable income, and the tax computed is divided by 12 and multiplied by the number of months in the short period. This adjustment shall apply only to income attributable to business carried on within the state of Iowa.

This rule is intended to implement Iowa Code section 422.35.

[Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—602.2(422) Net operating loss carrybacks and carryovers. Net operating losses shall be allowed or allowable for Iowa franchise tax purposes to the same extent they are allowed or allowable for federal corporation income tax purposes, provided the following adjustments are made:

602.2(1) Additions to income.

a. Refunds of federal income taxes due to net operating loss, capital loss and investment credit or other credit carrybacks shall not be added for tax years beginning on or after January 1, 1980.

b. Iowa franchise tax deducted on the federal return for the loss year shall be reflected as an addition to income in the year of the loss.

c. Interest and dividends received in the year of the loss on federally tax-exempt securities shall be reflected as additions to income in the year of the loss.

602.2(2) Reductions of income. Iowa franchise tax refunds reported as income for federal income tax purposes in the loss year shall be reflected as reductions of income in the year of the loss.

602.2(3) If a financial institution does business both within and without Iowa, it shall make adjustments reflecting the apportionment and allocation of its operating loss on the basis of business done within and without the state of Iowa after completing the provisions of subrules 602.2(1) and 602.2(2).

a. After making the adjustments to federal taxable income as provided in subrules 602.2(1) and 602.2(2), the total net allocable income or loss shall be added to or deducted from, as the case may be, the net federal income or loss as adjusted for Iowa tax purposes. The resulting income or loss so determined shall be subject to apportionment as provided in rules 701—602.25(422) to 701—602.29(422). The apportioned income or loss shall be added or deducted, as the case may be, to

the amount of net allocable income or loss properly attributable to Iowa. This amount is the taxable income or net operating loss attributable to Iowa for that year.

b. The net operating loss attributable to Iowa, as determined in rule 701—602.2(422), shall be subject to a 3-year carryback and a 15-year carryover provision for tax years beginning before August 6, 1997. This loss shall be carried back or over to the applicable year as a reduction or part of a reduction of the net income attributable to Iowa for that year. However, an Iowa net operating loss shall not be carried back to a year in which the taxpayer was not doing business in Iowa. If the election under Section 172(b)(3) of the Internal Revenue Code is made, the Iowa net operating loss shall be carried forward 15 taxable years. A copy of the federal election made under Section 172(b)(3) of the Internal Revenue Code must be attached to the Iowa corporation income tax return filed with the department.

c. For tax years beginning after August 5, 1997, but before January 1, 2009, a net operating loss attributable to Iowa, as determined in rule 701—602.2(422), incurred in a presidentially declared disaster area by a corporation engaged in a small business or in the trade or business of farming must be carried back 3 taxable years and carried forward 20 taxable years. All other net operating losses attributable to Iowa must be carried back 2 taxable years and carried forward 20 taxable years. This loss shall be carried back or over to the applicable year as a reduction or part of a reduction of the net income attributable to Iowa for that year. However, an Iowa net operating loss shall not be carried back to a year in which the taxpayer was not doing business in Iowa. If the election under Section 172(b)(3) of the Internal Revenue Code is made, the Iowa net operating loss shall be carried forward 20 taxable years. A copy of the federal election made under Section 172(b)(3) of the Internal Revenue Code must be attached to the Iowa franchise tax return filed with the department.

d. For tax years beginning on or after January 1, 2009, a net operating loss attributable to Iowa, as determined in rule 701—602.2(422), shall be carried forward 20 taxable years. The net operating loss cannot be carried back to a previous tax year.

602.2(4) No part of a net loss for a year for which the financial institution was not subject to the imposition of Iowa franchise tax shall be included in the Iowa net operating loss deduction applicable to any year prior to or subsequent to the year of the loss.

602.2(5) No part of a net operating loss may be carried back or carried forward if the carryback or carryforward would be disallowed for federal income tax purposes under Sections 172(b)(1)(E) and 172(h) of the Internal Revenue Code. This provision is effective for tax years beginning on or after January 1, 1989.

602.2(6) The carryover of Iowa net operating losses after reorganizations or mergers is limited to the same extent as the carryover of a net operating loss is limited under the provisions of Sections 381 through 386 of the Internal Revenue Code and regulations thereunder or any other section of the Internal Revenue Code or regulations thereunder. Where the taxpayer files as a member of a consolidated income tax return for federal income tax purposes, but is required to file a separate franchise tax return, the limitation on an Iowa net operating loss carryover must be determined as though a separate income tax return was filed for federal income tax purposes.

This rule is intended to implement Iowa Code section 422.35 as amended by 2009 Iowa Acts, Senate File 483, and sections 422.61 and 422.63.

[**ARC 8589B**, IAB 3/10/10, effective 4/14/10; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—602.3(422) Capital loss carryback. Capital losses shall be allowed or allowable for Iowa franchise tax purposes to the same extent they are allowed or allowable for federal corporation income tax purposes. Capital loss carrybacks shall be treated as an adjustment to federal taxable income to arrive at net income. For capital losses occurring in tax years beginning on or after January 1, 1980, refunds of federal corporation income taxes shall not be an adjustment in computing income subject to the franchise tax.

This rule is intended to implement Iowa Code sections 422.35 and 422.61.

[Editorial change: IAC Supplement 11/2/22]

701—602.4(422) Net operating and capital loss carrybacks and carryovers. If the taxpayer, for tax periods beginning before January 1, 2009, has both a net operating loss and a capital loss carryback to a prior tax year, the capital loss shall be carried back first and then the net operating loss offset against any remaining income.

This rule is intended to implement Iowa Code section 422.35 as amended by 2009 Iowa Acts, Senate File 483, and section 422.61.

[**ARC 8589B**, IAB 3/10/10, effective 4/14/10; Editorial change: IAC Supplement 11/2/22]

701—602.5(422) Interest and dividends from federal securities. For franchise tax purposes, dividends received from corporations owned or sponsored by the federal government, or interest derived from obligations of the United States and its possessions, agencies and instrumentalities become a part of the taxable income. Examples of these types of obligations are bonds issued by the governments of Puerto Rico, Washington D.C., Guam and the Virgin Islands. Notwithstanding the above, only interest received after July 1, 1991, from bonds purchased after January 1, 1991, issued by the governments of Puerto Rico, Guam and the Virgin Islands is subject to tax.

Gains or losses from the sale or other disposition of any bonds shall be taxable for state franchise tax purposes.

Interest received on federal tax refunds is taxable for Iowa franchise tax purposes.

This rule is intended to implement Iowa Code section 422.61.

[Editorial change: IAC Supplement 11/2/22]

701—602.6(422) Interest and dividends from foreign securities and securities of states and other political subdivisions. Interest and dividends from foreign securities and securities of states and their political subdivisions including Iowa shall be included in taxable income for periods beginning on or after January 1, 1980. For tax periods beginning on or after January 1, 1987, subtract interest expense allocable to interest exempt from federal income tax which was disallowed as a deduction under Internal Revenue Code Section 265(b) or 291(e)(1)(B).

For tax years beginning on or after January 1, 1987, add dividends received from regulated investment companies exempt from federal income tax under Section 852(b)(5) of the Internal Revenue Code and subtract the loss on the sale or exchange of a share of a regulated investment company held for six months or less to the extent the loss was disallowed under Section 852(b)(4)(B) of the Internal Revenue Code.

For tax years beginning on or after January 1, 2001, add, to the extent not already included, income from the sale of obligations of the state of Iowa and its political subdivisions and interest and dividend income from these obligations. Gains or losses from the sale or other disposition of bonds issued by the state of Iowa or its political subdivisions, along with interest and dividend income from these bonds, shall be included in Iowa taxable income unless the law authorizing these obligations specifically exempts the income from the sale and interest and dividend income from Iowa franchise tax.

This rule is intended to implement Iowa Code sections 422.35 and 422.61 as amended by 2001 Iowa Acts, House File 715.

[Editorial change: IAC Supplement 11/2/22]

701—602.7(422) Safe harbor leases. For tax years ending after January 1, 1981, deductions in determining federal taxable income for sale-leaseback agreements taken as a result of the application of Section 168(f)(8) of the Internal Revenue Code shall be added in determining Iowa taxable income to the extent such deductions cannot be taken under provisions of Sections 162, 163 and 167 of the Internal Revenue Code. The lessor shall add depreciation and interest expense, and the lessee shall add rental expense. When the deduction for depreciation is not allowed under a previous provision of this rule, the lessee shall be allowed a deduction for depreciation on any property involved in a sale-leaseback agreement. The depreciation shall be computed in accordance with Section 168(a) of the Internal Revenue Code. Income received as a result of sale-leaseback agreement shall be deducted

in determining Iowa taxable income. The lessee shall deduct interest income and the lessor shall deduct rent income. Each lessor and lessee corporation shall include a copy of federal Form 6793 in its Iowa franchise tax return for the year in which a safe harbor lease is entered into.

This rule is intended to implement Iowa Code sections 422.35 and 422.61.

[Editorial change: IAC Supplement 11/2/22]

701—602.8(422) Additional deduction for wages paid or accrued for work done in Iowa by certain individuals. For tax years beginning on or after January 1, 1984, a taxpayer which is considered to be a small business corporation, as defined by subrule 602.8(2), is allowed a deduction for 50 percent of the first 12 months of wages paid or accrued during the tax years for work done in Iowa for employees first hired on or after January 1, 1984.

A handicapped individual domiciled in this state at the time of hiring.

An individual domiciled in this state at the time of hiring who meets any of the following conditions:

1. Has been convicted of a felony in this or any other state or the District of Columbia.
2. Is on parole pursuant to Iowa Code chapter 906.
3. Is on probation pursuant to Iowa Code chapter 907 for an offense other than a simple misdemeanor.
4. Is in a work release program pursuant to Iowa Code chapter 904, division IX.

An individual, whether or not domiciled in this state at the time of the hiring, who is on parole or probation and to whom the interstate probation and parole compact under Iowa Code section 907A.1 applies.

For tax years beginning on or after January 1, 1989, a taxpayer which is considered to be a small business corporation, as defined by 701—subrule 502.11(2), is allowed a deduction for 65 percent not to exceed $20,000 of the 12 months of wages paid or accrued during the tax year for work done in Iowa for employees first hired after January 1, 1989, who meet the above criteria.

602.8(1) The additional deduction shall not be allowed for wages paid to an individual who was hired to replace an individual whose employment was terminated within the 12-month period preceding the date of first employment. However, if the individual being replaced left employment voluntarily without good cause attributable to the employer or if the individual was discharged for misconduct in connection with the individual's employment as determined by the division of job service of the department of employment services, the additional deduction shall be allowed.

The determination of whether an individual left employment voluntarily without good cause attributable to the employer or if the individual was discharged for misconduct is a factual determination which must be made on a case-by-case basis.

602.8(2) The term "small business corporation" includes the operation of a farm but does not include the practice of a profession. The following conditions apply for the purpose of determining what constitutes a small business corporation.

a. A small business corporation shall not have had more than 20 full-time equivalent positions during each of the 26 consecutive weeks within the 52-week period immediately preceding the date on which the individual for whom an additional deduction for wages is taken was hired. "Full-time equivalent position" means any of the following:

1. An employment position requiring an average work week of 40 or more hours;
2. An employment position for which compensation is paid on a salaried full-time basis without regard to hours worked; or
3. An aggregation of any number of part-time positions which equal one full-time position. For purposes of this subrule each part-time position shall be categorized with regard to the average number of hours worked each week as a one-quarter, half, three-quarter, or full-time position, as set forth in the following table:

Average Number of Weekly Hours	Category
More than 0 but less than 15	¼

15 or more but less than 25	½
25 or more but less than 35	¾
35 or more	1 (full-time)

b. A small business corporation shall not have more than $1 million in annual gross revenues or after July 1, 1984, $3 million in annual gross revenues or as the average of the three preceding tax years. "Annual gross revenues" means total interest received from loans and investments, service charges, management fees, fiduciary fees, commissions, and gross proceeds from the sale of securities held as investments as determined in accordance with generally accepted accounting principles.

c. A small business corporation shall not be an affiliate or subsidiary of a business which is dominant in its field of operation. "Dominant in its field of operation" means having more than 20 full-time equivalent employees and more than $1 million of annual gross revenues, or after July 1, 1984, $3 million of annual gross revenues or as the average of the three preceding tax years. "Affiliate or subsidiary of a business dominant in its field of operations" means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation.

d. "Operation of a farm" means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing or the production of livestock. Operation of a farm shall not include the production of timber, forest products, nursery products, or sod and operation of a farm shall not include a contract where a processor or distributor of farm products or supplies provides spraying, harvesting or other farm services.

e. "The practice of a profession" means a vocation requiring specialized knowledge and preparation including but not limited to the following: medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, psychology, psychiatry, chiropractic, nursing, dentistry, dental hygiene, optometry, speech pathology, audiology, pharmacy, physical therapy, occupational therapy, mortuary science, law, architecture, engineering and surveying, and accounting.

602.8(3) Definitions.

a. The term *"handicapped person"* means any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such an impairment.

The term *"handicapped"* does not include any person who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the person from performing the duties of employment or whose employment, by reason of current use of alcohol or drugs, would constitute a direct threat to the property or the safety of others.

b. The term *"physical or mental impairment"* means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin and endocrine; or any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

c. The term *"major life activities"* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

d. The term *"has a record of such impairment"* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

e. The term *"is regarded as having such an impairment"* means:

1. Has a physical or mental impairment that does not substantially limit major life activities but that is perceived as constituting such a limitation;

2. Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

3. Has none of the impairments defined as physical or mental impairments, but is perceived as having such an impairment.

f. The term *"successfully completing a probationary period"* includes those instances where the employee quits without good cause attributable to the employer during the probationary period or was discharged for misconduct during the probationary period.

g. The term *"probationary period"* means the period of probation for newly hired employees, if the employer has a written probationary policy. If the employer has no written probationary policy for newly hired employees, the probationary period shall be considered to be six months from the date of hire.

602.8(4) If a newly hired employee has been certified as either a vocational rehabilitation referral or an economically disadvantaged ex-convict for purposes of qualification for the targeted jobs tax credit under Section 59 of the Internal Revenue Code, that employee shall be considered to have met the qualifications for the additional wage deduction.

A "vocational rehabilitation referral" is any individual certified by a state employment agency as having a physical or mental disability which, for the individual, constitutes or results in a substantial handicap to employment. In addition, the individual must have been referred to the employer after completion or while receiving rehabilitation services pursuant to either a state- or federal-approved vocational rehabilitation program.

For all other newly hired employees, the employer has the burden of proof to show that the employees meet the qualifications for the additional wage deduction.

602.8(5) The taxpayer shall include a schedule with the filing of the taxpayer's tax return showing the name, address, social security number, date of hiring and wages paid of each employee for whom the taxpayer claims the additional deduction for wages.

602.8(6) If the employee for whom an additional deduction for wages was allowed fails to successfully complete a probationary period and the taxpayer has already filed an Iowa corporation income tax return taking the additional deduction for wages, the taxpayer shall file an amended return adding back the additional deduction for wages. The amended return shall state the name and social security number of the employee who failed to successfully complete a probationary period.

602.8(7) For tax years ending after July 1, 1990, a taxpayer who did not qualify for the additional deduction for wages paid or accrued for work done in Iowa by certain individuals set forth above is allowed an additional deduction of 65 percent not to exceed $20,000 of the first 12 months of wages paid or accrued for work done in Iowa for employees first hired on or after July 1, 1990, if the new employee is:

a. An individual domiciled in this state at the time of the hiring who meets any of the following conditions:

(1) Has been convicted of a felony in this or any other state or the District of Columbia.

(2) Is on parole pursuant to Iowa Code chapter 906.

(3) Is on probation pursuant to Iowa Code chapter 907, for an offense other than a simple misdemeanor.

(4) Is in a work release program pursuant to Iowa Code chapter 904, division IX.

b. An individual, whether or not domiciled in this state at the time of the hiring, who is on parole or probation and to whom the interstate probation and parole compact under Iowa Code section 907A.1 applies.

The additional deduction is not allowed for wages paid to an individual who was hired to replace an individual whose employment was terminated within the 12-month period preceding the date of first employment. However, if the individual being replaced left employment voluntarily without good cause attributable to the employer or if the individual was discharged for misconduct in connection with the individual's employment as determined by the Iowa division of job service of the department of employment services, the additional deduction is allowed.

The taxpayer must include a schedule with the filing of the taxpayer's tax return showing the name, address, social security number, date of hiring, and wages paid of each employee for whom the taxpayer claims the additional deduction for wages.

The determination of whether an individual left employment voluntarily without good cause attributable to the employer or if the individual was discharged for misconduct is a factual determination which must be made on a case-by-case basis.

If the employee for which an additional deduction for wages was allowed fails to successfully complete a probationary period and the taxpayer has already filed an Iowa franchise tax return taking the additional deduction for wages, the taxpayer must file an amended return adding back the additional deduction for wages. The amended return must state the name and social security number of the employee who failed to successfully complete a probationary period.

This rule is intended to implement Iowa Code section 16.1 and 2011 Iowa Code Supplement section 422.35 as amended by 2012 Iowa Acts, Senate File 2247.

[**ARC 0337C**, IAB 9/19/12, effective 10/24/12; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—602.9(422) Work opportunity tax credit. Where a financial institution claims the federal work opportunity tax credit as provided in Section 51 of the Internal Revenue Code, the amount of credit allowable shall be a deduction from Iowa taxable income to the extent the credit increased federal taxable income.

This rule is intended to implement Iowa Code sections 422.35 and 422.61.

[Editorial change: IAC Supplement 11/2/22]

701—602.10(422) Like-kind exchanges of personal property completed after December 31, 2017, but before tax periods beginning on or after January 1, 2020.

602.10(1) *In general.* Public Law 115-97, Section 13303, repealed the deferral of gain or loss from exchanges of like-kind personal property for federal purposes under Section 1031 of the Internal Revenue Code. This federal repeal applies to exchanges completed after December 31, 2017, unless the taxpayer began the exchange by transferring personal property or receiving replacement personal property on or before that date. Iowa did not conform to this federal repeal for Iowa franchise tax purposes for tax periods beginning before January 1, 2019. For tax years beginning on or after January 1, 2019, but before January 1, 2020, Iowa generally conforms to the federal treatment of gain or loss from exchanges of like-kind personal property, but eligible taxpayers may elect the treatment that applied under prior federal law for Iowa purposes. For tax years beginning on or after January 1, 2020, Iowa fully conforms to the federal treatment for these exchanges, and no special election is available. This rule governs exchanges of like-kind personal property completed after December 31, 2017, but before tax periods beginning on or after January 1, 2020. This rule does not apply to exchanges completed during any tax year beginning on or after January 1, 2020.

602.10(2) *Qualification.* Section 1031 of the Internal Revenue Code in effect on December 21, 2017, and any applicable federal regulations govern whether transactions involving the disposition and acquisition of personal property qualify for Iowa franchise tax purposes as a like-kind exchange of personal property subject to the deferral of gain or loss and also govern the date and tax period during which an exchange is considered completed. The treatment of such transactions as a like-kind exchange for Iowa franchise tax purposes is either mandatory or permissive depending on the date the like-kind exchange is completed.

a. Like-kind exchanges completed after December 31, 2017, but before tax periods beginning on or after January 1, 2019. Transactions involving the disposition and acquisition of personal property that qualify under this subrule as a like-kind exchange completed after December 31, 2017, but before tax periods beginning on or after January 1, 2019, are required to be treated as a like-kind exchange for Iowa franchise tax purposes.

b. Like-kind exchanges completed during tax periods beginning on or after January 1, 2019, but before January 1, 2020. For tax periods beginning on or after January 1, 2019, Iowa is conformed

to the federal repeal of deferral of gain or loss from exchanges of like-kind personal property, so the federal and Iowa treatment of such transactions under Section 1031 of the Internal Revenue Code will generally be the same. However, transactions involving the disposition and acquisition of personal property that qualify under this subrule as a like-kind exchange completed during tax periods beginning on or after January 1, 2019, but before January 1, 2020, may at the election of the taxpayer be treated as a like-kind exchange for Iowa franchise tax purposes. The election is made by completing the necessary worksheets and forms and making the required adjustments on the Iowa return as described in subrule 602.10(3). No special attachment or statement is required. The election only applies to the transactions involved in the like-kind exchange, and the taxpayer may elect or not elect to treat other qualifying transactions as a like-kind exchange for Iowa purposes.

602.10(3) *Calculation and Iowa adjustments.* A taxpayer required to or electing to treat qualifying transactions as a like-kind exchange for Iowa tax purposes must make certain Iowa calculations and adjustments on forms and worksheets made available on the department's website. The IA 8824 Worksheet described in this subrule need not be included with the Iowa return but must be kept with the taxpayer's records. The taxpayer is responsible for providing documentation at the department's request to substantiate a like-kind exchange under this rule.

a. Like-kind exchange calculation. The taxpayer must complete Parts I and II of the IA 8824 Worksheet to compute the Iowa recognized gain, if any, the Iowa deferred gain or loss, and the Iowa basis of the like-kind personal property received in the like-kind exchange.

EXAMPLE 1: X, a financial institution filing on a calendar-year basis, trades a computer system with a fair market value (FMV) of $25,000 along with $75,000 in cash to Y for a new computer system with an FMV of $100,000. For purposes of this example it is assumed that the computer system trade occurs in 2019 and qualifies as a like-kind exchange and that X elects such treatment under paragraph 602.10(2)*"b."* At the time of the trade, the adjusted basis of X's old computer system is $0 for federal tax purposes and is $13,680 for Iowa tax purposes. X realizes a gain for Iowa purposes on the exchange of the old computer system in the amount of $11,320 ($100,000 FMV of new computer system - $75,000 cash paid - $13,680 Iowa adjusted basis of old computer system). Because X did not receive any cash or other property that was not like-kind, or assume any liabilities from Y, the entire amount of X's $11,320 realized gain qualifies for deferral, so X recognizes $0 of gain on the exchange for Iowa tax purposes. As a result, X's basis in the new computer system for Iowa tax purposes is $88,680 ($13,680 Iowa adjusted basis of old computer system + $75,000 cash paid by X).

b. Iowa nonconformity adjustment.

(1) The taxpayer must complete Part III of the IA 8824 Worksheet to adjust for the difference between any recognized Iowa gain from the exchange as calculated on the IA 8824 Worksheet, Part II, and any gain or loss (including gain or loss recaptured as ordinary income) recognized on the taxpayer's federal return.

EXAMPLE 2: Assume the same facts as given in Example 1. Because the computer trade occurred in 2019, it will not qualify as a like-kind exchange for federal tax purposes but will instead be treated as two separate transactions: a sale of the old computer system and a purchase of the new computer system. X recognizes a gain for federal tax purposes on the sale of the old computer system in the amount of $25,000 ($25,000 sales price of old computer system - $0 federal adjusted basis of old computer system), the entire amount of which is recaptured as ordinary income because of prior depreciation. X reports the $25,000 of income on the federal return. X is required to report the same $25,000 as income on the Iowa return but is also allowed a $25,000 subtraction on the same Iowa return because X's recognized gain for Iowa tax purposes is $0 as calculated in Example 1. X's nonconformity adjustment of -$25,000 must be reported on the Iowa return in the manner prescribed on the IA 8824 Worksheet.

(2) If the total recognized federal gain is reported using the installment sale method under Section 453 of the Internal Revenue Code, the total amount of any Iowa nonconformity adjustment related to that federal gain must be claimed over the same installment period, and the proportion of the total Iowa nonconformity adjustment claimed for each tax year shall equal the same proportion that

the federal gain reported for that tax year bears to the total amount of federal gain that will ultimately be reported for all tax years resulting from the disposition of the personal property. The taxpayer must complete an IA 8824 Worksheet for each tax year that an Iowa nonconformity adjustment is claimed.

c. Cost recovery adjustments.

(1) The taxpayer must complete the IA 4562A to account for any differences between the federal and Iowa cost recovery deductions related to the like-kind personal property involved in the like-kind exchange, including if the taxpayer's basis in the like-kind personal property received is different for federal and Iowa purposes, or if the taxpayer claimed additional first-year depreciation or a section 179 deduction for federal purposes on the like-kind property received in the exchange. See rule 701—602.23(422) for requirements related to the disallowance of additional first-year depreciation for Iowa franchise tax purposes. See rule 701—602.24(422) for the section 179 limitations imposed under the Iowa franchise tax.

(2) Treasury Regulation §1.168(i)-6 prescribes rules related to the calculation of depreciation for certain assets involved in a like-kind exchange, but a taxpayer may elect to not have those rules apply pursuant to Treasury Regulation §1.168(i)-6(i). A taxpayer may choose to make a similar election under Treasury Regulation §1.168(i)-6(i) for Iowa tax purposes with regard to a like-kind exchange under this rule if the personal property otherwise would have qualified for such federal election notwithstanding the fact that no like-kind exchange occurred for federal purposes or the fact that no election was actually made for federal tax purposes in accordance with Treasury Regulation §1.168(i)-6(j). The election is made by calculating depreciation for Iowa tax purposes on the personal property involved in the like-kind exchange using the method described in Treasury Regulation §1.168(i)-6(i) on the timely filed Iowa return, including extensions, for the same tax year that the like-kind exchange was completed. No special attachment or statement is required.

EXAMPLE 3: Assume the same facts as given in Examples 1 and 2. X elects additional first-year depreciation on the new computer system and claims a depreciation deduction on the federal return of $100,000 (100 percent of X's federal basis). X is required to add back the total amount of the federal depreciation on the Iowa return because Iowa does not allow additional first-year depreciation. But X is permitted deductions for regular depreciation on the new computer system with an Iowa basis of $88,680 ($13,680 carryover basis from old computer system + $75,000 excess basis from cash paid) under Section 168 of the Internal Revenue Code, without regard to bonus depreciation under Section 168(k). See rule 701—602.23(422) for more information on the disallowance of additional first-year depreciation.

EXAMPLE 4: Assume the same facts as given in Examples 1 and 2. X elects to expense the entire cost of the new computer system under Section 179 of the Internal Revenue Code and claims a deduction on the federal return of $100,000. X is also required to claim the section 179 deduction on the new computer system for Iowa tax purposes pursuant to subrule 602.24(2). However, the amount that represents the carryover basis from the old computer system ($13,680) is not eligible for the deduction under Section 179(d)(3) of the Internal Revenue Code, so the cost of the new computer system that is eligible for the section 179 deduction for Iowa purposes is only $75,000 (excess basis from cash paid). This is the amount of section 179 deduction that X must claim on the Iowa return, subject to the applicable Iowa dollar limitation and reduction limitations in rule 701—602.24(422). Because X is the taxpayer who placed the new computer system in service, X is permitted deductions for regular depreciation on the carryover basis in the new computer system ($13,680) under Section 168 of the Internal Revenue Code, without regard to bonus depreciation under Section 168(k).

This rule is intended to implement 2019 Iowa Acts, chapter 152 [House File 779], section 11.

[**ARC 4614C**, IAB 8/14/19, effective 9/18/19; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—602.11(422) Gains and losses on property acquired before January 1, 1934. Where property was acquired prior to January 1, 1934, the basis as of January 1, 1934, for determining capital or other gains or losses is the higher of cost, adjusted for depreciation allowed or allowable to January 1, 1934,

or fair market value as of that date. *City National Bank of Clinton v. Iowa State Tax Commission,* 251 Iowa 603, 102 N.W.2d 381 (1960).

If as a result of this provision a basis is to be used for purposes of Iowa franchise tax which is different from the basis used for purposes of federal income tax, an appropriate adjustment must be made and detailed schedules supplied in the computation of Iowa income subject to franchise tax.

This rule is intended to implement Iowa Code sections 422.35 and 422.61.

[Editorial change: IAC Supplement 11/2/22]

701—602.12(422) Federal income tax deduction. For tax years beginning on or after January 1, 1980, a deduction for 50 percent of federal income taxes paid or accrued is not allowed. Cash-basis taxpayers are not allowed a deduction for 50 percent of federal income taxes paid during a tax year beginning on or after January 1, 1980, which represent the preceding year's tax or additional taxes for prior years. Fifty percent of a federal income tax refund received during a tax year beginning on or after January 1, 1980, shall not be reported as income. For tax years beginning on or after January 1, 1990, because the federal environmental tax is deducted in computing federal taxable income and Iowa Code section 422.61(3)*"a"* does not allow the deduction of federal income taxes, the federal environmental tax must be added to federal taxable income.

This rule is intended to implement Iowa Code sections 422.35 and 422.61.

[Editorial change: IAC Supplement 11/2/22]

701—602.13(422) Iowa franchise taxes. Iowa franchise taxes paid or accrued during the tax year as may be applicable under the method of filing are permissible deductions for federal corporation income tax purposes, but not for purposes of determining Iowa net income. To the extent taxes were deducted in the determination of federal taxable income, they shall be added to federal taxable income for Iowa franchise tax purposes. Refunds of Iowa franchise tax to the extent that the returns are included in the determination of federal taxable income shall all be subtracted from federal taxable income.

This rule is intended to implement Iowa Code section 422.61.

[Editorial change: IAC Supplement 11/2/22]

701—602.14(422) Method of accounting, accounting period. The return shall be computed on the same basis and for the same accounting period as the taxpayer's return for federal corporation income tax purposes. Permission to change accounting methods or accounting periods for franchise tax purposes is not required provided the taxpayer furnishes the department with a copy of the federal consent.

This rule is intended to implement Iowa Code sections 422.35 and 422.61.

[Editorial change: IAC Supplement 11/2/22]

701—602.15(422) Consolidated returns. There is no provision in the Iowa franchise tax law to allow financial institutions to file consolidated Iowa franchise tax returns with another financial institution or another corporation as defined in Iowa Code section 422.32. In the absence of any statutory authority for allowing consolidated Iowa franchise tax returns, separate Iowa franchise tax returns must be filed.

This rule is intended to implement Iowa Code sections 421.14 and 422.68(1).

[Editorial change: IAC Supplement 11/2/22]

701—602.16(422) Federal rulings and regulations. In determining whether "taxable income," "net operating loss deduction" 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 which call for an alternative method for determining "taxable income," "net

operating loss deduction," or any other deductions, 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 422.35 and 422.61.

[Editorial change: IAC Supplement 11/2/22]

701—602.17(15E,422) Charitable contributions relating to the endow Iowa tax credit. For tax years beginning on or after January 1, 2010, a taxpayer who claims an endow Iowa tax credit in accordance with rule 701—601.13(15E,422) cannot claim a deduction for charitable contributions under Section 170 of the Internal Revenue Code for the amount of the contribution for which the tax credit is claimed for Iowa tax purposes.

This rule is intended to implement Iowa Code section 15E.305.

[**ARC 1303C**, IAB 2/5/14, effective 3/12/14; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—602.18(422) Depreciation of speculative shell buildings.

602.18(1) For tax years beginning on or after July 1, 1992, speculative shell buildings constructed or reconstructed after that date may be depreciated as 15-year property under the accelerated cost of recovery system of the Internal Revenue Code. If the taxpayer has deducted depreciation on the speculative shell building on the taxpayer's federal income tax return, that amount of depreciation must be added to federal taxable income in order to deduct depreciation under this rule.

602.18(2) On sale or other disposition of the speculative shell building, the taxpayer must report on the taxpayer's Iowa corporation income tax return the same gain or loss reported on the taxpayer's federal corporation income tax return. If, while owned by the taxpayer, the building is converted from a speculative shell building to another use, the taxpayer must deduct the same amount of depreciation on the taxpayer's Iowa tax return as is deducted on the taxpayer's federal tax return.

602.18(3) For the purposes of this rule, the term "speculative shell building" means a building as defined in Iowa Code section 427.1, subsection (27)*"c."*

This rule is intended to implement Iowa Code sections 422.35 and 422.63.

[Editorial change: IAC Supplement 11/2/22]

701—602.19(422) Deduction of multipurpose vehicle registration fee. For tax years beginning on or after January 1, 1992, and before January 1, 2005, corporations may claim a deduction for 60 percent of the amount of the registration fee paid for a multipurpose vehicle under Iowa Code section 321.124, subsection 3, paragraph *"h."* In order to qualify for this deduction, no part of the multipurpose vehicle registration fee may have been deducted as an ordinary and necessary business expense.

For tax years beginning on or after January 1, 2005, the deduction for Iowa franchise tax for multipurpose vehicle registration fees is the same as allowed under Section 164 of the Internal Revenue Code for federal tax purposes.

This rule is intended to implement Iowa Code section 422.35.

[Editorial change: IAC Supplement 11/2/22]

701—602.20(422) Disallowance of expenses to carry an investment subsidiary. A taxpayer must add back, to the extent included, any deduction for that portion of the taxpayer's expenses computed under this rule that is allocable to an investment in an investment subsidiary.

602.20(1) *Definitions.*

"Affiliate" means a corporation, trust, estate, association, or similar organization:

1. Of which a financial institution, directly or indirectly, owns or controls either a majority of the voting shares or more than 50 percent of the number of shares voted for the election of its directors, trustees, or other individuals exercising similar functions at the preceding election, or controls in any manner the election of a majority of its directors, trustees, or other individuals exercising similar functions; or

2. Of which control is held, directly or indirectly, through share ownership or in any other manner, by the shareholders of a financial institution who own or control either a majority of the shares of such financial institution or more than 50 percent of the number of shares voted for election of directors of such financial institution at the preceding election, or by trustees for the benefit of the shareholders of such financial institution; or

3. Of which a majority of its directors, trustees, or other individuals exercising similar functions are directors of any financial institution; or

4. That owns or controls, directly or indirectly, either a majority of the voting shares of a financial institution or more than 50 percent of the number of shares voted for the election of directors of a financial institution at the preceding election, or controls in any manner the election of a majority of the directors of a financial institution, or for the benefit of those shareholders or members all or substantially all of the outstanding voting shares of a financial institution is held by trustees; or

5. That is a bank holding company, as defined by the laws of the United States, of which a financial institution is a subsidiary, and any other subsidiary as defined by the laws of the United States, of a bank holding company.

"Average adjusted basis" means the financial institution's average adjusted basis as computed pursuant to Section 1016 of the Internal Revenue Code on a separate company basis.

"Investment subsidiary" means an affiliate that is owned, capitalized, or utilized by a financial institution with one of its purposes being to make, hold, or manage, for and on behalf of the financial institution, investments in securities that the financial institution would be permitted by applicable law to make for its own account.

602.20(2) *Calculating the addition.*

a. A financial institution that has an investment in an investment subsidiary must allocate a portion of its total expenses used in computing its federal taxable income on a separate return basis to its investment subsidiary. The expenses that are allocable to the investment in an investment subsidiary are computed by multiplying the financial institution's total expenses used in computing its federal taxable income on a separate return basis by the ratio of the average adjusted basis in its investment subsidiary to the average adjusted basis for all assets of the financial institution.

b. A calculation of the average for the tax year of the adjusted bases of a financial institution's investment in investment subsidiaries, and total assets, held each day of the tax year is the most accurate method for determining under Iowa Code section 422.61(3) the portion of a financial institution's total expenses that is allocable to the financial institution's investment in investment subsidiaries. However, the department will generally allow the average adjusted bases of an investment in investment subsidiaries for the tax year to be calculated using the average of the adjusted bases of the investment in investment subsidiaries held by the financial institution at the end of each month within the tax year. The department generally will allow the average bases of all assets of the financial institution for the tax year to be calculated using the average bases of all assets held by the financial institution at the end of each quarter of the tax year. A financial institution may compute for any tax year, without prior permission of the director, the average adjusted bases of investment in investment subsidiaries or total assets on a more frequent basis than set forth above. However, a financial institution cannot compute these averages for any tax year on a less frequent basis than quarterly without obtaining prior approval of the director. This permission will be granted only in extraordinary circumstances. In addition, a financial institution cannot compute these averages for any tax year on a less frequent basis than it used for the preceding tax year unless the financial institution obtains prior approval of the director. A financial institution that has elected to use an estimate of the adjusted tax bases of its total assets for each of the first three quarters of the taxable year under Internal Revenue Service's Revenue Ruling 90-44 for federal income tax purposes may use this estimate for Iowa franchise purposes.

602.20(3) *Exception to the addition.* Financial institutions that elect to file a combined Iowa return with their investment subsidiaries as provided in rule 701—602.33(422) are not required to add back expenses allocable to an investment subsidiary.

This rule is intended to implement Iowa Code section 422.61.
[Editorial change: IAC Supplement 11/2/22; **ARC 0028D**, IAB 1/21/26, effective 2/25/26]

701—602.21(422) S corporation and limited liability company financial institutions. For tax years beginning on or after January 1, 1997, a financial institution as defined in Section 581 of the Internal Revenue Code which has in effect an election under Subchapter S of the Internal Revenue Code must compute an amount of income as if the financial institution were subject to federal corporation income tax. For tax years beginning on or after July 1, 2004, a financial institution organized as a limited liability company under Iowa Code chapter 524 that is taxed as a partnership for federal income tax purposes must compute an amount of income as if the financial institution were subject to federal corporation income tax. The income is to be computed in the same manner as a financial institution that is subject to or liable for federal income tax under the Internal Revenue Code in effect for the applicable tax would compute its federal taxable income.

This rule is intended to implement Iowa Code section 422.61 as amended by 2004 Iowa Acts, House File 2484.
[Editorial change: IAC Supplement 11/2/22]

701—602.22(422) Deduction for contributions made to the endowment fund of the Iowa educational savings plan trust. To the extent that the contribution was not deductible for federal income tax purposes, any gift, grant, or donation to the endowment fund of the Iowa educational savings plan trust may be deducted for Iowa franchise tax purposes. The contribution must be made on or after July 1, 1998, but before April 15, 2004. Effective April 15, 2004, the deduction for contributions made to the endowment fund is repealed.

This rule is intended to implement Iowa Code sections 422.35 as amended by 1998 Iowa Acts, House File 2119, and 422.61.
[Editorial change: IAC Supplement 11/2/22]

701—602.23(422) Additional first-year depreciation allowance.

602.23(1) *Assets acquired after September 10, 2001, but before May 6, 2003.* For tax periods ending after September 10, 2001, but beginning before May 6, 2003, the additional first-year depreciation allowance ("bonus depreciation") of 30 percent authorized in Section 168(k) of the Internal Revenue Code, as enacted by Public Law No. 107-147, Section 101, does not apply for Iowa franchise tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets acquired after September 10, 2001, but before May 6, 2003, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after September 10, 2001, but before May 6, 2003, can be calculated on Form IA 4562A.

See 701—subrule 53.22(1) for examples illustrating how this subrule is applied.

602.23(2) *Assets acquired after May 5, 2003, but before January 1, 2005.* For tax periods beginning after May 5, 2003, but beginning before January 1, 2005, the bonus depreciation of 50 percent authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No. 108-27, Section 201, may be taken for Iowa franchise tax. If the taxpayer elects to take the 50 percent bonus depreciation, the depreciation deduction allowed on the Iowa franchise tax return is the same as the depreciation deduction allowed on the federal income tax return for assets acquired after May 5, 2003, but before January 1, 2005.

a. If the taxpayer elects to take the 50 percent bonus depreciation and had filed an Iowa return prior to February 24, 2005, which reflected the disallowance of 50 percent bonus depreciation, the taxpayer may choose between two options to reflect this change. Taxpayer may either file an amended return for the applicable tax year to reflect the 50 percent bonus depreciation provision, or taxpayer may reflect the change for 50 percent bonus depreciation on the next Iowa return filed subsequent to February 23, 2005. Taxpayer must choose only one of these two options. Regardless of the option chosen, taxpayer must complete and attach a revised Form IA 4562A to either the amended return or the return filed subsequent to February 23, 2005.

See 701—paragraph 302.60(2)*"a,"* for examples illustrating how this subrule is applied.

b. If the taxpayer elects not to take the 50 percent bonus depreciation, taxpayer must add the total amount of depreciation claimed on assets acquired after May 5, 2003, but before January 1, 2005, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k). If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets. The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after May 5, 2003, but before January 1, 2005, can be calculated on Form IA 4562A.

602.23(3) *Assets acquired after December 31, 2007, but before January 1, 2010.* For tax periods beginning after December 31, 2007, but beginning before January 1, 2010, the bonus depreciation of 50 percent authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law 110-185, Section 103, and Public Law 111-5, Section 1201, does not apply for Iowa franchise tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets acquired after December 31, 2007, but before January 1, 2010, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after December 31, 2007, but before January 1, 2010, can be calculated on Form IA 4562A.

See rule 701—502.22(422) for examples illustrating how this rule is applied.

602.23(4) *Qualified disaster assistance property.* For property placed in service after December 31, 2007, with respect to federal declared disasters occurring before January 1, 2010, the bonus depreciation of 50 percent authorized in Section 168(n) of the Internal Revenue Code for qualified disaster assistance property, as amended by Public Law 110-343, Section 710, does not apply for Iowa franchise tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on qualified disaster assistance property and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(n).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of this property for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of such property.

The adjustment for both depreciation and the gain or loss on the sale of qualifying disaster assistance property can be calculated on Form IA 4562A.

602.23(5) *Assets acquired after December 31, 2009, but before January 1, 2014.* For tax periods beginning after December 31, 2009, but beginning before January 1, 2014, the bonus depreciation authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No. 111-240, Section 2022, Public Law No. 111-312, Section 401, and Public Law No. 112-240, Section 331, does not apply for Iowa franchise tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets acquired after December 31, 2009, but before January 1, 2014, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after December 31, 2009, but before January 1, 2014, can be calculated on Form IA 4562A.

See 701—subrule 502.22(3) for examples illustrating how this subrule is applied.

This rule is intended to implement Iowa Code section 422.35 as amended by 2013 Iowa Acts, Senate File 106, and section 422.61.

[**ARC 8589B**, IAB 3/10/10, effective 4/14/10; **ARC 9820B**, IAB 11/2/11, effective 12/7/11; **ARC 1101C**, IAB 10/16/13, effective 11/20/13; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—602.24(422) Section 179 expensing.

602.24(1) *In general.* Iowa taxpayers that elect to expense certain depreciable business assets in the year the assets were placed in service under Section 179 of the Internal Revenue Code must also expense those same assets for Iowa income tax purposes in that year. However, for certain years, the Iowa limitations on this deduction are different from the federal limitations for the same year. This means that for some tax years, adjustments are required to determine the correct Iowa section 179 expensing deduction, as described in this rule.

602.24(2) *Claiming the deduction.*

a. Timing and requirement to follow federal election. A taxpayer that takes a federal section 179 deduction must also take the deduction for the same asset in the same year for Iowa purposes, except as expressly provided by Iowa law or this rule. A taxpayer that takes a federal section 179 deduction is not permitted to opt out of taking the same deduction for Iowa purposes. A taxpayer that does not take a federal section 179 deduction on a specific qualifying asset is not permitted to take a section 179 deduction for Iowa purposes on that asset.

b. Qualifying for the deduction. Whether a specific business asset qualifies for a section 179 deduction is determined by the Internal Revenue Code (Title 26, U.S. Code) and applicable federal regulations for both federal and Iowa purposes.

c. Amount of the Iowa deduction. Generally, the Iowa deduction must equal the amount of the federal deduction taken for the same asset in the same year, subject to special Iowa limitations. The following chart provides a comparison of the Iowa and federal section 179 dollar limitations and reduction limitations. See rule 701—302.65(422) for the section 179 rules applicable to individuals and other noncorporate entities, and see rule 701—502.23(422) for the section 179 rules applicable to corporations (both C and S corporations) and other entities subject to the corporate income tax.

Section 179 Deduction Allowances Under Federal and Iowa Law				
	Federal		Iowa	
Tax Year	Dollar Limitation	Reduction Limitation	Dollar Limitation	Reduction Limitation
2003	$ 100,000	$ 400,000	$ 100,000	$ 400,000
2004	102,000	410,000	102,000	410,000
2005	105,000	420,000	105,000	420,000
2006	108,000	430,000	108,000	430,000

2007	125,000	500,000	125,000	500,000
2008	250,000	800,000	250,000	800,000
2009	250,000	800,000	133,000	530,000
2010	500,000	2,000,000	500,000	2,000,000
2011	500,000	2,000,000	500,000	2,000,000
2012	500,000	2,000,000	500,000	2,000,000
2013	500,000	2,000,000	500,000	2,000,000
2014	500,000	2,000,000	500,000	2,000,000
2015	500,000	2,000,000	500,000	2,000,000
2016	500,000	2,010,000	25,000	200,000
2017	510,000	2,030,000	25,000	200,000
2018	1,000,000	2,500,000	70,000	280,000
2019	1,020,000	2,550,000	100,000	400,000
2020 and later	Iowa limitations are the same as federal			

d. Reduction. Both the federal and the Iowa deductions for section 179 assets are reduced (phased out dollar for dollar) for taxpayers whose total section 179 assets placed in service during a given year cost more than the amount specified (reduction limitation) for that year. Like the deduction limitation, the Iowa and federal reduction limitations are different for certain years. See paragraph 602.24(2)*"c"* for applicable limitations.

EXAMPLE: Taxpayer, a financial institution doing business in Iowa, purchases $400,000 worth of qualifying section 179 assets and places all of them in service in 2018. Taxpayer claims a section 179 deduction of $400,000 for the full cost of the assets on the 2018 federal return. For financial institutions, the Iowa section 179 deduction for 2018 is phased out dollar for dollar by the amount of section 179 assets placed in service in excess of $280,000. This means that for 2018, the Iowa deduction is fully phased out if the taxpayer placed in service section 179 assets that cost, in total, more than $350,000. Since the cost of the qualifying assets in this example exceeds the Iowa section 179 phase-out limit, the taxpayer cannot claim any section 179 deduction on the Iowa return. However, the taxpayer may depreciate the entire cost of the assets for Iowa purposes.

e. Amounts in excess of the Iowa limits.

(1) Recovering the excess. Due to the differences between the Iowa and federal limitations for certain years, taxpayers may have a federal section 179 deduction that exceeds the amount allowed for Iowa purposes. This excess amount is handled in different ways depending on the source of the deduction.

1. Assets placed in service by the taxpayer or entity reporting the deduction. The cost of any section 179 assets placed in service by the taxpayer in excess of the Iowa limitation for a given year may be recovered through regular depreciation under Section 168 of the Internal Revenue Code, without regard to bonus depreciation under Section 168(k). The Iowa section 179 and depreciation deductions and any basis adjustments resulting from the difference in timing of the recovery between Iowa and federal law are calculated and tracked on forms made available on the department's website.

EXAMPLE: Taxpayer, a financial institution doing business in Iowa, purchases a $100,000 piece of equipment and places it in service in 2018. Taxpayer claims a section 179 deduction of $100,000 for the full cost of the equipment on the 2018 federal return. Taxpayer is also required to claim a section 179 deduction of $70,000 on the 2018 Iowa return (the full amount of the federal deduction up to the Iowa limit for financial institutions for 2018). The taxpayer can depreciate the remaining $30,000 cost of the equipment for Iowa purposes.

2. Special election for assets placed in service by a pass-through entity when the section 179 deduction is claimed by an owner of that pass-through. See subrule 59.24(3) for information on a special election available to certain owners of pass-through entities related to any section 179 deductions passed through from a partnership or other entity that, in the aggregate, exceed the Iowa limitations.

(2) Special information for pass-throughs. In the case of pass-through entities, section 179 limitations apply at both the entity level and the owner level. Pass-through entities that are required to file an Iowa return and that actually place section 179 assets in service should follow 602.24(2)*"e"*(1)"1" to account for any assets for which the total federal section 179 deductions for a given year exceeded the Iowa limitation. Owners of pass-throughs receiving section 179 deductions from one or more pass-throughs that, in the aggregate, exceed the Iowa limitations should follow 602.24(2)*"e"*(1)"2."

EXAMPLE: Bank A (a financial institution doing business exclusively in Iowa) owns 50 percent interests in each of three partnerships: C, D, and E. Partnership C, which also does business exclusively in Iowa, places $200,000 worth of section 179 assets in service during tax year 2019 and claims a federal section 179 deduction for the full cost of the assets. Because C is required to file an Iowa partnership return, C is subject to the Iowa section 179 limitations for 2019 and must adjust its Iowa section 179 deduction as provided in 701—numbered paragraph 302.65(2)*"e"*(1)"1." C passes through 50 percent of its section 179 deduction ($100,000 for federal purposes, $50,000 for Iowa purposes) to Bank A. Bank A also receives $50,000 each in section 179 deductions from D and E, for a total of $150,000 in section 179 deductions (for Iowa purposes) in 2019. Bank A is subject to the $100,000 Iowa section 179 deduction limitation for 2019, but because Bank A received total section 179 deductions from one or more pass-throughs in excess of the 2019 Iowa limitation, Bank A is eligible for the special election referenced in 602.24(2)*"e"*(1)"2."

f. Income limitation. The Iowa section 179 deduction for any given year is limited to the taxpayer's income from active conduct in a trade or business in the same manner that the section 179 deduction is limited for federal purposes. If an allowable Iowa section 179 deduction exceeds the taxpayer's business income for a given year, any excess allowable Iowa section 179 deduction may be carried forward as described in paragraph 602.24(2)*"g."*

g. Carryforward. This paragraph applies only to amounts that do not exceed the Iowa section 179 deduction limitations for a given year but do exceed the taxpayer's business income for that year. As with the federal deduction, allowable Iowa section 179 deductions claimed in a given year that exceed a taxpayer's business income may be carried forward and claimed in future years. This carryforward, if any, is calculated using only amounts up to the Iowa limit. Any federal section 179 deduction the taxpayer claimed in excess of the Iowa limit is not an Iowa section 179 deduction and therefore is not eligible for the carryforward described in this paragraph. Such amounts must instead be recovered as described in paragraph 602.24(2)*"e,"* or in subrule 602.24(3) for taxpayers receiving the deduction from one or more pass-through entities and making the special election as described in that subrule.

h. Difference in basis. Iowa adjustments for differences between the Iowa and federal section 179 deduction limitations may cause the taxpayer to have a different basis in the same asset for Iowa and federal purposes. Taxpayers are required to use forms made available on the department's website to calculate and track these differences.

602.24(3) *Section 179 deduction received from a pass-through entity.* In some cases, a financial institution that receives income from one or more pass-through entities may receive a section 179 deduction in excess of the Iowa deduction limitation listed in paragraph 602.24(2)*"c"* for a given year. The financial institution may be eligible for a special election with regard to that excess section 179 deduction, as described in this subrule.

a. Tax years beginning before January 1, 2018. For tax years beginning before January 1, 2018, the amount of any section 179 deduction received by a financial institution subject to the franchise tax in excess of the Iowa deduction limitation for that year is not eligible for the special election.

b. Special election available for tax years 2018 and 2019. For tax years beginning on or after January 1, 2018, but before January 1, 2020, a financial institution subject to the franchise tax that receives a section 179 deduction from one or more pass-through entities in excess of the Iowa deduction limitation for that tax year may elect to deduct the excess in future years, as described in this subrule. See rule 701—302.65(422) for rules applicable to individuals and other

noncorporate entities, and see rule 701—502.23(422) for rules applicable to corporations (both C and S corporations) and other entities subject to the corporate income tax.

(1) This special election applies only to section 179 deductions passed through to the financial institution by one or more other entities.

(2) If the total Iowa section 179 deduction passed through to the financial institution exceeds the federal section 179 deduction limitation for that year, the financial institution may only use the amount up to the federal limitation when calculating the deduction under this election. Any amount in excess of the federal limitation shall not be deducted for Iowa purposes.

c. Section 179 assets of a financial institution. A financial institution that makes this special election may not claim an Iowa section 179 deduction for any assets the financial institution placed in service during the same year but must instead depreciate such assets using the modified accelerated cost recovery system (MACRS) without regard to bonus depreciation under Section 168(k) of the Internal Revenue Code. To the extent the financial institution claimed a federal section 179 deduction on those assets, the Iowa depreciation deductions and any basis adjustments resulting from the difference in timing of the recovery between Iowa law and federal law are calculated and tracked on forms made available on the department's website.

EXAMPLE: Bank A, a financial institution doing business in Iowa, places in service $20,000 worth of section 179 assets in tax year 2019 and claims the deduction for the full amount for federal purposes. Bank A is also a member of B, LLC, an entity that has elected to be taxed as a partnership for federal purposes and does not do any business in Iowa. B, LLC also places section 179 assets in service, properly claims a federal section 179 deduction, and passes a total of $150,000 of that deduction through to Bank A. For federal purposes, Bank A has a total of $170,000 in section 179 deductions. Because Bank A has section 179 deductions from a pass-through that exceed the Iowa limitation for 2019, Bank A is eligible for the special election. Bank A makes the special election and claims the maximum Iowa section 179 deduction of $100,000 on the amount passed through from B, LLC. Under the special election, Bank A will be allowed to deduct the remaining $50,000 passed through from B, LLC over the next five years, as described in paragraph 602.24(3)*"e."* However, because Bank A made the special election, Bank A will be required to depreciate the entire $20,000 cost of the assets Bank A placed in service in 2019.

d. Calculating the special election. A financial institution that elects to take advantage of the special election must first add together all section 179 deductions which the financial institution received from all relevant pass-through entities. The financial institution must claim an aggregate Iowa section 179 deduction equal to the Iowa limit for the tax year. This amount must be subtracted from the total. Whatever remains is the amount the financial institution will be permitted to deduct (special election deduction) in future years.

e. Special election deduction.

(1) Calculation. This remaining amount from paragraph 602.24(3)*"d"* must be separated into five equal shares.

(2) Claiming the special election deduction. The financial institution may deduct one of the five shares in each of the next five years. The dollar limitations and reduction limitations on section 179 deductions do not apply to special deduction amounts allowed over the five-year period under this paragraph.

(3) Excess special deduction. The special election deduction for a given year is limited to the taxpayer's business income for that year. Any excess may be carried forward to future years. Any amounts carried forward under this subparagraph shall be added to, and treated in the same manner as, regular Iowa section 179 deduction carryforwards as described in paragraph 602.24(2)*"g."*

EXAMPLE: Bank D, a financial institution doing business in Iowa, is a partner in a partnership that does not do business in Iowa. In 2019, the partnership passes through a $600,000 federal section 179 deduction and does not recalculate the deduction for Iowa purposes because the partnership has no obligation to file an Iowa return. Bank D claims an Iowa section 179 deduction of $100,000 (the 2019

Iowa limitation) and elects the five-year carryforward for the rest, meaning the bank will be allowed to take a $100,000 Iowa special election deduction in each of the next five years.

In 2020, Bank D is eligible for the $100,000 deduction carried forward under the election, but the bank only has $50,000 in business income. The deduction is limited to business income, so the bank can only use $50,000 of the deduction in 2020. However, Bank D will be permitted to treat the excess $50,000 as a section 179 carryforward and use it to offset business income in future years until the deduction is used up.

f. *Basis.* The financial institution's basis in the pass-through entity assets is adjusted by the full amount of the section 179 deduction passed through in the year that the section 179 deduction is received and is therefore the same for both Iowa and federal purposes.

g. *Later tax years.* For tax years beginning on or after January 1, 2020, Iowa fully conforms to the federal section 179 deduction and special Iowa treatment for excess section 179 deductions received from pass-throughs is not available.

This rule is intended to implement Iowa Code section 422.35 as amended by 2019 Iowa Acts, Senate File 220.

[**ARC 9103B**, IAB 9/22/10, effective 10/27/10; **ARC 9820B**, IAB 11/2/11, effective 12/7/11; **ARC 1101C**, IAB 10/16/13, effective 11/20/13; **ARC 4142C**, IAB 11/21/18, effective 12/26/18; **ARC 4517C**, IAB 6/19/19, effective 7/24/19; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

ALLOCATION AND APPORTIONMENT

701—602.25(422) Basis of franchise tax. Iowa Code section 422.60 imposes a franchise tax on financial institutions (as defined in 701—subrule 600.1(2)) for the privilege of doing business within the state. The tax is measured by net income. For financial institutions subject to the tax, the tax is levied and collected only on income which may accrue or be recognized to the financial institutions from business done or carried on in the state plus net income from certain sources without the state which by rule follows the commercial domicile of the financial institution.

If a financial institution carries on business entirely within the state of Iowa, no allocation or apportionment of its income may be made. The financial institution will be presumed to be carrying on its business entirely within the state of Iowa if its activities are carried on only within Iowa, even though it receives income from sources outside the state in the form of interest, dividends, royalties, and other sources of income from intangibles.

602.25(1) *Definition—doing business.* The term "doing business" is used in a comprehensive sense and includes all activities or any transactions for the purpose of financial or pecuniary gain or profit. Irrespective of the nature of its activities, every financial institution organized for profit and carrying out any of the purposes of its organization shall be deemed to be "doing business." In determining whether a financial institution is doing business, it is immaterial whether its activities actually result in a profit or loss.

602.25(2) *Definition—carrying on business partly within and partly without the state.* "Carrying on business partly within and partly without the state" means having business activities in at least one other state sufficient to meet the minimum constitutional standards for doing business in a state under the due process and commerce clauses of the United States Constitution. The determination of whether a financial institution is carrying on business partly within and partly without the state must be made on a tax-year-by-tax-year basis. The activities of past or future years have no bearing on the current year.

The following nonexclusive activities if done on a regular and continuing basis by financial institution officers or employees in at least one other state would constitute the minimum activities which would meet the constitutional standards for doing business in a state under the due process and commerce clauses of the United States Constitution:

a. Solicitation of loans by traveling loan officers.

b. Collection of overdue accounts.

c. Any other activities carried on in advancement, promotion, or fulfillment of the business of the financial institution.

This rule is intended to implement Iowa Code sections 422.60 and 422.63.

[Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—602.26(422) Allocation and apportionment.

602.26(1) The classification of income by the labels customarily given, such as interest, dividends, rents, and royalties, is of no aid in determining whether that income is business or nonbusiness income. Interest, dividends, rents and royalties shall be apportioned as business income to the extent the income was earned as a part of a financial institution's unitary business, a portion of which is conducted in Iowa. *Mobil Oil Corp. v. Commissioner of Taxes,* 455 U.S. 425 (1980); *ASARCO, Inc. v. Idaho State Tax Commission,* 458 U.S. 307, 73 L.Ed.2d 787, 102 S.Ct. 3103 (1982); *F. W. Woolworth Co. v. Taxation and Revenue Dept.,* 458 U.S. 354, 73 L.Ed.2d 819, 102 S.Ct. 3128 (1982); *Container Corporation of America v. Franchise Tax Board,* 463 U.S. 159, 77 L.Ed.2d 545, 103 S.Ct. 2933 (1983). Whether income is part of a financial institution's unitary business income depends upon the facts and circumstances in the particular situation. The burden of proof is upon the taxpayer to show that the treatment of income on the return as filed is proper. There is a rebuttable presumption that an affiliated group of financial institutions in the same line of business have a unitary relationship, although that is not the only element used in determining unitariness.

602.26(2) Application of related expense to nonbusiness income. Subrule 602.26(1) deals with the separation of "net" income, therefore, determination and application of related expenses must be made, as hereinafter directed, before allocation and apportionment within and without Iowa. Related expenses shall mean those expenses directly related.

A directly related expense shall mean an expense which can be specifically attributed to an item of income. Interest expense shall be considered directly related to a specific property which generates, has generated, or could reasonably have been expected to generate gross income if the existence of all of the facts and circumstances described below is established. Such facts and circumstances are as follows:

a. The indebtedness on which the interest was paid was specifically incurred for the purpose of purchasing, maintaining, or improving the specific property;

b. The proceeds of the borrowing were actually applied to the specified purpose;

c. The creditor can look only to the specific property (or any lease or other interest therein) as security for the loan;

d. It may be reasonably assumed that the return on or from the property will be sufficient to fulfill the terms and conditions of the loan agreement with respect to the amount and timing of payment of principal and interest; and

e. There are restrictions in the loan agreement on the disposal or use of the property consistent with the assumptions described in *"c"* and *"d"* above.

A deduction for interest may not be considered definitely related solely to specific property, even though the above facts and circumstances are present in form, if any of the facts and circumstances are not present in substance. Any expense directly attributable to allocable interest, dividends, rents and royalties shall be deducted from income to arrive at net allocable income.

EXAMPLE: For purposes of this example, it is assumed that the taxpayer has nonbusiness rental income. The taxpayer invests in a 20-story office building. Under the terms of the lease agreements, the taxpayer provides heat, electricity, janitorial services, and maintenance. The taxpayer also pays the property taxes. Construction of the building was funded through borrowings which meet the criteria of a direct expense under the provisions of this paragraph. The directly related expenses to the operation of the property are:

Interest expense	$1,200,000
Property taxes	500,000
Depreciation	500,000

Electricity	300,000
Heat	200,000
Insurance	150,000
Janitorial services	100,000
Repairs	50,000
Total expenses	$3,000,000

The directly related expense of the allocable rental income is $3,000,000.

This rule is intended to implement Iowa Code section 422.63.

[Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—602.27(422) Net gains and losses from the sale of assets. For purposes of administration of this rule, a capital gain or loss shall mean the sale price or value at the time of disposal of an asset less the adjusted basis, whether reportable as short-term or long-term capital gain or ordinary income for federal income tax purposes.

602.27(1) Gain or loss from the sale, exchange, or other disposition of real or tangible or intangible personal property, if the property while owned by the taxpayer was used in the taxpayer's trade or business, shall be apportioned by the business activity ratio applicable to the year the gain or loss is reported on the federal income tax return and may at the taxpayer's election be included in the computation of the business activity ratio as follows:

a. Gain from the sale, exchange, or other disposition of real property shall be included in the numerator if the property is located in this state.

b. Gain from the sale, exchange, or other disposition of tangible personal property shall be included in the numerator if:

(1) The property has a situs in this state at the time of sale; or

(2) The taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

c. Gains from the sale, exchange, or other disposition of intangible personal property shall be included in the numerator if the taxpayer's commercial domicile is in this state.

d. All gains shall be included in the denominator of the activity ratio.

A taxpayer cannot elect to exclude or include gains or loss from the sale of assets where the election would result in an understatement of income reasonably attributable to Iowa. Noninclusive examples of gains or loss from the sale, exchange or other disposition of real or tangible or intangible property which may not be included in the computation of the business activity ratio because to do so would result in an understatement of net income reasonably attributable to Iowa are the gain recognized under an election pursuant to Section 338 of the Internal Revenue Code or gain recognized under Section 631(a) of the Internal Revenue Code.

602.27(2) Gain or loss from the sale, exchange, or other disposition of property not used in the taxpayer's trade or business shall be allocated as follows:

a. Gains or losses from the sale, exchange, or other disposition of real property located in this state are allocable to this state.

b. Gains or losses from the sale, exchange, or other disposition of tangible personal property are allocable to this state if:

(1) The property has a situs in this state at the time of sale; or

(2) The taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

c. Gains or losses from the sale, exchange, or other disposition of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

This rule is intended to implement Iowa Code section 422.63.

[Editorial change: IAC Supplement 11/2/22]

701—602.28(422) Apportionment factor. In determining the total net taxable income, the apportionable income attributable to this state, as determined by use of the apportionment fraction, shall be added to the nonapportionable income allocable to this state.

602.28(1) Receipts derived from transactions and activities in the regular course of trade or business which produce business income are included in the denominator of the apportionment factor. Income which is not subject to the Iowa franchise tax shall not be included in the computation of the apportionment factor.

602.28(2) The numerator of the apportionment factor is that portion of the total receipts included in the denominator of the taxpayer attributable to this state during the income year determined as follows:

a. Receipts from the lease, rental, or other use of real property shall be included in the numerator if the real property is located in Iowa.

b. Receipts from the sale of tangible personal property shall be included in the numerator if the property is delivered or shipped to a purchaser in this state regardless of the f.o.b. point or other conditions of the sales.

c. Receipts from the use of tangible personal property shall be included in the numerator of the business activity formula to the extent that property is utilized in Iowa. The extent of utilization of tangible personal property in a state is determined by multiplying the rent by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental periods in the taxable year. If the physical location of the property during the rental period is unknown or not ascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental payer obtained possession.

d. All royalty income from intangible personal property determined to be business income shall be included in the numerator of the business activity formula if the taxpayer's commercial domicile is in Iowa. All royalty income from tangible personal property or real property determined to be business income shall be included in the numerator of the business activity formula if the situs of the tangible personal property or real property is within Iowa.

e. Interest and other receipts from assets in the nature of loans (including federal funds sold and banker's acceptances) and installment obligations shall be attributed to the state where the borrower is located.

f. Interest income from a participating bank's portion of participation loan shall be attributed to the state where the borrower is located.

g. Interest income from loans solicited by traveling loan officers shall be attributed to the state where the borrower is located.

h. Interest or service charges from bank, travel, and entertainment credit card receivables and credit card holders' fees shall be attributed to the state in which the credit card holder resides in the case of an individual or, if a corporation, to the state of the corporation's commercial domicile.

i. Merchant discount income derived from bank and financial corporation credit card holder transactions with a merchant shall be attributed to the state in which the merchant is located. It shall be presumed that the location of the merchant is the address on the invoice submitted by the merchant to the taxpayer.

j. Receipts for the performance of fiduciary services are attributable to the state where the services are principally performed.

k. Receipts from investments of a bank in securities, the income from which constitutes business income, shall be attributed to its commercial domicile except that:

(1) Receipts from securities used to maintain reserves against deposits to meet federal and state reserve deposit requirements shall be attributed to each state based upon the ratio that total deposits in the state bear to total deposits everywhere.

(2) Receipts from securities owned by a bank but held by a state treasurer or other public official or pledged to secure public or trust funds deposited in the bank shall be attributed to the banking office at which the secured deposit is maintained.

l. Receipts (fees or charges) from the issuance of traveler's checks and money orders shall be attributed to the state where the taxpayer's office is located that issued the traveler's checks. If the traveler's checks are issued by an independent representative or agent of the taxpayer, the fees or charges shall be attributed to the state where the independent representative or agent issued the traveler's checks.

m. Fees, commissions, or other compensation for financial services rendered for a customer located in this state or an account maintained within this state.

n. Any other gross receipts resulting from the operation as a financial organization within the state to the extent the items do not represent a recapture of an expense.

o. Receipts from management services if the recipient of the management services is located in this state.

This rule is intended to implement Iowa Code section 422.63.

[**ARC 4955C**, IAB 2/26/20, effective 4/1/20; see Rescission note at end of chapter; Editorial change: IAC Supplement 11/2/22]

701—602.29(422) Allocation and apportionment of income in special cases. If a taxpayer feels that the allocation and apportionment method as prescribed by rule 701—602.28(422) in the taxpayer's case results in an injustice, the taxpayer may petition the department for permission to determine the taxable net income, both allocable and apportionable, to the state on some other basis.

The taxpayer must first file the return as prescribed by rule 701—602.28(422) and pay the tax shown due thereon. If a change to some other method is desired, a statement of objections and schedules detailing the alternative method shall be submitted to the department. The department shall require detail and proof within the time as the department may reasonably prescribe. In addition, the alternative method of allocation and apportionment will not be allowed where the taxpayer fails to produce, upon request of the department, any information the department deems necessary to analyze the request for an alternative method of allocation and apportionment. The petition must be in writing and shall set forth in detail the facts upon which the petition is based. The burden of proof will be on the taxpayer as to the validity of the method and its results. The mere fact that an alternative method of apportionment or allocation produces a lesser amount of income attributable to Iowa is, per se, insufficient proof that the statutory method of allocation and apportionment is invalid. *Moorman Manufacturing Company v. Bair,* 437 U.S. 267, 57 L.Ed.2d 197 (1978). In essence, a comparison of the statutory method of apportionment with another formulary apportionment method is insufficient to prove that the taxpayer would be entitled to the alternative formulary apportionment method. *Moorman Manufacturing Company v. Bair,* supra.

One of the possible alternative methods of allocation and apportionment is separate accounting provided the taxpayer's activities in Iowa are not unitary with the taxpayer's activities outside Iowa. Any corporation deriving income from business operations partly within and partly without Iowa must determine that net business income attributable to this state by the prescribed formula for apportioning net income, unless the taxpayer proved by clear and cogent evidence that the statutory formula apportions income to Iowa out of all reasonable proportion to the business transacted within Iowa. *Moorman Manufacturing Company v. Bair,* supra.

Separate accounting is not allowable for a unitary business where the separate accounting method fails to consider factors of profitability resulting from functional integration, centralization of management, and economics of scale. *Shell Oil Company v. Iowa Department of Revenue,* 414 N.W.2d 113 (Iowa 1987).

The burden of proof that the statutory method of apportionment attributes to Iowa income out of all reasonable proportion to the business transacted within Iowa is on the taxpayer. In order to utilize separate accounting, the taxpayer's books and records must be kept in a manner that accurately depicts the exact geographical source of profits. In any petition to utilize separate accounting, the taxpayer

must submit schedules which accurately depict net income by division or product line and the amount of income earned within Iowa.

There are alternative methods of separate accounting utilizing different accounting principles. A mere showing that one separate accounting method produces a result substantially different than the statutory method of apportionment is not sufficient to justify the granting of the separate accounting method shown. The taxpayer must not only show that the separate accounting method advocated by the taxpayer in comparison with the statutory method of apportionment produces a result which, if the statutory method of apportionment were used, would be out of all reasonable proportion to the business transacted within Iowa. The taxpayer must also show that all other conceivable reasonable separate accounting methods would show, when compared with the statutory method of apportionment, that the statutory method of apportionment substantially produces a distorted result.

As used in this rule, "statutory method of apportionment" means the apportionment factor set forth in rule 701—602.28(422).

All requests to use an alternative method of allocation and apportionment submitted to the department will be considered by the compliance division if the request is the result of an audit or by the taxpayer services and policy division if the request is received prior to audit. If the department concludes that the statutory method of allocation and apportionment is, in fact, both inapplicable and inequitable, the department shall prescribe a special method. The special method of allocation and apportionment prescribed by the department may be that requested by the taxpayer or some other method of allocation and apportionment which the department deems to equitably attribute income to business activities carried on within Iowa.

If the taxpayer disagrees with the determination of the department, the taxpayer may file a protest within 60 days of the date of the letter setting forth the department's determination and the reasons therefor in accordance with rule 701—7.9(17A). The department's determination letter shall set forth the taxpayer's rights to protest the department's determination.

If no protest is filed within the 60-day period, then no hearing will be granted on the department's determination under this rule. However, this does not preclude the taxpayer from subsequently raising this question in the event that the taxpayer protests an assessment or denial of a timely refund claim, but this issue will only be dealt with for the years involved in the assessment or timely refund claim.

The use of an alternative method of allocation and apportionment would only be applicable to the years under consideration at the time the special method of allocation and apportionment is prescribed. The taxpayer's continued use of a prescribed method of allocation and apportionment will be subject to review and change within the statutory, or legally extended period(s).

If there is a material change in the business operations or accounting procedures from those in existence at the time the taxpayer was permitted to determine the net income earned within Iowa by an alternative method of allocation and apportionment, the taxpayer shall apprise the department of such changes prior to filing the taxpayer's return for the current year. After reviewing the information submitted, along with any other information the department deems necessary, the department will notify the taxpayer if the alternative method of allocation and apportionment is deemed applicable.

This rule is intended to implement Iowa Code section 422.63.

[**ARC 7761B**, IAB 5/6/09, effective 6/10/09; **ARC 0251C**, IAB 8/8/12, effective 9/12/12; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—602.30(422) Broadband infrastructure grant exemption.

602.30(1) *Broadband infrastructure grant exemption, generally.* For tax years beginning on or after January 1, 2019, certain qualifying communications service providers may subtract, to the extent included in income, the amount of qualifying government grants used to install broadband infrastructure that facilitates broadband service in targeted service areas at or above download and upload speeds identified by the Federal Communications Commission pursuant to Section 706 of the federal Telecommunications Act of 1996, as amended. This rule explains terms not defined in Iowa Code section 422.35.

602.30(2) *Definitions.*

"Facilitate" shall have the same meaning as defined in Iowa Code section 8B.1.

"Grant" means a transfer for a governmental purpose of money or property to a transferee that is not a related party to or an agent of the transferor. The transfer must not impose any obligation or condition to directly or indirectly repay any amount to the transferor or a related party. Obligations or conditions intended solely to assure expenditure of the transferred moneys in accordance with the governmental purpose of the transfer do not prevent a transfer from being a grant.

1. "Federal grant" means any grant issued by the United States government, including any agency or instrumentality thereof.

2. "State grant" means any grant issued by any state of the United States, the District of Columbia, or a territory or possession of the United States, including any agency or instrumentality thereof.

3. "Local grant" means any grant issued by any city, county, township, school district, or any other unit of local government, including any agency or instrumentality thereof.

602.30(3) *Limitation on certain refund claims.* For tax years beginning on or after January 1, 2019, and before January 1, 2020, refund claims resulting from this exemption must be filed prior to October 1, 2020. No refunds shall be issued for claims filed on or after that date.

This rule is intended to implement Iowa Code section 422.35.

[**ARC 5606C**, IAB 5/5/21, effective 6/9/21; Editorial change: IAC Supplement 11/2/22]

701—602.31(422) Interest expense deduction adjustments. For tax years beginning on or after January 1, 2020, the limit on the amount of business interest expense that a taxpayer may deduct in a taxable year under Internal Revenue Code (IRC) Section 163(j) does not apply for Iowa purposes. This rule provides information on how taxpayers must calculate and report their business interest expense deduction for Iowa purposes, for tax year 2018 (subrule 602.31(2)), when Iowa did not conform to the limitation; tax year 2019 (subrule 602.31(3)), when Iowa did conform to the limitation; and tax years 2020 and later (subrule 602.31(4) et seq.), when Iowa again does not conform to this limitation. All references to the Code of Federal Regulations (Treas. Reg.) and certain other information in this rule are based on final Internal Revenue Service (IRS) regulations and guidance in effect on January 13, 2021.

602.31(1) *Definitions.* The following terms apply to the interpretation and application of this rule.

"Current-year business interest expense" means the same as defined in Treas. Reg. Section 1.163(j)-1(b)(9).

"Excess business interest expense" means the same as defined in Treas. Reg. Section 1.163(j)-1(b)(16).

"Iowa partnership" means any partnership required to file an Iowa return (IA 1065) for the relevant tax year.

"Iowa S corporation" means any S corporation required to file an Iowa return (IA 1120S) for the relevant tax year.

"Non-Iowa partnership" means any partnership that is not required to file an Iowa return (IA 1065) for the relevant tax year.

"Non-Iowa S corporation" means any S corporation that is not required to file an Iowa return (IA 1120S) for the relevant tax year.

602.31(2) *Tax year 2018.* For tax years beginning on or after January 1, 2018, but before January 1, 2019 (tax year 2018), Iowa conforms with the IRC in effect on January 1, 2015, meaning the 30 percent limitation on the business interest expense deduction first imposed by IRC Section 163(j) under Public Law 115-97 (TCJA) does not apply for Iowa purposes.

a. In general. For tax year 2018, Iowa taxpayers are permitted to deduct current-year business interest expense without regard to the limitations imposed by IRC Section 163(j) under the TCJA. The taxpayer's additional deduction is computed on the 2018 Nonconformity Adjustments Worksheet.

Taxpayers who qualify for these higher Iowa deductions in 2018 may need to make further adjustments in 2019 for amounts deducted under this subrule for Iowa purposes but disallowed and carried forward for federal purposes. See subrule 602.31(3) for more information about these 2019 adjustments.

b. Special rules for partnerships and S corporations.

(1) Iowa partnerships and S corporations. Partnerships and S corporations required to file Iowa returns in tax year 2018 are required to make adjustments for Iowa's nonconformity with IRC Section 163(j) at the entity level, meaning they can deduct the full interest expense on the entity's own Iowa return and the reduction to the partner's or shareholder's share of the entity's income will be included in the all source modifications line of the partners' or shareholders' Iowa Schedules K-1.

Example 1: P, a partnership doing business in Iowa, has $100,000 in current-year business interest expense in 2018. For federal purposes, $20,000 of that amount is disallowed under IRC Section 163(j). The partnership deducts $80,000 at the entity level in 2018, and the remaining disallowed $20,000 is allocated to the partners to be deducted in future years. For Iowa purposes, the $80,000 of business interest expense allowed for federal purposes is included in the partnership's non-separately stated ordinary business income (loss), and the partnership will make an adjustment on the entity's IA 1065 to deduct the $20,000 of current-year business interest expense that was disallowed for federal purposes. The $20,000 additional Iowa deduction will be reported to the partners as an all source modification on the partners' IA 1065 Schedules K-1, and partners will receive the benefit of this all source modification item when the partners report their Iowa partnership income on their own Iowa tax return for the year. The partners will not be permitted to make further Iowa adjustments on their own Iowa tax return for the excess business interest expense amounts passed through to them from the partnership for federal purposes.

(2) Owners of partnerships and S corporations with no entity-level 2018 Iowa filing requirement.

1. Non-Iowa partnerships. Iowa partners who received interest expense deductions from partnerships which were not required to file 2018 Iowa returns may claim the larger Iowa deduction for business interest expense passed through from the partnership on the partner's own 2018 Iowa return by including in the partner's Iowa deduction the amount of disallowed business interest expense deduction shown on the 2018 federal Schedule K-1 (Form 1065), line 13, code K, received from the non-Iowa partnership.

Example 2: ABC, Inc. is a corporation doing business in Iowa and a partner in P2, an out-of-state partnership with no business in Iowa and no Iowa filing obligation. In 2018, P2 has $100,000 in current-year business interest expense and is subject to the IRC Section 163(j) limitation for federal purposes. At the entity level, P2 is permitted to deduct $80,000 on its 2018 federal partnership return. The $20,000 in excess business interest expense is then allocated to P2's partners. ABC, Inc. is allocated $5,000 in excess business interest expense from P2. Because P2 is not required to file an Iowa return, and therefore ABC, Inc. did not receive a 2018 IA 1065 Schedule K-1 from P2, ABC, Inc. is permitted to deduct the $5,000 allocated from P2 as current-year business interest expense on ABC, Inc.'s 2018 Iowa income tax return.

2. Non-Iowa S corporations. Iowa shareholders of S corporations that have no Iowa filing requirement are limited to the deduction actually passed through to them on the federal Schedule K-1 received from the S corporation for Iowa purposes in tax year 2018. These shareholders are not permitted to make adjustments for interest expense disallowed at the entity level for the non-Iowa S corporation. See Example 3 in 701—subrule 302.85(2) for an example of how Iowa shareholders of non-Iowa S corporations should report the business interest expense deduction allocated to them from the S corporation.

602.31(3) *Tax year 2019.* For tax years beginning on or after January 1, 2019, but before January 1, 2020 (tax year 2019), Iowa conforms to the IRC in effect on March 24, 2018.

a. Applicable limitation. For tax year 2019, Iowa conforms to the 30 percent limitation on the business interest expense deduction imposed by IRC Section 163(j). Because of Iowa's fixed conformity date, Iowa did not conform with the higher 50 percent limitation retroactively imposed

by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law 116-136, to the extent that increased limitation applied in tax year 2019 for federal purposes. For tax year 2019 only, taxpayers are required to calculate their Iowa business interest expense deduction by applying the limitations of IRC Section 163(j) without regard to IRC Section 163(j)(10).

Example 3: X Bank has an adjusted taxable income (ATI) of $100,000 for tax year 2019, and $80,000 in deductible business interest expense. For federal purposes, X Bank's business interest expense deduction is limited to $50,000 (50 percent of ATI) under the CARES Act. However, because Iowa only conforms to the 30 percent limitation imposed by the TCJA, and not the higher CARES Act limitation for 2019, X Bank's Iowa business interest expense deduction for the year is limited to $30,000. X Bank will report this difference by making a $20,000 adjustment on IA 101, line 3 (X Bank may have additional adjustments on this line if the current-year federal deduction included amounts carried forward from 2018).

b. Addition to income for tax year 2018 federal carryforward amounts deducted in tax year 2019. To the extent a taxpayer's tax year 2019 federal business interest expense deduction includes amounts that were disallowed and carried forward to future years under IRC Section 163(j) in tax year 2018 for federal purposes, but allowed as a deduction in tax year 2018 for Iowa purposes under paragraph 602.31(2)*"a"* (in general), subparagraph 602.31(2)*"b"*(1) (Iowa partnerships and S corporations), or numbered paragraph 602.31(2)*"b"*(2)"1" (non-Iowa partnerships), these carried-forward amounts must be added back in computing Iowa income. These prior deductions and current adjustments are calculated and tracked on the IA 101 Nonconformity Adjustments form. Note that shareholders of non-Iowa S corporations should not be required to add back 2018 carryforward amounts deducted by the S corporation in 2019, because the shareholders were not permitted to deduct these excess amounts for Iowa purposes in 2018. See numbered paragraph 602.31(2)*"b"*(2)"2."

Example 4: QRS, Inc. is a partner in P under the same facts described in Example 1 above. For tax year 2019, QRS, Inc. completes federal Form 8990 and is eligible to deduct $1,000 of the excess business interest expense allocated to QRS, Inc. from P in 2018 on QRS, Inc.'s 2019 federal income tax return. This $1,000 federal deduction for prior-year excess business interest expense allocated from P must be added back in computing QRS, Inc.'s 2019 Iowa income. The same add-back would be required if this scenario was applied to the facts in Example 2 above.

602.31(4) *Tax years beginning on or after January 1, 2020.* For tax years beginning on or after January 1, 2020, Iowa does not conform with the IRC Section 163(j) business interest expense deduction limitation.

a. Current-year business interest expense. For tax years beginning on or after January 1, 2020, a taxpayer's current-year business interest expense is fully deductible to the extent permitted by IRC Section 163 for Iowa purposes without regard to any limitation under IRC Section 163(j). Even though Iowa does not conform to IRC Section 163(j), provisions of the IRC other than Section 163(j) may subject interest expense to disallowance, deferral, capitalization, or other limitations, and those other provisions of the IRC still generally apply for Iowa purposes. No additional Iowa adjustments are permitted for federal limitations such as those described in Treas. Reg. Section 1.163(j)-3(b)(4), which are determined after the application of IRC Section 163(j) for federal purposes. See Treas. Reg. Section 1.163(j)-3 for examples of other provisions of the IRC that may restrict interest expense deductions for federal and Iowa purposes, independent of the Section 163(j) limitation.

b. Carryforward.

(1) Special one-time carryforward catch-up (tax year 2020 only). For tax years beginning on or after January 1, 2020, but before January 1, 2021 (tax year 2020), taxpayers who filed a 2019 Iowa return are permitted to deduct all interest expense deduction amounts that were disallowed and carried forward under IRC Section 163(j) for Iowa purposes in tax year 2019. This deduction shall be calculated and reported on the taxpayer's 2020 Iowa income tax return using form IA 163A. Excess business interest expense amounts carried over from tax year 2018 at the federal level shall not be deducted for Iowa tax purposes in tax year 2020.

Example 5: In 2019, X Bank had $100,000 in current-year business interest expense. X Bank's business interest expense deduction was limited to $50,000 for federal purposes and limited to $30,000 for Iowa purposes due to Iowa's nonconformity with the CARES Act for that year. See paragraph 59.31(3)*"a."* In 2020, X Bank is again subject to an IRC Section 163(j) limitation and is not permitted to deduct any prior-year carryforward amounts for federal purposes. However, because Iowa does not conform to the IRC Section 163(j) limitation for 2020, X Bank may deduct all of the company's current-year business interest expense and all $70,000 ($100,000 - $30,000) of X Bank's disallowed Iowa interest expense carried over from 2019. X Bank must complete the IA 163 in order to calculate the company's current-year business interest expense deduction, and the IA 163A to determine the total amount of 2019 disallowed Iowa interest expense amounts, which may be deducted in full on X Bank's 2020 Iowa return.

(2) Addition to income for prior-year federal carryforward amounts deducted in the current year. When current-year interest expense is limited at the federal level, the disallowed business interest expense is carried forward to be deducted in future years for federal purposes when certain conditions are met. See Treas. Reg. Section 1.163(j)-1(b)(10) for the definition of "disallowed business interest expense." Iowa law allows taxpayers to fully deduct current-year business interest expense, and no amounts are carried forward for Iowa purposes. Disallowed business interest expense carryforward amounts from prior years, including excess business interest expense allocated to a partner in a prior year, cannot be deducted for Iowa purposes except as described in subparagraph 602.31(4)*"b"*(1). All prior year disallowed business interest expense carryforward amounts deductible under IRC Section 163(j) in the current year at the federal level, including excess business interest expense allocated to a partner in a prior year, must be added back in computing the taxpayer's Iowa income for the year.

Example 6: In 2020, X Bank has $100,000 in current-year business interest expense. For federal purposes, X Bank is subject to the IRC Section 163(j) limitation. X Bank deducts $70,000 in business interest expense on X Bank's 2020 federal return and carries the remaining $30,000 forward to be deducted in future years. For Iowa purposes, X Bank deducts the full $100,000 in current-year business interest expense in 2020.

In 2021, X Bank has $50,000 in current-year business interest expense. For federal purposes, X Bank is permitted to deduct the full $50,000 in interest expense generated in 2021, plus $5,000 of the amount that was disallowed in 2020 for a total federal deduction of $55,000 in 2021. X Bank must add the federal carryforward amount ($5,000) back on the company's 2021 Iowa return, limiting X Bank's 2021 Iowa deduction to the $50,000 in current-year business interest expense.

602.31(5) *Partners and partnerships.*

a. Partnership-level adjustments. For tax years beginning on or after January 1, 2020, partnerships that file an Iowa income tax return for a tax year in which the partnership is subject to the IRC Section 163(j) limitation for federal purposes are permitted to deduct all current-year business interest expense at the partnership level in that tax year. See 701—paragraph 302.85(5)*"a"* for more information about the calculation and reporting of partnership-level adjustments.

b. Partner-level adjustments.

(1) Interest expense from Iowa partnerships. Iowa adjustments related to excess business interest expense of an Iowa partnership are made at the entity level as described in 701—paragraph 302.85(5)*"a"* and are reported to partners on an IA 1065 Schedule K-1. Partners are not permitted to make any Iowa adjustment at the partner level to their federal interest expense deduction for amounts of excess business interest expense allocated from an Iowa partnership on the partner's federal Schedule K-1 related to that Iowa partnership. See Example 1 above.

(2) Interest expense from non-Iowa partnerships. For tax years beginning on or after January 1, 2020, partners may include as part of their Iowa business interest expense deduction the total amount of current-year excess business interest expense deduction passed through to them from all non-Iowa partnerships as shown on the federal Schedule K-1 (Form 1065), line 13, code K. See Example 2 above.

(3) Partnership basis. A partner's basis is reduced (but not below zero) by the amount of excess business interest expense the partnership passes through to the partner each year. See Treas. Reg. Section 163(j)-6(h) for detailed information about how to make these basis adjustments. For federal purposes, immediately before disposition of the partnership interest, the partner's basis is then increased by the amount of any passed-through business interest expense which has not yet been treated as paid or accrued by the partner as described in Treas. Reg. Section 163(j)-6(h)(3). No basis increase at the time of disposition is allowed for Iowa purposes for passed-through business interest expense amounts that were deducted for Iowa, but not for federal, purposes due to Iowa's nonconformity with IRC Section 163(j).

602.31(6) *S corporation adjustments.* For federal purposes, IRC Section 163(j) limitations are applied at the S corporation level. Unlike partnerships, disallowed business interest expense amounts are carried forward and deducted in future years at the entity level rather than being passed through to shareholders. S corporations should calculate their entity-level business interest expense deduction for Iowa purposes under the provisions of rule 701—502.29(422). See also Treas. Reg. Section 1.163(j)-6(l) for more information about the application of IRC Section 163(j) to S corporations for federal purposes.

This rule is intended to implement Iowa Code sections 422.35(27) and 422.61.

[**ARC 5733C**, IAB 6/30/21, effective 8/4/21; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—602.32(422) COVID-19 grant exclusion.

602.32(1) *Definitions.* For purposes of this rule:

"Administering agency" means the economic development authority, the Iowa finance authority, or the department of agriculture and land stewardship.

"Grant recipient" means a person who applies for and is issued a qualifying COVID-19 grant by an administering agency.

"Issued" means the approval of the grant recipient's application and amount for a qualifying COVID-19 grant by an administering agency, regardless of when the grant funds were paid by the administering agency.

602.32(2) *Qualifying COVID-19 grant programs.*

a. The department is responsible for determining whether a grant program provides "qualifying COVID-19 grants" as defined in Iowa Code section 422.7(62) as amended by 2021 Iowa Acts, Senate File 619, section 5. In making this determination, and for purposes of the definition of "qualifying COVID-19 grant," a grant program is "created to primarily provide COVID-19 related financial assistance to economically impacted individuals and businesses located in this state" if that grant program, at the time of its inception, was intended by the administering agency to provide a majority (more than 50 percent) of its financial assistance to or for the benefit of businesses that are doing business in Iowa or are deriving income from sources within Iowa, and that are economically affected by the COVID-19 pandemic.

b. The administering agency shall notify the director of the existence of any grant program it believes may be a qualifying COVID-19 grant program. Upon such notification, the department will request from the administering agency the information necessary to determine whether that program is a qualifying COVID-19 grant as defined in Iowa Code section 422.7(62) as amended by 2021 Iowa Acts, Senate File 619, section 5, and this rule. The administering agency shall provide the department with the requested information within the time frame prescribed by the department in its request. Failure to provide the requested information to the department shall prevent the department from determining that the grant program is a qualifying COVID-19 grant. Grant programs not specifically listed below in paragraph 602.32(2)*"c"* are not qualifying COVID-19 grants and are not eligible for the exclusion provided in this rule, even if that program may otherwise meet the definition of "qualifying COVID-19 grant" in Iowa Code section 422.7(62) as amended by 2021 Iowa Acts, Senate File 619, section 5.

c. For an exhaustive list of programs that have been identified by the department as qualifying COVID-19 grants, including a general description of each program's grant recipients, that may qualify for the exclusion from Iowa net income under subrule 602.32(3), see 701—paragraph 502.30(2)*"c."*

602.32(3) *Excluding qualifying COVID-19 grants from Iowa net income.*

a. Generally. A grant recipient may subtract a qualifying COVID-19 grant when calculating Iowa net income if all of the following apply:

(1) The grant was issued as part of a qualifying COVID-19 grant program identified in 701—paragraph 502.30(2)*"c."*

(2) The grant was issued on or after March 17, 2020, and on or before December 31, 2021.

(3) The grant funds were included in the grant recipient's net income for a tax year ending on or after March 17, 2020, but beginning before January 1, 2024. The grant may only be subtracted to the extent it is included in the grant recipient's net income for that qualifying tax year. A qualifying COVID-19 grant that is exempt from federal income tax, and thus not included in the grant recipient's Iowa net income, does not qualify for an additional subtraction on the grant recipient's Iowa return.

b. Third-party payee of grant funds. A third-party payee of qualifying COVID-19 grant funds is not eligible for this exemption from Iowa income. If the proceeds of a qualifying COVID-19 grant are paid to someone other than the grant recipient, only the grant recipient on whose behalf the grant proceeds were paid may qualify for this exemption from Iowa income.

c. Repayment. Grant funds that were repaid to the administering agency for any reason are not eligible for this exemption from Iowa income.

d. Reporting requirements. A grant recipient who received qualifying COVID-19 grant funds and who excludes those funds when calculating Iowa net income should retain documentation to support the claimed exclusion. A grant recipient must provide such documentation to the department if requested. The required documentation may include, but is not limited to, documentation to support that the grant recipient was issued and received the grant within the qualifying periods.

This rule is intended to implement Iowa Code section 422.7(62) as amended by 2021 Iowa Acts, Senate File 619, section 5.

[**ARC 5817C**, IAB 8/11/21, effective 7/13/21; Editorial change: IAC Supplement 11/2/22; Editorial change: IAC Supplement 10/18/23]

701—602.33(422) Investment subsidiary combined returns. For tax years beginning on or after January 1, 2025, financial institutions that own or control investment subsidiaries may elect to file combined Iowa franchise tax returns with those investment subsidiaries.

602.33(1) *Definitions.*

"Affiliate" means the same as defined in subrule 602.20(1).

"Unitary business," for purposes of this rule, means a single economic enterprise made up either of separate parts of a single business entity or of a commonly controlled group of business entities that are sufficiently interdependent, integrated, and interrelated through their activities so as to provide a synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts. A unitary business includes that part of the business that meets this definition and is conducted by a taxpayer through the taxpayer's interest in a partnership, whether the interest in that partnership is held directly or indirectly through a series of partnerships or other passthrough entities.

602.33(2) *Election to file a combined return.* A financial institution and its investment subsidiaries that did not file a combined return for the immediately preceding taxable year may elect to file a combined return in lieu of separate returns for the taxable year.

a. Making the election. The election is made by filing a return that includes both the financial institution and its investment subsidiaries on forms provided by the department, on or before the statutory due date for filing the return, including extensions. The parent financial institution may withdraw the election by filing a separate return at any time prior to the due date of the return (including extensions of time) in the first year in which the election is made, but the group cannot

withdraw the election after the due date of the return (including extensions of time). All requirements of this paragraph and any additional requirements provided in the instructions to the form must be met for the election to be valid.

(1) The financial institution and each investment subsidiary that is to be included on the combined return must consent to the filing of the combined return in the same manner as members of an affiliated group consent to the filing of a consolidated return in 701—paragraph 502.15(1)*"d."*

(2) The combined group must include the parent financial institution and all investment subsidiaries.

(3) The combined group cannot include any entity other than the parent financial institution and the investment subsidiaries.

b. Election binding. Except as provided in subrule 602.33(3), an election to file a combined return under this paragraph is binding on all future tax years.

c. Treated as financial institutions. By making this election, all investment subsidiaries agree to be treated as financial institutions under Iowa Code chapter 422, and this rule, for every tax year the election remains in effect, except as provided in 701—subrules 304.16(2) and 501.16(2).

602.33(3) *Discontinuing the election.* A combined group shall discontinue filing combined returns when:

a. All investment subsidiaries cease to be subsidiaries of the parent financial institution. If on or before the beginning of the tax year the parent financial institution no longer owns an investment subsidiary, the group is not required or permitted to file combined returns. However, for combined groups that included more than one investment subsidiary, if at least one entity remains an investment subsidiary, the remaining group members must continue filing combined returns even after other investment subsidiaries have left the group. Reasons an investment subsidiary may cease to be a subsidiary of the parent for purposes of this rule include:

(1) The parent financial institution no longer owns or controls the investment subsidiary previously included in the combined group.

(2) The investment subsidiary no longer meets the definition of investment subsidiary in Iowa Code section 422.61(2).

(3) The investment subsidiary ceases to exist.

b. The parent entity ceases to be subject to Iowa franchise tax. If the parent entity ceases to be subject to Iowa franchise tax, for any reason, the group is no longer allowed to file a combined return.

(1) The following are examples of common reasons a parent financial institution may no longer be subject to Iowa franchise tax:

1. The parent financial institution is no longer doing business in Iowa as defined in 701—subrule 501.1(1).

2. The parent entity changes in character such that it no longer meets the statutory definition of "financial institution" for Iowa franchise tax purposes.

3. The parent entity ceases to exist.

(2) Members of the group that continue doing business in Iowa after the parent entity ceases to be subject to Iowa franchise tax may still be required to file Iowa income or franchise tax returns.

c. The director finds separate returns would more clearly disclose the taxable income of the combined group. If the group believes that the filing of separate returns will more clearly disclose the taxable income of each member of the combined group, the group may apply to the director to discontinue filing combined returns.

(1) Applications to discontinue filing combined returns must be submitted not later than 90 days prior to the due date of the return, including extensions of time.

(2) Applications to discontinue filing consolidated returns must include:

1. A detailed description of the taxable income of both the group on a combined basis and each entity on a separate basis.

2. A clear statement of the reasons why separate returns would more clearly disclose Iowa taxable income. The mere fact that the group's combined tax liability is greater or less than the sum of

each member's separate tax liabilities for a given year is not, by itself, a ground for discontinuance of combined filing.

(3) Submitting the application. Applications to discontinue combined filing under this paragraph must be submitted through GovConnectIowa or by mail to:

Policy Bureau - Research and Policy Division
Iowa Department of Revenue
P.O. Box 14467
Des Moines, Iowa 50306-3467

602.33(4) *Filing combined returns.*

a. Filed by parent financial institution. The combined return must be filed under the name and federal employer identification number of the parent financial institution that is subject to Iowa franchise tax.

b. Responsibility for filing and signing. The return must be filed and signed on behalf of the combined group by an officer or employee of the parent financial institution.

c. Tax year. All members of the combined group are required to have the same tax year as the parent financial institution. The combined return is due on or before the statutory due date for the parent financial institution, including extensions.

602.33(5) *Combined group net income calculation.* The combined group calculates its Iowa net income as provided in this subrule.

a. Total combined income or loss. The total combined group income or loss shall be determined as follows:

(1) Each member of the combined group determines its separate income or loss by determining the member's taxable income under the Internal Revenue Code, on a separate entity basis, after making adjustments required under Iowa Code section 422.61(3).

(2) Unless otherwise provided in these rules, or by instructions on the required tax return and supporting schedules, income or loss of the members as determined under subparagraph 602.33(5)*"a"*(1) are combined, eliminating items of income, expense, gain, and loss from transactions between members of the combined group, applying the consolidated filing rules under the Internal Revenue Code as defined in Iowa Code section 422.3, and rule 701—502.15(422), as if the combined group were a consolidated filing group.

b. Net operating loss (NOL) deduction. The starting point for Iowa taxable income is federal taxable income, which includes the application of the federal net operating loss deduction, if any.

(1) NOL calculation. The combined group must calculate its NOL deduction, if any, by applying the applicable rules under the Internal Revenue Code as defined in Iowa Code section 422.3 and rule 701—502.15(422) as if the combined group were filing a consolidated federal income tax return. The combined group net income should then be adjusted by this combined group federal net operating loss deduction, if any, subject to the adjustments in numbered paragraph 602.33(5)*"b"*(2)"2."

(2) The following adjustments are required for pre-2023 federal and Iowa losses:

1. Add back to the extent included in the calculation under subparagraph 602.33(5)*"a"*(1) any federal net operating loss deduction attributable to losses incurred in a tax year beginning prior to January 1, 2023.

2. Subtract from the income attributable to Iowa, to the extent available, any Iowa net operating loss carryovers attributable to the parent or any investment subsidiary included in the group from a year beginning prior to January 1, 2023.

602.33(6) *Allocation and apportionment of combined group income.* Determine combined group business income or loss by eliminating from the amount determined in subrule 602.33(5) any nonbusiness income or loss or item of nonbusiness income, expense, gain, or loss.

a. Apportionment of business income.

(1) Combined group apportionment factor. The combined group apportionment factor is a percentage determined under rules 701—602.27(422) and 701—602.28(422), where the numerator of the factor includes amounts sourced to the state for the combined group's unitary business, regardless

of the separate entity to which those factors may be attributed, and the denominator of the factor includes amounts associated with the combined group's unitary business, wherever located.

(2) Separate entity apportionment factor. Except as provided in paragraph 602.33(6)*"c,"* the separate entity apportionment factor for a member of the combined group is a percentage determined under rules 701—602.27(422) and 701—602.28(422) where the numerator of the factor includes amounts sourced to the state for the member and the denominator of the factor includes amounts associated with the combined group's unitary business, wherever located.

(3) If a member of the combined group holds a partnership interest from which it derives apportionable income, the share of the partnership's apportionment factor(s) to be included in the apportionment factor(s) of the group is determined by multiplying the partnership's factor(s) by a ratio the numerator of which is the amount of the partnership's apportionable income properly included in the member's income, and including any guaranteed payments, and the denominator of which is the amount of the partnership's total apportionable income.

b. Allocation of nonbusiness income. Determine the amount of any combined group nonbusiness items of income, expense, gain or loss not apportioned under paragraph 602.33(6)*"a"* that are allocable to the state under Iowa Code sections 422.33(2) and 422.63(1)*"b."*

c. Combined group commercial domicile. Notwithstanding any other rule to the contrary, for purposes of determining where items of income for the combined group should be attributed, the commercial domicile of all investment subsidiaries is deemed to be that of the parent financial institution.

602.33(7) *Payment of tax.*

a. Franchise rates. The tax liability for the combined group shall be imposed on the group's combined income as calculated under this rule and determined according to the Iowa franchise tax rate provided in Iowa Code section 422.63.

b. Liability for tax.

(1) The financial institution and each investment subsidiary included on the combined return shall be severally liable for the tax for the year computed in accordance with Iowa Code chapter 422 on or before the due date (not including extensions of time) for the filing of the combined return for that year.

(2) If an investment subsidiary has ceased to be a member of the group and if the cessation resulted from a bona fide sale or exchange of the parent's interest in the subsidiary for fair value that occurred prior to the date upon which any deficiency is assessed, the director may make an assessment and collection of the deficiency from the former subsidiary in an amount not exceeding the portion of the deficiency that the director may determine to be allocable to it.

(3) No agreement entered into by one or more members of the affiliated group with any other member of the group shall in any case have the effect of reducing the liability prescribed under this subrule.

This rule is intended to implement Iowa Code section 422.60.

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Rules 701—59.25(422) to 701—59.29(422) are effective for tax years beginning on or after June 1, 1989.

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[Filed ARC 9820B (Notice ARC 9740B, IAB 9/7/11), IAB 11/2/11, effective 12/7/11]
[Filed ARC 0251C (Notice ARC 0145C, IAB 5/30/12), IAB 8/8/12, effective 9/12/12]
[Filed ARC 0337C (Notice ARC 0232C, IAB 7/25/12), IAB 9/19/12, effective 10/24/12]
[Filed ARC 1101C (Notice ARC 0976C, IAB 8/21/13), IAB 10/16/13, effective 11/20/13]
[Filed ARC 1303C (Notice ARC 1231C, IAB 12/11/13), IAB 2/5/14, effective 3/12/14]
[Filed ARC 4142C (Notice ARC 4022C, IAB 9/26/18), IAB 11/21/18, effective 12/26/18]
[Filed ARC 4517C (Notice ARC 4406C, IAB 4/24/19), IAB 6/19/19, effective 7/24/19]
[Filed ARC 4614C (Notice ARC 4500C, IAB 6/19/19), IAB 8/14/19, effective 9/18/19]
[Filed ARC 4955C (Notice ARC 4843C, IAB 1/1/20), IAB 2/26/20, effective 4/1/20]
[Rescinded paragraph editorially removed, IAC Supplement 7/29/20][1]
[Filed ARC 5606C (Amended Notice ARC 5503C, IAB 3/10/21; Notice ARC 5399C, IAB 1/27/21), IAB 5/5/21, effective 6/9/21]
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[Filed Emergency ARC 5817C, IAB 8/11/21, effective 7/13/21]
[Editorial change: IAC Supplement 11/2/22]

[Editorial change: IAC Supplement 10/18/23]
[Filed ARC 0028D (Notice ARC 9745C, IAB 11/26/25), IAB 1/21/26, effective 2/25/26]

◊ Two or more ARCs

1 Paragraph 59.28(2)"p" rescinded by 2020 Iowa Acts, House File 2641, section 79, effective June 29, 2020.