The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code sections 2B.5A and 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement 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.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.
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.

Editor's telephone (515)281-3355 or (515)242-6873

Professional Licensure Division[645]
Replace Analysis
Replace Chapter 131

Revenue Department[701]
Replace Analysis
Remove Chapters 12 and 13
Insert Reserved Chapters 12 and 13
Remove Chapters 28 to 30
Insert Reserved Chapters 28 to 30
Replace Chapter 42
Replace Chapter 52
Replace Chapter 67
Replace Chapter 81
Replace Chapter 97
Replace Chapter 103
Remove Reserved Chapters 155 to 210
Insert Reserved Chapters 155 to 200, Chapters 201 and 202, and Reserved Chapters 203 to 210
Replace Chapter 215
Insert Reserved Chapters 251 to 257 and Chapter 258

Secretary of State[721]
Replace Chapter 21

Transportation Department[761]
Replace Analysis
Replace Chapter 511

Veterinary Medicine Board[811]
Replace Chapter 1
Replace Chapter 12
PROFESSIONAL LICENSURE DIVISION[645]

Created within the Department of Public Health[641] by 1986 Iowa Acts, chapter 1245.
Prior to 7/29/87, for Chs. 20 to 22 see Health Department[470] Chs. 152 to 154.

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LICENSURE OF MASSAGE THERAPISTS

[Prior to 6/26/02, see 645—130.4(152C) and 645—130.6(152C)]

645—131.1(152C) Definitions. For purposes of these rules, the following definitions shall apply:

“Anniversary month” means the month the license was issued by the board.

“Board” means the Iowa board of massage therapy.

“Board-approved school” means a school for massage therapy education that provides at least 600 hours of supervised academic instruction; has been recognized as legitimate by the board or by a similar board in another jurisdiction that licenses massage therapists; and has not been denied, suspended, or revoked by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB).

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active.

“Issuing jurisdiction” means the duly constituted authority in another state that has issued a massage therapy license to a person.

“Licensee” means any person licensed to practice as a massage therapist in the state of Iowa.

“License expiration date” means the fifteenth day of the anniversary month every two years.

“Massage therapy” means performance for compensation of massage, myotherapy, masotherapy, bodywork, bodywork therapy, or therapeutic massage including hydrotherapy, superficial hot and cold applications, vibration and topical applications, or other therapy which involves manipulation of the muscle and connective tissue of the body, excluding osseous tissue, to treat the muscle tonus system for the purpose of enhancing health, providing muscle relaxation, increasing range of motion, reducing stress, relieving pain, or improving circulation.

[ARC 6415C, IAB 7/13/22, effective 8/17/22]

645—131.2(272C) Licensure by examination. A person who has completed the curriculum at a board-approved school may seek licensure in accordance with this rule.

131.2(1) The applicant shall submit the following:

a. A completed application packet.

b. Payment of the applicable fees as provided in rule 645—5.8(147).

c. Official copies of academic transcripts sent directly to the board by the board-approved school.

If a school has closed and is no longer operational, the board will accept an official transcript provided by the applicant.

d. Proof of passing any National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) examination or the Massage and Bodywork Licensing Examination (MBLEx) sent directly from the testing authority to the board. The passing score on the written examination shall be the passing point criterion established by the testing authority at the time the test was administered.

e. If the applicant has been issued one or more licenses to practice massage therapy by other issuing jurisdictions, verification of licenses from every jurisdiction in which the applicant has been licensed, sent directly from the issuing jurisdictions to the board. Web-based verification may be substituted for verification from the jurisdiction’s board office if the verification provides:

(1) The licensee’s name;

(2) The date of initial licensure;

(3) The applicant’s current licensure status; and

(4) Any disciplinary action taken against the license.
131.2(2) An applicant who has relocated to Iowa from a state that did not require licensure to practice massage therapy may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

[ARC 6415C; IAB 7/13/22, effective 8/17/22]

645—131.3(152C) Educational qualifications for foreign-trained massage therapists. Prospective applicants who completed their education outside of the United States may receive credit for their education, provided they comply with the following:

131.3(1) Provide an equivalency evaluation of their educational credentials by one of the following entities demonstrating the curriculum is equivalent to that stated in these rules. The applicant bears the expense of the curriculum evaluation.


c. Josef Silny & Associates, Inc., 7101 SW 102nd Avenue, Miami, FL 33173; telephone (305)273-1616; website jsilny.org.

131.3(2) Provide a notarized copy of the certificate or diploma awarded to the applicant from a massage therapy program in the country in which the applicant was educated.

131.3(3) Receive a final determination from the board that the applicant’s education is acceptable.

[ARC 6415C; IAB 7/13/22, effective 8/17/22]

645—131.4(152C) Licensure by endorsement.

131.4(1) A person who has been issued a license to practice massage therapy by another issuing jurisdiction may seek licensure in accordance with this rule.

131.4(2) The applicant shall submit all of the following:

a. A completed application packet.

b. Payment of the applicable fees as provided in rule 645—5.8(147).

c. Official copies of academic transcripts sent directly to the board by the board-approved school. If a school has closed and is no longer operational, the board will accept an official transcript provided by the applicant.

d. Proof of passing any National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) examination or the Massage and Bodywork Licensing Examination (MBLEX) sent directly from the testing authority to the board. The passing score on the written examination shall be the passing point criterion established by the testing authority at the time the test was administered.

e. Proof that the licensure requirements in the issuing jurisdiction are equal to or exceed the requirements provided in rule 645—131.2(152C).

f. Verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the issuing jurisdiction(s) to the board. Web-based verification may be substituted for verification from the issuing jurisdiction’s board office if the verification provides:

(1) The licensee’s name;

(2) The date of initial licensure;

(3) The applicant’s current licensure status; and

(4) Any disciplinary action taken against the license.

[ARC 6415C; IAB 7/13/22, effective 8/17/22]

645—131.5(152C) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

[ARC 6415C; IAB 7/13/22, effective 8/17/22]
645—131.6(152C) Temporary license. A person who is licensed to practice massage therapy in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement, and who does not seek licensure by verification, may be issued a temporary license in accordance with this rule.

131.6(1) An applicant for temporary license shall submit the following:

a. A completed application packet.

b. Payment of the applicable fees as provided in rule 645—5.8(147).

c. Verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the issuing jurisdiction(s) to the board. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification provides:

1. Licensee’s name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license.

d. A plan for meeting all remaining requirements for licensure within one year of issuance of the temporary permit. Such a plan shall include proof of enrollment in a school of massage therapy whose curriculum has been approved by the board, the date of enrollment, and the expected date of graduation.

131.6(2) A temporary license shall be valid for a period of up to one year and shall not be renewed.

131.6(3) A temporary license holder shall be issued a permanent license upon the board’s receipt of the following:

a. Official copies of academic transcripts sent directly to the board by the board-approved school demonstrating completion of all remaining hours of education required for licensure.

b. Proof of passing any National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) examination or the Massage and Bodywork Licensing Examination (MBLEx) sent directly from the testing authority to the board. The passing score on the written examination shall be the passing point criterion established by the testing authority at the time the test was administered.

[ARC 6415C, IAB 7/13/22, effective 8/17/22]

645—131.7(152C) License display. Licensees shall display their initial license certificate and proof of active licensure in a conspicuous public place at their primary site of practice.

[ARC 6415C, IAB 7/13/22, effective 8/17/22]

645—131.8(152C) License renewal.

131.8(1) Renewal period. The biennial license renewal period for a license to practice massage therapy shall begin on the sixteenth day of the anniversary month and end on the fifteenth day of the anniversary month two years later. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

131.8(2) First renewal. Completing continuing education is not required during the first biennial license renewal period and is not a prerequisite for the first renewal of a license.

131.8(3) Requirements for renewal. A licensee seeking renewal shall comply with the following before the license expiration date:

a. Submit a completed renewal application;

b. Meet the continuing education requirements of rule 645—133.2(152C) and the mandatory reporting requirements of subrule 131.8(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

c. Pay the applicable fee as provided in rule 645—5.8(147).

131.8(4) Mandatory reporter training.

a. A licensee shall indicate on the renewal application completion of training in child abuse identification and reporting, as required by Iowa Code section 232.69(3) “b,” in the previous three years if:

1. In the scope of professional practice or in the licensee’s professional employment responsibilities, the licensee examines, attends, counsels, or treats a child; and
(2) The licensee is employed in any of the following settings:
   1. A residential care facility;
   2. A nursing facility;
   3. An intermediate care facility for persons with mental illness;
   4. An intermediate care facility for persons with an intellectual disability;
   5. A school;
   6. A child care center, registered child development home, or head start program;
   7. A substance abuse program or facility licensed by the Iowa department of public health;
   8. The Glenwood state resource center, Woodward state resource center, mental health institute in Cherokee, mental health institute in Independence, state training school, or Iowa juvenile home;
   9. A juvenile detention center or juvenile shelter care facility;
   10. A foster care facility; or
   11. A mental health center.
   b. A licensee shall indicate on the renewal application completion of training in dependent adult abuse identification and reporting, as required by Iowa Code section 235B.16(5) “b,” in the previous three years if:
      (1) In the course of employment, the licensee examines, attends, counsels, or treats a dependent adult; and
      (2) The licensee is employed in any of the following settings:
          1. A residential care facility;
          2. A nursing facility;
          3. An intermediate care facility for persons with mental illness;
          4. An intermediate care facility for persons with an intellectual disability;
          5. A hospital;
          6. An elder group home, as defined in Iowa Code section 231B.1(3);
          7. An assisted living program certified under Iowa Code section 231C.3;
          8. An adult day services program, as defined in Iowa Code section 231D.1(1);
          9. A community mental health center; or
          10. A supported community living service, sheltered workshop, or work activity center.
   c. The course(s) shall be the curriculum provided by the Iowa department of human services.
   d. The licensee shall maintain written documentation for three years after mandatory training as identified in paragraphs 131.8(4) “a” to “c,” including program date(s), content, duration, and proof of participation.
   e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:
      (1) Is engaged in active duty in the military of this state or the United States; or
      (2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in rule 645—4.14(272C).
   f. The board may select licensees for audit of compliance with the requirements in paragraphs 131.8(4) “a” to “e.”

131.8(5) Issuing renewals. Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license renewal. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

131.8(6) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.8(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.
131.8(7) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a massage therapist in Iowa until the license is reactivated. A licensee who practices as a massage therapist in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

[ARC 6415C, IAB 7/13/22, effective 8/17/22]

645—131.9(17A,147,272C) License reactivation.

131.9(1) A person whose license is inactive may apply to reactivate the license in accordance with this rule.

131.9(2) The licensee shall submit all of the following:

a. A completed application packet.
b. Payment of the applicable fees as provided in rule 645—5.8(147).
c. If the license has been inactive for five years or less, submission of:
   (1) Proof of completion of 16 hours of continuing education within two years of application; and
   (2) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:
      1. Licensee’s name;
      2. Date of initial licensure;
      3. Current licensure status; and
      4. Any disciplinary action taken against the license.
d. If the license has been on inactive status for more than five years, submission of:
   (1) Proof of completion of 16 hours of continuing education within two years of application;
   (2) Proof of two years of active, licensed practice in another issuing jurisdiction immediately prior to submitting the application, or proof of passing one of the following examinations within two years of submitting the application:
      1. The National Certification Examination for Therapeutic Massage (NCETM);
      2. The National Certification Examination for Therapeutic Massage and Bodywork (NCETMB);
      3. The National Examination for States Licensing (NESL) option; or
      4. The Massage and Bodywork Licensing Examination (MBLEx); and
   (3) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:
      1. Licensee’s name;
      2. Date of initial licensure;
      3. Current licensure status; and
      4. Any disciplinary action taken against the license.

[ARC 6415C, IAB 7/13/22, effective 8/17/22]

645—131.10(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with rule 645—11.31(272C) and, if applicable, must apply for and be granted reactivation of the license in accordance with rule 645—131.9(17A,147,272C) prior to practicing as a massage therapist in this state.

[ARC 6415C, IAB 7/13/22, effective 8/17/22]

These rules are intended to implement Iowa Code chapters 17A, 147, 152C, and 272C.

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◊ Two or more ARCs
REVENUE DEPARTMENT[701]
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701—42.1(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]

701—42.2(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.

42.2(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.

42.2(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.

42.2(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.

42.2(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]

701—42.3(422) **Exemption credits.**

42.3(1) A single person shall deduct from the computed tax a personal exemption credit of $40. A single person is defined in 701—subrule 39.4(1).

42.3(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.

42.3(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.

42.3(4) A head of household as defined in 701—subrule 39.4(7) is allowed a personal exemption credit of $80.

42.3(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.

42.3(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.
42.3(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.

[ARC 8702B, IAB 4/21/10, effective 5/26/10]

701—42.4(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.

42.4(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.

42.4(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.

42.4(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.

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.

42.4(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 42.3(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—42.5(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.

42.5(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 40 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.

42.5(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 40 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 - $44,500). 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.

**701—42.6(422) Out-of-state tax credits.**

**42.6(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.

**42.6(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.

42.6(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 42.6(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 42.6(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 42.6(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 42.6(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 42.6(3)”a.”

**42.6(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.

42.6(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—42.7(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 42.6(3) and 42.6(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 42.6(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 other state or foreign country on income qualifying under paragraph 42.6(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 42.6(3) and 42.6(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 42.6(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.

42.6(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 42.6(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 42.6(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 42.6(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—42.5(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 42.6(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 42.6(5)“d”(2) and 42.6(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 42.6(3) and 42.6(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 42.6(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 42.6(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 42.6(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 42.6(5)“d” or “e.” Gross income from the S corporation shall not be included in the
resident’s maximum credit calculation in paragraph 42.6(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 42.6(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.

42.6(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 42.6(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 42.6(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]

701—42.7(422) Out-of-state tax credit for minimum tax.

42.7(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 42.7(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.

42.7(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—40.27(422).

42.7(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]

701—42.8(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]

701—42.9(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 231.2(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.

701—42.10(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.

42.10(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.

42.10(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]
701—42.11(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.

42.11(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.

42.11(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
701—42.12(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.

42.12(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.

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:

<table>
<thead>
<tr>
<th>Average Number of Weekly Hours</th>
<th>Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>More than 0 but less than 15</td>
<td>¼</td>
</tr>
<tr>
<td>15 or more but less than 25</td>
<td>½</td>
</tr>
<tr>
<td>25 or more but less than 35</td>
<td>¾</td>
</tr>
<tr>
<td>35 or more</td>
<td>1 (full-time)</td>
</tr>
</tbody>
</table>

42.12(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.

42.12(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]

701—42.13(422) Earned income credit.

42.13(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.

**42.13(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]

**701—42.14(15) Investment tax credit—new jobs and income program and enterprise zone program.**

**42.14(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—42.29(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 42.29(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.

42.14(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 42.29(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 52.10(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.

42.14(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]
**701—42.15(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—42.31(422).

**42.15(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.

<table>
<thead>
<tr>
<th><em>Net income</em></th>
<th>Percentage of federal credit allowed for tax years beginning on or after January 1, 2006, and before January 1, 2021</th>
<th>Percentage of federal credit allowed for tax years beginning on or after January 1, 2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $10,000</td>
<td>75%</td>
<td>75%</td>
</tr>
<tr>
<td>$10,000 or more but less than $20,000</td>
<td>65%</td>
<td>65%</td>
</tr>
<tr>
<td>$20,000 or more but less than $25,000</td>
<td>55%</td>
<td>55%</td>
</tr>
<tr>
<td>$25,000 or more but less than $35,000</td>
<td>50%</td>
<td>50%</td>
</tr>
<tr>
<td>$35,000 or more but less than $40,000</td>
<td>40%</td>
<td>40%</td>
</tr>
<tr>
<td>$40,000 or more but less than $45,000</td>
<td>30%</td>
<td>30%</td>
</tr>
<tr>
<td>$45,000 or more but less than $90,000</td>
<td>No Credit</td>
<td>30%</td>
</tr>
<tr>
<td>$90,000 or more</td>
<td>No Credit</td>
<td>No Credit</td>
</tr>
</tbody>
</table>

*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.*

**42.15(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:
\[
\begin{align*}
$180 \times \frac{30,000}{40,000} &= $135 \quad \text{child and dependent care credit for spouse with $30,000 net income} \\
$180 \times \frac{10,000}{40,000} &= $45 \quad \text{child and dependent care credit for spouse with $10,000 net income}
\end{align*}
\]

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:

\[
\begin{align*}
$320 \times \frac{25,000}{37,500} &= $213 \quad \text{child and dependent care credit for spouse with $25,000 Iowa net income} \\
$320 \times \frac{12,500}{37,500} &= $107 \quad \text{child and dependent care credit for spouse with $12,500 Iowa net income}
\end{align*}
\]

42.15(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:

\[
\text{Federal child and dependent care credit} \times \frac{\text{Percentage of federal child and dependent care credit allowed on Iowa return from table in subrule 42.15(1) based on all-source net income}}{\text{All-source net income}} = \text{*Iowa net income for purposes of determining the child care credit that can be claimed on the Iowa return by a nonresident or part-year resident taxpayer is the total Iowa-source income less the Iowa-source adjustments to income as computed on the Schedule IA 126.}
\]

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.

42.15(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:

<table>
<thead>
<tr>
<th>Federal child and dependent care credit</th>
<th>Percentage of federal child and dependent credit allowed on Iowa return</th>
<th>Iowa-source net income of All-source net income</th>
</tr>
</thead>
<tbody>
<tr>
<td>$800</td>
<td>$320</td>
<td>$229</td>
</tr>
</tbody>
</table>

The $229 credit is allocated between the spouses as shown below:

\[
\begin{align*}
$229 \times \frac{15,000}{25,000} &= \frac{137}{1} \text{ for spouse with Iowa-source net income of }$15,000 \\
$229 \times \frac{10,000}{25,000} &= \frac{92}{1} \text{ for spouse with Iowa-source net income of }$10,000
\end{align*}
\]

This rule is intended to implement Iowa Code section 422.12C.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 8337C, 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]

701—42.16(422) Franchise tax credit. For tax years beginning on or after January 1, 1997, a shareholder in a financial institution, as defined in Section 581 of the Internal Revenue Code, which 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.

For tax years beginning on or after July 1, 2004, a member of a financial institution organized as a limited liability company that is taxed as a partnership for federal income tax purposes which has elected to have its income taxed directly to its members may take a tax credit equal to the member’s pro rata share of the Iowa franchise tax paid by the financial institution.

The credit must be computed by recomputing the amount of tax computed 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 sections 422.12 and 422.12B for tax years beginning prior to January 1, 2007. The recomputed tax must be subtracted from the amount of tax computed under Iowa Code section 422.5 reduced by the credits allowed in Iowa Code sections 422.12 and 422.12B for tax years beginning prior to January 1, 2007. For tax years beginning on or after January 1, 2007, only the credits allowed in Iowa Code section 422.12 are reduced in computing the franchise tax credit.

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.

This rule is intended to implement Iowa Code section 422.11.

[ARC 8702B, IAB 4/21/10, effective 5/26/10]

701—42.17(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—42.53(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. **42.17(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 42.17(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.
42.17(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]

701—42.18(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.

42.18(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.

42.18(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.

42.18(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.

42.18(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 8792B, IAB 4/21/10, effective 5/26/10; ARC 1744C, IAB 11/26/14, effective 12/31/14]

701—42.19(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—42.54(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—42.19(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—42.54(404A,422).

42.19(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.

42.19(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.

42.19(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.

**42.19(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 42.19(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.

**42.19(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.
42.19(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]

701—42.20(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 43.3(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—42.31(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.

42.20(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.

42.20(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.

42.20(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—42.37(15,422) is available beginning January 1, 2009, for retail dealers of gasoline.
See 701—subrule 52.19(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]

701—42.21(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]

701—42.22(15E,422) Venture capital credits.

42.22(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 42.22(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.

42.22(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.

42.22(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.

42.22(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]

701—42.23(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—42.29(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.

42.23(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 52.7(5). This credit for increasing research activities is in lieu of the research activities credit described in subrule 42.11(3).

42.23(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 42.14(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 42.14(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 investment 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]

701—42.24(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 11/12/12; ARC 1138C, IAB 10/30/13, effective 12/4/13]

701—42.25(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:
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 422.111.

[ARC 8702B, IAB 4/21/10, effective 5/26/10]

701—42.26(151,422) 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.

42.26(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.
42.26(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.

42.26(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 year.

(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 42.26(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.

42.26(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.

42.26(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 subrule 42.26(3), paragraphs “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 151 and section 422.11L.

[ARC 8702B, IAB 4/21/10, effective 5/26/10]

701—42.27(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).

42.27(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 ¼ 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).

42.27(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 42.27(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 42.27(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.

42.27(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.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9876B, IAB 11/30/11, effective 1/4/12; ARC 0251C, IAB 8/8/12, effective 9/12/12; ARC 1744C, IAB 11/26/14, effective 12/31/14]

701—42.28(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.

42.28(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 facilities 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).

42.28(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 42.28(3) and 42.28(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 42.28(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.

42.28(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 42.28(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.

42.28(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 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.

42.28(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.

42.28(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).
42.28(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.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9875B, 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]

701—42.29(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—42.42(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.

42.29(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 52.7(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 subrule 42.11(3), paragraphs “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).

42.29(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 42.14(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 42.14(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.

42.29(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—42.26(151,422).

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]

701—42.30(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]

701—42.31(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—42.15(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.

42.31(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.

42.31(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]

701—42.32(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.

42.32(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.

42.32(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.

42.32(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.

42.32(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 \(\div\) 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 \(\times\) 1,400) of tax credit certificates for the 2022 calendar year. The department will 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 \(\div\) 75%) during the 2022 calendar year which would be eligible for the tax credit.

42.32(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.

42.32(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.
42.32 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]

701—42.33(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.

42.33(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:

<table>
<thead>
<tr>
<th>Calendar years</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006, 2007, and 2008</td>
<td>25 cents</td>
</tr>
<tr>
<td>2009 and 2010</td>
<td>20 cents</td>
</tr>
<tr>
<td>2011</td>
<td>10 cents</td>
</tr>
<tr>
<td>2012 through 2024</td>
<td>16 cents</td>
</tr>
</tbody>
</table>

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—42.20(422) for gallons sold prior to January 1, 2009, or the ethanol promotion tax credit provided in rule 701—42.39(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.

42.33(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 52.30(2) for examples illustrating how this subrule is applied.

42.33(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 422.110 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]

701—42.34(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.

42.34(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 42.34(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 42.34(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 42.34(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.

42.34(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 52.31(2) for examples illustrating how this subrule is applied.

42.34(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.

701—42.35(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.

42.35(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.


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.

42.35(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.

42.35(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]

701—42.36(16,422) Agricultural assets transfer tax credit and custom farming contract tax credit.

42.36(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.

42.36(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]

701—42.37(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.

42.37(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.
5. Supplies.
6. Accounting services.
7. Animals and animal care services.
8. Artistic and design services.
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.
18. Photography.
20. Video and related services.
22. Research.
23. Site fees and rental.
24. Travel related to Iowa distant locations.
25. Trash removal and cleanup.

A detailed list of all qualified expenditures for each of these categories is available from the film office of IDED.

42.37(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.

42.37(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.

42.37(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]
**701—42.38(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.

42.38(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—42.37(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 42.37(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.

42.38(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.

42.38(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]

701—42.39(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.

42.39(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:

<table>
<thead>
<tr>
<th>Determination Period</th>
<th>More that 200,000 Gallons Sold by Retail Dealer</th>
<th>200,000 Gallons or Less Sold by Retail Dealer</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>10%</td>
<td>6%</td>
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<tr>
<td>2010</td>
<td>11%</td>
<td>6%</td>
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<tr>
<td>2011</td>
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<td>2019</td>
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<td>21%</td>
</tr>
<tr>
<td>2020</td>
<td>25%</td>
<td>25%</td>
</tr>
</tbody>
</table>

“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.

42.39(2) Calculation of tax credit.

a. The tax credit is calculated by multiplying the retail dealer’s total ethanol gallonage by the tax rate, which is adjusted based upon the retail dealer’s biofuel threshold percentage disparity. The tax credit rate is set forth below:
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—42.33(422) or the E-15 plus gasoline promotion tax credit provided in rule 701—42.46(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 42.39(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.

42.39(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 subrule 42.39(2), paragraph “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.
**42.39(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.

**42.39(5) Examples.** The following nonexclusive 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:

<table>
<thead>
<tr>
<th>Site</th>
<th>Gallons sold</th>
<th>Gallons containing ethanol</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>70,000</td>
<td>10% equals 7,000</td>
</tr>
<tr>
<td>B</td>
<td>70,000</td>
<td>10% equals 7,000</td>
</tr>
<tr>
<td>C</td>
<td>60,000</td>
<td>10% equals 6,000</td>
</tr>
<tr>
<td>C</td>
<td>10,000</td>
<td>79% equals 7,900</td>
</tr>
</tbody>
</table>

The ethanol gallonage is 27,900. This 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:

<table>
<thead>
<tr>
<th>Description</th>
<th>Calculation</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>30,000 times 6.5 cents equals</td>
<td></td>
<td>$1,950</td>
</tr>
<tr>
<td>8,000 times 4.5 cents equals</td>
<td></td>
<td>360</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$2,310</td>
</tr>
</tbody>
</table>

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:

<table>
<thead>
<tr>
<th>Site</th>
<th>Times</th>
<th>Cents</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>7,000</td>
<td>2.5</td>
<td>$175</td>
</tr>
<tr>
<td>B</td>
<td>7,000</td>
<td>2.5</td>
<td>$175</td>
</tr>
<tr>
<td>C</td>
<td>13,900</td>
<td>8</td>
<td>$1,112</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>$1,462</td>
</tr>
</tbody>
</table>

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]

701—42.40(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% 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.

42.40(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.

42.40(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.

42.40(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.

42.40(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]

701—42.41(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).

42.41(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.

42.41(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 42.41(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).

42.41(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 42.41(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 42.41(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.

**42.41(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.

**42.41(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 11802C, IAB 10/16/13, effective 11/20/13; ARC 1940C, IAB 4/1/15, effective 5/6/15]
701—42.42(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.

42.42(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 52.7(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 52.7(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 52.7(5) for businesses in enterprise zones, and are not applicable to the research activities credit set forth in subrule 42.11(3), paragraphs “a” and “b.”

42.42(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 42.29(2) for the high quality job creation program.

42.42(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]
701—42.43(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.

42.43(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.

42.43(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.

42.43(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.

42.43(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]

701—42.44(422) Deduction of credits.

42.44(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.
ae. 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—38.18(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, and withholding tax.

42.44(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 0398, 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]

701—42.45(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 1012C, IAB 10/16/13, effective 11/20/13; ARC 1744C, IAB 11/26/14, effective 12/31/14]

701—42.46(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.  

42.46(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—42.39(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.  

42.46(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.

42.46(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.

701—42.47(422) Geothermal heat pump tax credit. For tax years beginning on or after January 1, 2019, 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.

42.47(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. 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 42.47(4).

42.47(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 years 2020 through 2022, 5.2 percent.
   (3) For property placed in service during calendar year 2023, 4.4 percent.

b. This credit is set to expire on January 1, 2024, in accordance with Public Law No. 116-260, Div. EE, Title I, Subtitle C, §148. If the federal residential energy efficient property tax credit for geothermal heat pumps provided in Section 25D(a)(5) of the Internal Revenue Code is extended by federal legislation into additional tax years, the Iowa credit will continue to be available for each year in which the corresponding federal credit is available, absent action by the Iowa general assembly.

42.47(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.

42.47(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.

42.47(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 and 2019 Iowa Acts, House File 779. [ARC 5589C, IAB 4/21/21, effective 5/26/21]

701—42.48(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.

42.48(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.

42.48(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 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 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.

<table>
<thead>
<tr>
<th>Applicable Property</th>
<th>Calendar Year Construction Begins</th>
<th>Calendar Year Property Placed in Service</th>
<th>Iowa Tax Credit Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Qualified Residential Solar Electric Property Under Section 25D(a)(1) of the Internal Revenue Code</td>
<td>N/A</td>
<td>2016-2019</td>
<td>15%</td>
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<td></td>
<td>N/A</td>
<td>2020</td>
<td>13%</td>
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<tr>
<td></td>
<td>N/A</td>
<td>2021</td>
<td>11%</td>
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<tr>
<td></td>
<td>N/A</td>
<td>2022 or later</td>
<td>0%</td>
</tr>
<tr>
<td>Qualified Residential Solar Water Heating Property Under Section 25D(a)(2) of the Internal Revenue Code</td>
<td>N/A</td>
<td>2016-2019</td>
<td>15%</td>
</tr>
<tr>
<td></td>
<td>N/A</td>
<td>2020</td>
<td>13%</td>
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<td></td>
<td>N/A</td>
<td>2021</td>
<td>11%</td>
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<td></td>
<td>N/A</td>
<td>2022 or later</td>
<td>0%</td>
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<td>2024 or later</td>
<td>2024 or later</td>
<td>5%</td>
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<td>2020</td>
<td>2020-2023</td>
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<td>2024 or later</td>
<td>2024 or later</td>
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<td>2024 or later</td>
<td>5%</td>
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<td>2022 or later</td>
<td>2022 or later</td>
<td>0%</td>
</tr>
<tr>
<td></td>
<td>N/A</td>
<td>2017 or later</td>
<td>0%</td>
</tr>
</tbody>
</table>

*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 42.48(2)“a”(1) and 42.48(2)“a”(2) cannot exceed $5,000 per separate and distinct installation. The amount of tax credit claimed by a taxpayer related to subparagraphs 42.48(2)“a”(3) and 42.48(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 42.48(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.

42.48(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—52.44(422) for corporation income tax and in rule 701—58.22(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.

42.48(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 42.48(4) “a”(1) and 42.48(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.

42.48(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 42.48(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 42.48(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 42.48(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 42.48(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., $(1,400 + 1,600 + 1,800) \div 12 = 400]$. 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 42.48(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 42.48(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.

42.48(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—42.28(422,476C) is not eligible for the solar energy system tax credit.

42.48(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]
701—42.49(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.

42.49(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.

42.49(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 officer 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.

42.49(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 3/9/22, effective 4/13/22]

### 701—42.50(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—48.1(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.

#### 42.50(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).

#### 42.50(2) Claiming the credit on the tax return. The Iowa taxpayers trust fund is claimed on the amount of 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—42.1(257,422) and emergency medical services income surtax described in rule 701—42.2(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]

701—42.51(422.85GA, SF452) From farm to food donation tax credit. Effective for tax years beginning on or after January 1, 2014, 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(c)(3)(C) of the Internal Revenue Code.

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.

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). The department of revenue will make registration forms available on the department’s website. The department will maintain a list of recognized organizations on the department’s website.

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 tax 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.

To claim the credit, 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(c)(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.

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 other than the taxpayer’s estate or trust upon the death of the taxpayer.

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 2013 Iowa Acts, Senate File 452, division XVIII.

[ARC 1138C, IAB 10/30/13, effective 12/4/13]
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.

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.

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.

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.

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 41.5(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 prior to January 1, 2013, 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 42.52(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, 2013, 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 42.52(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 42.52(4)“a.” An adjustment to a prior’s year return is subject to the limitations in rule 701—40.20(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 42.52(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 called. 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.

[ARC 1665C: IAB 10/15/14, effective 11/19/14; ARC 3749C: IAB 4/11/18, effective 5/16/18; ARC 5308C: IAB 12/2/20, effective 1/6/21]

701—42.53(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.

42.53(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).

42.53(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—258.1(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.

42.53(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 42.53(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.

42.53(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.

42.53(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 42.53(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 42.53(2) “b”(4) shall apply.

42.53(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.

[ARC 1744C, IAB 11/26/14, effective 12/31/14; ARC 3837C, IAB 6/8/18, effective 7/11/18; ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—42.54(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—42.19(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—42.55(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—42.19(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—42.55(404A,422).

42.54(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.

42.54(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.

42.54(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.

42.54(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 42.54(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 42.54(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 42.54(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 42.54(5).

d. **Carryforward.** If the taxpayer elects to receive a nonrefundable historic preservation and cultural and entertainment district tax credit as described in paragraph 42.54(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 42.54(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.

**42.54(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 42.54(4)"d" shall apply.

42.54(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]

701—42.55(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.

42.55(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—42.54(404A,422) and 701—42.19(404A,422).

42.55(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.
42.55(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.

42.55(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.

42.55(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 42.55(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 42.55(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 42.55(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 42.55(6).

d. Carryforward. If the taxpayer elects to receive a nonrefundable historic preservation and cultural and entertainment district tax credit as described in paragraph 42.55(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 42.55(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.

42.55(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 42.55(4) “d” shall apply.
42.55(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.

IAC 3928C; IAB 2/1/17, effective 3/8/17

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701—42.56(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.

42.56(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.

42.56(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.

42.56(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 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]

701—42.57(15E,422) **Hoover presidential library tax credit.**

42.57(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 Chapter 43 and describe the tax credit program cap limitations including reserved amounts, donor cap limitations, the application process and waitlist, and other requirements.

42.57(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 Chapter 43 and 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.

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Two or more ARCs
CHAPTER 52
FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST, AND TAX CREDITS
[Prior to 12/17/86, Revenue Department[730]]

701—52.1(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.

52.1(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

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.

**52.1(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 unless 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.

**52.1(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.

- Installation or assembly of the corporate product.
- Ownership or lease of real estate by corporation.
- Solicitation of orders for, or sale of, services or real estate.
- Sale of tangible personal property (as opposed to solicitation of orders) or performance of services within Iowa.
- Maintenance of a stock of inventory.
- Existence of an office or other business location.
- Managerial activities pertaining to nonsolicitation activities.
- Collections on regular or delinquent accounts.
- Technical assistance and training given after the sale to purchaser and user of corporate products.
- The repair or replacement of faulty or damaged goods.
- The pickup of damaged, obsolete, or returned merchandise from purchaser or user.
- Rectification of or assistance in rectifying any product complaints, shipping complaints, etc., if more is involved than relaying complaints to a non-Iowa location.
- Delivery of corporate merchandise inventory to corporation’s distributors or dealers on consignment.
- 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.

52.1(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.

52.1(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 54. 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 54 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.

52.1(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 51, 52, 53, 54, 55 and 56 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 242 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.

52.1(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.

52.1(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.

52.1(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.

52.1(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.

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 one, $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]

701—52.2(422) Time and place for filing return.

52.2(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 excepting 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 a legal holiday, the return will be due the first business day following the Saturday, Sunday or legal holiday. If a return is placed in the mails, 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.

52.2(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.

52.2(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.


This rule is intended to implement Iowa Code sections 422.21 and 422.24.

701—52.3(422) Form for filing.

52.3(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.

52.3(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.

52.3(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.

52.3(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 51.2(1) and 
rule 701—55.3(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]

701—52.4(422) Payment of tax.

52.4(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 56.

52.4(2) Reserved.

52.4(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—10.8(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.

52.4(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.

52.4(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.

52.4(6) New jobs credit. Transferred to 701—52.8(422) IAB 11/28/90, effective 1/2/91.

This rule is intended to implement Iowa Code sections 422.21, 422.24, 422.25, 422.33 and 422.86.

701—52.5(422) Minimum tax.

52.5(1) Reserved.

52.5(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:

\[
\text{State taxable income as adjusted by Iowa Code section 422.35} \\
\text{Plus: Tax preference items, adjustments and losses added back} \\
\text{Less: Allocable income including allocable preference items and adjustments under Section 56 of the Internal Revenue Code including adjusted current earnings related to allocable income including the allocable preference items} \\
\text{Subtotal} \\
\text{Times: Apportionment percentage} \\
\text{Result} \\
\text{Plus: Income allocable to Iowa including allocable preference items and adjustments under Section 56 of the Internal Revenue Code including adjusted current earnings related to allocable income including the allocable preference items} \\
\text{Less: Iowa alternative tax net operating less deduction} \\
\text{$40,000$ exemption amount} \\
\text{Equals: Iowa alternative minimum taxable income}
\]

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—53.2(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—53.2(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:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal taxable income before NOL</td>
<td>$182,000</td>
</tr>
<tr>
<td>Federal NOL carryforward</td>
<td>&lt;97,000&gt;</td>
</tr>
<tr>
<td>Federal income tax</td>
<td>19,750</td>
</tr>
<tr>
<td>Tax preferences and adjustments</td>
<td>48,000</td>
</tr>
<tr>
<td>Iowa income tax expensed on federal</td>
<td>2,570</td>
</tr>
<tr>
<td>Iowa NOL carryforward</td>
<td>147,000</td>
</tr>
</tbody>
</table>
For tax year 1988, the following information is available:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal taxable income before NOL</td>
<td>$&lt;154,000&gt;</td>
</tr>
<tr>
<td>Federal income tax refund</td>
<td>15,460</td>
</tr>
<tr>
<td>Tax preferences and adjustments</td>
<td>78,000</td>
</tr>
<tr>
<td>Iowa income tax refund reported on federal</td>
<td>2,570</td>
</tr>
</tbody>
</table>

The alternative minimum tax for 1987 before the 1988 net operating loss carryback should be computed as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regular Iowa Tax</td>
<td></td>
</tr>
<tr>
<td>Federal taxable income</td>
<td>$182,000</td>
</tr>
<tr>
<td>less 50% federal tax</td>
<td>&lt;9,875&gt;</td>
</tr>
<tr>
<td>add Iowa income tax expensed</td>
<td>2,570</td>
</tr>
<tr>
<td>Iowa taxable income before NOL carryforward</td>
<td>$174,695</td>
</tr>
<tr>
<td>less NOL carryforward</td>
<td>&lt;147,000&gt;</td>
</tr>
<tr>
<td>Iowa taxable income</td>
<td>$27,695</td>
</tr>
<tr>
<td>Iowa income tax</td>
<td>1,716</td>
</tr>
<tr>
<td>Alternative Minimum Tax</td>
<td></td>
</tr>
<tr>
<td>Iowa taxable income before NOL</td>
<td>$174,695</td>
</tr>
<tr>
<td>add preferences and adjustments</td>
<td>48,000</td>
</tr>
<tr>
<td>Total</td>
<td>$222,695</td>
</tr>
<tr>
<td>less NOL carryforward*</td>
<td>&lt;147,000&gt;</td>
</tr>
<tr>
<td>Iowa alternative taxable income</td>
<td>75,695</td>
</tr>
<tr>
<td>less exemption amount</td>
<td>&lt;40,000&gt;</td>
</tr>
<tr>
<td>Total</td>
<td>35,695</td>
</tr>
<tr>
<td>Times 7.2%</td>
<td>2,570</td>
</tr>
<tr>
<td>Less regular tax</td>
<td>&lt;1,715&gt;</td>
</tr>
<tr>
<td>Alternative minimum tax</td>
<td>855</td>
</tr>
</tbody>
</table>

*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:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regular Iowa Tax</td>
<td></td>
</tr>
<tr>
<td>Federal taxable income</td>
<td>$182,000</td>
</tr>
<tr>
<td>less 50% federal tax</td>
<td>&lt;9,875&gt;</td>
</tr>
<tr>
<td>add Iowa income tax expensed</td>
<td>2,570</td>
</tr>
<tr>
<td>Iowa taxable income before NOL carryforward</td>
<td>$174,695</td>
</tr>
<tr>
<td>less NOL carryforward</td>
<td>&lt;147,000&gt;</td>
</tr>
<tr>
<td>$27,695</td>
<td></td>
</tr>
<tr>
<td>less NOL carryback from 1988¹</td>
<td>&lt;148,840&gt;</td>
</tr>
<tr>
<td>NOL carryforward</td>
<td>$&lt;121,145&gt;</td>
</tr>
</tbody>
</table>

¹ Net operating loss carrybacks 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.
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 NOL² <68,126>
Total $7,569
less exemption <40,000>
Alternative minimum taxable income after NOL $0

¹Computation 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>

²Computation 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).

52.5(3) Effective for tax years beginning on or after January 1, 1986, estimated payments are required for minimum tax.

52.5(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:

\[
\frac{\left(\frac{A}{B} \times C + D\right)}{F} = \text{Separate member’s contribution to the amount by which regular income tax set forth in section 422.33 exceeds the tentative minimum tax.}
\]

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.

[ARC 7761B, IAB 5/6/09, effective 6/10/09; ARC 2829C, IAB 11/23/16, effective 1/1/17]

701—52.6(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 231.2(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.

701—52.7(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.

52.7(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.

52.7(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.

52.7(3) **Calculating the credit.** For information on how the credit is calculated, see Iowa Code section 422.33.

52.7(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 8598B, 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]

701—52.8(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.

52.8(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:

<table>
<thead>
<tr>
<th>Average Number of Weekly Hours</th>
<th>Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>More than 0 but less than 15</td>
<td>¼</td>
</tr>
<tr>
<td>15 or more but less than 25</td>
<td>½</td>
</tr>
<tr>
<td>25 or more but less than 35</td>
<td>¾</td>
</tr>
<tr>
<td>35 or more</td>
<td>1 (full-time)</td>
</tr>
</tbody>
</table>

52.8(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.

52.8(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.

701—52.9 Reserved.

701—52.10(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—52.28(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.

52.10(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.

52.10(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. 1DORF 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.

52.10(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—52.7(422) for the computation of the research activities credit.

See also subrule 52.7(3) for the computation of the research activities credit for tax years beginning on or after January 1, 2000, and subrule 52.7(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.

52.10(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
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.

52.10(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.

[ARC 8605B, 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]

701—52.11(422) Refunds and overpayments.

52.11(1) to 52.11(9) Reserved.

52.11(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.

52.11(11) to 52.11(13) Reserved.

52.11(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.

701—52.12(422) Deduction of credits.

52.12(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 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.

a. 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 tax and payment with vouchers.

52.12(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 52.12(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.

701—52.13(422) Livestock production credits. For rules relating to the livestock production income tax credit refunds see rule 701—43.8(422).

This rule is intended to implement 1996 Iowa Acts, chapter 1197, sections 19, 20, and 21.

701—52.14(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.

52.14(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).

52.14(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—52.10(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 52.28(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 52.10(4).

52.14(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 52.7(5) and 52.7(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 52.28(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 52.7(5) for businesses in enterprise zones and the additional research activities credit set forth in subrule 52.28(1) for businesses approved under the high quality job creation program, and are not applicable to the research activities credit set forth in subrule 52.7(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 52.28(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 52.7(5) for businesses in enterprise zones and the additional research activities credit set forth in subrule 52.40(1) for businesses approved under the high quality jobs program, and are not applicable to the research activities credit set forth in subrule 52.7(3).

52.14(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]

701—52.15(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—52.46(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.

52.15(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 52.15(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.

52.15(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 2/31/14]

701—52.16(422) Franchise tax credit. For tax years beginning on or after January 1, 1998, a shareholder in a financial institution as defined in Section 581 of the Internal Revenue Code which 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.

The credit must be computed by recomputing the amount of tax computed 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 recomputed tax must be subtracted from the amount of tax computed under Iowa Code section 422.33 reduced by the credits allowed in Iowa Code section 422.33.

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.

This rule is intended to implement Iowa Code section 422.33, as amended by 1999 Iowa Acts, chapter 95.

701—52.17(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.

52.17(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.

52.17(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 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.

52.17(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]*

701—52.18(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—52.47(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—52.18(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—52.47(404A,422).

52.18(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.

52.18(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.

52.18(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.

52.18(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 52.18(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.

52.18(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.

52.18(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 and addresses 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 9106B, 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]

701—52.19(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 the 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 55.3(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—52.30(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.

52.19(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.

52.19(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.

52.19(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—52.36(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.

701—52.20(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
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.

701—52.21(15E,422) Venture capital credits.

52.21(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,
has 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 42.22(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.

52.21(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.

52.21(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.

52.21(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.

701—52.22(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—52.28(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.

52.22(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 52.7(5). This credit for increasing research activities is in lieu of the research activities credit described in subrule 52.7(3).

52.22(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 52.10(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 52.10(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.

52.22(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]

701—52.23(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]

701—52.24(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.
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.

701—52.25(151,422) 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.

52.25(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.

52.25(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.

52.25(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 52.25(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.

**52.25(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.

52.25(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 subrule 52.25(3), paragraphs “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).

701—52.26(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).

52.26(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 ¼ 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).

52.26(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 52.26(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—7.8(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 52.26(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.

52.26(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.

[ARC 8589B, 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 1744C, IAB 11/26/14, effective 12/31/14]

701—52.27(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.

52.27(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 own 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).

52.27(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 52.27(3) and 52.27(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 52.27(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.

52.27(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 multicity county 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 52.27(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.

**52.27(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.

**52.27(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.

52.27(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).

52.27(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—7.8(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 8588B, 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]

701—52.28(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—52.40(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.

52.28(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 52.7(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 52.7(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).

52.28(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 “c” 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 52.14(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
52.10(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.

52.28(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.
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—52.25(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]

701—52.29(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]

701—52.30(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 1A 135.

52.30(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—52.19(422) for gallons sold prior to January 1, 2009, or the ethanol promotion tax credit provided in rule 701—52.36(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.

52.30(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.

52.30(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]

701—52.31(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.

52.31(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 52.31(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 52.31(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 52.31(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.

52.31(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.

52.31(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]

701—52.32(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.

52.32(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.


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.

52.32(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.

52.32(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—7.8(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 Supplement section 422.33 as amended by 2008 Iowa Acts, Senate File 572.

[ARC 0251C, IAB 8/8/12, effective 9/12/12]

701—52.33(16.422) Agricultural assets transfer tax credit and custom farming contract tax credit.

52.33(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 claimed. 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.

52.33(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 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]

701—52.34(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.

52.34(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.
5. Supplies.
6. Accounting services.
7. Animals and animal care services.
8. Artistic and design services.
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.
18. Photography.
20. Video and related services.
22. Research.
23. Site fees and rental.
24. Travel related to Iowa distant locations.
25. Trash removal and cleanup.

A detailed list of all qualified expenditures for each of these categories is available from the film office of IDED.

52.34(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.

52.34(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.

52.34(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.

701—52.35(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.

52.35(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—52.34(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 52.34(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.

**52.35(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.

**52.35(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]

**701—52.36(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.

**52.36(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:

<table>
<thead>
<tr>
<th>Determination Period</th>
<th>More than 200,000 Gallons Sold by Retail Dealer</th>
<th>200,000 Gallons or Less Sold by Retail Dealer</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>10%</td>
<td>6%</td>
</tr>
<tr>
<td>2010</td>
<td>11%</td>
<td>6%</td>
</tr>
<tr>
<td>2011</td>
<td>12%</td>
<td>10%</td>
</tr>
<tr>
<td>2012</td>
<td>13%</td>
<td>11%</td>
</tr>
<tr>
<td>2013</td>
<td>14%</td>
<td>12%</td>
</tr>
<tr>
<td>2014</td>
<td>15%</td>
<td>13%</td>
</tr>
<tr>
<td>2015</td>
<td>17%</td>
<td>14%</td>
</tr>
<tr>
<td>2016</td>
<td>19%</td>
<td>15%</td>
</tr>
<tr>
<td>2017</td>
<td>21%</td>
<td>17%</td>
</tr>
<tr>
<td>2018</td>
<td>23%</td>
<td>19%</td>
</tr>
<tr>
<td>2019</td>
<td>25%</td>
<td>21%</td>
</tr>
<tr>
<td>2020</td>
<td>25%</td>
<td>25%</td>
</tr>
</tbody>
</table>

“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 8%).

“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.

52.36(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:

<table>
<thead>
<tr>
<th>Biofuel Threshold Percentage Disparity</th>
<th>Tax Credit Rate per Gallon 2009-2010</th>
<th>Tax Credit Rate per Gallon 2011</th>
<th>Tax Credit Rate per Gallon 2012-2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>0%</td>
<td>6.5 cents</td>
<td>8 cents</td>
<td>8 cents</td>
</tr>
<tr>
<td>0.01% to 2.00%</td>
<td>4.5 cents</td>
<td>6 cents</td>
<td>6 cents</td>
</tr>
<tr>
<td>2.01% to 4.00%</td>
<td>2.5 cents</td>
<td>2.5 cents</td>
<td>4 cents</td>
</tr>
<tr>
<td>4.01% or more</td>
<td>0 cents</td>
<td>0 cents</td>
<td>0 cents</td>
</tr>
</tbody>
</table>

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—52.30(422) or the E-15 plus gasoline promotion tax credit provided in rule 701—52.43(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 52.36(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.

52.36(3) Fiscal year filers. 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 subrule 52.36(2), paragraph “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.

52.36(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.

52.36(5) Examples. The following noninclusively 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:

<table>
<thead>
<tr>
<th>Site</th>
<th>Gallons</th>
</tr>
</thead>
<tbody>
<tr>
<td>A – 70,000</td>
<td>7,000</td>
</tr>
<tr>
<td>B – 70,000</td>
<td>7,000</td>
</tr>
<tr>
<td>C – 60,000</td>
<td>6,000</td>
</tr>
<tr>
<td>C – 10,000</td>
<td>7,900</td>
</tr>
<tr>
<td>Total</td>
<td>27,900</td>
</tr>
</tbody>
</table>

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:

<table>
<thead>
<tr>
<th>Site</th>
<th>Gallons</th>
</tr>
</thead>
<tbody>
<tr>
<td>A – 7,000</td>
<td>$455.00</td>
</tr>
<tr>
<td>B – 7,000</td>
<td>$455.00</td>
</tr>
<tr>
<td>C – 13,900</td>
<td>$903.50</td>
</tr>
<tr>
<td>Total</td>
<td>$1,813.50</td>
</tr>
</tbody>
</table>

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:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>30,000 times 6.5 cents equals</td>
<td>$1,950</td>
</tr>
<tr>
<td>8,000 times 4.5 cents equals</td>
<td>360</td>
</tr>
<tr>
<td>Total</td>
<td>$2,310</td>
</tr>
</tbody>
</table>

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:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site A – 7,000 times 2.5 cents equals</td>
<td>$175</td>
</tr>
<tr>
<td>Site B – 7,000 times 2.5 cents equals</td>
<td>$175</td>
</tr>
<tr>
<td>Site C – 13,900 times 8 cents equals</td>
<td>$1,112</td>
</tr>
<tr>
<td>Total</td>
<td>$1,462</td>
</tr>
</tbody>
</table>

This rule is intended to implement Iowa Code section 422.33 as amended by 2011 Iowa Acts, Senate File 531.

[ARC 982IB, IAB 11/2/11, effective 12/7/11]
701—52.37(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.

52.37(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.

52.37(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.

52.37(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.

52.37(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]

701—52.38(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—42.32(422).

52.38(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.

52.38(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.

52.38(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]

701—52.39(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—56.11(15) and 261—65.12(15).

52.39(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.

52.39(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 52.39(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).

52.39(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 52.39(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 52.39(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.

52.39(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.

52.39(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 8702R, 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 1940C, IAB 4/1/15, effective 5/6/15]

701—52.40(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.

52.40(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 52.7(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 52.7(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
52.40(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 52.28(2) for the high quality job creation program.

52.40(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]

701—52.41(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]

701—52.42(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.

52.42(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.

52.42(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.

52.42(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.

52.42(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]

701—52.43(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.

52.43(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.

52.43(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 gasoline 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 January 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, 2024, 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.
52.43(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]

701—52.44(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—42.48(422).

This rule is intended to implement Iowa Code section 422.33.

[ARC 5590C, IAB 4/21/21, effective 5/26/21]

701—52.45(422,85GA, SF452) From farm to food donation tax credit. Effective for tax years beginning on or after January 1, 2014, a taxpayer that donates a food commodity that the taxpayer produces may claim a tax credit for Iowa corporation 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.

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.

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). The department of revenue will make registration forms available on the department’s website. The department will maintain a list of recognized organizations on the department’s website.

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 tax 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.

To claim the credit, 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.
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.

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 2013 Iowa Acts, Senate File 452, division XVIII.

[ARC 1138C, IAB 10/30/13, effective 2/4/13]

701—52.46(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.

52.46(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).

52.46(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—258.1(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.

52.46(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 52.46(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.
52.46(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.

52.46(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 52.46(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 52.46(2) “b”(4) shall apply.

52.46(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]
701—52.47(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—52.18(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—52.48(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, 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—52.18(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—52.48(404A,422).

52.47(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.

52.47(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.

52.47(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.

52.47(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 52.47(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 52.47(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 52.47(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 52.47(5).

d. **Carryforward.** If the taxpayer elects to receive a nonrefundable historic preservation and cultural and entertainment district tax credit as described in paragraph 52.47(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 52.47(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.

52.47(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 52.47(4)¨d¨ shall apply.

52.47(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]

701—52.48(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.

52.48(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—52.18(404A,422) and 701—52.47(404A,422).

52.48(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.

52.48(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.

52.48(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.

52.48(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 52.48(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 52.48(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 52.48(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 52.48(6).

d. Carryforward. If the taxpayer elects to receive a nonrefundable historic preservation and cultural and entertainment district tax credit as described in paragraph 52.48(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 52.48(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.

52.48(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 52.48(4)”d” shall apply.

52.48(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]

701—52.49(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.

52.49(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.
52.49(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.

52.49(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)
701—52.50(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—42.57(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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0 Two or more ARCs
701—67.1(452A) Definitions. For purposes of this chapter, 701—Chapter 68, and 701—Chapter 69, the following definitions shall govern:

“Appropriate state agency” or “state agency” means the department of revenue or the state department of transportation, whichever is responsible for control, maintenance, or supervision of the power, requirement, or duty referred to in Iowa Code chapter 452A.

“Ai**3iation gasoline**” means any gasoline capable of being used for propelling aircraft which is invoiced as aviation gasoline or is received, sold, stored, or withdrawn from storage for purposes of propelling aircraft. It does not include motor fuel capable of being used for propelling motor vehicles.

“B-11” means biodiesel blended fuel formulated with a minimum percentage of 11 percent by volume of biodiesel, if the formulation meets the standards provided in Iowa Code section 214A.2. A similar notation refers to biodiesel blended fuel containing other percentages of biodiesel. For example, “B-5” means biodiesel blended fuel formulated with a minimum percentage of 5 percent by volume of biodiesel, if the formulation meets the standards provided in Iowa Code section 214A.2.

“Biodiesel” means a renewable fuel comprised of mono-alkyl esters of long-chain fatty acids derived from vegetable oils or animal fats, which meets the standards provided in Iowa Code section 214A.2.

“Biodiesel blended fuel” means a blend of biodiesel with petroleum-based diesel fuel which meets the standards, including separately the standard for its biodiesel component, provided in Iowa Code section 214A.2.

“Biodiesel distribution percentage” means the number of gallons of biodiesel blended fuel classified as B-11 or higher that is distributed in this state as expressed as a percentage of the number of gallons of special fuel for diesel engines of motor vehicles distributed in this state during the determination period. The determination period is the previous calendar year.

“Biofuel” means ethanol or biodiesel.

“Blender” means a person who owns and blends two or more fuels, including ethanol or biodiesel, at a nonterminal location to produce ethanol blended gasoline or biodiesel blended fuel. The person is not restricted to blending ethanol with gasoline or biodiesel with diesel. The blend is taxed according to its fuel and alcohol content, which may result in additional tax due or an allowable refund for the blender. See rule 701—68.4(452A).

“Carrier” means and includes any person who operates or causes to be operated any commercial motor vehicle on any public highway in this state.

“Common carrier” or “contract carrier” means a person involved in the movement of motor fuel or special fuel from the terminal or movement of the motor fuel or special fuel imported into this state, who is not an owner of the motor fuel or special fuel.

“Commercial motor vehicle” means a passenger vehicle that has seats for more than nine passengers in addition to the driver, any road tractor, any truck tractor, or any truck having two or more axles which passenger vehicle, road tractor, truck tractor, or truck is propelled on the public highways by either motor fuel or special fuel. “Commercial motor vehicle” does not include a motor truck with a combined gross weight of less than 26,000 pounds, operated as a part of an identifiable one-way fleet and which is leased for less than 30 days to a lessee for the purpose of moving property which is not owned by the lessor.

“Conventional blendstock for oxygenate blending” means one or more motor fuel components intended for blending with an oxygenate or oxygenates to produce gasoline.

“Dealer” means a person, other than a distributor, who engages in the business of selling or distributing motor fuel or special fuel to the end user in this state.

“Denatured ethanol” means ethanol that is to be blended with gasoline, has been derived from cereal grains, complies with American Society of Testing Materials designation D-4806-95b, and may
be denatured only as specified in Code of Federal Regulations, Titles 20, 21, and 27. Alcohol and denatured ethanol have the same meaning.

"Department" means the department of revenue.
"Diesel fuel" or "diesel" means diesel as defined in Iowa Code section 214A.1.
"Director" means the director of the Iowa department of revenue or the director's authorized representative.
"Distributor" means a person who acquires tax-paid motor fuel, special fuel, or alcohol from a supplier, restrictive supplier, or importer, or another distributor for subsequent sale at wholesale and distribution by tank cars or tank trucks or both. The department may require that the distributor be registered to have terminal purchase rights.
"E-85 gasoline" means ethanol blended gasoline formulated with a minimum percentage of between 70 and 85 percent by volume of ethanol, if the formulation meets the standards provided in Iowa Code section 214A.2.
"Eligible purchaser" means a distributor of motor fuel or special fuel who elects to make delayed payments to a licensed supplier and must use electronic funds transfer.
"End user" of special fuel means a person who has purchased a minimum of 240,000 gallons of special fuel each year in the two preceding years who elects to make delayed payments to a licensed supplier and must use electronic funds transfer.
"Ethanol" means ethyl alcohol that is to be blended with gasoline if the ethanol meets the standards provided in Iowa Code section 214A.2.
"Ethanol blended gasoline" means a formulation of gasoline which is a liquid petroleum product blended with ethanol, if the formulation meets the standards provided in Iowa Code section 214A.2. When "motor fuel" is used in these rules, it includes ethanol blended gasoline.
"Ethanol distribution percentage" means the number of gallons of ethanol blended gasoline that is distributed in this state as expressed as a percentage of the number of gallons of motor fuel, excluding aviation gasoline, distributed in this state during the determination period. The determination period is the previous calendar year.
"Export" means delivery across the boundaries of this state by or for the seller or purchaser from a place of origin in this state.
"Exporter" means a person or other entity who acquires fuel in this state for export to another state.
"Foreign supplier" means a person licensed as a supplier to collect and report the tax, but who does not have jurisdictional connections with this state.
"Fuel(s)" means and includes both motor fuel and special fuel as defined in Iowa Code chapter 452A.
"Fuel taxes" means the per gallon excise taxes imposed under division I of Iowa Code chapter 452A with respect to motor fuel and undyed special fuel.
"Gallon," with respect to compressed natural gas, means a gasoline gallon equivalent. A gasoline gallon equivalent of compressed natural gas is five and sixty-six hundredths pounds or one hundred twenty-six and sixty-seven hundredths cubic feet measured at a base temperature of 60 degrees Fahrenheit and a pressure of fourteen and seventy-three hundredths pounds per square inch absolute.
"Gallon," with respect to liquefied natural gas, means a diesel gallon equivalent. A diesel gallon equivalent of liquefied natural gas is six and six hundredths pounds.
"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.
"Import" means delivery across the boundaries of this state by or for the seller or purchaser from a place of origin outside this state.
"Importer" means a person who imports motor fuel or undyed special fuel in bulk or transport load into the state by truck, rail, or barge.
"Invoiced gallons" means gross gallons as shown on the bill of lading or manifest.
"Iowa urban transit system" means a system whereby motor buses are operated primarily upon the streets of cities for the transportation of passengers for an established fare and which accepts passengers
who present themselves for transportation without discrimination up to the limit of the capacity of each motor bus. “Iowa urban transit system” also includes motor buses operated upon the streets of adjoining cities, whether interstate or intrastate, for the transportation of passengers without discrimination up to the limit of the capacity of the motor bus.

Privately chartered bus services, motor carriers and interurban carriers subject to the jurisdiction of the state department of transportation, school bus services, and taxicabs shall not be construed to be an urban transit system nor a part of any such system.

“Licensee” means a person holding an uncanceled supplier’s, restrictive supplier’s, importer’s, exporter’s, or blender’s license issued by the department or any other person who possesses fuel for which the tax has not been paid.

“Mobile machinery and equipment” means vehicles self-propelled by an internal combustion engine but not designed or used primarily for the transportation of persons or property on public highways and only incidentally operated or moved over a highway including, but not limited to, corn shellers, truck-mounted feed grinders, roller mills, ditch-digging apparatus, power shovels, draglines, earth-moving equipment and machinery, and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, ditches, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers, and earth-moving scrapers. However, “mobile machinery and equipment” does not include dump trucks or self-propelled vehicles originally designed for the transportation of persons or property on public highways and to which machinery, such as truck-mounted transit mixers, cranes, shovels, welders, air compressors, well-boring apparatus or lime spreaders, has been attached.

“Motor fuel” means a substance or combination of substances which is intended to be or is capable of being used for the purpose of operating an internal combustion engine, including but not limited to a motor vehicle, and is kept for sale or sold for that purpose and includes the following:

1. All products commonly or commercially known or sold as gasoline (including ethanol blended gasoline, casinghead, and absorption or natural gasoline) regardless of their classifications or uses, and including transmix which serves as a buffer between fuel products in the pipeline distribution process.

2. Any liquid advertised, offered for sale, sold for use as, or commonly or commercially used as a fuel for propelling motor vehicles, which when subjected to distillation of gasoline, naphtha, kerosene, and similar petroleum products (American Society of Testing Materials designation D-86), shows not less than 10 percent distilled (recovered) below 347°F (175°C) and not less than 95 percent distilled (recovered) below 464°F (240°C).

“Motor fuel” does not include special fuel and does not include liquefied gases which would not exist as liquids at a temperature of 60°F and a pressure of 14 7/10 pounds per square inch absolute, or naphthas and solvents unless the liquefied gases or naphthas and solvents are used as a component in the manufacture, compounding, or blending of a liquid within paragraph “2,” in which event the resulting product shall be deemed to be motor fuel. “Motor fuel” also does not include methanol unless blended with other motor fuels for use in an aircraft or for propelling motor vehicles.

“Motor vehicle” means and includes all vehicles (except those operated on rails) which are propelled by internal combustion engines and are of such design as to permit their mobile use on public highways for transporting persons or property. A farm tractor while operated on a farm or for the purpose of hauling farm machinery, equipment, or produce shall not be deemed to be a motor vehicle. “Motor vehicle” shall not include “mobile machinery and equipment.”

“Naphthas and solvents” means and includes those liquids which come within the distillation specifications for motor fuel, but which are designed and sold for exclusive use other than as a fuel for propelling motor vehicles.

“Nonethanol blended gasoline” means gasoline other than ethanol blended gasoline.

“Nonrefiner biofuel manufacturer” means an entity that produces, manufactures, or refines biofuel and does not directly or through a related entity refine, blend, import, or produce a conventional blendstock for oxygenate blending, gasoline, or diesel fuel.

“Nonterminal storage facility” means a facility where motor fuel or special fuel, other than liquefied petroleum gas, is stored that is not supplied by a pipeline or a marine vessel. “Nonterminal storage
facility” includes a facility that manufactures products such as ethanol, biofuel, blend stocks, or additives which may be used as motor fuel or special fuel, other than liquefied petroleum gas, for operating motor vehicles or aircraft.

“Person” means and includes natural persons, partnerships, firms, associations, corporations, representatives appointed by any court, and political subdivisions of this state or any other group or combination acting as a unit and the plural as well as the singular number applies.

“Petrodiesel” means petroleum-based diesel fuel. Petrodiesel contains no biodiesel.

“Public highways” means and includes any way or place available to the public for purposes of vehicular travel notwithstanding temporarily closed.

“Racing fuel” means leaded gasoline of 110 octane or more that does not meet American Society of Testing Materials designation D-4814 for gasoline and is sold in bulk for use in nonregistered motor vehicles.

“Refiner” means a person engaged in the refining of crude oil to produce motor fuel or special fuel, and includes any affiliate of such person.

“Regional transit system” means a public transit system serving one county or all or part of a multicounty area whose boundaries correspond to the same boundaries as those of the regional planning areas designated by the governor, except as agreed upon by the department. Each county board of supervisors within the region is responsible for determining the service and funding within its county. However, the administration and overhead support services for the overall regional transit system shall be consolidated into one existing or new agency to be mutually agreed upon by the participating members. Privately chartered bus services and uses other than providing services that are open and public on a shared-ride basis shall not be construed to be a regional transit system.

“Restrictive supplier” means a person not otherwise licensed as an importer who imports motor fuel or undyed special fuel into this state in amounts of less than 4,000 gallons in tank wagons or in small tanks.

“Special fuel” means fuel oils, kerosene and all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles or turbine-powered aircraft, and includes any substance used for that purpose, except that it does not include motor fuel. Kerosene and methanol shall not be considered to be special fuels, unless the kerosene or methanol is blended with other special fuels for use in a motor vehicle with a diesel engine.

“Supplier” means a person who acquires motor fuel or special fuel by pipeline or marine vessel from a state, territory, or possession of the United States, or from a foreign country for storage at and distribution from a terminal and who is registered under 26 U.S.C. § 4101 for tax-free transactions in fuel; a person who produces in this state or acquires by truck, railcar, or barge for storage at and distribution from a terminal, biofuel, biodiesel, alcohol, or alcohol derivative substances; or a person who produces, manufactures, or refines motor fuel or special fuel in this state. “Supplier” includes a person who does not meet the jurisdictional connection to this state but voluntarily agrees to act as a supplier for purposes of collecting and reporting the motor fuel or special fuel tax. “Supplier” does not include a retail dealer or wholesaler who merely blends alcohol with gasoline or biofuel with diesel before the sale or distribution of the product or a terminal operator who merely handles, in a terminal, motor fuel or special fuel consigned to the terminal operator.

“Taxpayer” means anyone responsible for paying fuel taxes directly to the department of revenue under Iowa Code chapter 452A.

“Terminal” means a motor fuel, alcohol, or special fuel storage and distribution facility that is supplied by a pipeline or a marine vessel and from which the fuel may be removed at a rack. “Terminal” does not include a facility at which motor fuel or special fuel blend stocks and additives are used in the manufacture of products other than motor fuel or special fuel and from which no motor fuel or special fuel is removed.

“Terminal operator” means the person who by ownership or contractual agreement is charged with the responsibility for, or physical control over, and operation of a terminal. If coventurers own a terminal, “terminal operator” means the person who is appointed to exercise the responsibility for, or physical control over, and operation of the terminal.
“Terminal owner” means a person who holds a legal or equitable interest in a terminal.

“Withdrawn from terminal” means physical movement from a supplier to a distributor or eligible end user or from an alcohol manufacturer to a nonterminal location and includes an importer going out of state and obtaining fuel from a terminal and bringing the fuel into the state, and a restrictive supplier bringing fuel into the state even though not purchased directly from a terminal. Exchange of product by suppliers while in the distribution channel and the physical movement of alcohol from an alcohol manufacturer to an Iowa licensed supplier’s alcohol storage at a terminal are not to be considered “withdrawn from terminal.”

This rule is intended to implement Iowa Code sections 452A.2 and 452A.59.

[ARC 1442C, IAB 4/30/14, effective 6/4/14; ARC 1805C, IAB 1/7/15, effective 2/11/15; ARC 2247C, IAB 11/25/15, effective 12/30/15]

701—67.2(452A) Statute of limitations, supplemental assessments and refund adjustments. After a return is filed, the department must examine it, determine fuel taxes due, and give notice of assessment to the taxpayer. If no return is filed, the department may determine the tax due and give notice thereof. See rule 701—67.5(452A). The period for the examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax or in the case of a failure to file a return.

The department may, at any time within the period prescribed for assessment or refund adjustment, make a supplemental assessment or refund adjustment whenever it is ascertained that any assessment or refund adjustment is imperfect or incomplete in any respect.

If the assessment or refund adjustment is appealed (protested under rule 701—7.8(17A)) and is resolved whether by informal proceedings or by adjudication, the department and the taxpayer are precluded from making a supplemental assessment or refund adjustment concerning the same issue involved in such appeal for the same tax period unless there is a showing of mathematical or clerical error or a showing of fraud or misrepresentation.

The three-year period of limitation may be extended by a taxpayer by signing a waiver agreement form to be provided by the department. The agreement must stipulate the period of extension and must also provide that a claim for refund may be filed by the taxpayer at any time during the period of extension.

This rule is intended to implement Iowa Code section 452A.67 as amended by 1999 Iowa Acts, Senate File 136.

[ARC 0251C, IAB 8/8/12, effective 9/12/12]

701—67.3(452A) Taxpayers required to keep records. The records required to be kept by this rule must be preserved for a period of three years and will be open for examination by the department during this period of time. The department, after an audit and examination of the records, may authorize the disposal of the records required to be kept upon written request by the taxpayer. For taxpayers using an electronic data interchange process or technology also see 701—subrule 11.4(4).

67.3(1) Motor fuel and special fuel supplier. Every supplier required to file a monthly return under Iowa Code section 452A.8 is required to keep and preserve the following records relating to the purchase or sale of fuel:

a. Copies of bills of lading or manifests.
b. Copies of sales invoices.
c. Sales records.
d. Copies of filed returns and supporting schedules.
e. Record of payment.
f. Export schedules.

67.3(2) Restrictive supplier. Every restrictive supplier required to file a monthly return under Iowa Code section 452A.8 is required to keep and preserve the following records relating to the purchase or sale of fuel:

a. Copies of bills of lading or manifests.
b. Purchase invoices.
67.3(3) **Importer.** Every importer required to file a semimonthly return under Iowa Code section 452A.8 is required to keep and preserve the following records relating to the purchase or sale of fuel:
   a. Copies of bills of lading or manifests.
   b. Purchase invoices.
   c. Copies of sales invoices.
   d. Purchase records.
   e. Sales records.
   f. Copies of filed returns and supporting schedules.
   g. Record of payment.

67.3(4) **Exporter.** Every exporter is required to keep and preserve the following records relating to the purchase of fuel for export:
   a. Copies of bills of lading or manifests.
   b. Purchase invoices and purchase records.
   c. Copies of reports, returns, and supporting schedules filed with the importing state.
   d. Record of payment.

67.3(5) **Compressed natural gas, liquefied natural gas, and liquefied petroleum gas dealers and users.** Every compressed natural gas, liquefied natural gas, and liquefied petroleum gas dealer and user is required to keep and preserve the following records:
   a. Copies of purchase invoice or bills of lading.
   b. Copies of sales invoices and sales records.
   c. Record of payment.
   d. Exemption certificates.
   e. Copies of filed returns and supporting schedules.

67.3(6) **Terminal or nonterminal storage facility operator.** Every person required to report under Iowa Code section 452A.15(2) or 2002 Iowa Acts, House File 2622, section 25, as an operator of a terminal or nonterminal storage facility shall keep and preserve the following records:
   a. Records to evidence the acquisition of fuel.
   b. Bills of lading or manifests covering the withdrawal of fuel.
   c. Copies of filed reports and supporting schedules.

67.3(7) **Distributor.** Every distributor handling motor fuel or special fuel is required to preserve and keep the following records:
   a. Delivery tickets.
   b. Sales invoices.
   c. Bills of lading.
   d. Record of payment.

67.3(8) **Blender.** Every blender is required to keep and preserve the following records:
   a. Purchase invoices for motor fuel, special fuel, and alcohol.
   b. Bills of lading.
   c. Copies of filed returns and supporting schedules.
   d. Record of payment.
   e. Copies of sales invoices.

67.3(9) **Dealer.** Every dealer (retailer) is required to keep and preserve the following records:
   a. Purchase invoices.
   b. Purchase records.
   c. Delivery tickets.
   d. Sales invoices.
   e. Sales records.
Record of payment.

67.3(10) Microfilm and related record systems. Microfilm, microfiche, COM (computer on machine), and other related reduction in storage systems will be referred to as “microfilm” in this rule.

Microfilm reproductions of general books of account, such as a cash book, journals, voucher registers, and ledgers, are not acceptable other than those that have been approved by the Internal Revenue Service under Revenue Procedure 76-43, Section 3.02. However, microfilm reproductions of supporting records of detail, such as sales invoices and purchase invoices, may be allowed providing there is no administrative rule or Iowa Code section requiring the original and all of the following conditions are met and accepted by the taxpayer:

a. Appropriate facilities are provided to ensure the preservation and readability of the films.

b. Microfilm rolls are indexed, cross-referenced, labeled to show beginning and ending numbers or beginning and ending alphabetical listing of documents included, and are systematically filed.

c. The taxpayer agrees to provide transcripts of any information contained on microfilm which may be required for purposes of verification of tax liability.

d. Proper facilities are provided for the ready inspection and location of the particular records, including modern projectors for viewing and for the copying of records.

e. Any audit of “detail” on microfilm may be subject to sample audit procedures, to be determined at the discretion of the director or the director’s designated representative.

f. A posting reference must be on each invoice.

g. Documents necessary to support claimed exemptions from tax liability, such as bills of lading and purchase orders, must be maintained in an order by which they readily can be related to the transaction for which exemption is sought.

67.3(11) Automatic data processing records. Automatic data processing (ADP) is defined in this rule as including electronic data processing (EDP) and will be referred to as ADP.

a. An ADP tax accounting system must have built into its program a method of producing visible and legible records which will provide the necessary information for verification of the taxpayer’s tax liability.

b. ADP records must provide an opportunity to trace any transaction back to the original source or to a final total. If detailed printouts are not made of transactions at the time they are processed, then the system must have the ability to reconstruct these transactions.

c. A general ledger with source references will be produced as hard copy to coincide with financial reports of tax reporting periods. In cases where subsidiary ledgers are used to support the general ledger accounts, the subsidiary ledgers should also be produced periodically.

d. Supporting documents and audit trail. The audit trail should be designed so that the details underlying the summary accounting data may be identified and made available to the director or the director’s designated representative upon request. The system should be designed so that the supporting documents, such as sales invoices and purchase invoices, are readily available. (An audit trail is defined as the condition of having sufficient documentary evidence to trace an item from source, such as invoice or payment, to a financial statement or tax return or report; or the reverse, that is, to have an auditable system.)

e. Program documentation. A description of the ADP portion of the accounting program should be available. The statements and illustrations as to the scope of operations should be sufficiently detailed to indicate:

(1) The application being performed;

(2) The procedure employed in each application (which, for example, might be supported by flow charts, block diagrams or other satisfactory description of the input or output procedures); and

(3) The controls used to ensure accurate and reliable processing. Program and systems changes, together with their effective dates, should be noted in order to preserve an accurate chronological record.

f. Storage of ADP output will be in appropriate facilities to ensure preservation and readability of output.

67.3(12) Electronic data interchange or EDI technology. The purpose of this subrule is to adopt the “Model Recordkeeping and Retention Regulation” report as promulgated by the Federation of Tax
Administrators’ Steering Committee Task Force on EDI Audit and Legal Issues for Tax Administration (March 1996). This subrule defines the requirements imposed on taxpayers for the maintenance and retention of books, records, and other sources of information under Iowa Code sections 452A.10, 452A.12, 452A.55, 452A.60, 452A.62, 452A.69, 452A.76, and 452A.80. It is also the purpose of this subrule to address these requirements where all or part of a taxpayer’s records are received, created, maintained, or generated through various computer, electronic, and imaging processes and systems. A taxpayer must maintain all records that are necessary for determination of the correct tax liability as set forth in this subrule and the other subrules within rule 701—67.3(452A). Upon request, all required records must be made available to the department or its authorized representatives as provided in Iowa Code sections 452A.10 and 452A.62. If a taxpayer retains records required to be retained under this subrule in both machine-sensible and hard-copy formats, the taxpayer must make the records available to the department in machine-sensible format upon request of the department. Nothing in this subrule will be construed to prohibit a taxpayer from demonstrating tax compliance with traditional hard-copy documents or reproductions thereof, in whole or in part, whether or not the taxpayer also has retained or has the capability to retain records on electronic or other storage media in accordance with this subrule. However, as previously stated, this will not relieve a taxpayer of the obligation to comply with the requirement to make records available to the department.

a. Definitions. The following definitions are applicable to this subrule:

“Database management system” means a software system that controls, relates, retrieves, and provides accessibility to data stored in a database.

“Electronic data interchange” or “EDI technology” means the computer-to-computer exchange of business transactions in a standardized, structured electronic format.

“Hard copy” means any documents, records, reports, or other data printed on paper.

“Machine-sensible record” means a collection of related information in an electronic format. Machine-sensible records do not include hard-copy records that are created or recorded on paper or stored in or by an imaging system such as microfilm, microfiche, or storage-only imaging systems.

“Storage-only imaging system” means a system of computer hardware and software that provides for the storage, retention, and retrieval of documents originally created on paper. It does not include any system, or part of a system, that manipulates or processes any information or data contained on the document in any manner other than to reproduce the document in hard copy or as an optical image.

“Taxpayer” as used in this subrule means any person, business, corporation, fiduciary, or other entity that is required to file a return or report with the department of revenue.

b. Record-keeping requirements — machine-sensible records. A taxpayer that maintains and retains books, records, and other sources of information in the form of machine-sensible records must comply with the following:

(1) General requirements. A taxpayer must comply with the following general requirements regarding the retention of machine-sensible records:

1. Machine-sensible records used to establish tax compliance must contain sufficient transaction-level detail information so that the details underlying the machine-sensible records can be identified and made available to the department upon request. A taxpayer has discretion to discard duplicated records and redundant information provided its responsibilities under this regulation are met.

2. At the time of an examination, the retained records must be capable of being retrieved and converted to a standard record format. The term “standard record format” does not mean that every taxpayer must keep records in an identical manner. Instead, it requires that if a taxpayer utilizes a code system to identify elements of information in each record when creating and maintaining records, the taxpayer is required to maintain a record of the meaning of each code and any code changes so that the department may effectively review the taxpayer’s records.

3. Taxpayers are not required to construct machine-sensible records other than those created in the ordinary course of business. A taxpayer that does not create the electronic equivalent of a traditional paper document in the ordinary course of business is not required to construct a traditional paper document for tax purposes.
(2) Electronic data interchange requirements. A taxpayer must comply with the following requirements for records received through electronic data interchange:

1. Where a taxpayer uses an electronic data interchange process and technology, the level of record detail, in combination with other records related to the transactions, must be equivalent to that contained in an acceptable paper record. For example, for motor fuel tax purposes the retained records should contain the following minimal information: bills of lading or manifests; invoices; sales and purchase records; returns, reports, and supporting schedules; records of payments; export schedules; exemption certificates; and delivery tickets. Codes may be used to identify some or all of the data elements, provided that the taxpayer provides a method which allows the department to interpret the coded information.

2. The taxpayer may capture the information necessary to satisfy the requirements set forth in the preceding paragraph at any level within the accounting system and need not retain the original EDI transaction records provided that the audit trail, authenticity, and integrity of the retained records can be established. For example, a taxpayer using electronic data interchange technology receives electronic invoices from its suppliers. The taxpayer decides to retain the invoice data from completed and verified EDI transactions in its accounts payable system rather than to retain the EDI transactions themselves. Since neither the EDI transaction nor the accounts payable system captures information from the invoice pertaining to product description and vendor name (i.e., they contain only codes for that information), the taxpayer also retains the other records such as its vendor master file and product code description lists and makes them available to the department. In this example, the taxpayer need not retain its original EDI transaction for tax purposes.

(3) Electronic data processing accounting systems requirements. The requirements for an electronic data processing accounting system should be similar to that of a manual accounting system, in that an adequately designed accounting system should incorporate methods and records that will satisfy the requirements of this rule. In addition, pursuant to Iowa Code sections 452A.10, 452A.12, 452A.55, 452A.60, 452A.62, 452A.69, 452A.76, and 452A.80, the department must have access to the taxpayer’s EDI processing, accounting, or other systems for the purposes of verifying or evaluating the integrity and reliability of those systems to provide accurate and complete records.

(4) Business process information. To verify the accuracy of the records being retained, the taxpayer must comply with the following:

1. Upon the request of the department, the taxpayer shall provide a description of the business process that created the retained records. The description must include the relationship between the records and the tax documents prepared by the taxpayer and include the measures employed to ensure the integrity of the records.

2. The taxpayer must be capable of demonstrating the following:
   - The functions being performed as they relate to the flow of data through the system;
   - The internal controls used to ensure accurate and reliable processing; and
   - The internal controls used to prevent unauthorized addition to, alteration of, or deletion of retained records.

3. The following specific documentation is required for machine-sensible records retained pursuant to this rule:
   - Record formats or layouts;
   - Field definitions (including a record of any changes in the system or codes and the meaning of all codes used to represent information);
   - File descriptions (e.g., data set name); and
   - Detailed charts of accounts and account descriptions.

   c. Record maintenance requirements. The department recommends, but does not require, that taxpayers refer to the National Archives and Record Administration’s (NARA) standards for guidance on the maintenance and storage of electronic records such as the labeling of records, the location and security of the storage environment, the creation of backup copies, and the use of periodic testing to confirm the continued integrity of the records. (The NARA standards may be found at 36 Code of Federal Regulations, Part 1234, July 1, 1995, Edition.) The taxpayer’s computer hardware and software must accommodate the extraction and conversion of retained machine-sensible records.
d. Access to machine-sensible records. If a taxpayer retains records required to be retained under this regulation in both machine-sensible and hard-copy formats, the taxpayer must make the records available to the department in machine-sensible format upon the request of the department.

(1) The manner in which the department is provided access to machine-sensible records may be satisfied through a variety of means that must take into account a taxpayer’s facts and circumstances through consultation with the taxpayer.

(2) Access shall be provided in one or more of the following manners:
   1. The taxpayer may arrange to provide the department with the hardware, software, and personnel resources to access the machine-sensible records.
   2. The taxpayer may arrange for a third party to provide the hardware, software, and personnel resources necessary to access the machine-sensible records.
   3. The taxpayer may convert the machine-sensible records to a standard record format specified by the department, including copies of files, on magnetic medium that is agreed to by the department.
   4. The taxpayer and the department may agree on other means of providing access to the machine-sensible records.

e. Taxpayer’s responsibility and discretionary authority. In conjunction with meeting the requirements of paragraph “b” of this subrule, a taxpayer may create files solely for the use of the department. For example, if a database management system is used, it is consistent with this subrule for the taxpayer to create and retain a file that contains the transaction-level detail from the database management system and that meets the requirements of paragraph “b” of this subrule. The taxpayer shall document the process that created the separate file to show the relationship between that file and the original records. A taxpayer may contract with a third party to provide custodial or management services of the records. Such a contract will not relieve the taxpayer of its responsibilities under this rule.

f. Alternative storage media. For purposes of storage and retention, taxpayers may convert hard-copy documents received or produced in the normal course of business and required to be retained under this rule to microfilm, microfiche, or other storage-only imaging systems and may discard the original hard-copy documents provided that the rules governing alternative storage media are met. For details regarding alternative storage, see subrule 67.3(10), “Microfilm and related record systems.”

g. Effect on hard-copy record-keeping requirements. Except as otherwise provided, the provisions of this subrule do not relieve taxpayers of the responsibility to retain hard-copy records that are created or received in the ordinary course of business as required by existing law and rules. Hard-copy records may be retained on alternative storage media as indicated in paragraph “f” above and subrule 67.3(10).

If hard-copy records are not produced or received in the ordinary course of transacting business (e.g., when the taxpayer uses electronic data interchange technology), hard-copy records need not be created.

Hard-copy records generated at the time of the transaction with the use of a credit or debit card must be retained unless all the details necessary to determine correct tax liability relating to the transaction are subsequently received and retained by the taxpayer in accordance with this rule.

Computer printouts that are created for validation, control, or other temporary purposes need not be retained.

Nothing in this rule shall prevent the department from requesting hard-copy printouts in lieu of retained machine-sensible records at the time of examination.

67.3(13) General requirements. If a tax liability has been assessed and an appeal is pending to the department, district court or an appellate court, books, papers, records, memoranda, or documents specified in this rule that relate to the period covered by the assessment must be preserved until the final disposition of the appeal.

If the requirements of this rule are not met, the records will be considered inadequate and rule 701—67.5(452A), estimate gallonage, applies.

This rule is intended to implement Iowa Code sections 452A.6 and 452A.15 as amended by 2002 Iowa Acts, House File 2622, and sections 452A.8, 452A.9, 452A.10, 452A.17, 452A.59, 452A.60, 452A.62, and 452A.69.

[ARC 1805C, IAB 1/7/15, effective 2/11/15; ARC 2657C, IAB 8/3/16, effective 9/7/16]
701—67.4(452A) Audit—costs. The department has the right and duty to examine or cause to be examined the books, records, memoranda, or documents of a taxpayer for the purpose of verifying the correctness of a return filed or determining the tax liability of any taxpayer. The costs incurred in examining the records of a taxpayer are at the taxpayer’s expense when the records are kept at an out-of-state location. Cost will include meals, lodging, and travel expenses, but will not include salaries of department personnel. (See 1976 O.A.G. 611.)

This rule is intended to implement Iowa Code section 452A.10 and 452A.62 as amended by 1995 Iowa Acts, chapter 155, and Iowa Code sections 452A.55 and 452A.69.

701—67.5(452A) Estimate gallonage. It is the duty of the department to collect all taxes on fuel due the state of Iowa. In the event the taxpayer’s records are lacking or inadequate to support any return filed by the taxpayer, or to determine the taxpayer’s liability, the department has the power to estimate the gallonage upon which tax is due. This estimation will be based upon such factors as, but not limited to, the following: (1) prior experience of the taxpayer, (2) taxpayers in similar situations, (3) industry averages, (4) records of suppliers or customers, and (5) other pertinent information the department may possess, obtain or examine.

This rule is intended to implement Iowa Code section 452A.64.

701—67.6(452A) Timely filing of returns, reports, remittances, applications, or requests. The returns, reports, remittances, applications, or requests required under Iowa Code chapter 452A shall be deemed filed within the required time if (1) postpaid, (2) properly addressed, and (3) postmarked on or before midnight of the day on which due and payable. Any return that is not signed and any return which does not contain substantially all of the pertinent information are not considered “filed” until such time as the taxpayer signs or supplies the information to the department. Miller Oil Company v. Abrahamson, 252 Iowa 1058, 109 N.W.2d 610 (1961), Severs v. Abrahamson, 255 Iowa 979, 124 N.W.2d 150 (1963). The filing of a return within the period prescribed by law and payment of the tax required to be shown thereon are simultaneous acts, unless remittance is required to be transmitted electronically; and if either condition is not met, a penalty will be assessed. Remittances transmitted electronically are considered to have been made on the date the remittance is added to the bank account designated by the treasurer of the state of Iowa. If the final filing date falls on a Saturday, Sunday, or legal holiday, the next secular or business day is the final filing date. The director may require by rule that reports and returns be filed by electronic transmission. Effective for returns due after July 1, 2006, all licensees must file returns by electronic transmission. All suppliers, restricted suppliers, importers, terminals, blenders, and nonterminal storage facilities with at least 5,000 gallons of product on their return or report must also file the schedules which support the return or report by electronic transmission.

All returns, reports, remittances, applications, or requests should be mailed to: Iowa Department of Revenue, Motor Fuel Unit, Hoover State Office Building, Des Moines, Iowa 50319, unless electronic transmission is required.

In the event a dispute arises as to the time of filing, or a return, report, or remittance is not received by the department, the provisions of Iowa Code section 622.105 are controlling. This rule applies only when the document is not received or the postmark on the envelope is illegible, erroneous, or omitted.

This rule is intended to implement Iowa Code sections 452A.8 and 452A.61.

701—67.7(452A) Extension of time to file. The department may grant an extension for the filing of any required return or tax payment or both.

In order for an extension to be granted, the application requesting the extension must be filed, in writing, with the department prior to the due date of the return or remittance. In determining whether an application for extension is timely filed, the provisions of rule 701—67.6(452A) shall apply. The application for extension must be accompanied by an explanation of the circumstances justifying such extension, and in no event will the extension period exceed 30 days.
In the event an extension is granted, the penalties under Iowa Code section 452A.65 applicable to late-filed returns or remittances will not accrue until the expiration of the extension period, but the interest on tax due under the same section will accrue as of the original filing date.

This rule is intended to implement Iowa Code section 452A.61.

701—67.8(452A) Penalty and interest. See rules 701—10.6(421) and 701—10.2(421) for failure to timely file a return or for failure to timely pay the tax. See rule 701—10.8(421) for penalty exceptions. See rule 701—10.72(452A) for interest on refunds.

701—67.9(452A) Penalty and enforcement provisions. See rule 701—10.71(421).

701—67.10(452A) Application of remittance. All payments are to be first applied to the penalty and then to the interest, and the balance, if any, to the amount of tax then due. If a taxpayer remits a payment on or before the due date, but the payment is insufficient to discharge the tax liability, the entire amount of the payment applies to the tax, and the penalty and interest are based on the unpaid portion of the tax. If the department determines there is additional tax due from a taxpayer, interest and penalty shall accrue on that amount from the date it should have been reported and paid.

This rule is intended to implement Iowa Code section 452A.59 as amended by 1995 Iowa Acts, chapter 155, and Iowa Code sections 452A.65 and 452A.66.

701—67.11(452A) Reports, returns, records—variations. The department will prescribe and furnish forms upon which reports, returns, and applications are to be made to the department under Iowa Code chapter 452A. Claims for refund will be made on forms provided by the department or in any other manner as prescribed by the director. Licensees may substitute forms for their use, other than official forms, if all the requirements in department rule 701—8.3(17A) are met.

If the information required in these documents is presented to the department on forms or in a manner other than the prescribed form, or approved substitute form, the return, application, or claim for refund or credit shall not be deemed “filed.” The forms may be furnished by the department (except those pertaining to division III interstate operations which are available from the department of transportation) and, therefore, the fact that the reporting party does not have the prescribed form is not an excuse for failure to file.

The department may also prescribe the form of the records which the reporting parties are required to keep in support of the reports/returns they file. The department may approve the form of the records which are being kept by any reporting party and must approve the form of record being kept if that form contains all of the information on the prescribed form, the information is compiled in such a manner as to make it easily ascertainable by department personnel, and substantially complies with the prescribed form.

This rule is intended to implement Iowa Code section 452A.60 as amended by 1999 Iowa Acts, Senate File 136.

701—67.12(452A) Form of invoice. Whenever an invoice is required to be kept or prepared by Iowa Code chapter 452A, the invoice must:
1. Be prepared by someone other than the purchaser and include the seller’s name, address, and identification number.
2. Include the purchaser’s name and address.
3. Contain a serial number of three or more digits.
4. Include the calendar date of purchase.
5. Indicate the type of fuel purchased. Diesel fuel must be designated as dyed or undyed.
6. Indicate the quantity of fuel purchased in gross gallons.
7. Indicate the total purchase price and show separately the amount of state and federal fuel tax included in the purchase price or include a statement that all state and applicable federal taxes are included in the purchase price.
8. For ethanol blended gasoline or biodiesel blended fuel, state its designation as provided in Iowa Code section 214A.2.

9. Be prepared on paper which will prevent erasure or alteration or on another form approved by the department.

This rule is intended to implement Iowa Code section 452A.10, section 452A.12 as amended by 2009 Iowa Acts, Senate File 478, section 140, and section 452A.60.

[ARC 8225B, IAB 10/7/09, effective 11/1/09]

701—67.13(452A) Credit card invoices. Credit card invoices are acceptable if they meet substantially all the requirements of rule 701—67.12(452A). (1968 O.A.G. 592)

For refund purposes, presentation of a credit card invoice or billing statement is prima facie evidence that the fuel tax has been paid.

This rule is intended to implement Iowa Code section 452A.60 as amended by 1995 Iowa Acts, chapter 155.

701—67.14(452A) Original invoice retained by purchaser—certified copy if lost. Whenever an invoice is required to be kept under Iowa Code chapter 452A, it must be the original copy which is kept. If the original copy is either lost or destroyed, a copy, certified by the seller as being a true copy of the original, will be acceptable. A copy of any invoice which is required to be kept by the purchaser must be kept by the seller for the same period of time.

This rule is intended to implement Iowa Code sections 452A.10 and 452A.60 as amended by 1995 Iowa Acts, chapter 155.

701—67.15(452A) Taxes erroneously or illegally collected. Licensees, including licensed suppliers, restrictive suppliers, importers, and blenders, are entitled to a return of taxes, penalty, and interest erroneously or illegally collected by the department. The request for the return of the taxes must be (1) in writing, (2) filed with the department within one year of the time the tax was paid if paid prior to July 1, 2002, and within three years of the time the tax was paid if the tax was paid on or after July 1, 2002, (3) filed by the licensee who remitted the tax to the department, and (4) accompanied by documentation supporting the claim for refund. If the erroneous collection was the result of a computational error on the part of the taxpayer and that error is discovered by the department during an examination of the taxpayer’s records within three years of the overpayment, the taxes will be refunded and a written request will not be necessary. If the request includes the return of erroneously or illegally collected (assessed) penalty or interest, the interest or penalty shall be refunded in the same proportion as the tax. A refund requested under Iowa Code section 452A.72 will be reduced by sales tax if applicable. There is no minimum refund amount for refunds claimed under the provisions of Iowa Code section 452A.72. See sales tax rule 701—18.37(422.423).

67.15(1) Motor fuel and undyed special fuel suppliers must inform the department upon which bill(s) of lading, by number, and upon which monthly return(s) the tax was erroneously paid. The gallonage upon which a refund is requested on motor fuel or undyed special fuel must be reduced by the distribution allowance provided in Iowa Code section 452A.5. An amended return must be filed for the tax period in which the error occurred.

67.15(2) Restrictive suppliers, importers, and blenders must inform the department upon which bill(s) of lading or invoice, by number, and upon which monthly or semimonthly return(s) the tax was erroneously paid and an explanation of the erroneous payment. An amended return must be filed for the tax period in which the error occurred.

This rule is intended to implement Iowa Code section 452A.72 as amended by 2002 Iowa Acts, Senate File 2305.

701—67.16(452A) Credentials and receipts. Employees of the department have official credentials, and the taxpayer should require proof of the identity of persons claiming to represent the department. No charges are to be made nor gratuities of any kind accepted by an employee of the department for assistance given in or out of the office of the department.
All employees authorized to collect money are supplied with official receipt forms. When cash is paid to an employee of the department, the taxpayer should require the employee to issue an official receipt. Such receipt must show the taxpayer’s name, address, and permit or license number; the purpose of the payment; and the amount of the payment. The taxpayer should retain all receipts, and the only receipts which the department will accept as evidence of a cash payment are the official receipts.

This rule is intended to implement Iowa Code section 452A.59 as amended by 1995 Iowa Acts, chapter 155.

701—67.17(452A) Information confidential. Iowa Code section 452A.63, which makes all information obtained from reports, returns, or records required to be filed or kept under Iowa Code chapter 452A confidential, applies generally to the director, deputies, auditors, agents, officers, or other employees of the department. The information may be divulged to the appropriate public officials enumerated in Iowa Code section 452A.63. These public officials include (1) member(s) of the Iowa General Assembly, (2) committees of either house of the Iowa legislature, (3) state officers, (4) persons who have responsibility for the enforcement of Iowa Code chapter 452A, (5) official(s) of the federal government entrusted with enforcement of federal motor vehicle fuel tax laws, and (6) official(s) of other states who have responsibility to enforce motor vehicle fuel tax laws and who will furnish like information to the department. An exception to this rule is that the appropriate state agency may make available to the public the total gallons of motor fuel, undyed special fuel, and ethanol blended gasoline withdrawn from terminals or imported into the state by suppliers, restrictive suppliers, and importers. The public request must be made within 45 days following the last day of the month in which the tax is required to be paid. See rule 701—6.3(17A) for procedures for requesting information.

This rule is intended to implement Iowa Code section 452A.63 as amended by 1999 Iowa Acts, Senate File 136.

701—67.18(452A) Delegation to audit and examine. Pursuant to statutory authority, the director of revenue delegates to the coadministrators of the compliance division the power to examine reports, returns, and records, make audits, and determine the correct amount of tax, interest, penalties, and fines due, and to take all actions authorized to collect the same, subject to review by or appeal to the director of revenue. The power so delegated may further be delegated by the coadministrators of the division to auditors, clerks, examiners, and employees of the division.

This rule is intended to implement Iowa Code sections 452A.62 and 452A.76.

701—67.19(452A) Practice and procedure before the department of revenue. The practice and procedure before the department is governed by Iowa Code chapter 17A and 701—Chapter 7.

This rule is intended to implement Iowa Code chapter 17A.

701—67.20(452A) Time for filing protest. Any person wishing to contest an assessment, denial of all or any portion of a refund claim, or any other department action, except licensing, which may culminate in a contested case proceeding, must file a protest with the clerk of the hearings section for the department pursuant to rule 701—7.8(17A) within 60 days of the issuance of the assessment, denial, or other department action contested. If a taxpayer failed to timely appeal a notice of assessment, the taxpayer may make payments pursuant to rule 701—7.8(17A) and file a refund claim within the period provided by law for filing claims.

This rule is intended to implement Iowa Code section 452A.64.

[ARC 0251C, IAB 8/8/12, effective 9/12/12]

701—67.21(452A) Bonding procedure. The director may, when necessary and advisable in order to secure the collection of the tax, require any person subject to the tax to file with the department a bond in an amount as the director may fix, or in lieu of the bond, securities approved by the director in an amount as the director may prescribe. Pursuant to the statutory authorization in Iowa Code sections 423.35 and 452A.66, the director has determined that the following procedures will be instituted with regard to bonds:
67.21(1) When required.

a. Classes of business. When the director determines, based on departmental records, other state or federal agency statistics, or current economic conditions, that certain segments of the petroleum business community are experiencing above average financial failures such that the collection of the tax might be jeopardized, a bond or security will be required from every licensee operating a business within this class unless it is shown to the director’s satisfaction that a particular licensee within a designated class is solvent and that the licensee previously timely remitted the tax. If the director selects certain classes of licensees for posting a bond or security, rule making will be initiated to reflect a listing of the classes in the rules.

b. New applications for fuel tax permits. Notwithstanding the provisions of paragraph “a” above, the director has determined that importers will be required to post a bond in the amount of $25,000 and other applicants for a new fuel tax permit will be requested to post a bond or security if (1) it is determined upon a complete investigation of the applicant’s financial status that the applicant would likely not be able to timely remit the tax, or (2) the new applicant held a prior fuel tax license and the remittance record of the tax under the prior license falls within one of the conditions in paragraph “c” below, or (3) the department experienced collection problems while the applicant was engaged in business under the prior license, or (4) the applicant is substantially similar to a person who would have been required to post a bond under the guidelines as set forth in “c” or such person had a previous fuel tax permit revoked. The applicant is “substantially similar” to the extent that said applicant is owned or controlled by persons who owned or controlled the previous licensee. For example, X, a corporation, had a previous fuel tax permit revoked. X is dissolved and its shareholders create a new corporation, Y, which applies for a fuel tax permit. The persons or stockholders who controlled X now control Y. Therefore, Y will be requested to post a bond or security.

c. Existing licensees—amount of bond or security. The simultaneous late filing of the return and the late payment of the tax will count as one delinquency. See rule 701—67.24(452A). However, the late filing of the return or the late payment of the tax will not count as a delinquency if the license holder can satisfy one of the conditions set forth in Iowa Code section 421.27, penalty waiver.

1. Suppliers will be requested to post a bond or security when they have had one or more delinquencies in remitting the fuel tax or timely filing monthly returns during the past six months.

   The bond or security will be an amount sufficient to cover six months’ fuel tax liability or $5,000, whichever is greater.

2. Restrictive suppliers will be requested to post a bond or security when they have had two or more delinquencies in remitting the fuel tax or timely filing monthly returns during the past 12 months.

   The bond or security will be an amount sufficient to cover 12 months’ fuel tax liability or $2,000, whichever is greater.

3. Blenders will be requested to post a bond or security when they have had two or more delinquencies in remitting the fuel tax or timely filing monthly returns during the past six months.

   The bond or security will be an amount sufficient to cover 12 months’ fuel tax liability or $2,000, whichever is greater.

4. Compressed natural gas, liquefied natural gas, and liquefied petroleum gas dealers and users will be requested to post a bond or security when they have had two or more delinquencies in remitting the fuel tax or timely filing monthly returns during the past 12 months. The bond or security will be an amount sufficient to cover 12 months’ fuel tax liability or $500, whichever is greater.

d. Eligible purchasers and end users will be required to post a bond or security when they have failed to pay the tax to a supplier. They will not be allowed to register as an eligible purchaser or end user again until the bond or security requirement has been complied with.

   The bond or security will be an amount sufficient to cover six months’ fuel tax based on previous purchases.

e. Waiver of bond. If a licensee has been requested to post a bond or security or if an applicant for a license has been requested to post a bond or security, upon the filing of the bond or security if
the licensee maintains a good filing record for a period of two years, the licensee may request that the department waive the continued bond or security requirement. Importer bonds will not be waived.

67.21(2) Type of security or bond. When it is determined that a licensee or applicant for a fuel tax permit is required to post collateral to secure the collection of the fuel tax, the following types of collateral will be considered as sufficient: cash, surety bonds, securities, or certificates of deposit. “Cash” means guaranteed funds including, but not limited to, cashier’s check, money order, or certified check. If cash is posted as a bond, the bond will not be considered filed until the final payment is made, if paid in installments. A certificate of deposit must have a maturity date of 24 months from the date of assignment to the department. An assignment from the bank must accompany the original certificate of deposit filed with the department for the bank to be released from liability. When a licensee elects to post cash rather than a certificate of deposit as a bond, conversion to a certificate of deposit will not be allowed. When the licensee is a corporation, an officer of the corporation may assume personal responsibility for the payment of fuel tax. Security requirements for the officer will be evaluated as provided in 67.21(1) above as if the officer applied for a fuel tax license as an individual.

This rule is intended to implement Iowa Code sections 423.35 and 452A.66.

[ARC 1805C, IAB 1/7/15, effective 2/1/15; ARC 2247C, IAB 11/25/15, effective 12/30/15]

701—67.22(452A) Tax refund offset. The department may apply any fuel tax refund against any other liability outstanding.

This rule is intended to implement Iowa Code sections 452A.17 and 421.17.

701—67.23(452A) Supplier, restrictive supplier, importer, exporter, blender, dealer, or user licenses.

67.23(1) Requirements for license. In order to become licensed as a fuel supplier, restrictive supplier, importer, exporter, blender, dealer, or user, the person must file a written application with the department. The license is valid until revoked or canceled, and is nonassignable. The application is to include, but not be limited to, the following information:

a. The name under which the licensee will transact business in the state.

b. The location of the principal place of business of the licensee and the mailing address if different.

c. The social security number or federal identification number of the licensee.

d. The type of ownership.

e. The name and complete residency address of the owner(s) of the business or, if a corporation or association, the names and addresses of the principal officers.

f. The type of license being requested.

g. Exporters only — the state and license number for that state in which the fuel is being exported.

h. The signature of the person making the application. For electronically transmitted applications, the application form shall state that, in lieu of the person’s handwritten signature, the person’s email address or the person’s fax signature will constitute a valid signature.

67.23(2) Assignment of a license. The following are nonexclusive situations that are considered assignments, and the acquiring person must apply for a new license.

a. A sale of the taxpayer’s business, even if the new owner operates under the same name.

b. A change of the name under which the licensee conducts business.

c. A merger or other business combination which results in a new or different entity.

67.23(3) Denial of a license. The department may deny a license to any applicant who is, at the time of application, substantially delinquent in paying any tax due which is administered by the department or the interest or penalty on the tax and will deny a permit of an individual if the department has received a certificate of noncompliance from the child support recovery unit in regard to an individual. If the applicant is a partnership, a license may be denied if a partner is substantially delinquent in paying any tax, penalty, or interest regardless of whether the tax is in any way a liability of or associated with the partnership. If an applicant for a license is a corporation, the department may deny the applicant a license if any officer with a substantial legal or equitable interest in the ownership of the corporation owes
any delinquent tax, penalty, or interest of the applicant corporation. Rule 701—201.10(423) contains a characterization of the terms “tax administered by the department” and “substantially delinquent” in paying a tax. Rule 701—7.9(17A) contains information about rights to appeal denial of an application for a license.

67.23(4) Revocation of a license. The department may revoke the license of any licensee who becomes substantially delinquent in paying any tax which is administered by the department or the interest or penalty on the tax and will revoke a license of an individual if the department has received a certificate of noncompliance from the child support recovery unit in regard to an individual. If a licensee is a corporation, the department may revoke the license if any officer with a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax, penalty, or interest of the applicant corporation. If the licensee is a partnership, the license may not be revoked for a partner’s substantial delinquency in paying any tax, penalty, or interest which is not a liability of the partnership. Rule 701—201.10(423) contains characterizations of the terms “tax administered by the department” and “substantially delinquent” in paying a tax. The department may also revoke the license of any licensee who abuses the privileges for which the license was issued, who files a false return, or who fails to file a return (including supporting schedules), pay the full amount of tax due, produce records requested, or extend cooperation to the department. Rule 701—7.9(17A) contains more information about rights to appeal.

67.23(5) Efficient administration of motor fuel laws. When in the opinion of the director it is necessary for the efficient administration of Iowa Code chapter 452A, the director may regard persons or facilities in possession of motor fuel, special fuel, biofuel, alcohol, or alcohol derivative substances as blenders, dealers, eligible purchasers, exporters, importers, restrictive suppliers, suppliers, terminal operators, or nonterminal storage facility operators. The department will notify the person or facility of the various requirements under the motor fuel tax laws and will ensure that a license is issued.

This rule is intended to implement Iowa Code sections 452A.4 and 452A.6.

[ARC 0251C, IAB 8/8/12, effective 9/12/12; ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—67.24(452A) Reinstatement of license canceled for cause. A license canceled for cause will be reinstated only on such terms and conditions as the cause may warrant. Terms and conditions will include payments of any applicable fuel tax liability including interest and penalty which is due the department.

Pursuant to the director’s statutory authority in Iowa Code section 452A.68 to restore licenses after being canceled for cause, the director has determined that upon the cancellation of a motor vehicle fuel tax license the initial time, the licensee will be required to pay all delinquent fuel tax liabilities including interest and penalty, to file returns, and to post a bond and have refrained from activities requiring a license under sections 452A.4 and 452A.6 during the waiting period as required by the director prior to the reinstatement or issuance of a new motor vehicle fuel tax license.

As set forth above, the director may impose a waiting period during which the licensee must refrain from activities requiring a license pursuant to the penalties provided in Iowa Code section 452A.74 for a period not to exceed 90 days as a condition for the restoration of a license or the issuance of a new license after cancellation for cause. The department may require a statement that the licensee has fulfilled all requirements of said order canceling the license for cause and the dates on which the license holder refrained from restricted activities.

Each of the following situations will be considered one offense for the purpose of determining the waiting period to reinstate a license canceled for cause or issuing a new license after being canceled for cause unless otherwise noted.

- Failure to post a bond as required.
- Failure to file a report or return timely.
- Failure to pay tax timely (including unhonored payments, failure to pay and late payments).
- Failure to file a return and pay tax as shown on the return (counts as one offense).

The hearing officer or director of revenue may order a waiting period after the cancellation for cause not to exceed:

Five days for one through five offenses.
Seven days for six or seven offenses.
Ten days for eight or nine offenses.
Thirty days for ten offenses or more.
The hearing officer or director of revenue may order a waiting period not to exceed:
Forty-five days if the second cancellation for cause occurs within 24 months of the first cancellation for cause.
Sixty days if the second cancellation for cause occurs within 18 months of the first cancellation for cause.
Ninety days if the second cancellation for cause occurs within 12 months of the first cancellation for cause.
Ninety days if the third cancellation for cause occurs within 36 months of the second cancellation for cause. See 701—subrule 7.24(1) for rights to appeal.

This rule is intended to implement Iowa Code section 452A.68 as amended by 1999 Iowa Acts, Senate File 136.

701—67.25(452A) Fuel used in implements of husbandry. Dyed special fuel is exempt from tax. Motor fuel or undyed special fuel is subject to refund when used in implements of husbandry as defined in Iowa Code section 321.1(32). A vehicle as defined in Iowa Code section 321.1(90) is not an implement of husbandry. The department of revenue, the state department of transportation, the department of public safety, and any other peace officer as requested by such department is empowered to enforce the use of special fuel or motor fuel in any illegal manner, including the inspection and testing of fuel in the fuel supply tank of an implement of husbandry.

This rule is intended to implement Iowa Code section 452A.76 as amended by 1995 Iowa Acts, chapter 155.

701—67.26(452A) Excess tax collected. If a licensee collects tax on exempt fuel or collects more tax than is due, the licensee must return the excess tax paid to the purchaser if the tax has not been paid to the department. If the tax has been paid to the department, the department will return the excess tax paid to the consumer upon appropriate documentation.

This rule is intended to implement 1999 Iowa Acts, Senate File 136, section 66.

701—67.27(452A) Retailer gallons report. The department is required to compile information reported to it by retail dealers regarding the number of gallons of the various fuel classifications sold by retail dealers in the previous calendar year and submit a report to the governor and the legislative services agency by April 1 of each year. Each retail dealer is required to file a report with the department detailing the number of motor fuel gallons sold during the previous calendar year on both a companywide basis and a site-by-site basis as required by the department. The retail dealer report is due by January 31 following the close of the calendar year.

The report filed by the department will include information in the aggregate relating to total sales of gasoline, ethanol blended gasoline, diesel fuel and biofuels. The report will also include appropriate percentage sales of various fuel products. The report will not include individual retail dealer information, trade secret information or confidential information.

This rule is intended to implement Iowa Code section 452A.33 as amended by 2011 Iowa Acts, Senate File 531. [ARC 9821B, IAB 11/2/11, effective 12/7/11]

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TITLE X
CIGARETTES AND TOBACCO

CHAPTER 81
ADMINISTRATION
[Prior to 12/17/86, Revenue Department[730]]

701—81.1(453A) Definitions. As used in this title the following definitions apply:

“Bank” means a bank designated and authorized by the director of revenue to sell cigarette stamps and set cigarette meters.

“Carton” means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold, or otherwise distributed to consumers.

“Cigarette licensee” means any person who has or is required to obtain a permit of any kind under Iowa Code chapter 453A, division I.

“Counterfeit cigarettes” means cigarettes, packages of cigarettes, cartons of cigarettes or other containers of cigarettes with a label, trademark, service mark, trade name, device, design, or word adopted or used by a cigarette manufacturer to identify its product that is false or used without authority of the cigarette manufacturer.

“Department” means the Iowa department of revenue.

“Director” means the director of the department, or the director’s authorized representative.

“License” and “permit” are used interchangeably.

“Licensee” means any person holding or required to obtain a permit or license of any kind under Iowa Code chapter 453A.

“Meter settings” means Iowa cigarette meters which imprint indicia on cigarette packages.

“Package” or “pack” means a container of any kind in which cigarettes or tobacco products are offered for sale, sold, or otherwise distributed to consumers.

“Revenue” means any evidence of tax on cigarettes required by the department to be affixed to individual packages of cigarettes.

“Stamps” means Iowa Fuson stamps, 30,000 to a roll and Iowa hand stamps of any quantity authorized by the director to be applied to packages of cigarettes and little cigars.

“Supplier” means any person or firm authorized to manufacture or supply cigarette stamps for the department.

“Tax” means the tax imposed under Iowa Code chapter 453A on cigarettes or other tobacco products.

“Taxpayer” means any person required to collect or remit tax directly to the department or required to be licensed or to file any report or return or keep records under Iowa Code chapter 453A.

“Tobacco” means the same as “tobacco products” as defined in Iowa Code section 453A.42.

“Tobacco licensee” means any person who has or is required to obtain a permit of any kind under Iowa Code chapter 453A, division II.

In addition to these definitions, the definitions contained in Iowa Code sections 421B.2, 453A.1, and 453A.42 apply to these rules.

This rule is intended to implement Iowa Code chapter 453A as amended by 2004 Iowa Acts, Senate File 2296.

701—81.2(453A) Credentials and receipts. Employees of the department have official credentials and the taxpayer should require proof of the identity of any person claiming to represent the department. No charges shall be made nor gratuities of any kind accepted by an employee of the department for assistance given in or out of the office of the department.

All employees authorized to collect money are supplied with official receipt forms. When cash is paid to an employee, the taxpayer should require the employee to issue an official receipt. Such receipt shall show the taxpayer’s name, address and permit number; the purpose for the payment; and the amount of the payment. The taxpayer should retain all receipts, and only official receipts for a cash payment will be recognized by the department.

This rule is intended to implement Iowa Code sections 453A.25 and 453A.49.
**701—81.3(453A) Examination of records.** Within three years after a return or report is filed or within three years after the report or return became due, whichever is later, the department shall examine it, determine the amount of cigarette or tobacco tax due, and give notice of assessment to the taxpayer. If no return or report has been filed, the department may determine the amount of tax due and give notice thereof. The period of examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent report or return made with the intent to evade tax, or in the case of a failure to file a report or return, or if a person purchases or is in possession of unstamped cigarettes. The three-year period of limitation may be extended by a taxpayer by signing a waiver agreement form provided by the department. The agreement must stipulate the period of extension and the tax period to which the extension applies and must provide that a claim for refund may be filed at any time during the period of extension.

Whenever books and records are examined by an employee designated by the director, whether to verify a return, report, or claim for refund or in making an audit, an assessment will be issued for any amount of tax due or a refund made for any amount of tax overpaid.

This rule is intended to implement Iowa Code sections 453A.15, 453A.28, and 453A.46 as amended by 2004 Iowa Acts, Senate File 2296.

**701—81.4(453A) Records.** Every taxpayer subject to the provisions of Iowa Code chapter 453A shall keep, preserve, and make available to the department records for a period of three years. The following is a list of records subject to the provisions of this rule. For taxpayers using an electronic data interchange process or technology, also see 701—subrule 11.4(4).

81.4(1) Cigarette manufacturer. Licensed cigarette manufacturers are required to keep the following records.

a. Records, including invoices, showing the sale of cigarettes in Iowa or the sale of cigarettes for shipment into Iowa.

b. Records evidencing the transportation of cigarettes into Iowa.

c. Records, including invoices, showing all sales of cigarettes to licensees.

d. A record of all stamps purchased.

e. Copies of all reports filed with the department.

Unlicensed cigarette manufacturers shipping cigarettes into Iowa are asked to keep records, including invoices, showing the sale of cigarettes in Iowa or the sale of cigarettes for shipment into Iowa.

Nothing in this rule shall be construed to affect the provisions of P.L. 95-575 (Contraband Cigarette Act, 18 U.S.C. Ch. 114) or P.L. 81-363 (Jenkins Act, 15 U.S.C., Sec. 375).

81.4(2) Cigarette distributing agent.

a. Records of the receipt of all cigarettes showing the amount of cigarettes received and from whom received.

b. Records of all distribution of cigarettes showing the amount of cigarettes shipped, to whom and at whose direction the cigarettes were distributed.

c. Records showing all exports of cigarettes.

d. Copies of all reports filed with the department.

e. Detailed inventory records.

f. Freight receiving and shipping records.

81.4(3) Cigarette distributors.

a. Records, including invoices, showing the purchase of all cigarettes sold, used or stored in Iowa.

b. Records, including invoices, showing the sale of cigarettes in Iowa.

c. Detailed inventory records.

d. Freight receiving and shipping records.

e. A record of all stamps purchased.

f. Copies of all reports filed with the department.

81.4(4) Wholesaler.

a. Records, including invoices, evidencing the purchase of all cigarettes.

b. Records, including invoices, evidencing the sale of all cigarettes.
81.4(5) Cigarette vendor.
   a. Records, including invoices, evidencing the purchase of all cigarettes.
   b. Records evidencing the sale of cigarettes.
   c. Inventory records.
   d. Records of all cigarette vending machines owned, furnished, installed, serviced, operated or maintained by the vendor and the location of each.

81.4(6) Cigarette retailer.
   a. Records, including invoices, evidencing the purchase of all cigarettes.
   b. Inventory records.

81.4(7) Tobacco distributor. The same records as a cigarette distributor but with respect to tobacco, excluding records of stamps purchased. (See 81.4(3))

81.4(8) Tobacco subjobber. The same records as a cigarette wholesaler but with respect to tobacco.

81.4(9) Tobacco retailer. The same records as a cigarette retailer but with respect to tobacco.

81.4(10) Common carrier engaged in transporting cigarettes or tobacco products into Iowa.
   a. Copies of bills of lading or manifests as to each transportation of cigarettes or tobacco.
   b. Log book or trip sheets.

81.4(11) Microfilm and related records system. Microfilm, microfiche, COM (computer on machine) and other related reduction in storage systems will be referred to as “microfilm” in this rule.

Microfilm reproductions of general books of account, such as a cash book, journals, voucher registers, ledgers, etc., are not acceptable other than those that have been approved by the Internal Revenue Service under Revenue Procedure 76-43, Section 302. However, microfilm reproductions of supporting records of detail, such as sales invoices, purchase invoices, credit memoranda, etc., may be allowed providing all the following conditions are met and accepted by the taxpayer.

   a. Appropriate facilities are provided to ensure the preservation and readability of the films.
   b. Microfilm rolls are indexed, cross-referenced, labeled to show beginning and ending numbers or beginning and ending alphabetical listing of documents included, and are systematically filed.
   c. The taxpayer agrees to provide transcripts of any information contained on microfilm which may be required for purposes of verification of tax liability.
   d. Proper facilities are provided for the ready inspection and location of the particular records, including modern projectors for viewing and for the copying of records.
   e. Any audit of “detail” on microfilm may be subject to sample audit procedures, to be determined at the discretion of the director or the director’s designated representative.
   f. A posting reference must be on each invoice.
   g. Credit memoranda must carry a reference to the document evidencing the original transaction.
   h. Documents necessary to support claimed exemptions from tax liability, such as bills of lading and purchase orders, must be maintained in an order by which they readily can be related to the transaction for which exemption is sought.

81.4(12) Automatic data processing records. Automatic data processing is defined in this rule as including electronic data processing (EDP) and will be referred to as ADP.

   a. An ADP tax accounting system must have built into its program a method of producing visible and legible records which will provide the necessary information for verification of the taxpayer’s tax liability.
   b. ADP records must provide an opportunity to trace any transaction back to the original source or forwarded to a final total. If detail printouts are not made of transactions at the time they are processed, then the system must have the ability to reconstruct these transactions.
   c. A general ledger with source references will be produced as hard copy to coincide with financial reports of tax reporting periods. In cases where subsidiary ledgers are used to support the general ledger accounts, the subsidiary ledgers should also be produced periodically.
   d. Supporting documents and audit trail. The audit trail should be designed so that the details underlying the summary accounting data may be identified and made available to the director or the director’s designated representative upon request. The system should be so designed that the supporting
documents, such as sales invoices, purchase invoices, credit memoranda, etc., are readily available. (An audit trail is defined as the condition of having sufficient documentary evidence to trace an item from source (invoice, check, etc.) to a financial statement or tax return; or the reverse; that is, to have an auditable system.)

e. Program documentation. A description of the ADP portion of the accounting program should be available. The statements and illustrations as to the scope of operations should be sufficiently detailed to indicate:
   (1) The application being performed;
   (2) The procedure employed in each application (which, for example, might be supported by flow charts, block diagrams or other satisfactory description of the input or output procedures); and
   (3) The controls used to ensure accurate and reliable processing. Program and systems changes, together with their effective dates should be noted in order to preserve an accurate chronological record.

f. Storage of ADP output will be in appropriate facilities to ensure preservation and readability of output.

81.4(13) General requirements. If a tax liability has been assessed and an appeal is pending to the department, district court or an appellate court, books, papers, records, memoranda or documents specified in this rule that relate to the period covered by the assessment shall be preserved until the final disposition of the appeal.

The records will be considered inadequate when the requirements of this rule are not met. The director may, by express order in certain cases, authorize permit holders to keep their records in a manner and upon forms other than those so prescribed (agreements must be in writing).

81.4(14) Other persons. The director may require any person other than those previously listed in this rule to maintain books and records as deemed necessary by the director.

This rule is intended to implement Iowa Code sections 453A.15 and 453A.45 as amended by 2004 Iowa Acts, Senate File 2296, and Iowa Code sections 453A.18, 453A.19, 453A.24, and 453A.49.

[ARC 2657C, IAB 8/3/16, effective 9/7/16]

701—81.5(453A) Form of invoice. Whenever an invoice is required to be prepared or kept by Iowa Code chapter 453A or these rules, it shall minimally contain the following information:
   1. The seller’s name, address.
   2. The purchaser’s name, address and permit number (if any).
   3. The date of sale.
   4. All prices and discounts stated separately.
   5. An indication as to whether cigarettes or tobacco products are being sold with or without tax stamps attached or tax included.
   6. The origination and destination points.

This rule is intended to implement Iowa Code sections 453A.15, 453A.25, 453A.45 and 453A.49.

701—81.6(453A) Audit of records—cost, supplemental assessments and refund adjustments. The department shall have the right and duty to examine or cause to be examined the books, records, memoranda or documents of a taxpayer for the purpose of verifying the correctness of a return or report filed or determining the tax liability of any taxpayer under Iowa Code chapter 453A.

When it is determined, upon audit, that any person dealing in cigarettes owes additional tax, the costs of the audit are assessed against such person as additional penalty.

The department may, at any time within the period prescribed for assessment or refund adjustment, make a supplemental assessment or refund adjustment whenever it is ascertained that any assessment or refund adjustment is imperfect or incomplete in any respect.

If an assessment or refund adjustment is appealed (protested under rule 701—7.8(17A)) and is resolved whether by informal proceedings or by adjudication, the department and the taxpayer are precluded from making a supplemental assessment or refund adjustment concerning the same issue
involved in such appeal for the same tax period unless there is a showing of mathematical or clerical error or a showing of fraud or misrepresentation.

This rule is intended to implement Iowa Code section 453A.30.  
[ARC 0251C, IAB 8/8/12, effective 9/12/12]

701—81.7(453A) Bonds. When bonds are required by Iowa Code chapter 453A or these rules, said bonds shall be in the form of cash, a certificate of deposit or a bond issued by a surety company licensed to do business in the state of Iowa, payable to the state of Iowa and in a form approved by the director. Bonds required by tobacco distributors must be issued by a surety company licensed to do business in Iowa. However, upon approval by the director, a cash bond or a certificate of deposit will be accepted by the department as a substitute for the surety bond. (See Iowa Code section 453A.44(4).)

This rule is intended to implement Iowa Code sections 453A.14 and 453A.44.

701—81.8 to 81.10  Reserved.

701—81.11(453A) Appeal—practice and procedure before the department.  
81.11(1) Procedure. The practice and procedure before the department is governed by Iowa Code chapter 17A and 701—Chapter 7 of the department’s rules.  
81.11(2) Appeals—time limitations. For notices of assessment or refund denial issued on or after January 1, 1995, the department will consider a protest to be timely filed if filed no later than 60 days following the date of the assessment notice or refund denial, or if a taxpayer failed to timely appeal a notice of assessment, the taxpayer may make payment pursuant to rule 701—7.8(17A) and file a refund claim within the period provided by law for filing such claims.

[ARC 0251C, IAB 8/8/12, effective 9/12/12]

701—81.12(453A) Permit—license revocation.  
81.12(1) Cigarette permits. Cigarette permits issued by the department must be revoked if the permittee willfully violates the provisions of Iowa Code section 453A.2 (sale or gift to minors). The department may revoke permits issued by the department for violation of any other provision of division I of Iowa Code chapter 453A or the rules promulgated thereunder. (Also see Iowa Code chapter 421B and rule 701—84.7(421B).) The revocation shall be subject to the provisions of rule 701—7.23(17A). The notice of revocation shall be given to the permittee at least ten days prior to the hearing provided therein. The department will revoke a permit of a permit holder, who is an individual, if the department has received a certificate of noncompliance from the child support unit in regard to the permit holder, unless the unit furnishes the department with a withdrawal of the certificate of noncompliance.

If a retailer or employee of a retailer has violated Iowa Code section 453A.2 or 453A.36(6), the city council, county board of supervisors, or the Iowa department of public health shall assess a penalty as provided in Iowa Code section 453A.22(2) as amended by 2003 Iowa Acts, chapter 26. The penalty procedures are governed by Iowa Code section 453A.22(1) and the individual council’s or board’s procedures. Iowa Code chapter 17A does not apply to boards of supervisors or city councils. (See rule 701—84.7(421B).) The board of supervisors or the city council that issued a retail permit is required by Iowa Code chapter 252J to revoke the permit of any retailer who is an individual if the board or council has received a certificate of noncompliance from the child support recovery unit in regard to the retailer, unless the unit furnishes the board of supervisors or the city council with a withdrawal of the certificate of noncompliance.

If a permit is revoked under this subrule, except for the receipt of a certificate of noncompliance from the child support recovery unit, the permit holder cannot obtain a new cigarette permit of any kind nor may any other person obtain a permit for the location covered by the revoked permit for a period of one year unless good cause to the contrary is shown to the issuing authority. If a retail permit is suspended or revoked, the suspension or revocation applies only to the place of business where the violation occurred and not to any other place of business covered by the permit.
The department or local authority must report the suspension or revocation of a retail permit to the department of public health within 30 days of the suspension or revocation.

**81.12(2) Tobacco licenses.** The director may revoke, cancel or suspend the license of any tobacco distributor or tobacco subjobber for violation of any provision in division II of Iowa Code chapter 453A, the rules promulgated thereunder, or any other statute applicable to the sale of tobacco products. The licensee shall be given ten days’ notice of a revocation hearing under Iowa Code section 453A.48(2) and rule 701—7.23(17A). No license may be issued to any person whose license has been revoked under Iowa Code section 453A.44(11) for a period of one year. The department will revoke a license of a licensee, who is an individual, if the department has received a certificate of noncompliance from the child support recovery unit in regard to the licensee, unless the unit furnishes the department with a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code section 453A.22 as amended by 2003 Iowa Acts, chapter 26, and sections 453A.13, 453A.44(11) and 453A.48(2).

[ARC 0251C, IAB 8/8/12, effective 9/12/12]

**701—81.13(453A) Permit applications and denials.**

**81.13(1) Applications for permits.** The application forms for all permits issued under Iowa Code chapter 453A are available from the department upon request. The applications shall include, but not be limited to:

a. The nature of the applicant’s business;
b. The type of permit requested;
c. The address of the principal office of the applicant;
d. The place of business for which the permit is to apply;
e. The names and addresses of principal officers or members, not to exceed three, if the business is not a sole proprietorship;
f. A list of persons who will be the applicant’s suppliers or customers or both (whichever is applicable);
g. If the applicant intends to operate as a cigarette distributor, a certificate from a manufacturer of cigarettes indicating an intention to sell unstamped cigarettes to the applicant;
h. Whether or not the applicant possesses any other permit issued under Iowa Code chapter 453A;

and

i. The signature of the person making the application. For electronically transmitted applications, the application form shall state that, in lieu of the person’s handwritten signature, the person’s email address or the person’s fax signature will constitute a valid signature.

**81.13(2) Denial of application for permit.** The department may deny a permit to any applicant who is, at the time of application, substantially delinquent in paying any tax due which is administered by the department or the interest or penalty on the tax. If the applicant is a partnership, a permit may be denied if a partner is substantially delinquent in paying any tax, penalty, or interest regardless of whether the tax is in any way a liability of or associated with the partnership. If an applicant for a permit is a corporation, the department may deny the applicant a permit if any officer, with a substantial legal or equitable interest in the ownership of the corporation, owes any delinquent tax, penalty, or interest of the applicant corporation. In this latter instance, the corporation must, initially, owe the delinquent tax, penalty, or interest, and the officer must be personally and secondarily liable for the tax. This is in contrast to the situation regarding a partnership. Rule 701—201.10(423) contains characterizations of the terms “tax administered by the department” and “substantially delinquent” in paying a tax.

The director will deny a permit to any applicant, who is an individual, if the department has received a certificate of noncompliance from the child support recovery unit in regard to the individual, unless the unit furnishes the department with a withdrawal of the certificate of noncompliance.

**81.13(3) Revocation of a permit.** The department may revoke the permit of any permit holder who becomes substantially delinquent in paying any tax which is administered by the department or the interest or penalty on the tax. If the permit holder is a corporation, the department may revoke the permit if any officer, with a substantial legal or equitable interest in the ownership of the corporation,
owes any delinquent tax, penalty, or interest of the applicant corporation. In this latter instance, the corporation must, initially, owe the delinquent tax, penalty, or interest, and the officer must be personally and secondarily liable for the tax. If the permit holder is a partnership, a permit cannot be revoked for a partner’s substantial delinquency in paying any tax, penalty, or interest which is not a liability of the partnership. Rule 701—201.10(423) contains characterizations of the terms “tax administered by the department” and “substantially delinquent” in paying a tax.

The department will revoke the permit of any permit holder, who is an individual, if the department has received a certificate of noncompliance from the child support recovery unit in regard to the individual, unless the unit furnishes the department with a withdrawal of the certificate of noncompliance.

81.13(4) Applications for retail cigarette permits. Applications for retail cigarette permits are supplied by the department to city councils and county boards of supervisors. The application must be obtained from and filed with the individual council or board. The board of supervisors or the city council is required by 1995 Iowa Acts, chapter 115, to deny a retail permit to any applicant, who is an individual, if the board or council has received a certificate of noncompliance from the child support recovery unit in regard to the individual, unless the unit furnishes the board of supervisors or city council with a withdrawal of the certificate of noncompliance.


[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—81.14(453A) Confidential information. The release of information contained in any reports or returns filed under Iowa Code chapter 453A or obtained by the department in the administration of Iowa Code chapter 453A is governed by the general provisions of Iowa Code chapter 22 since there are no specific provisions relating to confidential information contained in chapter 453A. Any requests for information must be made pursuant to rule 701—6.2(17A). See rule 701—6.3(17A).

Any request for information pertaining to a taxpayer’s business affairs, operations, source of income, profits, losses, or expenditures must be made in writing to the director. The taxpayer to whom the information relates will be notified of the request for information and will be allowed 30 days to substantiate any claim of confidentiality under Iowa Code chapter 22 or any other statute such as Iowa Code section 422.72. If substantiated, the request will be denied; otherwise, the information will be released to the requesting party. This rule will not prevent the exchange of information between state and federal agencies.

This rule is intended to implement Iowa Code sections 453A.25 and 453A.49.

701—81.15 Reserved.

701—81.16(453A) Inventory tax. All persons required to obtain a permit under Iowa Code section 453A.13 as distributors shall take an inventory of all cigarettes and little cigars in their possession prior to delivery for resale upon which the tax has been affixed and all unused cigarette tax stamps and unused metered imprints in their possession at the close of business on the day preceding the effective date of an increase in the tax rate.

Persons required to take an inventory shall remit the tax due on all cigarette stamps or metered imprints and all cigarettes and little cigars with revenue affixed in their possession prior to delivery for resale within 30 days of the inventory date. The tax is equal to the difference between the amount paid for cigarette stamps or metered imprints purchased prior to the tax increase and the amount that is to be paid for cigarette stamps or metered imprints purchased after the tax increase.

In computing the inventory tax, any discount allowed or allowable under Iowa Code section 453A.8 shall not be considered.
The inventory tax is applicable only when there is an increase in the tax rate. See rule 701—82.11(453A) for an explanation of whether a refund is allowable when there is a decrease in the tax rate.

This rule is intended to implement Iowa Code sections 453A.6, 453A.40, and 453A.43.

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TITLE XIII
WATER SERVICE EXCISE TAX

CHAPTER 97
STATE-IMPOSED WATER SERVICE EXCISE TAX

701—97.1(423G) Definitions.

97.1(1) Incorporation of definitions. To the extent they are consistent with Iowa Code chapter 423G, all words and phrases used in this chapter shall mean the same as defined in Iowa Code section 423.1 and rule 701—211.1(423).

97.1(2) Chapter-specific definitions. For the purposes of this chapter, unless the context otherwise requires:

“Facilities” means any storage tanks, water towers, wells, plants, reservoirs, aqueducts, hydrants, pumps, pipes, or any other similar devices, mechanisms, equipment, or amenities designed to hold, treat, sanitize, or deliver water.

“State-imposed tax” or “tax,” unless otherwise indicated, means the water service excise tax imposed by Iowa Code section 423G.3.

“Water utility” means the same as defined in Iowa Code section 423.3(103). “Corporation” as used in Iowa Code section 476.1(3) and as incorporated by Iowa Code section 423.3(103), includes municipal corporations. See 1968 Iowa Op. Atty. Gen. 1-21, 1968 WL 172465.

This rule is intended to implement Iowa Code sections 423G.2 and 423G.3.
[ARC 4217C, IAB 1/2/19, effective 2/6/19]

701—97.2(423G) Imposition. A state-imposed tax of 6 percent is imposed upon the sales price of water service furnished by a water utility to a purchaser.

This rule is intended to implement Iowa Code section 423G.3.
[ARC 4217C, IAB 1/2/19, effective 2/6/19]

701—97.3(423G) Administration.

97.3(1) Generally. The department is charged with the administration of the tax, subject to the rules, regulations, and direction of the director. The department is required to administer the tax as nearly as possible in conjunction with the administration of the state sales tax except that portion of the Iowa Code which implements the streamlined sales and use tax agreement.

97.3(2) Application of 701—Chapter 11. The requirements of 701—Chapter 11 shall apply to water utilities in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

This rule is intended to implement Iowa Code sections 423.3(103), 423G.3, and 423G.5.
[ARC 4217C, IAB 1/2/19, effective 2/6/19]

701—97.4(423G) Charges and fees included in the provision of water service.

97.4(1) Sales integral to the ability to furnish water service. The water service excise tax applies to the sale of water by piped distribution to consumers or users, including sales of accompanying services that are integral to furnishing water by piped distribution, even if the water service and accompanying services are billed separately.

97.4(2) Examples of sales integral to the provision of water service. Sales of services to customers or users that are considered integral to the furnishing of water by piped distribution include, but are not limited to, the following:

a. Sales of nonitemized tangible personal property included with the sale of water service or an accompanying service that is integral to the provision of water service. See subparagraph 97.4(4) “a”(2).

b. The sales price of water sold, regardless of whether the water is metered.

c. Service, account, or administrative charges or fees for water service, including but not limited to new customer account charges and minimum charges for access to water service, whether the customer uses the water service or not.
d. Fees for connection, disconnection, or reconnection to or from a water utility’s facilities, including tap fees.

e. Fees for maintenance, inspection, and repairs of the water distribution system, water supplies, and facilities, including but not limited to fees for labor or materials.

f. Fees for using or checking water meters.

g. Water distribution system infrastructure and improvement fees.

97.4(3) Examples of sales that are not water service or are not integral to the provision of water service. Sales of services that are not integral to the furnishing of water by piped distribution include, but are not limited to, the following:

a. Residential service contracts regulated under Iowa Code chapter 523C.

b. Sales or rentals of tangible personal property, other than water, sold for a separately itemized price. See subparagraph 97.4(4)’a’(1).

c. Returned check fees.

d. Deposits, including but not limited to check and meter deposits.

e. Fees for printed bills, statements, labels, and other documents.

f. Fees for late charges and nonpayment penalties.

g. Leak detection fees.

97.4(4) Sales generally not subject to water service excise tax. Water utilities may make sales that may or may not be integral to the sale of water service but that are not subject to water service excise tax because those nonintegral sales are subject to sales tax under Iowa Code section 423.2 as the sale of tangible personal property or as enumerated non-water services.

a. Sales of tangible personal property. Whether the sale of tangible personal property that is integral to water service is subject to the water service excise tax depends on whether the tangible personal property is sold to the consumer or user for a separately itemized price.

   (1) Itemized tangible personal property. Sales or rentals of tangible personal property by a water utility for a separately itemized price are not subject to the water service excise tax but may be subject to sales and use tax.

   (2) Nonitemized tangible personal property. If the sale of tangible personal property is not itemized but is instead bundled with the sale of water service, including sales of services listed in subrule 97.4(2), then the entire sales price is subject to the water service excise tax.

b. Painting of hydrants. The painting of hydrants constitutes painting services under Iowa Code section 423.2(6)’aj.” Painting is subject to sales tax and is not subject to water service excise tax.

c. Plumbing and pipefitting. Some repairs of a water distribution system may constitute plumbing and pipefitting under Iowa Code section 423.2(6)’an.” Plumbing and pipefitting services are subject to sales tax and are not subject to water service excise tax.

97.4(5) Exemptions. The exemptions from sales tax under Iowa Code section 423.3 also apply to sales subject to water service excise tax. For example, a water utility that purchases water service from a different water utility may be eligible to claim the sale for resale exemption pursuant to Iowa Code section 423.3(2).

This rule is intended to implement Iowa Code sections 423G.4 and 423G.5.

[ARC 4217C, IAB 1/2/19, effective 2/6/19]

701—97.5(423G) When water service is furnished for compensation.

97.5(1) Itemized sales of water service. Water service is furnished for compensation when water service is sold for a separately itemized price.

EXAMPLE: Itemized sale of water service. Z is an entity that provides water from a well by piped distribution to various homes in the community. Each home that is connected to the well pays $20 per month, which is used by Z for maintaining the water distribution system. Z is a water utility making sales of water service and must collect and remit water service excise tax on the $20 monthly fee charged to each of Z’s members. See In the Matter of Lakewood Util., Iowa Dep’t of Revenue, Docket No. 78-161-6A-RC (Feb. 8, 1980).
EXAMPLE: Sale for resale. An apartment owner purchases water from a city water utility and distributes the water to each unit through a system of pipes. The city meters the apartment owner’s use of water each month and charges the apartment owner for the water service. The apartment owner separately bills each of the tenants $40 per month for water service, including the cost of water and maintenance on the water distribution system. The apartment owner is a water utility and must collect and remit water service excise tax on the $40 monthly charge for water service. The apartment owner may purchase the water from the city tax exempt as a sale for resale.

97.5(2) Water service sold for an identifiable price. Water service is furnished for compensation when the price of the water service is identifiable from an invoice, bill, catalogue, price list, rate card, receipt, agreement, or other similar document, including where the total sales price increases when water service is included in the sale.

EXAMPLE: Cost varies with inclusion of water service. A campground provides three campsite packages to its customers:

- Package A includes only campsite access for $10 per night.
- Package B includes campsite access and an electrical hookup for $20 per night.
- Package C includes campsite access, an electrical hookup, and water service for $30 per night.

Sales of package C by the campground include sales of water service. The campground must collect and remit water service excise tax on $10—the identifiable sales price of water service.

97.5(3) Water service not furnished for compensation; incidental sales. No sale of water service for compensation occurs where water service is not sold for a separately itemized or identifiable price and is incidental to the rental of real property.

EXAMPLE: Water service sold with real estate rental for one nonitemized price. A manufactured housing community (MHC) owner owns a well and pipes water to the lots. The MHC owner charges tenants $500 per month for each lot rental. Water from the well is included in the $500 rental charge. The MHC owner does not do any of the following: charge a flat water fee, charge tenants based on their actual water used, or offer comparable lots at a lower price that do not have access to water service. The MHC owner is not required to collect or remit water service excise tax because water is not being furnished for compensation; it is incidental to the rental of real property.

EXAMPLE: Water service sold with real estate rental for one nonitemized price. A manufactured housing community (MHC) purchases water from a city water utility and distributes the water to each lot in the community through a system of pipes. The city meters the MHC’s use of water each month and charges the MHC for the water service and the applicable water service excise tax. The MHC charges its tenants $500 for lot rental. As in the previous example, the MHC owner does not do any of the following: charge a flat water fee, charge tenants based on their actual water used, or offer comparable lots at a lower price that do not have access to water service. The MHC owner is not required to collect or remit water service excise tax because water is not being furnished for compensation; it is incidental to the rental of real property.

This rule is intended to implement Iowa Code section 423G.3.  
[ARC 4217C, IAB 1/2/19, effective 2/6/19]

701—97.6(423G) Itemization of tax required. A water utility shall add the tax to the sales price of the water service, and the tax, when collected, shall be stated as a distinct item on any bill, receipt, agreement, or other similar document. The tax shall be identified as the water service excise tax, and the amount of tax paid shall be displayed clearly on the bill, receipt, agreement, or other similar document provided to the purchaser.

This rule is intended to implement Iowa Code section 423G.3.  
[ARC 4217C, IAB 1/2/19, effective 2/6/19]

701—97.7(423G) Date of billing—effective date and repeal date. For purposes of determining whether sales tax or water service excise tax applies to billings which span across the 2018 Iowa Acts,
Senate File 512, effective date of July 1, 2018, and the future repeal date as described in Iowa Code section 423G.7, the provisions of 701—subrule 14.3(9) shall apply.

This rule is intended to implement Iowa Code section 423G.5.
[ARC 4217C, IAB 1/2/19, effective 2/6/19]

701—97.8(423G) Filing returns; payment of tax.

97.8(1) Application of 701—Chapter 202. The requirements of 701—Chapter 202 shall apply to water utilities in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

97.8(2) Frequency of return filing and payment of tax based on combined water service excise tax and sales and use tax. With respect to the tax thresholds used for determining whether a retailer must file a return and remit sales and use tax monthly or annually, as described in rule 701—202.1(423), the threshold for determining how frequently a water utility must file a return and remit the water service excise tax shall be based on the sum of the total amount of sales and use tax collected and the total amount of water service excise tax collected.

This rule is intended to implement Iowa Code section 423G.5.
[ARC 4217C, IAB 1/2/19, effective 2/6/19; ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—97.9(423G) Permits.

97.9(1) Application of 701—Chapter 201. The requirements of 701—Chapter 201 shall apply to water utilities in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

97.9(2) Separate water service excise tax permit required. All water utilities must register for a water service excise tax permit, and the water service excise tax shall be remitted under that permit. Water utilities that make water service sales subject to water service excise tax and other sales subject to sales tax shall obtain a water service excise tax permit in addition to their current sales tax permit and shall remit all sales tax under the sales tax permit and all water service excise tax under the water service excise tax permit.

This rule is intended to implement Iowa Code section 423G.5.
[ARC 4217C, IAB 1/2/19, effective 2/6/19; ARC 6398C, IAB 7/13/22, effective 7/1/22]
[Filed ARC 4217C (Amended Notice ARC 4083C, IAB 10/24/18; Notice ARC 3896C, IAB 7/18/18), IAB 1/2/19, effective 2/6/19]
[Filed Emergency ARC 6398C, IAB 7/13/22, effective 7/1/22]
CHAPTER 103
STATE-IMPOSED AND LOCALLY IMPOSED HOTEL AND MOTEL TAXES
[Prior to 12/17/86, Revenue Department[730]]

701—103.1(423A) Definitions.

103.1(1) Incorporation of definitions. To the extent it is consistent with Iowa Code chapter 423A and this chapter, all other words and phrases used in this chapter shall mean the same as defined in Iowa Code section 423.1 and rule 701—211.1(423).

103.1(2) Chapter-specific definitions. For purposes of this chapter, unless the context otherwise requires:

“Land use district” means a district created under Iowa Code chapter 303, subchapter IV.

“Locally imposed tax” means the hotel and motel tax levied by Iowa Code section 423A.4.

“Retailer” means a person required to collect hotel and motel tax, including but not limited to lodging providers, lodging facilitators, and lodging platforms.

“State-imposed tax” means the hotel and motel tax levied by Iowa Code section 423A.3.

“Tax” or “hotel and motel tax” means the state-imposed hotel and motel tax levied by Iowa Code section 423A.3 and any locally imposed hotel and motel tax levied by Iowa Code section 423A.4.

This rule is intended to implement Iowa Code sections 423A.2, 423A.3, and 423A.4.
[ARC 3750C, IAB 4/11/18, effective 5/16/18; ARC 4195C, IAB 12/19/18, effective 1/23/19]

701—103.2(423A) Administration.

103.2(1) Generally. The department is charged with the administration of the tax, subject to the rules, regulations, and direction of the director. The department is required to administer the tax as nearly as possible in conjunction with the administration of the state sales tax except that portion of the law which implements the streamlined sales and use tax agreement.

103.2(2) Incorporation of 701—Chapter 11. Except as otherwise stated in this chapter, the requirements of 701—Chapter 11 shall apply to retailers required to collect hotel and motel tax in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

This rule is intended to implement Iowa Code section 423A.6.
[ARC 4195C, IAB 12/19/18, effective 1/23/19]

701—103.3(423A) Tax imposition and exemptions.

103.3(1) Tax imposed. A state-imposed tax of 5 percent is imposed upon the sales price for the rental of any lodging if the lodging is located in this state. A locally imposed tax of up to 7 percent is imposed to the extent permitted by Iowa Code section 423A.4.

103.3(2) Exemptions. The only exemptions from the hotel and motel tax are those in Iowa Code section 423A.5. The exemptions apply to both the state-imposed tax and the locally imposed tax under Iowa Code chapter 423A.

This rule is intended to implement Iowa Code sections 423A.3, 423A.4, and 423A.5.
[ARC 4195C, IAB 12/19/18, effective 1/23/19]

701—103.4(423A) Filing returns; payment of tax; penalty and interest.

103.4(1) Incorporation of 701—Chapter 202. Except as otherwise stated in this chapter, the requirements of 701—Chapter 202 shall apply to retailers required to collect hotel and motel tax in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

103.4(2) Quarterly returns only. Retailers required to collect hotel and motel tax must file returns on a quarterly basis; retailers may not file annual returns.

103.4(3) Combined sales/hotel and motel tax return.

a. On the quarterly sales tax return, a retailer shall report the gross sales subject to the hotel and motel tax for the entire quarter, listing allowable deductions and calculating tax for the entire quarter. The
information required for the computation of the hotel and motel tax liability shall be separate from that required for the computation of the retail sales tax liability and must be stated and computed separately even though total tax liability may be paid with a single remittance.

b. The quarterly returns are due on the last day of the month following the end of the calendar quarter during which the tax is collected. If a person is required to collect the hotel and motel tax and file a monthly deposit for retail sales tax purposes, the monthly deposit should not include the hotel and motel tax collected during the period covered by the deposit.

103.4(4) Application of partial payments.

a. All payments received with the return will be applied to satisfy state sales tax and hotel and motel tax liabilities, which include penalty and interest.

b. Application of partial payments received with the tax return and any subsequent partial payment received for that tax period will be applied based on a ratio formula, unless properly designated by the taxpayer as provided in Iowa Code section 421.60(2) “d.” The denominator in the ratio shall be the total of the hotel and motel tax due and the state sales tax due less any monthly sales tax deposits. The numerators in the ratio formula shall be the amounts of hotel and motel tax due and the net state sales tax due.

EXAMPLE: Hotel owes a total of $1,000 in net state sales tax and hotel and motel tax for the quarter. Of the $1,000 owed, $600 is for hotel and motel tax and $400 is for state sales tax. Hotel files its quarterly sales tax return accompanied by a $500 partial payment. The $500 partial payment would be applied based on the following computation:

\[
\begin{align*}
\frac{600}{1,000} \times 500 &= $300 \quad \text{Hotel and motel tax} \\
\frac{400}{1,000} \times 500 &= $200 \quad \text{State sales tax}
\end{align*}
\]

103.4(5) Application of payments upon termination by a land use district. If a land use district terminates its local hotel and motel tax, lodging within the district becomes subject to any local hotel and motel tax imposed by a city or county within the corporate boundaries of that district on the date of termination. If a city or county imposes a local hotel and motel tax within the district, all revenues received from or moneys refunded to lodging within the district after the date on which the land use district terminates its local hotel and motel tax shall be treated as collected from or refunded to lodging in such city or county. If no city or county imposes a local hotel and motel tax within the district, all revenues received from or moneys refunded to lodging within the district at least 180 days after the date on which the land use district terminates its local hotel and motel tax shall be deposited in or withdrawn from the state general fund as described in Iowa Code section 423A.6(1).

This rule is intended to implement Iowa Code sections 423A.3, 423A.4, and 423A.6. [ARC 4195C, IAB 12/19/18, effective 1/23/19; ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—103.5(423A) Permits.

103.5(1) Incorporation of 701—Chapter 201. Except as otherwise stated in this chapter, the requirements of 701—Chapter 201 shall apply to retailers required to collect hotel and motel tax in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

103.5(2) Sales tax permit required.

a. There is no separate hotel and motel tax permit; retailers required to collect and remit hotel and motel tax shall obtain an Iowa sales tax permit.
b. Any person not in the business of renting rooms to transient guests but that facilitates rentals of lodging at varying locations in Iowa to transient guests may register once under this chapter. A lodging facilitator shall not be required to register under this chapter if the lodging facilitator and its affiliates do not exceed the transaction and sales thresholds in Iowa Code section 423A.5A.

This rule is intended to implement Iowa Code sections 422.70, 423.37, 423.39, 423A.3, and 423A.4. [ARC 4195C; IAB 12/19/18, effective 1/23/19; ARC 6398C; IAB 7/13/22, effective 7/1/22]

701—103.6(423A) Special collection and remittance obligations.

103.6(1) Exclusion from facilitation fee; itemization.

a. Exclusion from the definition of facilitation fee. The commission that a lodging provider pays to a lodging facilitator or lodging platform is not a facilitation fee. See Iowa Code section 423A.2(1)“d.”

b. Itemization of taxes required. Retailers shall add the state-imposed tax and the locally imposed tax, if any, to the sales price of the lodging, and each tax, when collected, shall be stated as a distinct item, separate and apart from the other tax and from the sales price of the lodging.

c. Itemization of components of sales price not required. A retailer is not required to separately itemize any component part of the sales price as separate and distinct from the rest of the sales price, including discount room charges, facilitation fees, or other similar charges. Regardless of how such fees are presented to a user, they are included in the definition of “sales price” as defined by Iowa Code section 423A.2(1)“k” and are subject to the hotel and motel taxes.

103.6(2) Obligations of lodging providers.

a. Rentals without lodging facilitators or lodging platforms. A lodging provider must collect and remit the hotel and motel tax on the entire sales price of the rental if the transaction does not involve a lodging facilitator or lodging platform. In transactions without lodging facilitators or lodging platforms, only the lodging provider has a hotel and motel tax collection and remittance obligation on the transaction. See example 1C below.

b. Rentals involving lodging facilitators. See subrule 103.6(3) for obligations of a lodging provider in rental transactions involving a lodging facilitator.

Example 1A: Lodging provider. H owns a hotel located in Iowa. H offers rooms for rent to transient guests. Users can book rooms directly with H—in person, by phone, or through H’s website—or through lodging facilitators. H is a lodging provider. See Iowa Code section 423A.2(1).

Example 1B: Lodging provider—property management company. M offers property management and listing services on behalf of lake homeowners. O owns a lake home. O enters into an agreement with M, under which M will manage the property, list the property for rent, enter into rental agreements with users, and receive money from users for the rental of the property.

The lake home is lodging. See Iowa Code section 423A.2(1)“e.” M is a lodging provider as a consequence of operating and managing the lodging and making the lodging available for rent. See Iowa Code section 423A.2(1)“h.” M must collect and remit the hotel and motel tax to the department.

Example 1C: Collection and remittance by a lodging provider. H operates a hotel and is a lodging provider. A user books a room by calling H’s telephone number and paying a sales price of $100 to rent the room for one night. H’s hotel is located in a jurisdiction with a 7 percent locally imposed hotel and motel tax. H shall charge the user $112. H shall add the $5 state-imposed tax as separate and apart from the sales price and separate and apart from the locally imposed tax. H shall add the $7 locally imposed tax as separate and apart from the sales price and separate and apart from the state-imposed tax. H shall remit $12, the total hotel and motel tax, to the department. See Iowa Code section 423A.5A.

103.6(3) Obligations of retailers in transactions involving lodging facilitators. Where a user rents lodging through a lodging facilitator, the lodging facilitator shall collect from the user the hotel and motel tax on the entire sales price paid by the user to the lodging facilitator and the lodging provider shall collect from the user the hotel and motel tax on the entire sales price paid by the user to the lodging provider. The remittance obligations of the retailers depend on whether the lodging facilitator charges the user for facilitating the user’s rental of the lodging.

a. Remittance of tax when lodging facilitators do not charge the user a facilitation fee. If the lodging facilitator does not charge the user a facilitation fee, the lodging facilitator shall transmit to
the lodging provider the entire hotel and motel tax collected from the user. The lodging provider shall receive the hotel and motel tax transmitted from the lodging facilitator. The lodging provider shall remit that tax, together with any hotel and motel tax collected by the lodging provider directly from the user, to the department. See examples 2D and 2F below.

b. Remittance of tax when lodging facilitators charge the user a facilitation fee. If the lodging facilitator charges the user a facilitation fee, the lodging facilitator shall transmit to the lodging provider the portion of the hotel and motel tax attributable to the discount room charge that is charged by the lodging provider and shall remit to the department the remaining hotel and motel tax, which represents tax on the facilitation fee charged to the user. The lodging provider shall receive the hotel and motel tax transmitted from the lodging facilitator and shall remit that tax, together with any hotel and motel tax collected by the lodging provider directly from the user, to the department. See examples 2C and 2D below.

c. Examples.

EXAMPLE 2A: Lodging facilitator—online travel company. F operates an online travel company. On its website, F allows users to search for, book, and pay for hotel rooms. F’s website includes listings from various hotels. Users are allowed to pay for the hotel room through a checkout page on F’s website. F retains a portion of each sale as compensation for arranging the rental.

A user finds and selects a hotel room in Iowa on F’s website. The user pays for the room through F’s website. The lodging provider that owns the hotel is not an affiliate of F. The total price charged to the user includes an amount retained by F for arranging the rental of the hotel room. In this transaction, F is a lodging facilitator. See Iowa Code section 423A.2(1)“c.” “d.” and “f.” The amount F retains from the user as compensation for arranging the rental is a facilitation fee. See Iowa Code section 423A.2(1)“d.”

EXAMPLE 2B: Lodging facilitator—travel agency. T operates a travel agency. T allows customers to book hotel rooms in Iowa by coming to T’s office or by calling one of T’s agents. A user books a hotel room in Iowa through T. The user pays T a sales price of $120. Of this amount, $100 is consideration for renting the room. The remaining $20 is a fee paid to T for coordinating the rental. In this transaction, T is a lodging facilitator. The $20 fee T charges the user is a facilitation fee, which is included in the sales price. See Iowa Code section 423.2(1)“k.”

EXAMPLE 2C: Lodging rented through a lodging facilitator. H operates a hotel and is a lodging provider. F operates an online travel company and is therefore a lodging facilitator. A user books a room at H’s hotel through F’s website. The total sales price charged to the user is $100. The $100 sales price includes a $20 facilitation fee that is retained by F. H charges F a discount room charge of $80.

The lodging is located in a jurisdiction with a locally imposed hotel and motel tax of 7 percent. The total price F must charge to the user is $112, which is the sum of the sales price, the 5 percent state-imposed hotel and motel tax, and the 7 percent locally imposed hotel and motel tax.

F shall add the $5 state-imposed tax as separate and apart from the sales price and separate and apart from the locally imposed tax. F shall add the $7 locally imposed tax as separate and apart from the sales price and separate and apart from the state-imposed tax. On any document F provides to the user confirming the transaction, F must separately state the sales price ($100), the state-imposed tax ($5), and the locally imposed tax ($7). See paragraph 103.6(1)“b.” F is not required to identify to the user the portion of the sales price attributable to either the discount room charge or the facilitation fee. See paragraph 103.6(1)“c.”

F shall remit to H that portion of hotel and motel taxes collected on $80, the sales price that represents the discount room charge. See Iowa Code section 423A.5A. F remits $9.60 hotel and motel tax (i.e., 12 percent hotel and motel tax rate × $80 discount room charge) to H. F remits $2.40 hotel and motel tax (i.e., 12 percent hotel and motel tax rate × $20 facilitation fee) to the department. H remits the $9.60 hotel and motel tax to the department.

EXAMPLE 2D: Additional sales price paid to a lodging provider. Assume the same facts as in example 2C. However, at check-in time, the user upgrades with H to a larger room for an additional sales price of $50. The user pays this additional $50 directly to H. H must charge the user $56, which is the sum of the additional sales price, the 5 percent state-imposed hotel and motel tax, and the 7 percent locally
imposed hotel and motel tax. H remits the $6 hotel and motel tax, as well as the $9.60 hotel and motel tax received from F as described in example 2C, to the department.

EXAMPLE 2E: Lodging rented through a travel agent who retains a fee. Assume the same facts as in example 2C. However, instead of booking the hotel room through F’s online travel company, the user books the hotel room through travel agency T, and T handles the transaction the same as the online travel company in example 2C.

The result is the same as example 2C. T has the same collection and remittance obligations as F in example 2C.

EXAMPLE 2F: Lodging rented through a travel agent who only receives a commission from the hotel. H owns a hotel and is a lodging provider. A user books a room for one night at H’s hotel using T, a travel agency. The total sales price is $100. T coordinates the user’s payment by collecting and transmitting the $100 sales price plus tax from the user to H. T is a lodging facilitator. T does not retain any part of the user’s $100 payment nor impose an additional fee to the user for facilitating the transaction with H. After the user has stayed at H’s hotel, T receives a $20 commission from H. T and H are not affiliates.

The lodging is located in a jurisdiction with a locally imposed hotel and motel tax of 7 percent. The commission H pays to T is not a facilitation fee. See Iowa Code section 423A.2(1) “d” and paragraph 103.6(1) “a.” Therefore, there is no hotel and motel tax applied to the commission paid to T. T is required to collect $12 of hotel and motel tax (12 percent combined hotel and motel tax rate × $100 sales price) and remit the $12 to H when T facilitates payment of the sales price to H. H must receive the $12 tax on the sales price from T and must then remit the entire $12 tax to the department. T does not have an obligation to remit any hotel and motel tax to the department on this transaction.

103.6(4) Obligations of lodging platforms. Where a retailer is a lodging platform, the retailer must collect and remit to the department the hotel and motel tax on the entire sales price of the transaction.

EXAMPLE 3A: Lodging platform—home-sharing marketplace. Z operates a home-sharing platform. Z allows individual property owners to list rooms or entire properties with sleeping accommodations for rent to transient guests on the home-sharing platform. Users search, book, and pay for lodging through Z’s platform.

O lists O’s house on Z’s home-sharing platform. O is not an affiliate of Z. A user books and pays for O’s listing using Z’s home-sharing platform. In this transaction, Z is a lodging platform. See Iowa Code section 423A.2(1) “g.”

EXAMPLE 3B: Lodging platform—home-sharing marketplace collection and remittance. Z operates the home-sharing platform described in example 3A. O owns a cabin in Iowa. The cabin is located in a local jurisdiction that imposes a 7 percent locally imposed hotel and motel tax. O lists O’s property for short-term rentals on Z’s marketplace. O offers O’s property for rent for a three-day weekend for $900. When listing O’s property, O also requires the guests pay a $20 towel fee and a $50 cleaning fee. On this transaction, Z imposes a $30 service charge on the user for processing the transaction on Z’s website. A user reserves and pays for the cabin on Z’s website.

The total sales price is $1,000 (i.e., $900 lake home rental + $20 towel fee + $50 cleaning fee + $30 service charge) before taxes. Z must charge the user $1,120. Z shall add the $50 state-imposed tax as separate and apart from the sales price and separate and apart from the locally imposed tax. Z shall add the $70 locally imposed tax as separate and apart from the sales price and separate and apart from the state-imposed tax. As a lodging platform, Z does not remit any part of the $120 in tax to O. Z shall remit the $120 in tax to the department. See Iowa Code section 423A.5A.

This rule is intended to implement Iowa Code sections 422.70, 423.37, 423.39, 423A.3, 423A.4, and 423A.5A.

[ARC 4195C, IAB 12/19/18, effective 1/23/19]

701—103.7(423A) Certification of funds.

103.7(1) Certification of funds. Within 45 days after the date that the quarterly returns and payments are due, the director will certify to the treasurer of state the amount of locally imposed tax to be transferred from the general fund to the local transient guest tax fund that is to be distributed to each city, county, and
land use district that has adopted the tax. Payments received after the date of certification will remain in the general fund until the next quarterly certification.

103.7(2) Revenues credited to local fund. All locally imposed hotel and motel tax revenues received under Iowa Code chapter 423A are to be credited to the local transient guest tax fund. Revenues include all interest and penalties applicable to any locally imposed hotel and motel tax report or remittance, whether resulting from delinquencies or audits.

This rule is intended to implement Iowa Code section 423A.7.

[ARC 4195C, IAB 12/19/18, effective 1/23/19]


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*Filed Emergency ARC 6398C, IAB 7/13/22, effective 7/1/22*
CHAPTER 155
COLLECTION OF COURT DEBT
Chapter rescinded by 2021 Iowa Acts, Senate File 367, section 10, effective January 1, 2022.

CHAPTERS 156 to 200
Reserved
CHAPTER 201
SALES AND USE TAX PERMITS
[Prior to 7/13/22, see 701—Chapter 13]

701—201.1(423) Permit required.

201.1(1) Sales subject to sales tax. A person shall not make taxable sales of tangible personal property, specified digital products, or services until the person has received a permit from the department. There is no charge for a sales and use tax permit. If a person makes retail sales from more than one location, each location from which taxable sales of tangible personal property, specified digital products, or services will occur shall be required to hold a permit.

201.1(2) Purchases subject to use tax. A person purchasing tangible personal property, specified digital products, or taxable services from an out-of-state source for use in Iowa subject to the use tax law shall be liable for the payment of use tax. The person shall be required to file a sales and use tax return with the department, reporting and remitting use tax on all property or taxable service purchased for use in Iowa during the tax period covered by the return, unless the seller from whom the purchase is made is registered with the department and has collected sales or use tax on the purchase.

201.1(3) Sales subject to use tax. An out-of-state person making sales into Iowa or sales of tangible personal property, specified digital products, or taxable services without meeting or exceeding the sales threshold as defined in rule 701—215.1(423) may register for a sales and use tax permit to collect use tax on such sales. The person collecting use tax on these sales shall report these sales as sales subject to use tax on the sales and use tax return. Rule 701—215.6(423) contains additional information about sales tax collection obligations for out-of-state persons.

201.1(4) Infrequent purchases. A person who does not regularly make purchases subject to use tax but needs to remit tax may use the Iowa nonpermit use tax return. If a person owes less than $1,200 per year in use tax, the person does not need to obtain a permit and may file the Iowa nonpermit use tax return.

This rule is intended to implement Iowa Code section 423.36.

[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—201.2(423) Application for permit.

201.2(1) Permit application. An application for a sales and use tax permit shall be made upon a form provided by the department, and the applicant shall furnish all information requested on such form. An application for a permit for a business operating under a trade name shall state the trade name, as well as the individual owner’s name, in the case of a sole ownership by an individual, or the trade name and the name of all partners in the case of a partnership. The application shall state the date when the applicant will begin selling tangible personal property, specified digital products, or taxable services at retail in Iowa from the location for which the application is made.

201.2(2) Signatures required.

a. Paper applications. The application shall be signed by the owner, in the case of an individual business; by a partner, in the case of a partnership, although all partners’ names shall appear on the application; and by the president, vice president, treasurer or other principal officer, in the case of a corporation or association, unless written authorization is given by the officers for another person to sign the application.

b. Electronic applications. For electronically transmitted applications, the application form shall state that in lieu of a person’s handwritten signature, an email address will constitute a valid signature.

201.2(3) Retroactive permits and returns for prior periods. A person may indicate on a permit application that the effective date of the permit is in a prior tax period. Returns must be filed for all prior tax periods dating back to the effective date of the permit. Penalty and interest may apply and be imposed by the department for returns filed for those prior tax periods. 701—Chapter 10 contains more information about penalties and interest. Submission of a retroactive permit application makes a person ineligible for a voluntary disclosure agreement for those prior tax periods. 701—Chapter 3 contains more information about the voluntary disclosure program.
201.2(4) Address only required for retail sales locations. If a person is subject to sales tax and has 
physical presence or economic presence and is not making sales exclusively through a marketplace 
facilitator, the person shall provide a location for its sales and use tax permit.

201.2(5) Seasonal filers. A seasonal business retailer with sales in up to four months during the 
calendar year may register to file a return and remit tax as a seasonal filer. The retailer will be expected 
to only file returns for the specific months in which the retailer conducts business as indicated by the 
retailer upon registration. The retailer will not be expected to file a return or remit tax for the other 
months of the year. Like any other retailer, the seasonal retailer must still notify the department when it 
ceases operation permanently; if it does not, it will receive a nonfiler notice from the department.

EXAMPLE: Retailer A plans to start selling Christmas trees annually starting in 2022. Retailer A only 
plans to sell trees in November and December each year. Retailer A may request to be designated as a 
seasonal filer such that it only is required to file returns for November and December each year. Retailer 
A fails to file a sales and use tax return for November 2029. Retailer A will receive a notice from the 
department even if Retailer A stopped selling trees after 2028.

This rule is intended to implement Iowa Code section 423.36.
[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—201.3(423) Retailers selling nontaxable goods and services. Persons regularly engaged in 
selling tangible personal property or a specified digital product which is exempt from tax, making 
nontaxable transactions, or performing a service which is not enumerated in Iowa Code section 423.2 
shall not be required to obtain a sales tax permit. However, if the retailer makes taxable sales or provides 
taxable services, the retailer will be required to hold a permit under the provisions of this chapter and 
Iowa Code section 423.36.

This rule is intended to implement Iowa Code section 423.36.
[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—201.4(423) Reinstatement of canceled permit. A person who previously held and canceled a 
permit who wishes to reengage in business shall apply to the department for a new permit and file any 
previously unfiled tax returns. Upon receipt of the proper clearance for previous tax returns, a new permit 
shall be issued.

This rule is intended to implement Iowa Code section 423.36.
[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—201.5(423) Permit not transferable—sale of business. Permits shall not be transferable. The 
owner of a business holding a permit that sells the business shall cancel the permit, and the purchaser of 
the business shall apply for a new permit in the purchaser’s own name.

This rule is intended to implement Iowa Code section 423.36.
[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—201.6(423) Change of location. A business changing its location shall cancel its original permit 
and apply for a new permit.

This rule is intended to implement Iowa Code section 423.36.
[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—201.7(423) Change of ownership. A retailer changing its business entity shall apply for a new 
permit under the name of the new entity. This includes but is not limited to such entity changes as 
proprietorship to partnership, partnership to corporation, or any combination thereof.

This rule is intended to implement Iowa Code section 423.36.
[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—201.8(423) Change of legal or operating name of a business.

201.8(1) Change to legal name. A retailer changing its legal name but maintaining its ownership 
may continue to use its existing sales and use tax permit. The retailer shall notify the department of
the change in legal name and shall provide legal documentation proving the change in name before the
department will change the legal name for the permit.

201.8(2) Change to operating name. A retailer changing its operating, or “doing business as,” name
may continue using its existing sales and use tax permit. The retailer shall notify the department of the
change in operating name. No documentation is required for the department to update the operating
name associated with the permit.

This rule is intended to implement Iowa Code section 423.36.
[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—201.9(423) Trustees, receivers, executors and administrators. By virtue of their appointment,
trustees, receivers, executors and administrators who continue to operate, manage or control a business
involving the sale of tangible personal property, specified digital products, or taxable services or engage
in liquidating the assets of a business by means of sales made in the usual course of trade shall collect and
remit tax on inventory and noninventory items. A permit of a ward, decedent, cestui que trust, bankrupt,
assignor or debtor for whom a receiver has been appointed, which is valid at the time a fiduciary relation
is created, shall continue to be a valid permit for the fiduciary to continue the business for a reasonable
time or to close out the business for the purpose of settling an estate or terminating or liquidating a trust.

This rule is intended to implement Iowa Code section 423.36.
[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—201.10(423) Substantially delinquent tax—denial of permit.

201.10(1) Substantial delinquency of tax.

a. Applicant identity. The department may deny a permit to any applicant who is, at the time of
application, substantially delinquent in paying any tax due which is administered by the department
or the interest or penalty on the tax. If the applicant is a partnership, a permit may be denied if a partner
is substantially delinquent in paying any tax, penalty, or interest regardless of whether the tax is in any
way a liability of or associated with the partnership. If an applicant for a permit is a corporation, the
department may deny the applicant a permit if any officer with a substantial legal or equitable interest in
the ownership of the corporation owes any delinquent tax, penalty, or interest of the applicant corporation.
In this latter instance, the corporation must initially owe the delinquent tax, penalty, or interest and the
officer must be personally and secondarily liable for the tax. This is in contrast to the situation regarding a
partnership.

b. Tax administered by the department. The local option sales tax is a tax administered by the
department. Local vehicle; property, whether imposed on centrally assessed property or not; beer and
liquor; and insurance premium taxes are nonexclusive examples of taxes which are not administered by
the department.

201.10(2) Substantial delinquency factors. The amount of tax delinquent, the number of filing
periods for which a tax remains due and unpaid, and the length of time a tax has been unpaid are
the principal, but nonexclusive circumstances, that the department will use to determine whether an
applicant is substantially or insubstantially delinquent in paying a tax. The department may deny
a permit for substantial delinquency. Nonexclusive factors that the department will consider in
determining whether substantial delinquency will or will not result in the denial of an application for
a permit are the following: whether the delinquency was inadvertent, negligent, or intentional; the
amount of tax, interest, or penalty owed in relation to the applicant’s total financial resources; and
whether the applicant’s business is likely to survive over the long term if a license or permit is granted.

201.10(3) Child support noncompliance. The department will deny a permit to any applicant, who
is an individual, if the department has received a certificate of noncompliance from the child support
recovery unit in regard to the individual, until the unit furnishes the department with a withdrawal of the
certificate of noncompliance.

This rule is intended to implement Iowa Code section 423.36.
[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—201.11(423) Substantially delinquent tax—revocation of permit.
201.11(1) **Substantial delinquency of tax.** The department may revoke a permit if the permit holder has become substantially delinquent in paying any tax which is administered by the department or the interest or penalty on the tax. If the person holding a permit is a corporation, the department may revoke the permit if any officer with a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax, penalty, or interest of the permit-holding corporation. In this latter instance, the corporation must initially owe the delinquent tax, penalty, or interest and the officer must be personally and secondarily liable for the tax. If the permit holder is a partnership, a permit cannot be revoked for a partner’s failure to pay a tax which is not a liability of the partnership. This is in contrast to the situation regarding an application for a permit. Rule 701—201.10(423) contains characterizations of the terms “tax administered by the department” and “substantially delinquent” and a description of some of the factors that the department will use in determining whether substantial delinquency will or will not result in the revocation of a permit.

201.11(2) **Child support noncompliance.** A revoked permit will not be reinstated if the department has received a certificate of noncompliance from the child support recovery unit in regard to the permit holder who is an individual requesting reinstatement, until the unit furnishes the department with a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code section 423.36.

[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—201.12(423) **Reinstatement of revoked permit.**

201.12(1) A revoked permit shall be reinstated only on such terms and conditions as the case may warrant. Terms and conditions include payment of any tax liability that may be due to the department. Rule 701—201.11(423) includes a description of the circumstances under which nonpayment of taxes may lead to revocation of a permit.

201.12(2) Pursuant to the director’s statutory authority in Iowa Code section 423.36(6) to restore licenses after a revocation, the director has determined that upon the initial revocation of a sales and use tax permit, the permit holder will be required to pay all delinquent sales tax liabilities, to file returns, and to post a bond and to refrain from taxable occurrences under Iowa Code section 423.2 as required by the director prior to the reinstatement or issuance of a new sales tax permit.

201.12(3) As set forth above, the director may impose a waiting period during which the permit holder must refrain from taxable occurrences pursuant to the penalties of Iowa Code section 423.40, not to exceed 90 days, to restore a permit or issue a new permit after a revocation. The department may require a sworn affidavit, subject to the penalties of perjury, stating that the permit holder has fulfilled all requirements of said order of revocation, and stating the dates on which the permit holder refrained from taxable occurrences.

201.12(4) Each of the following situations will be considered one offense, for the purpose of determining the waiting period to reinstate a revoked permit or issue a new permit after a revocation unless otherwise noted:

a. Failure to post a bond as required.
b. Failure to file a return timely.
c. Failure to pay tax timely (including dishonored checks, failure to pay, and late payments).
d. Failure to file a return and pay tax shown on the return timely (counts as two offenses).

201.12(5) The administrative law judge or director of revenue may order a waiting period after the revocation not to exceed:

a. Five days for one through five offenses.
b. Seven days for six through seven offenses.
c. Ten days for eight through nine offenses.
d. Thirty days for ten offenses or more.

201.12(6) The administrative law judge or director of revenue may order a waiting period not to exceed:

a. Forty-five days if the second revocation occurs within 24 months of the first revocation.
b. Sixty days if the second revocation occurs within 18 months of the first revocation.
c. Ninety days if the second revocation occurs within 12 months of the first revocation.

d. Ninety days if the third revocation occurs within 36 months of the second revocation.

201.12(7) A revoked permit will not be reinstated if the department has received a certificate of noncompliance from the child support recovery unit in regard to the permit holder, who is an individual requesting reinstatement, until the unit furnishes the department with a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code sections 423.2, 423.36, and 423.40.

[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—201.13(423) Withdrawal of permit. After investigation, the department will withdraw a permit under the following conditions:

201.13(1) Upon a determination that the permit holder cannot be located in the state of Iowa and upon failure to obtain service of an order to appear and show cause, after sending the notice by registered certified mail or an attempt to personally serve the notice of the order.

201.13(2) Upon a determination that the permit holder cannot be located in the state of Iowa and upon a determination by the department that a business has been terminated or abandoned by the permit holder, without a request for cancellation signed by the permit holder.

201.13(3) The permit holder has become incapacitated or unable to respond or is deceased and has no duly appointed trustee, guardian or individual holding a power of attorney, executor or administrator. The withdrawal shall not constitute a revocation of said license, nor shall any penalties imposed for revocation be applicable. A permit so withdrawn shall be reissued in its prior status at such time as any affected permit holder so requests. The proceedings for withdrawal will be in conformity with Iowa Code section 17A.18.

This rule is intended to implement Iowa Code section 17A.18.

[ARC 6398C, IAB 7/13/22, effective 7/1/22]

[Filed Emergency ARC 6398C, IAB 7/13/22, effective 7/1/22]
CHAPTER 202
FILING RETURNS AND PAYMENT OF TAX
[Prior to 7/13/22, see 701—Chapter 12]

701—202.1(423) Sales and use tax return filing.

202.1(1) In general. A retailer owing $1,200 or more in sales or use tax per calendar year shall file a sales and use tax return once per month. This monthly return is due on or before the last day of the month following the end of the month in which the tax was collected. A retailer owing less than $1,200 in sales or use tax per calendar year shall file a sales and use tax return at least once per annual year, due on or before January 31 for the prior calendar year. A retailer otherwise expected to file a return annually may file a return on a monthly basis if the retailer prefers to do so. Every return shall be signed and dated.

202.1(2) New retailers. A retailer who has never held an Iowa sales or use tax permit and has never collected or accrued sales or use tax in Iowa shall indicate at the time the retailer registers for its permit whether it expects to file a return monthly or annually.

202.1(3) Changes to filing frequency. A retailer registered to file an annual sales and use tax return should update its return filing frequency as needed. The department may adjust a retailer’s filing frequency if the retailer has remitted $1,200 or more in its first year of operation in Iowa and the department has notified the retailer that it meets or exceeds the filing threshold.

202.1(4) Calculating the $1,200 filing frequency threshold. The threshold for determining whether a retailer should file a monthly or an annual sales and use tax return shall be calculated by adding sales and use taxes due in a calendar year. Other excise taxes should not be included in the calculation, even though they may be reported on the sales and use tax return.

202.1(5) Electronic filing requirement and exception. Retailers required to file a monthly sales and use tax return shall file the return through GovConnectIowa. A retailer who is unable to file a return electronically may request permission from the director to file a paper return. A retailer requesting such permission shall provide proof of its inability to file electronically.

202.1(6) Simplified electronic return due date. A retailer registered to collect Iowa tax through the Streamlined Sales Tax Registration System shall file a simplified electronic return on or before the twentieth day of each month following the end of the month in which the tax was collected. Any other retailer using the simplified electronic return shall file the return on or before the last day of the month following the end of the month in which the tax was collected.

This rule is intended to implement Iowa Code section 423.31.
[ARC 6398C; IAB 7/13/22, effective 7/1/22]

701—202.2(423) Reporting sales or use taxes. A taxpayer with a reporting obligation for either sales tax or use tax but not both shall indicate on the sales and use tax return that it has no tax to report for the appropriate tax type. A taxpayer does this by making the appropriate indication on an electronic return or by entering a zero on the taxable amount line in the tax section of a paper return for which the taxpayer does not have tax to report. A taxpayer who fails to do so will be treated as not reporting for that tax type.

EXAMPLE: Retailer B holds a sales and use tax permit and files a monthly return. Retailer B does not owe any use tax for the July 2023 tax period. After entering information related to sales tax liability for the period, Retailer B must affirmatively state it has no use tax to report in the use tax section of its electronic return for the July 2023 tax period.

This rule is intended to implement Iowa Code section 423.31.
[ARC 6398C; IAB 7/13/22, effective 7/1/22]

701—202.3(423) Sales and use tax remittance. Sales or use tax owed by a retailer shall accompany the sales and use tax return for the period in which the tax became due. Retailers filing a monthly sales and use tax return electronically shall remit tax electronically. Retailers filing a paper return may remit tax by mail, payable to the Iowa Department of Revenue. Remittances transmitted electronically are considered to have been made on the date the remittance is completed in GovConnectIowa.

This rule is intended to implement Iowa Code section 423.31.
[ARC 6398C; IAB 7/13/22, effective 7/1/22]
701—202.4(423) Due dates, weekends, and holidays. Due dates that fall on a Saturday, Sunday, or holiday shall be treated in accordance with Iowa Code section 421.9A. Iowa Code section 421.9A contains a definition of “holiday.”

This rule is intended to implement Iowa Code section 421.9A.

[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—202.5(423) Consolidated returns. Two types of permit holders have the option of filing a consolidated return. The first is a permit holder with multiple locations from which taxable sales are made, and the second is certain affiliated corporations.

202.5(1) Permit holders with multiple locations.

a. Permit holder option. A permit holder procuring more than one permit may file a separate return for each permit or, if a request to consolidate has been approved by the department pursuant to this rule, the permit holder may file one consolidated return reporting sales made at all locations for which a permit is held.

b. Filing a consolidated return.

1. The taxpayer’s consolidated permit number;
2. The permit number for each Iowa location;
3. The amount of state sales tax by business location; and
4. The amount of state sales tax due on goods consumed that are not assigned to a specific business location.

b. Failure by the taxpayer to file a Schedule of Consolidated Business Locations form with its sales and use tax return, and the schedule must include all of the following items:

(1) In order to file a complete consolidated sales tax return, the taxpayer must file a form entitled Schedule of Consolidated Business Locations with its sales and use tax return, and the schedule must include all of the following items:

(2) Failure by the taxpayer to file a Schedule of Consolidated Business Locations form with its sales and use tax return will result in the consideration of the return as incomplete, and the taxpayer will be subject to the penalty provisions set forth in Iowa Code section 421.27.

202.5(2) Affiliated corporations.

a. Application by affiliate group. Any group consisting of a parent and its affiliates, which is entitled to file a consolidated return for federal income tax purposes and which makes retail sales of tangible personal property, specified digital products, or taxable services, may make application to the director for permission to file a consolidated Iowa sales tax return. The application shall be in writing and shall be signed by an officer of the parent corporation. It shall contain the business name, address, federal identification number, and Iowa sales tax identification number of every corporation seeking the right to file a consolidated return. The application shall state the initial tax period for which the right to file a consolidated return is sought and shall be filed no later than 90 days prior to the beginning of that period. The application shall also contain any additional relevant information that the director may, in individual instances, require.

b. Joint and several liability. A parent corporation and each affiliate corporation that file a consolidated return are jointly and severally liable for all tax, penalty, and interest found due for the tax period for which a consolidated return is filed or required to be filed.

202.5(3) Requirements common to returns filed under this rule. The following provisions apply to permit holders filing consolidated returns pursuant to either subrule 202.5(1) or 202.5(2):

a. Proper form. Taxpayers shall file consolidated returns through GovConnectIowa.

b. Working papers. All working papers used in the preparation of the information required to complete the returns must be available for examination by the department.

c. Offsetting collections among affiliates. Undercollections of sales tax at one or more locations or by one or more affiliates may not be offset by overcollections at other locations or by other affiliates.

This rule is intended to implement Iowa Code section 423.31.

[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—202.6(423) Direct pay permits and negotiated rate agreements.

202.6(1) Direct pay permits in general. Qualified purchasers, users, and consumers of tangible personal property, specified digital products, or taxable services pursuant to Iowa Code chapter 423
may remit tax owed directly to the department instead of having the tax collected and remitted by the seller. A qualified purchaser, user, or consumer may not be granted or exercise this direct pay option except upon proper application to the department and only after issuance of the direct pay permit by the director of the department or personnel authorized by the director.

   a. **Qualifications for a direct pay permit.** To qualify for a direct pay permit, all of the following criteria must be met:

   (1) The applicant must be a purchaser, user, or consumer of tangible personal property, specified digital products, or taxable services.

   (2) The applicant must have an accrual of sales and use tax liability on consumed goods of more than $8,000 in a month. A purchaser, user, or consumer may have more than one business location and can combine the sales and use tax liabilities on consumed goods of all locations to meet the requirement of $8,000 in sales and use tax liability in a month to qualify if the records are located in a centralized location. If a purchaser, user, or consumer is combining more than one location, only one direct pay tax return for all of the combined locations needs to be filed with the department. However, local option sales tax should not be included in the tax base for determining qualification for a direct pay permit. If a purchaser, user, or consumer has more than one location, but not all locations wish to remit under a direct pay permit, the purchaser, user, or consumer must indicate which locations will be utilizing the direct pay permit at the time of application.

   (3) The applicant must remit tax and file returns pursuant to Iowa Code section 423.36. Paragraph 202.6(1)”d” contains further details.

   b. **Nonqualifying purchases or uses.** The granting of a direct pay permit is not allowed for any of the following:

   (1) Taxes imposed on the sale, furnishing, or service of gas, electricity, water, heat, pay television service, or communication service.

   (2) Taxes imposed under Iowa Code chapter 423C (automobile rental excise tax), Iowa Code section 423.26 (use tax on vehicles subject only to issuance of title), or Iowa Code section 423.26A (use tax on manufactured housing).

   c. **Application and permit information.** To obtain a direct pay permit, a purchaser, user, or consumer must properly complete an application form prescribed by the director and provide certification that the purchaser, user, or consumer has paid sales and use tax to the department or vendors over the last two years prior to application, an average of $8,000 in a month. Upon approval, the director or personnel authorized by the director will issue a direct pay permit to qualifying applicants. The permit will contain direct pay permit identifying information including a direct pay permit identification number. The direct pay permit should be retained by the permit holder. When purchasing from a vendor, a permit holder should give the vendor a certificate of exemption containing the information as set forth in rule 701—15.3(423).

   d. **Remittance and reporting.** Direct pay permit holders shall remit and report sales, use, and local option sales tax on a monthly basis. Remittance of tax due under a direct pay permit will begin with the first month after the direct pay permit is issued to the holder. The tax to be paid under a direct pay permit shall be remitted directly to the department by electronic funds transfer (EFT) only. A permit holder need not have remitted by EFT prior to obtaining a direct pay permit to qualify for such a permit. However, a permit holder must remit taxes due by EFT for transactions entered into on or after the date the permit is issued. All local option sales tax due must be reported and remitted at the same time as the sales and use taxes due under the direct pay permit for the corresponding tax period. However, local option sales tax should not be included in the tax base for determining qualification for a direct pay permit or frequency of remittance. Reports should be filed with the department on a monthly basis. The director may, when necessary and advisable in order to secure the collection of tax due, require an applicant for a direct pay permit or a permit holder to file with the director a qualified surety bond as set forth in Iowa Code section 423.35. A permit holder who fails to report or remit any tax when due is subject to the penalty and interest provisions set forth in Iowa Code section 421.27.

   e. ** Permit revocation and nontransferability.** A direct pay permit may be used indefinitely unless it is revoked by the department. A direct pay permit is not transferable and may not be assigned to
a third party. The department may revoke a direct pay permit at any time the permit holder fails to meet the requirements for a direct pay permit, misuses the direct pay permit, or fails to comply with the provisions in Iowa Code section 423.36(9). If a direct pay permit is revoked, it is the responsibility of the prior holder of the permit to inform all vendors of the revocation so the vendors may begin to collect tax at the time of purchase. A prior permit holder is responsible for any tax, penalty, and interest due for failure to notify a vendor of revocation of a direct pay permit.

f. Record-keeping requirements. The parties involved in transactions involving a direct pay permit shall have the following record-keeping duties:

(1) Permit holder. The holder of a direct pay permit must retain possession of the direct pay permit. The permit holder must keep a record of all transactions made pursuant to the direct pay permit in compliance with rule 701—11.4(423).

(2) Vendor. A vendor must retain a valid exemption certificate under rule 701—15.3(423) that is received from the direct pay permit holder and retain records of all transactions engaged in with the permit holder in which tax was not collected, in compliance with rule 701—11.4(423). A vendor’s liability for uncollected tax is governed by the liability provisions of a seller under an exemption certificate set forth in rule 701—15.3(423).

202.6(2) Negotiated rate agreements.

a. In general. Any person who has been issued or who has applied for a direct pay permit may request the department to enter into a negotiated rate agreement with the permit holder or applicant. These agreements are negotiated on a case-by-case basis and, if approved by the department, allow a direct pay permit holder to pay the state sales, local option sales, or use tax on a basis calculated by agreement between the direct pay permit holder and the department. Negotiated rate agreements are not applicable to sales and use taxes set out in paragraph 202.6(1) “b,” and no negotiated rate agreement is effective for any period during which a taxpayer who is a signatory to the agreement is not a direct pay permit holder.

b. Required information. All negotiated rate agreements shall contain the following information or an explanation for its omission:

(1) The name of the taxpayer who has entered into the agreement with the department.

(2) The name and title of each person signing the agreement and the name, telephone or fax number, and email or physical address of at least one person to be contacted if questions regarding the agreement arise.

(3) The period during which the agreement is in effect, the renewal or extension rights (if any) of each party, and the effective date of the agreement.

(4) The negotiated rate or rates, the classes of sales or uses to which each separate rate is applicable, any items that will be excluded from the agreement, and any circumstances that will result in a changed rate or rates or changed composition of classes to which rates are applicable.

(5) Actions or circumstances that render the agreement void, or voidable at the option of either party, and the time frame in which the agreement will be voided.

(6) Rights, if any, of the parties to resort to mediation or arbitration.

(7) An explanation of the department’s right to audit aspects of the agreement, including any right to audit remaining after the agreement’s termination.

(8) The conditions by which the agreement may be terminated and the effective date of the termination.

(9) The methodology used to determine the negotiated rate and any schedules needed to verify percentages.

(10) Any other matter deemed necessary to the parties’ mutual understanding of the agreement.

This rule is intended to implement Iowa Code section 423.36. [ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—202.7(423) Regular permit holders responsible for collection of tax. A permit holder may operate by selling merchandise by trucks, canvassers, or itinerant salespeople over fixed routes within the county in which the permanent place of business is located or other counties in this state. When
this occurs, the permit holder is liable for reporting and paying tax on these sales. The person doing the selling for the permit holder shall be required to have a form, either in possession or in the vehicle, which authorizes that person to collect tax. This form is obtained from the department and shall contain the name, address, and permit number of the retailer according to the records of the department.

This rule is intended to implement Iowa Code sections 423.14 and 423.36.

[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—202.8(423) Sale of business.

202.8(1) Final return due. A retailer selling the business shall file a return within the succeeding month and pay all tax due. Any unpaid tax shall be due prior to the transfer of title of any personal property to the purchaser, and the tax becomes delinquent one month after the sale.

202.8(2) Record retention. A retailer discontinuing business shall maintain the business’s records for a period of five years from the date of discontinuing the business unless a release from this provision is given by the department. 701—subrule 18.28(2) provides for possible sales and use tax consequences relating to the sale of a business.

This rule is intended to implement Iowa Code section 423.33.

[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—202.9(423) Bankruptcy, insolvency, or assignment for benefit of creditors. In cases of bankruptcy, insolvency or assignment for the benefit of creditors by the taxpayer, the taxpayer shall immediately file a return with the tax being due.

This rule is intended to implement Iowa Code section 423.31.

[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—202.10(423) Vending machines and other coin-operated devices. An operator who places machines on location shall file a return that includes the sales price from sales from all machines or devices operated by the retailer in Iowa during the tax period covered by the return. The mandatory beverage container deposit required under the provisions of Iowa Code chapter 455C shall not be considered part of the sales price.

This rule is intended to implement Iowa Code sections 423.1 and 423.2.

[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—202.11(423) Claim for refund of tax.

202.11(1) Eligibility for refund; filing claims. Refunds of tax shall be made only to those who have actually paid the tax. A person or persons may designate the retailer who collects the tax as an agent for purposes of receiving a refund of tax. A person or persons who claim a refund shall prepare the claim on Form IA 843, Refund Return. A claim for refund shall be filed with the department, stating in detail the reasons and facts and, if necessary, supporting documents for which the claim for refund is based.

202.11(2) Denial of refund claim—appeal. If the claim for refund is denied, and the person wishes to appeal the denial, the department will consider an appeal to be timely if filed no later than 60 days following the date of denial. Rule 701—7.9(17A) contains more information on appeals.

202.11(3) Request for abeyance. When a person is in a position of believing that the tax, penalty, or interest paid or to be paid will be found not to be due at some later date, then in order to prevent the statute of limitations from running out, a claim for refund or credit must be filed with the department within the statutory period provided for in Iowa Code section 423.47. The claim must be filed requesting that it be held in abeyance pending the outcome of any action that will have a direct effect on the tax, penalty, or interest involved. Nonexclusive examples of such action would be court decisions, departmental orders and rulings, and commerce commission decisions.

Example A: X, an Iowa sales tax permit holder, is audited by the department for the period July 1, 2014, to June 30, 2017. A $10,000 tax, penalty, and interest liability is assessed on materials the department determines are not used in processing. X does not agree with the department’s position but still pays the full liability even though X is aware of pending litigation involving the materials taxed in the audit.
Y is audited for the same period involving identical materials used to those taxed in the audit of X. However, Y, rather than paying the assessment, takes the department through litigation and wins. The final litigation is not completed until September 30, 2023.

X, on October 1, 2023, upon finding out about the decision of Y’s case, files a claim for refund relating to its audit completed in June 2017. The claim will be totally denied as beyond the three-year statute of limitations. However, if X had filed a claim along with payment of its audit in June 2017, and requested that the claim be held in abeyance pending Y’s litigation, then X would have received a full refund of its audit liability if the decision in Y’s case was also applicable to X.

Example B: X is audited by the department for the period July 1, 2015, to June 30, 2018, and assessed July 31, 2018. X pays the assessment on December 31, 2018. No protest was filed, and no claim for refund or credit was filed requesting it be held in abeyance. On January 31, 2020, X files a claim for refund relating to the entire audit. The claim is based on a recent court decision which makes the tax liability paid by X now refundable. However, only the tax paid from January 1, 2017, through June 30, 2018, will be allowed since this is the only portion within the three-year statute of limitations set forth in Iowa Code section 423.47. If the claim had been filed on or before December 31, 2019, then the entire audit period could have been considered for refund since the claim would have been filed within one year of payment.

202.11(4) Refund of use tax. A taxpayer cannot use Form IA 843, Refund Return, to claim a refund of use tax. A taxpayer must file an amended return to claim a refund of use tax.

This rule is intended to implement Iowa Code sections 423.45 and 423.47.

[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—202.12(423) Immediate successor liability for unpaid tax. A retailer ceasing to do business is obligated to prepare a final return and pay all tax due within the time required by law. If a retailer ceasing to do business fails to prepare such final return and pay all tax due within the time required by law, any immediate successor to the retailer who purchases the business or stock of goods is obligated to withhold from the purchase price enough of the purchase price to pay the tax, interest, or penalty that the retailer owes. Any immediate successor who intentionally fails to withhold a sufficient portion of the purchase price to pay the delinquent tax, interest, or penalty is personally liable for the payment of the delinquent tax, interest, or penalty. However, if the immediate successor’s purchase of the business or stock of goods was made in good faith that the retailer owed no tax, interest, or penalty, then the department may waive the immediate successor’s liability. For the purpose of this rule, “retailer” includes all persons liable for tax under Iowa Code sections 421.26 and 423.33.

202.12(1) Immediate successors having a duty to withhold.

a. Only an immediate successor who, pursuant to a contract of sale, pays a purchase price to a retailer in return for the transfer of a going business or a stock of goods is obligated to inquire if tax, penalty, or interest are due and to withhold a portion of the purchase price if necessary. Persons who fail some aspect of this test are not obligated to investigate or withhold. Nonexclusive examples of persons not so obligated are as follows:

(1) A person foreclosing on a valid security interest.
(2) A person retaking possession of premises under a valid lease.
(3) A spouse electing to take against a will.
(4) A person taking by gift.
(5) Any other person taking for what would legally be considered “value” but without the payment of a recognizable “purchase price.”

b. Included within the meaning of the phrase “immediate successor” is a corporation resulting from the action of a sole proprietor who incorporates a business in which the sole proprietor is the only or the controlling shareholder, or a sole proprietorship established from a corporation of which the sole proprietor was the exclusive, majority, or controlling stockholder.

202.12(2) More than one immediate successor. If a retailer sells a business or stock of goods to two or more persons, the following requirements apply:
a. **Sale of stock of goods to two or more persons.** If a retailer sells a substantial portion of the retail business’s stock of goods to another person who will in turn offer those goods for sale in a retail business, that person is an immediate successor and personally liable for payment of tax to the extent of tax, interest, or penalty owed or the amount of the individual purchase price, whichever is the lesser.

**Example:** A sells the stock of goods from a furniture business, in unequal portions, to B, C, and D. B pays a $5,000 purchase price for a portion of the stock of goods, C pays a $20,000 purchase price for a portion of the stock of goods, and D pays a $30,000 purchase price for the remainder of A’s stock of goods. A, at the time of the transfers, owes the department of revenue $10,000 in sales tax, interest, and penalty. Neither B, C, nor D withholds any amount for payment of tax from the purchase price. B, C, and D individually and together are liable for payment of the tax. Each is personally liable up to the amount of the purchase price that each has paid or the amount of tax, interest, and penalty owing, whichever is the lesser. In this example, B is liable for $5,000, the lesser amount of B’s purchase price ($5,000) and the amount of tax that A owes ($10,000); C is liable for $10,000, since the purchase price and tax owed are equal; and D is liable for $10,000, the lesser amount of tax owed ($10,000) and D’s purchase price ($30,000). The department may at its discretion proceed against any one, two, or all three of the immediate successors up to the amount of tax that each owes.

b. **Purchase of differing places of business.** If one person owns two or more places of business, each having a separate sales tax permit, each location having its own permit is a separate business and has a separate stock of goods for the purpose of determining successor liability. A person purchasing the business at one location or the stock of goods from one location would be personally liable only for the tax owed under the permit assigned to that location.

202.12(3) “Sale of a retailer’s business” characterized. Usually, the sale of only the machinery or equipment used in a business without the sale or leasing of the realty of the business is not a sale of the business itself. The transfer of a retailer’s machinery or equipment and business realty to a person who continues to use the machinery, equipment, and realty for the sale of any type of tangible personal property or specified digital products constitutes the selling of the retailer’s business, and the person to whom the business is sold is an immediate successor and liable for tax.

**Example:** A is a furniture dealer. The furniture business falls on hard times. A sells the stock of goods (the furniture offered for sale) to B. A then sells the furniture store (business realty) to C. A also sells C the office equipment and all other tangible personal property and specified digital products used in the operation of the furniture store except for the stock of goods (furniture). C then uses the purchased store and the office equipment in the operation of a sporting goods store. B takes the furniture purchased from A to B’s furniture store where it is sold. A owed the department $7,000 in sales tax. Both B and C are immediate successors to A and personally liable for the sales tax.

202.12(4) “Good faith” characterized. An immediate successor to a licensee’s, retailer’s, or seller’s business or stock of goods has purchased the licensee’s, retailer’s, or seller’s business or stock of goods in good faith that no delinquent tax, interest, or penalty was due and unpaid if the immediate successor demonstrates, by suitable evidence, that one of the following situations exists. The list of situations is exclusive:

a. The department has provided the immediate successor with a certified statement that no delinquent tax, interest, or penalty is unpaid. Immediate successors shall not rely upon oral statements from department personnel that no tax, interest, or penalty is unpaid. An immediate successor may request a certified statement from the department on forms provided by the department.

   (1) Prior to issuing a certified statement, the department may contact both the immediate successor and the licensee, retailer, or seller regarding the request for a certified statement from the department.

   (2) A certified statement provided by the department will be recognized by the department as valid as of the issuance of the statement.

b. The immediate successor has taken in good faith a certified statement from the licensee, retailer, or seller that no delinquent tax, interest, or penalty is unpaid as of the date of purchase.

   (1) A “certified statement” from a licensee, retailer, or seller is a statement the truth of which is attested to before a notary public. A certified statement from a licensee, retailer, or seller will not be recognized by the department as valid unless it includes all of the following:
1. The name of the business being purchased or a description of the stock of goods being purchased.
2. The names of the licensee, retailer, or seller and the prospective purchaser(s).
3. The tax identification numbers of both the licensee, retailer, or seller and prospective purchaser(s). Entities shall include a federal employer identification number (FEIN). Individuals shall include a social security number (SSN) or individual tax identification number (ITIN).
4. An attestation signed by the licensee, retailer, or seller attesting that no delinquent tax, interest, or penalty of the retailer is unpaid as of the date of the closing of the sale.

(2) A certified statement has been taken from a licensee, retailer, or seller “in good faith” if the immediate successor, in the exercise of due diligence, had no reason to believe a retailer’s statement was false or no reason to question the truth of the retailer’s statement.

This rule is intended to implement Iowa Code sections 421.28 and 423.33.

701—202.13(423) Officers and partners—personal liability for unpaid tax. If a retailer or purchaser fails to pay sales tax when due, any officer of a corporation or association, or any partner of a partnership, who has control of, supervision of, or the authority for remitting the sales tax payments and has a substantial legal or equitable interest in the ownership of the corporation or partnership is personally liable for payment of the tax, interest, and penalty if the failure to pay the tax is intentional. This personal liability is not applicable to sales tax due and unpaid on accounts receivable. The dissolution of a corporation, association, or partnership does not discharge a responsible person’s liability for failure to pay tax.

202.13(1) Personal liability—how determined. There are various criteria which can be used to determine which officers of a corporation have control of, supervision of, or the authority for remitting tax payments. Some criteria are:

a. The duties of officers as outlined in the corporate bylaws.

b. The duties that various officers have assumed in practice.

c. Which officers are empowered to sign checks for the corporation.

d. Which officers hire and fire employees.

e. Which officers control the financial affairs of the corporation.

(1) An officer in control of the financial affairs of a corporation may be characterized as one who has final control as to which of the corporation’s bills should or should not be paid and when bills that had been selected for payment will be paid.

(2) “Final control” means a significant control over which bills should or should not be paid, rather than exclusive control.

(3) The observations in paragraph 202.13(1)”e” are applicable to partnerships as well as corporations.

202.13(2) “Accounts receivable” described. Officers and partners are not responsible for sales tax due and owing on accounts receivable. An “account receivable” is a contractual obligation owing upon an open account. An open account is one that is neither finally settled nor finally closed but is still running and “open” to future payments or the assumption of future additional liabilities. The ordinary consumer installment contract is not an “account receivable.” The amount due has been finally settled and is not open to future adjustment. The usual consumer installment contract is a “note receivable” rather than an account receivable. An account receivable purchased by a factor or paid by a credit card company is, as of the date of purchase or payment, not an account receivable. An officer or partner will be liable for the value of the account receivable purchased or paid. Officers and partners have the burden of proving that tax is not due because it is a tax on an account receivable.

202.13(3) Beginning date of personal liability. Officers and partners are not personally liable for state sales tax due and unpaid prior to March 13, 1986. They are liable for state or local sales taxes that are both due and unpaid on and after that date.

This rule is intended to implement Iowa Code section 421.26.

[ARC 6398C, IAB 7/13/22, effective 7/1/22]
701—202.14(423) Sales tax or use tax paid to another state.

202.14(1) Equal or greater tax paid to another state. When a person has already paid to any other state of the United States a state sales, use, or occupational tax on specifically identified tangible personal property or taxable services on its sale or use, prior to bringing the property into Iowa, and the tax is equal to or greater than the current rate of tax imposed by the Iowa use tax law, no additional use tax shall be due the state of Iowa by such person.

202.14(2) Less tax paid to another state. If the amount of tax already paid by such person to any other state of the United States on specifically identified tangible personal property or taxable services prior to bringing the property into Iowa is less than the current rate of tax imposed by Iowa law, use tax shall be due the state of Iowa on the difference in tax paid to the foreign state and the tax due under the Iowa law.

202.14(3) Claiming exemption for tax paid. When a person claims exemption from payment of use tax on the grounds that the tax has already been paid to any other state of the United States with respect to the sale or use of the property or service in question prior to bringing the property into Iowa, the burden of proof is upon that person to show the department, county treasurer, or motor vehicle division of the Iowa department of transportation, by document, that the tax has been paid.

202.14(4) Credit not allowed against Iowa tax. Credits shall not be allowed for sales, use, or occupational tax already paid in any state of the United States against the Iowa use tax relating to the acquisition cost of property being brought into this state when such tax already paid was paid on the sales price of lease or rental payments of tangible personal property used in another state.

This rule is intended to implement Iowa Code section 423.25.

[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—202.15(423) Registered retailers selling tangible personal property on a conditional sale contract basis. A retailer shall report and remit to the department the full amount of tax computed on the full sale price on the return for the tax period during which the sale was made.

This rule is intended to implement Iowa Code sections 423.1 and 423.2.

[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—202.16(423) Registered vendors repossessing goods sold on a conditional sale contract basis. A registered retailer repossessing tangible personal property that has been sold on a conditional sale contract basis and remitting use tax to the department on the full purchase price may take a deduction on the retailer’s sales and use tax return for the tax period in which the goods were repossessed, in an amount equal to the credit allowed to the purchaser for the goods returned, if the retailer has returned use tax to the purchaser on the unpaid balance.

This rule is intended to implement Iowa Code sections 423.1 and 423.2.

[ARC 6398C, IAB 7/13/22, effective 7/1/22]

[Filed Emergency ARC 6398C, IAB 7/13/22, effective 7/1/22]
CHAPTERS 203 to 210
Reserved
CHAPTER 215
REMOTE SALES AND MARKETPLACE SALES


215.1(1) Incorporation of definitions. To the extent it is consistent with Iowa Code chapter 423 and this chapter, all other words and phrases used in this chapter shall mean the same as defined in Iowa Code sections 423.1 and 423.14A and rule 701—211.1(423).

215.1(2) Chapter-specific definitions. For purposes of this chapter, unless the context otherwise requires:

“Gross revenue from sales” means all revenue from Iowa sales.

“Iowa sales” means the same as defined in Iowa Code section 423.14A(1) “a.” “Iowa sales” includes all retail sales, whether taxable or exempt, and other sales of tangible personal property, specified digital products, or services otherwise sold into Iowa or for delivery into Iowa, including wholesale or sale for resale. “Iowa sales” includes sales made through a marketplace.

“Marketplace” means any physical or electronic place, including but not limited to a store, booth, Internet website, catalog, television or radio broadcast, or a dedicated sales software application, where a marketplace seller sells or offers for sale tangible personal property, or specified digital products, or where services are offered for sale into Iowa regardless of whether the tangible personal property, specified digital product, marketplace seller, or marketplace has a physical presence in Iowa.

“Physical presence in Iowa” means the activities described in Iowa Code section 423.1(48) “a”(1).

“Remote seller” means a retailer that does not have a physical presence in Iowa but that makes sales of tangible personal property, specified digital products, or services that are sourced to Iowa.

“Retailer” means the same as defined in Iowa Code section 423.1(47). “Retailer” includes a marketplace facilitator that meets or exceeds the sales threshold and includes a remote seller.

“Sales threshold” means the revenue level that triggers collection and remittance obligations for Iowa sales tax and local option tax as described in Iowa Code section 423.14A(3): $100,000 or more in gross revenue from Iowa sales into Iowa in either the current or immediately prior calendar year.

[ARC 4644C, IAB 8/28/19, effective 10/2/19]

701—215.2(423) Retailers with physical presence in Iowa.

215.2(1) Sales threshold inapplicable. The sales threshold does not apply to any seller, marketplace facilitator, or other retailer that has physical presence in Iowa. A seller, marketplace facilitator, or other retailer with physical presence in Iowa must collect and remit Iowa sales tax and any applicable local option sales tax pursuant to Iowa Code section 423.14 even if the sales threshold is not met.

215.2(2) Mixed marketplace and nonmarketplace sales. A retailer with physical presence in Iowa who makes both marketplace and nonmarketplace sales must do the following:

a. Collect Iowa sales tax and any applicable local option tax on any taxable sales on which the marketplace does not collect tax.

b. Report on its Iowa sales tax return its gross revenue from all Iowa sales, including any marketplace sales on which the marketplace facilitator collected Iowa sales tax and applicable local option tax, regardless of whether the sales threshold is met.

EXAMPLE: Seller X is an Iowa-based business, with property and personnel located in Iowa. Seller X has $80,000 in gross revenue from Iowa sales. Seller X makes $10,000 of gross revenue from Iowa sales through a marketplace facilitator that collects Iowa sales tax and applicable local option sales tax. The remaining $70,000 in gross revenue comes from Iowa sales made at Seller X’s storefront in Iowa. Seller X must collect and remit Iowa sales tax and applicable local option sales tax on the $70,000 in nonmarketplace sales. On its Iowa sales tax return, Seller X should report $80,000 in gross revenue from sales. Seller X may take a deduction on its Iowa sales tax return of $10,000 for sales on which the marketplace collected Iowa sales tax and applicable local option sales tax.

[ARC 4644C, IAB 8/28/19, effective 10/2/19]

701—215.3(423) Remote sellers—registration and collection obligations.
215.3(1) **Combined Iowa sales from all sources.** Remote sellers must determine whether they meet the sales threshold based on the total of their Iowa sales through marketplaces combined with their nonmarketplace Iowa sales.

215.3(2) **Remote sellers with Iowa sales solely through marketplaces.** If a remote seller meets the sales threshold but only makes retail sales in Iowa through marketplaces, the remote seller’s registration and collection obligations depend on whether all of the marketplace facilitators through which the remote seller makes Iowa sales are registered to collect Iowa sales tax and applicable local option tax.

   a. **Registered marketplace facilitators.** If all the marketplace facilitators used by the remote seller to make taxable Iowa sales collect Iowa sales tax and applicable local option sales tax, the remote seller does not have to collect the tax. The marketplace facilitator will report and pay Iowa sales tax and applicable local option sales tax on a sales tax return filed by the marketplace facilitator.

   EXAMPLE: Seller X has $200,000 in gross revenue from Iowa sales. Seller X makes all of its Iowa sales through a marketplace facilitator that collects Iowa sales tax and applicable local option sales tax on sales. Seller X does not need to register for an Iowa sales tax permit or file an Iowa sales tax return. The marketplace facilitator will report the Iowa sales tax and applicable local option sales tax on the marketplace facilitator’s Iowa sales tax return.

   b. **Nonregistered marketplace facilitators.** If a marketplace facilitator is not required to or fails to register and collect tax in Iowa, remote sellers who exceed the sales threshold must obtain an Iowa sales tax permit, collect Iowa sales tax and applicable local option sales tax, and file Iowa sales tax returns for sales made on that marketplace.

   EXAMPLE: Seller X has $200,000 in gross revenue from Iowa sales. Seller X has $2,000 gross revenue from sales on Marketplace Y and $198,000 in gross revenue from sales on Marketplace Z. Marketplace Y meets the sales threshold and is registered to collect and remit Iowa sales tax and applicable local option sales tax in Iowa. Marketplace Z, however, has very few, low-cost Iowa sales, and meets neither the gross revenue nor volume of sales threshold, and is therefore not required to and does not collect tax on Iowa sales. Seller X must collect Iowa sales tax and applicable local option sales tax on retail sales sourced to Iowa that are made on Marketplace Z.

215.3(3) **Remote sellers making both marketplace and nonmarketplace sales.** A remote seller that exceeds the sales threshold and makes nonmarketplace Iowa sales, such as through the remote seller’s own website, must obtain an Iowa sales tax permit. The remote seller must report on its Iowa sales tax return its gross revenue from all Iowa sales. The remote seller would be able to deduct the amount of gross sales made through any marketplaces registered to collect tax in Iowa on the remote seller’s sales tax return. A remote seller making Iowa sales through a marketplace operated by an unregistered marketplace facilitator must collect and remit Iowa sales tax and applicable local option sales tax on those sales.

[**ARC 4644C**, IAB 8/28/19, effective 10/2/19]

701—215.4(423) **Marketplace facilitators—registration and collection obligations.** Marketplace facilitators that meet the sales threshold must collect and remit Iowa sales tax and applicable local option sales tax on all taxable sales made through their marketplace that are sourced to Iowa. Marketplace facilitators must collect Iowa sales tax on all taxable Iowa sales, regardless of the location or sales volume of the marketplace sellers who make sales on marketplace facilitator’s marketplaces.

EXAMPLE: M is a marketplace facilitator that meets the sales threshold and therefore collects Iowa sales tax and applicable local option sales tax on Iowa sales facilitated through M’s marketplace. Seller S lists soccer balls for sale on M’s marketplace. A purchaser in Iowa buys a soccer ball listed by S on M’s marketplace. The soccer ball is delivered to the purchaser’s home address in Iowa. M must collect Iowa sales tax and applicable local option sales tax on the sale of the soccer ball. The outcome is the same regardless of whether S is located in Iowa and regardless of S’s Iowa sales volume.

[**ARC 4644C**, IAB 8/28/19, effective 10/2/19]
701—215.5(423) Advertising on a marketplace. A marketplace seller does not sell or offer to sell tangible personal property, a specified digital product, or a service on a marketplace when merely advertising that product on a marketplace.
[ARC 4644C, IAB 8/28/19, effective 10/2/19]

701—215.6(423) Commencement of collection obligation and sales tax liability.

215.6(1) Commencement of collection obligation. If a remote seller or marketplace facilitator without physical presence in Iowa did not exceed the sales threshold for the prior year, and therefore does not collect sales tax in the current year, and exceeds the sales threshold in the current year, the remote seller or marketplace facilitator must collect Iowa sales tax and applicable local option sales tax starting on the first day of the next calendar month that starts at least 30 days from the day the remote seller or marketplace facilitator first exceeded the sales threshold. The remote seller or marketplace facilitator must collect tax through the end of the calendar year in which the sales threshold was met or exceeded as well as the entire next calendar year.

EXAMPLE: Company S, a remote seller, did not exceed the sales threshold in 2018. On September 15, 2019, S exceeds the sales threshold for the first time. S must register to collect Iowa sales tax and must begin collecting Iowa sales tax and applicable local option sales tax on November 1, 2019. S must continue to collect through at least December 31, 2020. S’s sales volume in 2020 and later years will determine whether S must collect Iowa sales tax and applicable local option sales tax after December 31, 2020.

215.6(2) Commencement of sales tax liability. If a remote seller or marketplace facilitator without physical presence in Iowa exceeds the sales threshold as described in subrule 215.6(1), the remote seller or marketplace facilitator without physical presence in Iowa shall not be liable for any Iowa sales tax and applicable local option sales tax not collected beginning on January 1 of the current year through the day prior to the date the remote seller or marketplace facilitator without physical presence in Iowa is obligated to collect the tax as described in subrule 215.6(1). Purchasers will be liable for any use tax that accrues prior to the date the remote seller or marketplace facilitator without physical presence in Iowa is obligated to collect Iowa sales tax and applicable local option sales tax as described in subrule 215.6(1).

215.6(3) Permit registration. If a remote seller or marketplace facilitator without physical presence in Iowa that makes taxable sales exceeds the sales threshold, the remote seller or marketplace facilitator without physical presence in Iowa must register for a sales and use tax permit under 701—Chapter 201 prior to the date the remote seller or marketplace facilitator without physical presence in Iowa is obligated to collect Iowa sales tax and applicable local option sales tax as described in subrule 215.6(1).
[ARC 4644C, IAB 8/28/19, effective 10/2/19; ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—215.7(423) Retailers registered and collecting who fail to meet or exceed sales threshold. If a retailer is registered to collect Iowa sales tax and applicable local option sales tax and collects in year 1 and fails to meet or exceed the sales threshold in year 2, the retailer must still collect all applicable sales taxes in year 2. If the retailer does not meet or exceed the sales threshold at any point in year 2, the retailer is not required to collect and remit Iowa sales tax or applicable local option sales tax in year 3. However, if a retailer is registered to collect, the retailer must continue collecting regardless of the impact of the sales threshold. A retailer that falls under the sales threshold may either submit sales tax returns demonstrating it did not collect tax until a time in the future when the retailer meets or exceeds the sales threshold or cancel its sales tax permit if it wishes to cease collecting. If the retailer meets or exceeds the sales threshold at any point thereafter, the retailer would need to register again in accordance with 701—Chapter 201 and begin collecting in accordance with this chapter.

EXAMPLE: Company S, a remote seller, exceeds the sales threshold on June 25, 2019. S must collect Iowa sales tax and applicable local option sales tax beginning August 1, 2019, and must collect for all of 2020. S does not meet or exceed the sales threshold in 2020. S is not obligated to collect sales tax on January 1, 2021. S may cease collection and cancel its sales tax permit effective January 1, 2021.
[ARC 4644C, IAB 8/28/19, effective 10/2/19; ARC 6398C, IAB 7/13/22, effective 7/1/22]
701—215.8(423) Coupons; incorporation of rule 701—212.3(423). Coupons and other discounts offered by marketplace facilitators and remote sellers are retailer’s discounts, which reduce the sales price and thus the taxable amount of a sale. The requirements of rule 701—212.3(423) shall apply to marketplace facilitators and remote sellers in the same manner that those requirements apply to retailers. [ARC 4644C, IAB 8/28/19, effective 10/2/19]

701—215.9(423) Customer returns marketplace purchase directly to marketplace seller.

215.9(1) If a marketplace facilitator collects Iowa sales tax and applicable local option sales tax on the sale and the customer returns the item directly to the marketplace seller, either the marketplace facilitator or marketplace seller shall refund the full price paid by the customer including all tax collected by the marketplace facilitator upon acknowledgement of receipt of the item by the marketplace seller.

215.9(2) If the marketplace facilitator does not refund the amount paid and instead requires or permits the marketplace seller to do so, the marketplace seller shall refund the full price paid by the customer including all tax collected by the marketplace facilitator. The marketplace seller shall seek reimbursement of Iowa sales tax and applicable local option sales tax from the marketplace facilitator. The marketplace facilitator shall reimburse the returned Iowa sales tax and applicable local option sales tax to the marketplace seller once the marketplace seller has adequately demonstrated that the marketplace seller returned the tax in conjunction with a return made directly to the marketplace seller. The marketplace facilitator may claim a credit for the return of Iowa sales tax and local option sales tax on its Iowa sales tax return.

215.9(3) Nothing in this rule requires a marketplace seller to accept a return as described in this rule. Nothing in this rule requires a marketplace facilitator to allow returns to be made directly to a marketplace seller. [ARC 4644C, IAB 8/28/19, effective 10/2/19]

701—215.10(423) Exempt and nontaxable sales.

215.10(1) Exempt sales. A retailer required to collect and remit Iowa sales tax and applicable local option sales tax in accordance with Iowa Code section 423.14A and this chapter is responsible for correctly applying exemptions for tangible personal property, specified digital products, and services. As a member of the streamlined sales tax governing board, the department maintains a taxability matrix to describe whether various items are taxable or exempt. See rule 701—240.6(423) for an explanation of the liability relief provided to retailers who rely on the taxability matrix in determining whether to collect tax on an item.

215.10(2) Nontaxable sales. A retailer, including an Iowa retailer with a physical presence in Iowa, a remote seller, or a marketplace facilitator, that makes or facilitates only nontaxable sales, such as sale for resale or wholesale transactions, is not required to register for a sales tax permit.

215.10(3) Exemption certificates submitted to a marketplace facilitator: An exemption certificate as described in rule 701—15.3(423) that identifies the marketplace facilitator as the seller may be used by the purchaser for sales made or facilitated by the marketplace facilitator. [ARC 4644C, IAB 8/28/19, effective 10/2/19]

701—215.11(423) Other taxes for marketplace sales and items not subject to sales/use tax. A marketplace facilitator is not obligated to collect tax on a product sold through a marketplace it operates that is not subject to Iowa sales and use tax.

EXAMPLE: A marketplace facilitator allows marketplace sellers to list for sale vehicles subject to registration under Iowa Code chapter 321, including the fee for new registration imposed in accordance with Iowa Code section 321.105A. Because the fee for new registration is not imposed under Iowa Code chapter 423, the marketplace facilitator is not obligated to collect the fee for new registration. [ARC 4644C, IAB 8/28/19, effective 10/2/19]

701—215.12(423) Administration; incorporation of 701—Chapter 11. Except as otherwise stated in this chapter, the requirements of 701—Chapter 11 shall apply to all retailers, including remote sellers and marketplace facilitators, required to collect and remit sales tax under this chapter. [ARC 4644C, IAB 8/28/19, effective 10/2/19]
701—215.13(423) Filing returns; payment of tax; penalty and interest; incorporation of 701—Chapter 202. Except as otherwise stated in this chapter, the filing requirements of 701—Chapter 202 shall apply to all retailers, including remote sellers and marketplace facilitators, required to collect and remit sales tax under this chapter.

[ARC 4644C, IAB 8/28/19, effective 10/2/19; ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—215.14(423) Permits; incorporation of 701—Chapter 201. Except as otherwise stated in this chapter, the permit requirements of 701—Chapter 201 shall apply to all retailers, including remote sellers and marketplace facilitators, required to collect and remit Iowa sales tax and applicable local option sales tax under this chapter.

[ARC 4644C, IAB 8/28/19, effective 10/2/19; ARC 6398C, IAB 7/13/22, effective 7/1/22]

These rules are intended to implement Iowa Code section 423.14A.

[Filed ARC 4644C (Notice ARC 4292C, IAB 2/13/19; Amended Notice ARC 4535C, IAB 7/3/19), IAB 8/28/19, effective 10/2/19]

[Filed Emergency ARC 6398C, IAB 7/13/22, effective 7/1/22]
CHAPTERS 251 to 257
    Reserved
CHAPTER 258  
REFUNDS FOR ELIGIBLE BUSINESSES UNDER ECONOMIC DEVELOPMENT AUTHORITY PROGRAMS  
[Prior to 7/13/22, see rule 701—12.19(15)]

701—258.1(15) Sales and use tax refund for eligible businesses. For eligible businesses approved under the high quality jobs program, enterprise zone program, housing enterprise zone program, or workforce housing tax incentives program by the economic development authority, a refund of sales and use tax is available.

258.1(1) Sales and use tax eligible for refund. The sales and use tax for which the eligible business can receive a refund consists of the following:

a. Sales and use tax paid for gas, electricity, water, or sewer utility services; for tangible personal property; or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility of the eligible business.

b. If the eligible business is involved in a warehouse or a distribution center, sales and use tax attributable to racks, shelving and conveyor equipment.

258.1(2) Sales and use tax ineligible for refund. The sales and use tax for which the eligible business cannot receive a refund consists of the following:

a. Any local option sales tax paid is not eligible for the refund. The refund is limited to the state sales and use tax paid.

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

258.1(3) Claiming the refund. To receive the refund, the eligible business must file a claim for refund within one year of project completion. For a manufacturing facility, project completion is the first date upon which the average annualized production of finished project for the preceding 90-day period at the manufacturing facility is at least 50 percent of the initial design capacity of the facility. For purposes of the workforce housing tax incentives program, “project completion” means the same as defined in Iowa Code section 15.355(2). For all other facilities, project completion is the date of completion of all improvements necessary for the start-up, location, expansion or modernization of the business.

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

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

c. To request a refund of the sales and use tax attributable to racks, shelving and conveyor equipment, the eligible business must file Form IA 843, Refund Form, with the department of revenue. The claim shall include the agreement number given by the Iowa economic development authority, along with copies of invoices or a schedule to support the refund amount. The combined amount of refunds attributable to sales and use tax paid on racks, shelving and conveyor equipment, along with tax credit certificates issued for sales and use tax paid on racks, shelving and conveyor equipment provided in 701—subrule 52.10(5), shall not exceed $500,000 during a fiscal year. The requests for refunds or tax credit certificates will be processed in the order the requests are received on a first-come, first-served basis until the amount of refunds or credits authorized for issuance has been exhausted. If applications
for refunds or tax credit certificates 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 chapter 15.

[ARC 6398C, IAB 7/13/22, effective 7/1/22]

[Filed Emergency ARC 6398C, IAB 7/13/22, effective 7/1/22]
CHAPTER 21
ELECTION FORMS AND INSTRUCTIONS
[Prior to 7/13/88, see Secretary of State[750], Ch 11]

DIVISION I
GENERAL ADMINISTRATIVE PROCEDURES

721—21.1(47) Emergency election procedures. The state commissioner of elections may exercise emergency powers over any election being held in a district in which either a natural or other disaster or extremely inclement weather has occurred. The state commissioner may also exercise emergency powers during an armed conflict involving United States armed forces, or mobilization of those forces, or if an election contest court finds that there were errors in the conduct of an election making it impossible to determine the result.

“Commissioner” means the county commissioner of elections.
“Election contest court” means any of the courts specified in Iowa Code sections 57.1, 58.4, 61.1, 62.1 and 376.10.
“Extremely inclement weather” means a natural occurrence, such as a rainstorm, windstorm, ice storm, blizzard, tornado or other weather conditions, which makes travel extremely dangerous or which threatens the public peace, health and safety of the people or which damages and destroys public and private property.
“Natural disaster” means a natural occurrence, such as a fire, flood, blizzard, earthquake, tornado, windstorm, ice storm, or other events, which threatens the public peace, health and safety of the people or which damages and destroys public and private property.
“Other disaster” means an occurrence caused by machines or people, such as fire, hazardous substance or nuclear power plant accident or incident, which threatens the public peace, health and safety of the people or which damages and destroys public and private property.
“State commissioner” means the state commissioner of elections.

21.1(2) Notice of natural or other disaster or extremely inclement weather. The county commissioner of elections, or the commissioner’s designee, may notify the state commissioner of elections that due to a natural or other disaster or extremely inclement weather an election cannot safely be conducted in the time or place for which the election is scheduled to be held. If the commissioner or the commissioner’s designee is unable to transmit notice of the hazardous conditions, the notice may be given by any elected county official. Verification of the commissioner’s agreement with the severity of the conditions and the danger to the election process shall be transmitted to the state commissioner as soon as possible. Notice may be given by telephone or by facsimile machine, but a signed notice shall also be delivered to the state commissioner.

21.1(3) Declaration of emergency due to natural or other disaster or extremely inclement weather. After receiving notice of hazardous conditions, the state commissioner of elections, or the state commissioner’s designee, may declare that an emergency exists in the affected precinct or precincts. A copy of the declaration of the emergency shall be provided to the commissioner.

21.1(4) Emergency modifications to conduct of elections. When the state commissioner of elections has declared that an emergency exists due to a natural or other disaster or to extremely inclement weather, the county commissioner of elections, or the commissioner’s designee, shall consult with the state commissioner to develop a plan to conduct the election under the emergency conditions. All modifications to the usual method for conducting elections shall be approved in advance by the state commissioner unless prior approval is impossible to obtain.

Modifications may be made to the method for conducting the election including relocation of the polling place, postponement of the hour of opening the polls, postponement of the date of the election if no candidates for federal offices are on the ballot, reduction in the number of precinct election officials in nonpartisan elections, or other reasonable and prudent modifications that will permit the election to be conducted.
21.1(5) Relocation of polling place. The substitute polling place shall be as close as possible to the usual polling place and shall be within the same precinct if possible. Preference shall be given to buildings which are accessible to the elderly and disabled. Buildings supported by taxation shall be made available without charge by the authorities responsible for their administration. If it is necessary, more than one precinct may be located in the same room.

A notice of the location of the substitute polling place shall be posted on the door of the former polling place not later than one hour before the scheduled time for opening the polls or as soon as possible. If it is unsafe or impossible to post the sign on the door of the former polling place, the notice shall be posted in some other visible place at or near the site of the former polling place. If time permits, notice of the relocation of the polling place shall be published in the same newspaper in which notice of election was published, otherwise notice of relocation may be published in any newspaper of general circulation in the political subdivision which will appear on or before election day. The commissioner shall inform all broadcast media and print news organizations serving the jurisdiction of the modifications.

21.1(6) Postponement of election. An election, other than an election at which a federal office appears on the ballot, may be postponed until the following Tuesday. If the election involves more than one precinct, the postponement must include all precincts within the political subdivision. If the election is postponed, ballots shall not be reprinted to reflect the modification in the election date. The date of the close of voter preregistration by mail for the election shall not be extended. Precinct election registers prepared for the original election date may be used or reprinted at the commissioner’s discretion.

On the day that the postponed election is actually held, all election day procedures must be repeated.

21.1(7) Absentee voting in postponed elections. Absentee ballots shall be delivered to voters pursuant to Iowa Code section 53.22 until the date the election is actually held. Absentee ballots shall be accepted at the commissioner’s office until the hour the polls close on the date the election is held. Absentee ballots which are postmarked or which bear an Intelligent Mail barcode (IMb) traceable to a date of entry into the federal mail system no later than the day before the election is actually held shall be accepted if received no later than the time prescribed by the Iowa Code for the usual conduct of the election. The time shall be calculated from the date on which the election is held, not the date for which the election was originally scheduled. However, if absentee ballots have been tabulated before the election is postponed, the absentee ballots shall be sealed in an envelope by the absentee and special voters precinct board and stored securely until the date the election is actually held. The sealed envelopes shall be opened by the absentee and special voters precinct board on the date the election is actually held, counters on the tabulating equipment (if any) shall be reset to zero, and all absentee ballots tabulated on the original election date shall be retabulated.

21.1(8) Absentee and special voters precinct board in postponed elections. The absentee and special voters precinct board shall meet to consider provisional ballots at the times specified in Iowa Code sections 50.22 and 52.23, calculated from the date the election is held. No absentee ballots shall be counted until the date the election is held.

21.1(9) Canvass of votes in postponed elections. The canvass of votes shall also be rescheduled for one week after the originally scheduled canvass date.

21.1(10) Postponements made on election day. If the emergency is declared while the polls are open and the decision is made to postpone the election, each precinct polling place in the political subdivision shall be notified to close its doors and to halt all voting immediately. People present in the polling place who are waiting to vote shall not be given ballots. People who have received and marked their ballots shall deposit them in the ballot box; unmarked ballots may be returned to the precinct election officials.

The precinct election officials shall seal all ballots which were cast before the declaration of the emergency in secure containers. The containers shall be clearly marked as ballots from the postponed election. If it is safe to do so, the ballot containers, election register, and other election supplies shall be transported to the commissioner’s office. The ballots shall be stored in a secure place. If it is unsafe to travel to the commissioner’s office, the chairperson of the precinct election board shall see that the ballots and the election register are securely stored until it is safe to return them to the commissioner. If no contest is pending six months after the canvass for the election is completed, the unopened, sealed ballot containers shall be destroyed.
If automatic tabulating equipment is used, the automatic tabulating equipment shall be closed and sealed without printing the results. Before the date the election is held, the automatic tabulating equipment shall be reset to zero. Documents showing the progress of the count, if any, shall be sealed in an envelope and stored. No one shall reveal the progress of the count. After six months, the sealed envelope containing the vote totals shall be destroyed if no contest is pending.

21.1(11) Records kept. The state commissioner of elections shall maintain records of each emergency declaration. The records of emergency declarations for federal elections shall be kept for 22 months, and records for all other elections shall be kept for six months following the election. The records shall include the following information:

a. The county in which the emergency occurred.
b. The date and time the emergency declaration was requested.
c. The name and title of the person making the request.
d. Name and date of the election affected.
e. The jurisdiction for which the election is to be conducted (school, city, county, or other).
f. The number of precincts in the jurisdiction.
g. The number of precincts affected by the emergency.
h. The nature of the emergency, i.e., natural or other disaster, or extremely inclement weather.
i. The date or dates of the occurrence of the natural or other disaster or extremely inclement weather.
j. Conditions affecting the conduct of the election.
k. Whether the polling places may safely be opened on time.
l. Action taken: such as moving the polling place, change voting system, postpone election until the following Tuesday.
m. Method to be used to inform the public of changes made in the election procedure.
n. The signature of the state commissioner or the state commissioner’s designee who was responsible for declaring the emergency.


a. If an emergency occurs that will adversely affect the conduct of an election at which candidates for federal office will appear on the ballot, the election shall not be postponed or delayed. Emergency measures shall be limited to relocation of polling places, modification of the method of voting, reduction of the number of precinct election officials at a precinct and other modifications of prescribed election procedures which will enable the election to be conducted on the date and during the hours required by law.

The primary election held in June of even-numbered years and the general election held in November of even-numbered years shall not be postponed. Special elections called by the governor pursuant to Iowa Code section 69.14 shall not be postponed unless no federal office appears on the ballot.

b. If a federal or state court order extends the time established for closing the polls pursuant to Iowa Code section 49.73, any person who votes after the statutory hour for closing the polls shall vote only by casting a provisional ballot pursuant to Iowa Code section 49.81. Provisional ballots cast after the statutory hour for closing the polls shall be sealed in a separate envelope from provisional ballots cast during the statutory polling hours. The absentee and special voters precinct board shall tabulate and report the results of the two sets of provisional ballots separately.

21.1(13) Military emergencies. A voter who is entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) and Iowa Code chapter 53, division II, “Absent Voting by Armed Forces,” may return an absentee ballot via electronic transmission only if the voter is located in an area designated by the U.S. Department of Defense to be an imminent danger pay area or if the voter is an active member of the army, navy, marine corps, merchant marine, coast guard, air force or Iowa national guard and is located outside the United States or any of its territories. Procedures for the return of absentee ballots by electronic transmission are described in subrule 21.320(4).

21.1(14) Election contest emergency. If an election contest court finds that there were errors in the conduct of an election which make it impossible to determine the result of the election, the contest court shall notify the state commissioner of elections of its finding. The state commissioner shall order a repeat
election to be held. The repeat election date shall be set by the state commissioner. The repeat election shall be conducted under the state commissioner’s supervision.

The repeat election shall be held at the earliest possible time, but it shall not be held earlier than 14 days after the date the election was set aside. Voter registration, publication, equipment testing and other applicable deadlines shall be calculated from the date of the repeat election.

The repeat election shall be conducted under the same procedures required for the election that was set aside, except that all known errors in preparation and procedure shall be corrected. The nominations from the initial election shall be used in the repeat election unless the contest court specifically rejects the initial nomination process in its findings. Precinct election officials for the repeat election may be replaced at the discretion of the auditor.

The following materials prepared for the original election shall be used or reconstructed for the repeat election:

Ballots (showing the date of repeat election). This may be stamped on ballots printed for the original election.

Notice of election (showing the date of repeat election).

This rule is intended to implement Iowa Code section 47.1. [ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 9989B, IAB 2/8/12, effective 1/17/12; ARC 2663C, IAB 8/3/16, effective 8/1/16]

721—21.2(47) Electronic submission of absentee ballot applications and affidavits of candidacy. Absentee ballot applications and affidavits of candidacy may be submitted electronically using either fax or email.

21.2(1) Electronic copies of absentee ballot applications and affidavits of candidacy accepted for filing. Assuming that all other legal requirements are met, absentee ballot applications and affidavits of candidacy required by Iowa Code chapters 43, 44, 45, 161A, 260C, 277, 376 and 420 may be submitted electronically by either fax or email if presented to the appropriate filing officer as an exact copy of the original and if the submission is in compliance with subrule 21.2(2).

21.2(2) Original absentee ballot applications. The original absentee ballot application submitted electronically shall also be mailed or delivered to the commissioner. If mailed, the envelope bearing the original absentee ballot application shall be postmarked not later than the voter registration deadline provided in Iowa Code section 48A.9 for the election for which the ballot is requested. This subrule shall not apply to documents submitted electronically by UOCAVA voters pursuant to rule 721—21.320(53).

The voter’s absentee ballot shall be rejected by the absentee and special voters precinct board if the original absentee ballot application which was filed electronically is not received by the time the polls close on election day.

21.2(3) Original affidavits of candidacy. The original copy of an affidavit of candidacy submitted electronically shall also be filed with the appropriate commissioner. The envelope bearing the original affidavit (if any) shall be postmarked not later than the last day to file the document.

a. The filing shall be void if the original affidavit of candidacy filed electronically is not received within seven days after the filing deadline for the original affidavit of candidacy.

b. The filing shall be void if the postmark on the envelope containing the original affidavit of candidacy is later than the filing deadline.

c. If an affidavit of candidacy filing is voided because the original affidavit of candidacy submitted by facsimile machine was postmarked too late or arrives too late, the person who filed the document shall be notified immediately in writing.

This rule is intended to implement Iowa Code sections 43.11, 43.19, 43.54, 43.67, 43.78, 44.3, 45.3, 45.4, 46.20, 47.1, 47.2, 53.2, 53.8, 53.17, 53.22, 53.25, 53.40, 53.45, 61.3, 161A.5, 260C.15, 277.4, 376.4, 376.11 and 420.130. [ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 9879B, IAB 11/30/11, effective 1/4/12; ARC 1831C, IAB 1/21/15, effective 2/25/15; ARC 2663C, IAB 8/3/16, effective 8/1/16; ARC 3447C, IAB 11/8/17, effective 12/31/17; ARC 6663C, IAB 12/1/21, effective 1/5/22]

721—21.3(49,48A) Voter identification documents.

21.3(1) Identification documents for persons other than election day registrants.
a. Unless the person is registering to vote at the polls on election day, precinct election officials shall accept the identification documents listed in Iowa Code section 48A.8 and 2017 Iowa Acts, House File 516, section 27, from any person who is asked or required to present identification pursuant to Iowa Code section 49.77.

b. Current and valid identification. “Current and valid” or “identification,” for persons other than election day registrants, means identification that meets the following criteria:

(1) Iowa driver’s licenses and nonoperator’s identification cards used to establish identity pursuant to 2017 Iowa Acts, House File 516, section 27, shall be accepted up to 90 days after the expiration date listed on the license. It is still acceptable on the ninetieth day. An Iowa nonoperator’s identification card that does not expire shall be considered current and valid.

(2) Veterans and military identification cards that do not contain an expiration date or that do not expire and voter identification cards issued pursuant to 2017 Iowa Acts, House File 516, section 18, shall be considered current and valid.

(3) For registration pursuant to Iowa Code section 48A.8, the proof of residence must be dated, or describe terms of residency current to, within 45 days prior to submission.

(4) All other forms of identification used to establish identity pursuant to 2017 Iowa Acts, House File 516, section 27, shall not be expired. An identification is still valid on the expiration date.

c. A current and valid identification may include a former address, when used for identification purposes only.

21.3(2) Identification for election day registrants.

a. A person who applies to register to vote on election day shall provide proof of identity and residence pursuant to Iowa Code section 48A.7A and 2017 Iowa Acts, House File 516, section 27, in the precinct where the person is applying to register and vote.

b. Any registered voter who attests for another person registering to vote at the polls on election day shall meet the requirements in Iowa Code section 48A.7A. The registered voter may be a precinct election official or a pollwatcher, but may not attest for more than one person applying to register at the same election.

c. Current and valid identification. “Current and valid” or “identification,” for the purposes of election day registration, means identification that meets the following criteria:

(1) The expiration date on the identification card has not passed. An identification is still valid on the expiration date. An Iowa nonoperator’s identification card that does not expire shall be considered current and valid.

(2) Veterans and military identification cards that do not contain an expiration date or that do not expire and voter identification cards issued pursuant to 2017 Iowa Acts, House File 516, section 18, shall be considered current and valid.

d. A current and valid identification may include a former address, when used for identification purposes only.

21.3(3) Proof of residence standards for all voters. Any person required to present proof of residence pursuant to Iowa Code sections 48A.7A and 48A.8 shall provide documentation that meets the following requirements:

a. The proof of residence document must be listed in Iowa Code section 48A.7A or 48A.8.

b. The document must be current within 45 days of election day, unless otherwise provided by law.

c. A residential lease’s stated term must include election day.

d. Property tax statements are current within 45 days of March 31 or the final payment date, if the final payment date is stated in the document.

21.3(4) Identification not provided. After January 1, 2019, a person who is required to provide identification and does not provide it shall vote only by provisional ballot pursuant to Iowa Code section 49.81. However, a person who is registering to vote on election day pursuant to Iowa Code section 48A.7A may establish identity and residency in the precinct by written oath of a person who is registered to vote in the precinct. A registered voter may only attest for one election day registrant.
21.3(5) Attesting to identity by signing oath. A person who cannot show proof of identity at the polls may swear to the oath appearing in 2017 Iowa Acts, House File 516, section 27(8). This provision is repealed effective January 1, 2019.

21.3(6) Determination of identity and residency. Proof of identity and residence of persons offering to vote is presumed valid unless the precinct election official determines the proof offered does not match the voter. In determining whether a person offering to vote is eligible under Iowa Code section 48A.7A and Iowa Code chapter 49, precinct election officials shall consider all of the information presented by the person offering to vote prior to determining that the person is not eligible. The following are factors that shall be considered by precinct election officials in making the determination:

a. Changes to the voter’s physical appearance or signature,
b. Time elapsed since the proof was generated, subject to the Iowa Code sections that govern the validity and expiration timelines of the proof,
c. Other documentation allowable under Iowa Code chapter 48A to prove the facts in question.

21.3(7) Post-election day proof of identity or residency. As of January 1, 2019, a person required to cast a provisional ballot under this rule may submit proof of identity or residence after election day. The proof must be received by the commissioner not later than 12 noon on the Monday following the election, or if the law authorizing the election specifies that the supervisors canvass the votes earlier than the Monday following the election, it must be received by the commissioner before the canvass for that election by the board of supervisors. Defects may be cured through the use of documentation as permitted under Iowa Code section 48A.7A or 2017 Iowa Acts, House File 516, section 27. If such defects are cured, the voter’s ballot shall be counted.

This rule is intended to implement Iowa Code sections 48A.7A and 49.77, 2017 Iowa Acts, House File 516, section 27, and the Help America Vote Act.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 1831C, IAB 1/21/15, effective 2/25/15; ARC 3447C, IAB 11/8/17, effective 12/31/17]

721—21.4(49) Changes of address at the polls. An Iowa voter who has moved from one precinct to another in the county where the person is registered to vote may report a change of address at the polls on election day.

21.4(1) To qualify to vote in the election being held that day, the voter shall:

a. Go to the polling place for the precinct where the voter lives on election day.
b. Complete a registration form showing the person’s current address in the precinct.
c. Present proof of residence and identity as required by subrules 21.3(1) through 21.3(4).

21.4(2) The officials shall require a person who is reporting a change of address at the polls to cast a provisional ballot if the person’s registration in the county cannot be confirmed. Registration may be confirmed by:

a. Telephoning the office of the county commissioner of elections, or
b. Reviewing a printed list of all registered voters who are qualified to vote in the county for the election being held that day, or

21.4(3) In precincts where the voter’s declaration of eligibility is included in the election register pursuant to rule 721—21.5(49) and Iowa Code section 49.77, the commissioner shall provide to each precinct one of the two following methods for recording changes of address:

a. The voter shall be given both an eligibility declaration and a voter registration form. The eligibility declaration may be printed on the same piece of paper as the voter registration form.

b. The commissioner shall provide blank lines on the election register for the precinct election officials to record the voter’s name, address, and, if provided, telephone number, and, in primary elections, political party affiliation. The voter shall sign the election register next to the printed information. The voter shall also complete a voter registration form showing the voter’s current address.

This rule is intended to implement Iowa Code section 49.77.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 1831C, IAB 1/21/15, effective 2/25/15; ARC 3447C, IAB 11/8/17, effective 12/31/17]
721—21.5(49) Eligibility declarations in the election register. To compensate for the absence of a separate declaration of eligibility form, the commissioner shall provide to each precinct a voter roster with space for each person who appears at the precinct to vote to print the following information: first and last name, address, date of birth, and, at the voter’s option, telephone number, and, in primary elections, political party affiliation.

The roster forms shall include the name and date of the election and the name of the precinct, and may be provided on paper that makes carbonless copies. If a multicopy form is used, the commissioner shall retain the original copy of the voter roster with other records of the election.

This rule is intended to implement Iowa Code section 49.77.

721—21.6(43,50) Turnout reports. Rescinded IAB 6/2/10, effective 7/1/10.

721—21.7(48A) Election day registration. In addition to complying with the identification provisions in rule 721—21.3(49,48A), precinct election officials shall comply with the following requirements:

21.7(1) Precinct election officials shall inspect the identification documents presented by election day registrants to verify the following:
   a. The photograph shows the person who is registering to vote, and the document has not expired.
   b. The name on the identification document is the same as the name of the applicant.
   c. The address on the proof of residence document is in the precinct where the person is registering to vote and is current within 45 days.

21.7(2) Precinct election officials shall verify that each person who attempts to attest to the identity and residence of a person who is registering to vote on election day is a registered voter in the precinct and has not attested for any other voter in the election. The officials shall note in the election register that the person has attested for an election day registrant.

21.7(3) Precinct election officials shall permit any person who is in line to vote at the time the polls close to register and vote on election day if the person otherwise meets all of the election day registration requirements.

21.7(4) In precincts where an electronic program is not used to check the name of an election day registrant against the statewide list of felons who have had their right to vote revoked, the voter shall be required to cast a provisional ballot. The voter shall be allowed to present evidence of the person’s right to vote until 12 noon on the Monday following the election, or if the law authorizing the election specifies that the supervisors canvass the votes earlier than the Monday following the election, the evidence must be received by the commissioner before the canvass for that election by the board of supervisors. Precinct election officials shall provide each election day registrant with a “Notice to Election Day Registrants” prepared by the state commissioner before allowing the voter to register and vote on election day. The “Notice to Election Day Registrants” prepared by the state commissioner will be posted on the state commissioner’s website.

This rule is intended to implement Iowa Code section 48A.7A.

721—21.8(48A) Notice to election day registrant. The commissioner shall send to each person who registers to vote on election day, pursuant to Iowa Code section 48A.7A, an acknowledgment of the registration by nonforwardable mail. If the postal service returns the acknowledgment as undeliverable, the commissioner shall send a notice to the voter by forwardable mail. The notice shall be substantially in the form titled “Notice to Election Day Registrant” posted on the state commissioner’s website.

This rule is intended to implement Iowa Code sections 48A.7A and 48A.26A.

721—21.9(49) “Vote here” signs.

   1. Size. The signs shall be no smaller than 16 inches by 24 inches.
2. Exceptions. If a driveway leads away from the entrance to the voting area, or if the driveway is located in such a way that posting a “vote here” sign at the driveway entrance would not help potential voters find the voting area, no “vote here” sign shall be posted at the entrance to that driveway.

This rule is intended to implement Iowa Code section 49.21.

721—21.10(43) Application for status as a political party. A political organization which is not currently qualified as a political party may file an application for determination of political party status with the state commissioner of elections. The application may be filed after the completion of the executive council’s canvass of votes for the general election, but not later than one year after the date of the election at which the organization’s candidate for President of the United States or governor received at least 2 percent of the vote.

21.10(1) Application form. The application shall be substantially in the form titled “Application for Political Party Status” posted on the state commissioner’s website.

21.10(2) Response. If the political organization meets the requirements established in Iowa Code section 43.2, the commissioner shall declare that the organization has qualified as a political party, effective 21 days after the application is approved. If the organization does not meet the requirements, the state commissioner shall immediately notify the applicant in writing of the reason for the rejection of the application.

21.10(3) Disqualification of political party. If at the close of nominations for the general election a political party has not nominated a candidate for the office of President of the United States, or for governor, as the case may be, the political party shall be disqualified immediately.

If the candidate of a political party for President of the United States or for governor, as the case may be, does not receive 2 percent of the votes cast for that office at a general election, the political party shall be disqualified. The effective date of the disqualification shall be the date of the completion of the state canvass of votes.

When a political party is disqualified, the state commissioner shall immediately notify the chairperson or central committee of the disqualified political party.

21.10(4) Notice of qualification and disqualification of political parties. The state commissioner of elections shall immediately notify the state registrar of voters, the voter registration commission, and the county commissioners of elections when a political party is qualified or disqualified. The notice shall include the name of the political party and the date upon which change in political party status becomes effective.

The state commissioner of elections shall also publish notice of the qualification or disqualification of a political party in a newspaper of general circulation in each congressional district. The publication shall be made within 30 days of the approval of an application for qualification or within 30 days of the effective date of a disqualification.

This rule is intended to implement Iowa Code sections 43.2 and 47.1.

[ARC 8045B, IAB 8/26/09, effective 7/27/09]

721—21.11(49) Statement to provisional voter. Each voter who is required to vote a provisional ballot at the polls on election day shall be given a statement from the precinct election officials which shall be in substantially the following form:

Statement to Person Casting a Provisional Ballot
(To be completed by Precinct Official and given to Voter)

Voter’s Name: __________________________________________________________

Reason for Provisional Ballot (check all that apply):

☐ Voter did not have proper identification (see “What you need to provide” below)
Absentee voter with no ballot to surrender

Voter was challenged by another registered voter
    Reason:  

What you need to provide before your ballot will count:

Photo ID that has not expired and contains your name and picture

One of the following that has not expired: Iowa driver’s license, out-of-state driver’s license, non-driver ID, U.S. passport, U.S. military ID, ID card issued by an employer, student ID issued by Iowa high school or college

One of the following showing your name and current address: bank statement, paycheck, utility bill, property tax statement, residential lease, government check, or other government document

Deadline: ______________________ a.m./p.m., ___________________________ (date)
Mail or Deliver Evidence to: __________________________________________, County Auditor
County Auditor Address: ___________________________________________

If proof of ID or residence is required, your provisional ballot may be counted if you bring a copy of the identification listed above to this precinct before the polls close today or to the county auditor at the above address by the deadline indicated above. If your ballot is not counted, you will be notified by mail of the reason why it was not counted.

Your right to vote will be reviewed by the Special Precinct Board. You have the right and are encouraged to make a written statement and submit additional written evidence to the Board supporting your qualifications as a registered voter.

Precinct Election Official’s Signature __________________________ Date _______________
21.13(2) When the United States post office is closed on a Thursday that is also the deadline for receipt of absentee ballots, the county board of canvassers shall hold the canvass on the Friday after the election, no earlier than 1 p.m.

This rule is intended to implement Iowa Code sections 47.1, 47.4 and 50.24.

[ARC 0266C, IAB 8/8/12, effective 9/12/12]

721—21.14(53) Intelligent Mail barcode (IMb) Tracing. A commissioner shall use Intelligent Mail barcode (IMb) Tracing (IMb Tracing) to determine when an absentee ballot has entered into the federal mail system as an alternative to a traditional postmark verification for the purposes of Iowa Code sections 9E.6 and 53.44.

21.14(1) Notice to state commissioner of elections required.
   a. Prior to a commissioner’s implementation of IMb Tracing for an election, notice must be sent to the state commissioner.
   b. A commissioner may not implement or discontinue the use of IMb Tracing while an election is open once absentee ballots have been mailed pursuant to Iowa Code section 53.8.
   c. The state commissioner may issue a waiver to paragraph 21.14(1) “b” if a commissioner’s ability to use IMb Tracing is impacted by issues beyond the commissioner’s control.

21.14(2) Determining the eligibility of IMb-marked absentee ballots. An absentee ballot shall be counted once it is determined that the absentee ballot arrived in the federal mail system by the deadline specified in Iowa Code sections 9E.6 and 53.44. The absentee ballot’s entry into the federal mail system may be verified either by a postmark or by information obtained through IMb Tracing. For absentee ballots received after election day, but before the official canvass:
   a. If the postmark or IMb Tracing information indicates that an absentee ballot was received by the deadline specified in Iowa Code sections 9E.6 and 53.44, the ballot shall be included for canvass by the absentee and special voters precinct board (board).
   b. If the postmark is illegible, missing, or dated on or after election day, the commissioner shall attempt to verify the absentee ballot’s entry into the federal mail system by using the IMb Tracing information for the ballot. The commissioner shall provide all of the materials to the board.
   c. If there is a date discrepancy between the postmark and the IMb, the earlier of the two shall determine whether or not the absentee ballot can be counted.
   d. If neither the postmark nor the IMb indicate that the absentee ballot entered the federal mail system by the deadline specified in Iowa Code sections 9E.6 and 53.44, the absentee ballot shall not be counted.
   e. The information provided by the commissioner to the board must contain the numeric value assigned to the IMb barcode and a full report from the United States Postal Service.
   f. An board member from each political party for partisan elections or two members from the board for nonpartisan elections shall review the IMb Tracing information provided by the commissioner and shall certify the information by initializing the envelope and report.
   g. If the board concludes that the IMb Tracing information verifies that the absentee ballot entered the federal mail system by the deadline specified in Iowa Code sections 9E.6 and 53.44, the absentee ballot shall be counted.

21.14(3) Report to the state commissioner. A commissioner who makes use of IMb Tracing shall file a report with the state commissioner for each general election no later than the first day of December following each general election. The report shall be on a form prescribed by the state commissioner.

This rule is intended to implement Iowa Code sections 9E.6, 53.17A and 53.44.

[ARC 2663C, IAB 8/3/16, effective 8/1/16; ARC 6063C, IAB 12/1/21, effective 1/5/22]

721—21.15(49) Proof of residence or identification after casting provisional ballot. If a voter casts a provisional ballot pursuant to Iowa Code section 49.81 or 2017 Iowa Acts, House File 516, section 27, the voter must offer the required proof of residency or identification to vote in the polling place before the polls close on election day, or to the commissioner’s office in order for the ballot to be counted. The proof must be received by the commissioner not later than 12 noon on the Monday following the election, or if the law authorizing the election specifies that the supervisors canvass the votes earlier than
the Monday following the election, the proof must be received by the commissioner before the canvass for that election by the board of supervisors.

This rule is intended to implement 2017 Iowa Acts, House File 516, section 27, and Iowa Code section 49.81 as amended by 2017 Iowa Acts, House File 516.

[ARC 3447C, IAB 11/8/17, effective 12/31/17]

721—21.16 to 21.19 Reserved.

721—21.20(62) Election contest costs. In determining the amount of the bond for election contests, the commissioner shall consider the following aspects of the cost of the election contest proceedings:

1. Fees as provided in Iowa Code section 62.22.
2. Fees for judges as provided in Iowa Code section 62.23.
3. The cost of making an official record of the proceedings.

721—21.21(62) Limitations. The amount of the bond shall not include costs not directly related to the contest court proceedings. Specifically, the amount of the bond shall not be intended to replace any potential lost income to the county caused by the delay in implementing the decision of the voters at the election being contested.


721—21.22(49) Photocopied ballot procedures. If it is necessary for ballots to be photocopied pursuant to Iowa Code section 49.67, the commissioner shall use the “Request for Additional Ballots” form posted on the state commissioner’s website to record the request and resolution thereof. The commissioner shall complete the form, including the reason additional ballots are needed; who made the request for additional ballots and what time the request was made; the number of additional ballots produced; the manner of production of the additional ballots, including location of production; and the commissioner’s signature.

This rule is intended to implement Iowa Code section 49.67.

[ARC 9989B, IAB 2/8/12, effective 1/17/12]


721—21.25(50) Administrative recounts. When the commissioner suspects that voting equipment used in the election malfunctioned or that programming errors may have affected the outcome of the election, the commissioner may request an administrative recount after the day of the election but not later than three days after the canvass of votes. The request shall be made in writing to the board of supervisors explaining the nature of the problem and listing the precincts to be recounted and which offices and questions shall be included in the administrative recount. The board of supervisors shall respond as soon as possible after receipt of the commissioner’s request.

The recount shall be conducted by members of the absentee and special voters precinct board following the provisions of Iowa Code sections 50.48 and 50.49 and 721—Chapter 26. The commissioner may use different memory cards for the recount and shall retain the information on the memory cards used in the election pursuant to 721—subrule 22.51(13). The commissioner may also use different election definition files if the commissioner believes the original election definition files were flawed. If the commissioner uses different election definition files for the recount, the commissioner shall also retain the election definition files for the election as required by 721—subrule 22.51(14).

This rule is intended to implement Iowa Code section 50.50.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 1831C, IAB 1/21/15, effective 2/25/15]

721—21.26 to 21.29 Reserved.

721—21.30(49) Inclusion of annexed territory in city redistricting plans. If a city has annexed territory after January 1 of a year ending in zero and before the completion of the redrawing
of precinct and ward boundaries during a year ending in one, the city shall include the annexed land in precincts drawn pursuant to Iowa Code sections 49.3 and 49.5.

21.30(1) When the city council draws precinct and ward boundaries, if any, the city shall use the population of the annexed territory as certified by the city to the state treasurer pursuant to Iowa Code section 312.3(4).

21.30(2) When the board of supervisors, or the temporary county redistricting commission, draws precinct and county supervisor district boundaries, if any, it shall subtract from the population of the adjacent unincorporated area the population of the annexed territory as certified by the city to the state treasurer pursuant to Iowa Code section 312.3(4).

21.30(3) The use of population figures for reprecincting or redistricting shall not affect the official population of the city or the county. Only the U.S. Bureau of the Census may adjust the official population figures, by corrections or by conducting special censuses. See Iowa Code section 9F.6.

This rule is intended to implement Iowa Code sections 49.3 and 49.5.

721—21.31(275) School director district maximum allowable deviation between director districts. Each director district shall have a population that exceeds the population of any other director district by no more than 10 percent. Director district plans with variations in excess of 10 percent between two or more districts shall be accompanied by justification for the deviation and shall be rejected by the secretary of state unless the deviation is necessary to comply with one of the other standards enumerated in Iowa Code section 275.23A.

This rule is intended to implement Iowa Code section 275.23A.

[ARC 9559B, IAB 6/15/11, effective 5/23/11; ARC 9891B, IAB 11/30/11, effective 1/4/12]

721—21.32(372) City ward maximum allowable deviation between city wards. Each city ward shall have a population that exceeds the population of any other city ward by no more than 10 percent. City ward plans with variations in excess of 10 percent between two or more wards shall be accompanied by justification for the deviation and shall be rejected by the secretary of state unless the deviation is necessary to comply with one of the other standards enumerated in Iowa Code section 372.13, subsection 7.

This rule is intended to implement Iowa Code section 372.13.

[ARC 9559B, IAB 6/15/11, effective 5/23/11; ARC 9891B, IAB 11/30/11, effective 1/4/12]

721—21.33(49) Redistricting special election blackout period. A special election shall not be held on the three Tuesdays preceding and following January 15 of years ending in the number two.

This rule is intended to implement Iowa Code chapter 49.

[ARC 9893B, IAB 11/30/11, effective 11/9/11]

721—21.34 to 21.49 Reserved.

721—21.50(49) Polling place accessibility standards.

21.50(1) Inspection required. Before any building may be designated for use as a polling place, the county commissioner of elections or the commissioner’s designee shall inspect the building to determine whether it is accessible to persons with disabilities.

21.50(2) Frequency of inspection. Polling places that have been inspected using the Polling Place Accessibility Survey Form prescribed in subrule 21.50(4) shall be reinspected if structural changes are made to the building or if the location of the polling place inside the building is changed.

21.50(3) Review of accessibility. Not less than 90 days before each primary election, the commissioner shall determine whether each polling place needs to be reinspected.

21.50(4) Standards for determining polling place accessibility. The survey form available on the state commissioner’s website titled “Polling Place Accessibility Survey” shall be used to evaluate polling places for accessibility to persons with disabilities.

The term “off-street parking” used in the polling place accessibility survey means parking places in lots separated from the street and includes angle parking along the street if the accessible route from the
parking place to the polling place is entirely out of the path of traffic. Parking arrangements that require either the driver or passengers of the vehicle to go into the traveled part of the street are not accessible.

An access aisle at street level that is at least 60 inches wide and the same length as each accessible parking space shall be provided. An accessible public sidewalk curb ramp shall connect the access aisle to the continuous passage to the polling place. At least one parking place shall be van-accessible with a 96-inch access aisle connected to the continuous passage to the polling place by an accessible public sidewalk curb ramp. Two accessible parking spaces may share a common access aisle.

21.50(5) Temporary waiver of accessibility requirements. Notwithstanding the waiver provisions of 721—Chapter 10, if the county commissioner is unable to provide an accessible polling place for any precinct, the commissioner shall apply for a temporary waiver of accessibility requirements pursuant to this subrule. Applications shall be filed with the secretary of state not later than 60 days before the date of any scheduled election. If a waiver is granted, it shall be valid for two years from the date of approval by the secretary of state.

a. Each application shall include the following documents:
   (1) Application for Temporary Waiver of Accessibility Requirements.
   (2) A copy of the Polling Place Accessibility Survey Form for the polling place to be used.
   (3) A copy of the Polling Place Accessibility Survey Form for any other buildings that were surveyed and rejected as possible polling place sites for the precinct.

b. If an accessible place becomes available at least 30 days before an election, the commissioner shall change polling places and shall notify the secretary of state. The notice shall include a copy of the Polling Place Accessibility Survey Form for the new polling place.

21.50(6) Emergency waivers. During the 60 days preceding an election, if a polling place becomes unavailable for use due to fire, flood, or changes made to the building, or for other reasons, the commissioner must apply for an emergency waiver of accessibility requirements in order to move the polling place to an inaccessible building. Emergency waiver applications must be filed with the secretary of state as soon as possible before election day. To apply for an emergency waiver, the commissioner shall send the following documents:

a. Application for Temporary Waiver of Accessibility Requirements.

b. A copy of the Polling Place Accessibility Survey Form for the polling place selected.

c. A copy of the Polling Place Accessibility Survey Form for any other buildings that were surveyed and rejected as possible polling place sites for this precinct (if any).

21.50(7) Application form. The form posted on the state commissioner’s website titled “Temporary Waiver of Accessibility Requirements” shall be used to apply for a temporary waiver of accessibility requirements.

21.50(8) Evaluation of waivers. When the secretary of state receives waiver applications, the applications shall be reviewed carefully. A response shall be sent to the commissioner within one week by email or by fax to notify the commissioner when the waiver request was received and whether additional information is needed.

21.50(9) Granting waivers. If the secretary of state determines from the documents filed with the waiver request that conditions justify the use of a polling place that does not meet accessibility standards, the secretary of state shall grant the waiver of accessibility requirements. If the secretary of state determines from the documents filed with the waiver request that all potential polling places have been surveyed and no accessible place is available, and the available building cannot be made temporarily accessible, the waiver shall be granted.

21.50(10) Notice required. Each notice of election published pursuant to Iowa Code section 49.53 shall clearly describe which polling places are inaccessible. The notice shall include a description of the services available to persons with disabilities who live in precincts with inaccessible polling places. The notice shall be in substantially the following form:

Any voter who is physically unable to enter a polling place has the right to vote in the voter’s vehicle. For further information, please contact the county auditor’s office at the telephone number or email address listed below:

Telephone: ________________ Email address: __________________.
For TTY access, dial 711 + [auditor’s office number].

21.50(11) Denial of waiver requests. The secretary of state shall review each waiver request. The secretary of state shall consider the totality of the circumstances as shown by the information on the waiver request, information contained in previous applications for waivers for the same precinct and for other precincts in the county, and other relevant available information. The waiver request may be denied if it appears that the commissioner has not made a good-faith effort to find an accessible polling place. If the waiver request is denied, the secretary of state shall notify the commissioner in writing of the reason for denying the request.

This rule is intended to implement Iowa Code section 49.21.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 9879B, IAB 11/30/11, effective 1/4/12]

721—21.51 Reserved.

721—21.52(48A) Request for new voter identification card.

21.52(1) If a voter’s identification card is lost or damaged, the registered voter may request a new card in person at the commissioner’s office by showing identification, or by a written, signed request to the commissioner’s office. Upon receiving the request, the commissioner shall print and mail a new voter identification card.

21.52(2) If the voter appears in person but does not have the correct form of identification, the commissioner shall verify the voter’s identity by asking the voter to provide at least two of the following personal facts:

a. Date of birth;
b. Last four digits of the voter’s social security number (if the number is stored within I-Voters);
c. Driver’s license or nonoperator’s identification card number (if the number is stored within I-Voters);
d. Address;
e. Middle name;
f. Voter verification number pursuant to Iowa Code section 53.2(4).

Upon the successful verification of the voter, the commissioner shall issue a new copy of the voter identification card over the counter. If the voter is unable to respond correctly to at least two of the questions in this subrule, the commissioner shall not issue a copy of the voter identification to the voter.

This rule is intended to implement 2017 Iowa Acts, House File 516, section 18.

[ARC 3447C, IAB 11/8/17, effective 12/31/17]

721—21.53 to 21.74 Reserved.

721—21.75(49) Voting centers for certain elections. The commissioner may establish voting centers for the regular city election, city primary election, city runoff election, regular school election, and special elections.

21.75(1) Definition.

“Voting center” means a location established by the commissioner for the purpose of providing ballots to all registered voters who are qualified to vote in a particular jurisdiction for a regular city election, city primary election, city runoff election, regular school election, or special election.

21.75(2) Minimum requirements.

a. Establishment. One or more voting centers may be established in lieu of precinct polling places for the elections at which the use of voting centers is permitted. Regular polling place sites that are accessible to people with disabilities may be used as voting centers for any election at which the use of voting centers is permitted. Other suitable locations may also be used.

b. Location of voting centers. If voting centers are established for an election, at least one voting center must be located within the boundaries of the political subdivision for which the election is being conducted. At the commissioner’s discretion, additional vote centers may be established as long as the voting center is located within the boundaries of the political subdivision for which the election is being conducted.
c. **Accessibility.** A voting center is subject to the requirements of Iowa Code section 49.21 relating to accessibility to persons who are elderly and persons with disabilities and relating to the posting of signs.

21.75(3) **Hours.** Voting center hours shall be the same as permitted for an election pursuant to Iowa Code section 49.73.

21.75(4) **Publications.** The location of each voting center shall be published in the notice of election by the commissioner in the same manner as the location of polling places is required to be published. The notice of election shall also include a description of the voting center in substantially the following form:

For the _________ election to be held on [date], voting centers will be available. Any registered voter of [jurisdiction name] may vote at any of the following places in this election:

[List addresses of voting centers.]

21.75(5) **Posting notices at regular polling places on election day.** If voting centers are established in lieu of regular polling places for an election, the commissioner shall post a notice of voting center locations, not later than the hour at which the polls open on the day of the election, on each door to the usual polling place in the precinct. The notice shall remain posted until the polls have closed.

21.75(6) **I-Voters use prohibited.** The commissioner shall not provide direct access from voting centers to the I-Voters system on election day.

21.75(7) **Determining ballot rotations.** For the purposes of determining ballot rotations pursuant to Iowa Code section 49.31 in an election for which the commissioner has established voting centers, the commissioner may use either precincts established pursuant to Iowa Code sections 49.3 to 49.5 or consolidated precincts established pursuant to Iowa Code section 49.11, subsection 3, paragraph “a.” If the commissioner uses consolidated precincts established pursuant to Iowa Code section 49.11, subsection 3, paragraph “a,” the commissioner shall use the same consolidated precincts used in the last regularly scheduled election conducted for the political subdivision in which voting centers were not used.

21.75(8) **Operation of voting centers.**

a. **Election registers and voter lists.** Each voting center shall have an election register containing the names, addresses and voter statuses of all registered voters who are eligible to vote in that election. The election register may be a paper list or may be available on computers in an electronic format, rather than as an interactive connection to I-Voters.

b. **Election day registration at voting centers.** A person who needs to register to vote may register and vote at a voting center provided that the person has appropriate identification and is a resident of the jurisdiction served by the voting center.

c. **Voters reporting address changes at voting centers.** Any person who is already registered in the county and updates the person’s voter registration address at a voting center shall show identification listed in Iowa Code section 48A.8. Persons unable to provide requested identification shall be offered a provisional ballot pursuant to Iowa Code section 49.81.

d. **Ballots.** Each voting center shall have all ballot styles necessary to provide a ballot to any voter who is eligible to vote in the election for the jurisdiction served by the voting center.

e. **Precinct election officials.** Voting centers shall be administered by a minimum of three precinct election officials selected pursuant to Iowa Code sections 49.12 to 49.16. These officials shall be trained before each election and shall have specific instructions regarding the differences between voting centers and polling places.

f. **Ballot boxes used with optical scan voting equipment at voting centers.** The commissioner may instruct two precinct election officials not of the same political party to open the ballot box periodically throughout election day to ensure the ballots are stacking evenly in the ballot box to prevent a voting equipment malfunction. The precinct election officials charged with inspecting the ballot box shall ensure the ballot box is locked and secured at all times. As an alternative to this procedure, the commissioner may supply any voting center with additional ballot boxes and the precinct election officials may move...
the optical scan voting equipment to a new ballot box if necessary. All ballot boxes containing voted ballots shall be locked and secured by the precinct election officials at all times.

**21.75(9) Postelection review of voter participation.**

a. Within 45 days after the election, the commissioner shall review the signed declarations of eligibility or the signed election registers from each voting center, and if any person is found to have voted in more than one voting center in the election, the commissioner shall immediately notify the county attorney.

b. The notice to the county attorney shall include a copy of the person’s voter registration record and copies of the declarations of eligibility signed by the voter. The notice shall also include a reference to Iowa Code sections 39A.2(2) and 49.11(3) “b.”

This rule is intended to implement Iowa Code sections 49.9 and 49.11.

[ARC 8845B, IAB 8/26/09, effective 7/27/09]

**721—21.76(48A) Electronic poll book training for poll workers.** The state commissioner shall create and maintain training materials for poll workers relating to voter identification and the use of electronic poll books. The training materials shall be available from the state commissioner’s website.

This rule is intended to implement Iowa Code section 48A.7A as amended by 2017 Iowa Acts, House File 516, section 16.

[ARC 3447C, IAB 11/8/17, effective 12/31/17]

**721—21.77(49) Photographing ballots.** A voter may not use a photographic device to display a voted ballot if doing so interferes with other voters or the orderly operation of the polling location or violates any part of Iowa Code chapter 39A. The display shall only include the voter and the voter’s ballot.

“Interferes,” for purposes of this rule, means loitering, congregating, interrupting, or hindering a voter from approaching the poll booth for the purpose of voting, or while the voter is inside the enclosed voting space when marking a ballot.

This rule is intended to implement Iowa Code section 49.88 as amended by 2017 Iowa Acts, House File 516, section 38.

[ARC 3447C, IAB 11/8/17, effective 12/31/17]


**721—21.100(39A) Issuance of technical infractions.**

**21.100(1)** If the state commissioner becomes aware of an apparent technical violation of a provision of Iowa Code chapters 39 through 53, the state commissioner may administratively provide a written notice and letter of instruction to the commissioner or other responsible person regarding proper compliance procedures.

**21.100(2)** If a commissioner becomes aware of an apparent technical violation of a provision of Iowa Code chapters 39 through 53, the commissioner shall notify the state commissioner in writing for review pursuant to rule 721—21.102(49). The commissioner shall administratively provide a written notice and letter of instruction to the responsible person regarding proper compliance procedures only if the commissioner has direct supervisory authority over the responsible person.

**21.100(3)** If the state commissioner sends a notice of such a technical infraction to a commissioner, the state commissioner may require a written explanation of the occurrence and the measures that the person took to redress the issues contained within the notice.

**21.100(4)** Upon the issuance of a technical infraction to a commissioner, the state commissioner shall also impose a fine not to exceed $10,000 to be deposited in the general fund. The state commissioner shall impose the fine based on the totality of the circumstances regarding the apparent technical violation of Iowa Code chapters 39 through 53. A commissioner’s party affiliation shall not be considered when determining the amount of a fine. The state commissioner may consider the number of technical infractions previously issued to a commissioner when determining the amount of a fine. The state commissioner shall provide an explanation of the amount of the fine in the written notice and letter of instruction.
a. The commissioner shall pay a fine issued pursuant to Iowa Code section 39A.6, in full or file an appeal pursuant to Iowa Code chapter 17A within 60 days. The appeals process shall be the same process outlined in 721—Chapter 3.

b. A commissioner who fails to pay a fine in full that was not dismissed pursuant to Iowa Code chapter 17A shall be suspended from office for a period not to exceed two years pursuant to Iowa Code sections 66.7 and 66.8.

c. If a commissioner is suspended pursuant to Iowa Code section 39A.6, the state commissioner shall direct the deputy of the county commissioner to oversee the functions of the office until the suspension is revoked or the office is vacated and a successor is elected. The state commissioner may direct the state commissioner’s staff to assist in the performance of the duties of a suspended commissioner.

21.100(5) Upon issuing a technical infraction, the state commissioner shall immediately inform the attorney general and relevant county attorney if the apparent violation constitutes or may constitute election misconduct under this chapter.

This rule is intended to implement Iowa Code section 39A.6.

[ARC 6063C, IAB 12/1/21, effective 1/5/22]

721—21.101(47) State commissioner’s review of complaints. Upon receiving credible information that a commissioner may have violated a provision in Iowa Code chapters 39 through 52, the state commissioner shall require the commissioner to provide more information, or certification that the commissioner complied with the relevant law. The determination of credibility is solely at the discretion of the state commissioner. The state commissioner may require a complaining party to provide more information. The state commissioner may reject anonymous complaints without any additional inquiry. If it appears that the complaint originated from the commissioner’s office, the state commissioner shall consult with the attorney general before proceeding.

If the state commissioner determines that a commissioner has not sufficiently responded to the inquiry, the state commissioner may issue a notice of infraction pursuant to Iowa Code chapter 39A, or refer the matter to the appropriate law enforcement agency, or both.

This rule is intended to implement Iowa Code section 47.1 as amended by 2017 Iowa Acts, House File 516, section 41.

[ARC 3447C, IAB 11/8/17, effective 12/31/17]

721—21.102(49) Commissioner’s filings and notifications to state commissioner.

21.102(1) The commissioner shall certify to the state commissioner that all relevant election laws and requirements were followed as required by Iowa law. A form for the certification shall be published to the state commissioner’s website, pursuant to 2017 Iowa Acts, House File 516, section 41.

21.102(2) The commissioner shall report each suspected incidence of election misconduct to the state commissioner regardless of proximity to any election, pursuant to 2017 Iowa Acts, House File 516, section 41(4). The commissioner shall provide to the state commissioner all updates as they are received by the commissioner from law enforcement.

This rule is intended to implement 2017 Iowa Acts, House File 516, section 41.

[ARC 3447C, IAB 11/8/17, effective 12/31/17]

721—21.103(39A) Election misconduct—investigation.

21.103(1) The attorney general or county attorney shall investigate allegations of election misconduct reported to the attorney general or county attorney. Election misconduct by an election official shall also be investigated for prosecution under Iowa Code chapter 721.

21.103(2) Upon the completion of an investigation required by Iowa Code section 39A.7, the attorney general or county attorney shall submit the results of the investigation to the state commissioner in writing and explain whether the attorney general or county attorney will pursue charges. If the
attorney general or county attorney will pursue charges, the attorney general or county attorney shall report the result of the final disposition of the case to the state commissioner.

This rule is intended to implement Iowa Code section 39A.7.

[ARC 6063C, IAB 12/1/21, effective 1/5/22]


DIVISION II
BALLOT PREPARATION

721—21.200(49) Constitutional amendments and public measures.

21.200(1) The order of placement on the ballot for constitutional amendments and statewide public measures to be voted upon at a single election shall be determined by the state commissioner, and a number shall be assigned to each constitutional amendment or statewide public measure by the state commissioner.

a. The number assigned by the state commissioner to each constitutional amendment or statewide public measure to appear on the ballot for a single election shall be printed on the ballot immediately preceding and above the words “Shall the following amendment to the Constitution (or public measure) be adopted?” or the words “Shall there be a Convention to revise the Constitution, and propose amendment or amendments to same?”

b. The number assigned by the state commissioner shall be printed on the ballot at least 1/8 of an inch high in the designated place.

c. Even if only one constitutional amendment or statewide public measure is to appear on a ballot to be voted upon at a single election, an identifying number shall be assigned by the state commissioner and shall be printed on the ballot in the prescribed manner.

21.200(2) The order of placement on the ballot for each local public measure to be voted upon at a single election shall be determined by the commissioner, and a letter shall be assigned to each local public measure by the commissioner.

a. The letter assigned by the commissioner shall be printed on the ballot at least ⅛ of an inch high in the designated place.

b. Even if only one public measure is to appear on a ballot to be voted upon at a single election, an identifying letter shall be assigned by the commissioner and shall be printed on the ballot in the prescribed manner.

21.200(3) The words describing proposed constitutional amendments and statewide public measures when they appear on the ballot shall be determined by the state commissioner. The state commissioner shall select the words describing the proposed constitutional amendments and statewide public measures in the following manner:

a. Not less than 150 days prior to the election at which a proposed constitutional amendment or statewide public measure is to be voted on by the voters, the state commissioner shall prepare a proposed description to be used on the ballots in administrative rule form and shall file the proposed rules with the administrative rules coordinator for publication in the Iowa Administrative Bulletin.

b. The rules shall provide that written comments regarding the proposed description will be accepted by the state commissioner for a period of time not less than 20 days after the date of publication in the Iowa Administrative Bulletin.

c. The state commissioner shall review any written comments which have been timely received and make any changes deemed to be warranted in the description to be printed on the ballots.

This rule is intended to implement Iowa Code sections 47.1 and 49.44.

[ARC 8045B, IAB 8/26/09, effective 7/27/09]

721—21.201(44) Competing nominations by nonparty political organizations.

21.201(1) Nominations by convention and by petitions. If one or more nomination petitions are received from nonparty political organization candidates for an office for which the same organization has also nominated one candidate by convention, the candidate nominated by convention shall be
considered the nominee of the organization. The names of the other candidates shall appear on the ballot as candidates “nominated by petition,” and those candidates shall be notified in writing not later than seven days after the close of the filing period.

21.201(2) Multiple nomination petitions. If nomination petitions are received from more than one candidate from the same nonparty political organization for the same office and the organization has not nominated a candidate for the office by convention, the name of each of these candidates shall be written on a separate piece of paper, all of which shall be as nearly uniform in size and material as possible and placed in a receptacle so that the names cannot be seen. On the next working day following the close of the nomination period, all affected candidates shall be notified of the time and place of the drawing. The candidates shall be invited to attend or to send a representative. In the presence of witnesses, the state commissioner of elections or the county commissioner, as appropriate, or a designee of the state or county commissioner, shall publicly draw one of the names; and that person shall be declared to be the nominee of the nonparty political organization. The names of the other candidates shall appear on the ballot as candidates “nominated by petition.” A copy of the written record of the result of the drawing shall be kept with the nomination petition of each affected candidate, and each candidate shall be sent a copy for the candidate’s records not later than seven days after the close of the filing period.

21.201(3) Multiple nomination certificates. If more than one nomination certificate is received for the same office from groups with the same nonparty political organization name, the name of each of these candidates shall be written on a separate piece of paper, all of which shall be as nearly uniform in size and material as possible and placed in a receptacle so that the names cannot be seen. On the next working day following the close of the nomination period, all affected candidates shall be notified of the time and place of the drawing. The candidates shall be invited to attend or to send a representative. In the presence of witnesses, the state commissioner of elections or the county commissioner, as appropriate, or a designee of the state or county commissioner, shall publicly draw one of the names; and that person shall be declared to be the nominee of the nonparty political organization. The names of the other candidates, including any candidate who filed nomination petitions, shall appear on the ballot as candidates “nominated by petition.” A copy of the written record of the result of the drawing shall be kept with the nomination certificate of each affected candidate, and each candidate shall be sent a copy for the candidate’s records not later than seven days after the close of the filing period.

This rule is intended to implement Iowa Code section 44.17.

721—21.202(43,52) Form of primary election ballot. All primary election ballots shall meet the following formatting requirements:

21.202(1) Required information. In addition to other requirements listed in the Iowa Code, primary election ballots shall also include the following information:

a. The name of the election.
b. The name of the party, which shall be printed at the top of the ballot in at least 24-point type.
c. The name of the county.
d. Instructions for how to mark the ballot.


21.202(3) Office titles and order of offices. Each office printed on the ballot shall be preceded by an office title. The order of offices on the primary election ballot shall be as follows:

a. In gubernatorial election years, the order of office titles on the primary election ballot shall be listed as follows:

(1) U.S. Senator (if any).
(2) U.S. Representative, District ____.
(3) Governor.
(4) Secretary of State.
(5) Auditor of State.
(6) Treasurer of State.
(7) Secretary of Agriculture.
(8) Attorney General.
(9) State Senator, district ___ (if any).
(10) State Representative, District ___.
(11) Board of Supervisors (if plan II or plan III, then Board of Supervisors, District ___).
(12) Treasurer.
(13) Recorder.
(14) County Attorney.

b. In presidential election years, the order of office titles on the primary election ballot shall be listed as follows:
   (1) U.S. Senator (if any).
   (2) U.S. Representative, District ___.
   (3) State Senator, District ___ (if any).
   (4) State Representative, District ___.
   (5) Board of Supervisors (if plan II or plan III, then Board of Supervisors, District ___).
   (6) Auditor.
   (7) Sheriff.

c. If an office is printed on the primary election ballot followed by the words “To Fill Vacancy,” that office shall be listed after the other offices under the appropriate heading. If the office followed by the words “To Fill Vacancy” is the board of supervisors, that office shall appear after the other board of supervisors office(s).

21.202(4) Vote for number. Under each office title, the number of choices a voter may make in the race shall be printed in the following form: “Vote for no more than ___.” The number of choices the voter may make for each race is the number of individuals to be elected to the office at the general election.

21.202(5) Write-in vote targets. After the candidates’ names for each office (if any), a target shall be placed next to a line for voters to write in a nominee for the office. The number of write-in targets and lines printed under each office shall match the vote for number referenced in subrule 21.202(4). Under each write-in line, the following words shall be printed: “Write-in vote, if any.”

21.202(6) Font size. Candidates’ names shall be printed in upper and lower case letters, and the font size shall be no less than 10-point type.

21.202(7) Two-sided ballots. If a primary election ballot must be printed on two sides, the words “Turn the ballot over” shall be printed on both sides of the ballot, at the bottom.

This rule is intended to implement Iowa Code section 43.31.

[ARC 86/98B, IAB 4/21/10, effective 6/15/10; ARC 90/9B, IAB 9/8/10, effective 8/16/10; ARC 183/1C, IAB 1/21/15, effective 2/25/15]

721—21.203(49,52) Form of general election ballot. All general election ballots shall meet the following formatting requirements:

21.203(1) Required information. In addition to other requirements listed in the Iowa Code, general election ballots shall also include the following information:
   a. The name of the election.
   b. The name of the county.
   c. Instructions for how to mark the ballot, including instructions for voting on judicial retentions and constitutional amendments or public measures.
   d. Ballot location of the judges’ names and any constitutional amendment(s).


21.203(3) Office titles, order of offices and public measures. Each office printed on the ballot shall be preceded by an office title. The order of offices and public measures listed on the general election ballot shall be as follows:
   a. In gubernatorial election years, the order of office titles and public measures on the general election ballot shall be listed as follows:
      (1) U.S. Senator (if any).
      (2) U.S. Representative, District ___.
      (3) Governor and Lt. Governor.
(4) Secretary of State.
(5) Auditor of State.
(6) Treasurer of State.
(7) Secretary of Agriculture.
(8) Attorney General.
(9) State Senator, District ___ (if any).
(10) State Representative, District ___.
(11) Board of Supervisors (if plan II or plan III, then Board of Supervisors, District ___).
(12) Treasurer.
(13) Recorder.
(14) County Attorney.
(15) Township Trustee (if any).
(16) Township Clerk (if any).
(17) County Public Hospital Trustee (if any).
(18) Soil and Water Conservation District Commissioner.
(19) County Agricultural Extension Council Member.
(20) Other nonpartisan offices (if any).
(21) Supreme Court Justice (if any).
(22) Court of Appeals Judge (if any).
(23) District Court Judge (if any).
(24) District Court Associate Judge (if any).
(25) Associate Juvenile Judge (if any).
(26) Associate Probate Judge (if any).
(27) Public Measures (if any). Under the public measures heading, measures shall be listed in the following order:
1. Constitutional Amendment (if any).
2. State Public Measure (if any).
3. County Public Measure (if any).
4. City Public Measure (if any).

b. In presidential election years, the order of office titles on the general election ballot shall be listed as follows:
(1) President and Vice President.
(2) U.S. Senator (if any).
(3) U.S. Representative, District ___.
(4) State Senator, District ___ (if any).
(5) State Representative, District ___.
(6) Board of Supervisors (if plan II or plan III, then Board of Supervisors, district ___).
(7) Auditor.
(8) Sheriff.
(9) Township Trustee (if any).
(10) Township Clerk (if any).
(11) County Public Hospital Trustee (if any).
(12) Soil and Water Conservation District Commissioner.
(13) County Agricultural Extension Council Member.
(14) Other nonpartisan offices (if any).
(15) Supreme Court Justice (if any).
(16) Court of Appeals Judge (if any).
(17) District Court Judge (if any).
(18) District Court Associate Judge (if any).
(19) Associate Juvenile Judge (if any).
(20) Associate Probate Judge (if any).
(21) Public Measures (if any). Under the public measures heading, measures shall be listed in the following order:
   1. Constitutional Amendment (if any).
   2. State Public Measure (if any).
   3. County Public Measure (if any).
   4. City Public Measure (if any).
   c. If an office is printed on the general election ballot followed by the words “To Fill Vacancy,” that office shall be listed after the other offices under the appropriate heading. If the office followed by the words “To Fill Vacancy” is the board of supervisors, that office shall appear after the other board of supervisors office(s).

21.203(4) Vote for number. Under each office title, the number of choices a voter may make in the race shall be printed in the following form: “Vote for no more than ___”. The number of choices the voter may make for each race is the number of individuals to be elected to the office at the general election. Under the “President and Vice President” office title, “Vote for no more than one team” shall be printed on the ballot. Under the “Governor and Lt. Governor” office title, “Vote for no more than one team” shall be printed on the ballot.

21.203(5) Write-in vote targets. After the candidates’ names for each office (if any), a target shall be placed next to a line for voters to write in a nominee for the office. The number of write-in targets and lines printed under each office shall match the vote for number referenced in subrule 21.203(4). Under each write-in line, the following words shall be printed: “Write-in vote, if any”. For the offices of President and Vice President, there shall be one write-in target printed to the left of two write-in lines. Under the write-in lines, the commissioner shall print the following: “Write-in vote for President, if any” and “Write-in vote for Vice President, if any”. For the offices of governor and lieutenant governor, there shall be one write-in target printed to the left of two write-in lines. Under the write-in lines, the commissioner shall print the following: “Write-in vote for Governor, if any” and “Write-in vote for Lt. Governor, if any”.

21.203(6) Font size. Candidates’ names shall be printed in upper and lower case letters, and the font size shall be no less than 10-point type.

21.203(7) Two-sided ballots. If a general election ballot must be printed on two sides, the words “Turn the ballot over” shall be printed on both sides of the ballot, at the bottom.

21.203(8) Separate judicial ballot. The judicial ballot shall be separate from the rest of the ballot and shall be conspicuously distinguished by headings and lines.

This rule is intended to implement Iowa Code section 49.57A.

721—21.204(260C) Tabulating election results by school district for merged area special elections. All results for merged area special elections, including special precinct results, shall be tabulated by school district. To tabulate the special precinct results in this manner, the county commissioner may either program the voting equipment to tabulate the ballots in this manner or manually sort and tabulate the ballots by school district.

This rule is intended to implement Iowa Code chapter 260C.


DIVISION III
ABSENTEE VOTING


21.300(1) Establishment of stations. Satellite absentee voting stations may be established by a petition of eligible electors of the jurisdiction conducting the election.
Satellite absentee voting stations established after receipt of a valid petition. A petition requesting a satellite absentee voting station shall be substantially in the form titled “Petition Requesting Satellite Absentee Voting Station” available on the state commissioner’s website. If the commissioner receives a petition requesting a satellite absentee voting station on or before the petition deadline set forth in Iowa Code section 53.11, the commissioner shall determine the validity of the petition within 24 hours. A petition requesting a satellite absentee voting station is valid if it contains signatures of not less than 100 eligible electors of the county conducting the election who are eligible to vote in the election that is the subject of the petition. Electors signing the petition must include their signature, house number, street, and date the petition was signed. Signatures on lines not containing all of the required information shall not be counted. The heading on each page of the petition shall include the satellite location requested and the election name or date for which the location is requested. Signatures on petition pages without the required heading shall not be counted.

Mandatory rejection of certain satellite absentee voting stations. Otherwise valid petitions for satellite absentee voting stations shall be rejected within four days of the commissioner’s receipt of the petition if:

1. The site requested is not accessible to elderly and disabled voters,
2. The site requested has other physical limitations that make it impossible to meet the requirements for ballot security and secret voting,
3. The owner of the site refuses permission to locate the satellite absentee voting station at the site requested on the petition, unless the site is required to serve as a polling place pursuant to Iowa Code section 49.21(2), or
4. Otherwise reasonable efforts, the commissioner is unable to sufficiently staff the satellite absentee voting station to ensure compliance with the laws of this state.

Discretionary rejection of certain satellite absentee voting stations. Otherwise valid petitions for satellite absentee voting stations may be rejected within four days of the commissioner’s receipt of the petition if:

1. A petition is received requesting satellite voting for a city runoff election and a special election is scheduled to be held between the regular city election and a city runoff election, or
2. The owner of the site demands payment for its use, unless the site is required to serve as a polling place pursuant to Iowa Code section 49.21(2).

Two or more satellite absentee voting petitions. If the commissioner receives valid petitions to establish two or more satellite absentee voting stations located within the same precinct, the commissioner may choose to establish a satellite absentee voting station at only one of the locations.

Provision of ballots. Only ballots from the county in which the site is located may be provided at the satellite absentee voting station. Ballots must be provided for the precinct in which the satellite absentee voting station is located; however, it is not necessary to provide ballots from all of the precincts in the political subdivision for which the election is being conducted.

21.300(2) Notice provided. Notice shall be published at least seven days before the opening of any satellite absentee voting station. If more than one satellite absentee voting station will be provided, a single publication may be used to notify the public of their availability. If it is not possible to publish the notice at least seven days before the station opens due to the receipt of a petition, the notice shall be published as soon as possible.

A notice shall also be posted at each satellite absentee voting station at least seven days before the opening of the satellite absentee voting station. The notice shall remain posted as long as the satellite absentee voting station is scheduled for service. If it is not possible to post the notice at least seven days before the station opens due to the receipt of a petition, the notice shall be posted as soon as possible.

Both the published and posted notices shall include the following information:

a. The name and date of the election for which ballots will be available.

b. The location(s) of the satellite absentee voting station(s).

c. The dates and times that the station(s) will be open.

d. The precincts for which ballots will be available.
e. An announcement that voter registration forms will be available for new registrations in the county and that changes in the registration records of people who are currently registered within the county may be made at any time.

If the satellite absentee voting station is located in a building with more than one public entrance, brief notices of the location of the satellite absentee voting station shall be posted on building directories, bulletin boards, or doors. These notices shall be posted no later than the time the station opens and shall be removed immediately after the satellite absentee voting station has ceased operation for an election.

21.300(3) Staff. Satellite absentee voting station workers may be selected from among the staff members of the commissioner’s office, from the election board panel drawn up pursuant to Iowa Code sections 49.15 and 49.16, or a combination of these two sources. Compensation of workers selected from the election board panel shall be at the rate provided in Iowa Code section 49.20.

At least three people shall be assigned to work at each satellite absentee voting station; more workers may be added at the commissioner’s discretion. All workers must be registered voters of the county, and for primary and general elections the workers must be registered with a political party; however, workers not affiliated with any party may be assigned to work at a satellite absentee voting station as long as not more than one-third of the workers assigned to a particular satellite absentee voting station are not affiliated with a political party. For all elections, no more than a simple majority of the workers shall be members of the same political party.

People who are prohibited from working at the polls pursuant to Iowa Code section 49.16 may not work at satellite absentee voting stations.

21.300(4) Oath required. Before the first day of service at a satellite absentee voting station, each worker shall take an oath substantially in the form titled “Election Official/Clerk Oath” available on the state commissioner’s website. The oath must be taken before each election.

21.300(5) Suggested supplies for each satellite absentee voting station. A list of supplies suggested for each satellite absentee voting station is available on the state commissioner’s website.

21.300(6) Ballot transport and storage. At the commissioner’s discretion the ballots may be transported between the commissioner’s office and the satellite absentee voting station by the workers who will be on duty that day, or by two people of different political parties who have been designated as couriers by the commissioner. It is not necessary for the same people to transport the ballots in both directions.

If the ballots are transported by the satellite absentee voting station workers, two workers who are members of different political parties and the ballots must travel together in the same vehicle.

Ballots may be stored at the satellite absentee voting station during hours when the station is closed only if they are kept in a locked cabinet or container. The cabinet must be located in a room which is kept locked when not in use. Voted absentee ballots must be delivered to the commissioner’s office at least once each week.

21.300(7) Ballot receipts. Satellite absentee voting station workers shall sign receipts for the ballots taken to the satellite absentee voting site. The receipt shall be substantially in the form titled “Satellite Absentee Voting Station Ballot Record and Receipt” available on the state commissioner’s website. A copy of the ballot record and receipt shall be retained in the commissioner’s office. The original shall be sent with the ballots to the satellite absentee voting station.

21.300(8) Arrangement of the satellite absentee voting station. Protection of the security of the ballots (both voted and unvoted) and the secrecy of each person’s vote shall be considered in the arranging of the satellite absentee voting station.

a. Security. The satellite absentee voting station shall be arranged so that ballots are protected against removal from the station by unauthorized persons.

b. Voting area. Voting booths without curtains shall be placed so that passersby and other voters may not walk directly behind a person using the booth. At least one voting booth must be accessible to the disabled. The booth must be designed to accommodate a person seated in a chair or wheelchair. A chair must be provided for voters who wish to sit down while voting or waiting in line.

c. Campaign signs and electioneering. No signs supporting or opposing any candidate or question on the ballot shall be posted on the premises of or within 300 feet of any outside door of any building
affording access to a satellite absentee voting station during the hours when absentee ballots are available at the satellite absentee voting station. No electioneering shall be allowed within the sight or hearing of voters while they are at the satellite absentee voting station.

21.300(9) Operation of the satellite absentee voting station. At all times the satellite absentee voting station shall have at least two workers present to preserve the security of the ballots, both voted and unvoted.

21.300(10) Voter registration at the satellite absentee voting station. Each satellite absentee voting station shall provide forms necessary to register voters, including the oaths necessary to process voters registering pursuant to Iowa Code section 48A.7A, and to record changes in voter registration records. Workers shall also be provided with a method of verifying whether people applying for absentee ballots are registered voters.

The commissioner may provide a list of registered voters in the precincts served by the station. The list may be on paper or contained in a computerized data file. As an alternative, the commissioner may provide a computer connection with the commissioner’s office.

21.300(11) Procedure for issuing absentee ballot. The instructions for absentee voting are available on the state commissioner’s website and shall be provided to satellite absentee voting station workers unless the commissioner prepares instructions containing substantially the same information as the instructions available on the state commissioner’s website.

21.300(12) Closing a station. The instructions for closing a satellite absentee voting station are available on the state commissioner’s website and shall be provided to satellite absentee voting station workers unless the commissioner prepares instructions containing substantially the same information as the instructions available on the state commissioner’s website.

21.300(13) Use of I-Voters at satellite absentee voting stations.

a. The statewide voter registration database (I-Voters) shall not be used or accessed at a satellite absentee voting station.

b. This rule does not prevent the use of an electronic poll book to process voters at a satellite absentee voting station if the electronic poll book does not connect to or access the statewide voter registration database (I-Voters).

21.300(14) Provisional voting at satellite absentee voting stations. If it is necessary for a voter to cast a provisional ballot at a satellite absentee voting station, the voter shall receive the same ballot style as the majority of the voters would receive in the precinct in which the satellite absentee voting station is located.

This rule is intended to implement Iowa Code section 53.11.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 9139B, IAB 10/6/10, effective 9/16/10; ARC 9989B, IAB 2/8/12, effective 1/17/12; ARC 6063C, IAB 12/1/21, effective 1/5/22; ARC 6404C, IAB 7/13/22, effective 8/17/22]
b. The commissioner shall set aside the absentee ballot of a voter whose status is changed to “inactive” pursuant to Iowa Code section 48A.26, subsection 6, after the voter has submitted the voter’s absentee ballot.

c. Pursuant to Iowa Code section 53.31, the commissioner shall notify any voter assigned an “inactive” status subsequent to requesting or returning an absentee ballot that the voter’s absentee ballot has been challenged and may be counted only if the voter personally delivers or mails a copy of the voter’s identification and proof of residence as listed in Iowa Code section 48A.8 to the commissioner’s office before the absentee and special voters precinct board convenes to count absentee ballots, or reconvenes to consider challenged absentee ballots pursuant to Iowa Code section 50.22, if the commissioner does not receive a copy of the voter’s identification before the absentee and special voters precinct board reconvenes to consider challenged absentee ballots pursuant to Iowa Code section 50.22, the absentee and special voters precinct board shall reject the absentee ballot.

This rule is intended to implement Iowa Code sections 48A.26, 48A.29, 48A.37 and 53.25.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 9989B, IAB 2/8/12, effective 1/17/12; ARC 1831C, IAB 1/21/15, effective 2/25/15; ARC 3447C, IAB 11/8/17, effective 12/31/17]

721—21.302(48A) In-person absentee registration. After the close of voter registration for an election, a person who appears in person to apply for and vote an absentee ballot may register to vote if the person provides proof of identity and residence in the precinct in which the voter intends to vote using identification that meets the requirements set forth in Iowa Code section 48A.7A. The voter must also complete an oath of person registering on election day. If the voter does not have appropriate identification, the voter may establish identity and residence using the attestation procedure in Iowa Code section 48A.7A, subsection 1, paragraph “c.” Otherwise, the person may cast only a provisional ballot pursuant to Iowa Code section 49.81. Provisional ballot envelopes shall be used.

This rule is intended to implement Iowa Code section 48A.7A.

[ARC 8045B, IAB 8/26/09, effective 7/27/09]

721—21.303(53) Mailing absentee ballots. The commissioner shall mail the following materials to each person who has requested an absentee ballot:

1. Ballot. The ballot that corresponds to the voter’s residence, as indicated by the residential address on the absentee ballot application.

2. Public measure text. The full text of any public measures that are summarized on the ballot, but not printed in full.

3. Secrecy envelope. Secrecy envelope, if the ballot cannot be folded to cover all of the voting ovals, as required by Iowa Code section 53.8(1).

4. Affidavit envelope. The affidavit envelope, which shall be marked with the I-Voters-assigned sequence number used to identify the absentee request in the commissioner’s records.

5. Return envelope. The return envelope, which shall be addressed to the commissioner’s office and bear appropriate return postage or a postal permit guaranteeing that the commissioner will pay the return postage and which shall be marked with the I-Voters-assigned sequence number used to identify the absentee request in the commissioner’s records. All domestic return envelope flaps or backs shall also be printed or stamped with a notice in substantially the following form: “This ballot will only be eligible for counting if it is received by the auditor’s office before the polls close on election day. Mail the ballot early to make sure it is received on time. Track the status of your absentee ballot at www.sos.iowa.gov.”

6. Delivery envelope. The delivery envelope, which shall be addressed to the voter and bear the I-Voters-assigned sequence number used to identify the absentee request in the commissioner’s records. All other materials shall be enclosed in the delivery envelope.

7. Instructions. Absentee voting instructions, which shall be in the form required by rule 721—22.250(52).
8. Receipt. The receipt form required by Iowa Code section 53.3, which may be printed on the instructions required by numbered paragraph “7” above.

This rule is intended to implement Iowa Code sections 53.8 and 53.17.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 0107C, IAB 4/18/12, effective 3/30/12; ARC 6063C, IAB 12/1/21, effective 1/5/22]

721—21.304(53) Absentee ballot requests from voters whose registration records are “pending.” A voter who requests an absentee ballot and is assigned a status of “pending” must provide identification pursuant to Iowa Code section 48A.8.

21.304(1) In-person applicants. In-person applicants for absentee ballots assigned a status of “pending” must show identification pursuant to Iowa Code section 48A.8 before casting a ballot. If an in-person applicant provides identification as required by Iowa Code section 48A.8 when casting an absentee ballot in person, the commissioner shall assign the voter’s registration record a status of “active” and provide the voter with an absentee ballot. Voters who are unable to provide identification as required by Iowa Code section 48A.8 shall be offered a provisional ballot pursuant to Iowa Code section 49.81.

21.304(2) By-mail applicants. By-mail applicants for absentee ballots assigned a status of “pending” must either come to the commissioner’s office and show identification pursuant to Iowa Code section 48A.8 or mail a photocopy of identification pursuant to Iowa Code section 48A.8 before the voter’s absentee ballot can be counted by the absentee and special voters precinct board. The commissioner shall mail the voter a notice informing the voter of the requirement to provide one of the identification documents listed in Iowa Code section 48A.8 before the voter’s absentee ballot can be considered for counting by the absentee and special voters precinct board. If a by-mail applicant provides identification as required by Iowa Code section 48A.8, the commissioner shall assign the voter’s registration record a status of “active.”

21.304(3) By-mail absentee voters assigned a status of “pending” who do not provide identification prior to election day. The ballot of a by-mail absentee voter assigned a status of “pending” who has not shown identification in person at the commissioner’s office or provided a photocopy of identification by mail pursuant to Iowa Code section 48A.8 shall be challenged by a member of the absentee and special voters precinct board on election day pursuant to Iowa Code section 53.31. The absentee and special voters precinct board shall immediately mail notice of the challenge to the voter. The notice shall include the deadline for the voter to provide identification pursuant to Iowa Code section 48A.8. If the voter provides identification pursuant to Iowa Code section 48A.8 prior to the time the absentee and special voters precinct board reconvenes to consider challenged absentee ballots pursuant to Iowa Code section 50.22, the voter’s ballot shall be considered for counting by the absentee and special voters precinct board. If the voter does not provide identification pursuant to Iowa Code section 48A.8 prior to the time the absentee and special voters precinct board reconvenes to consider challenged absentee ballots pursuant to Iowa Code section 50.22, the voter’s absentee ballot shall be rejected by the absentee and special voters precinct board. The voter shall be notified of the reason for rejection pursuant to Iowa Code section 53.25.

This rule is intended to implement Iowa Code sections 48A.8, 53.25 and 53.31.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 1831C, IAB 1/21/15, effective 2/25/15]

721—21.305(53) Confirming commissioner’s receipt of an absentee ballot on election day. If a voter’s name is on the absentee list prepared pursuant to Iowa Code sections 49.72 and 53.19 and the voter appears at the polling place to vote on election day, the precinct election officials may contact the commissioner’s office to confirm whether the commissioner has received the voter’s absentee ballot. If the precinct election officials are able to confirm either that the commissioner has not received the voter’s absentee ballot or that the voter’s absentee ballot has been received but cannot be counted due to a defective or incomplete affidavit, the precinct election officials shall permit the voter to cast a regular ballot at the polling place.

After confirming that a voter’s absentee ballot has not been received or that a voter’s absentee ballot has been received but cannot be counted due to a defective or incomplete affidavit, the commissioner shall
mark the voter’s absentee ballot as “Void” in the statewide voter registration system. The commissioner shall enter “Voted at polls” in the comment box that appears when the ballot is marked as “Void.”

If a voter’s absentee ballot is returned to the commissioner’s office after being marked as “Void” pursuant to this rule, the absentee ballot shall be rejected by the absentee and special voters precinct board pursuant to Iowa Code section 53.25 because the voter cast a ballot in person at the polling place.

This rule is intended to implement Iowa Code sections 49.72, 49.81 and 53.19.

[ARC 8779B, IAB 6/2/10, effective 7/1/10; ARC 1831C, IAB 1/21/15, effective 2/25/15]

721—21.306(53) Incomplete absentee ballot applications. If the commissioner receives an absentee ballot request lacking any of the information required by 2017 Iowa Acts, House File 516, section 6(4)(a), the commissioner shall obtain the necessary information by the best means available pursuant to 2017 Iowa Acts, House File 516, section 6(4)(a). “Best means available,” for the purposes of this rule, means contacting the voter directly by mail, email, or telephone or in person. Commissioners may not use the voter registration system to obtain the information.

21.306(1) If the voter does not have current access to the voter identification card, the commissioner shall verify the voter’s identity by asking the voter to provide at least two of the following facts about the voter:

   a. Date of birth;
   b. Last four digits of the voter’s social security number (if the number is stored within I-Voters);
   c. Driver’s license or nonoperator’s identification card number (if the number is stored within I-Voters);
   d. Address;
   e. Middle name;
   f. Voter verification number pursuant to Iowa Code section 53.2(4).

21.306(2) If an unregistered person offering to vote an absentee ballot pursuant to Iowa Code section 53.10 or 53.11 prior to the pre-registration deadline does not have an Iowa-issued driver’s license, a nonoperator’s identification card, or a voter identification card, the person may satisfy residence and identity requirements in the manner described by 2017 Iowa Acts, House File 516, section 27. This section shall also apply to a registered voter casting a ballot pursuant to Iowa Code section 53.10 or 53.11 who has not yet received a voter verification number.

21.306(3) This provision shall not apply to the absence of a preferred political party ballot for primaries held pursuant to Iowa Code section 53.2(5).

This rule is intended to implement Iowa Code section 53.2 as amended by 2017 Iowa Acts, House File 516, section 6.

[ARC 3447C, IAB 11/8/17, effective 12/31/17]


21.307(1) Video surveillance footage retention. Video surveillance footage recorded pursuant to Iowa Code section 53.17(1) “e”(4) shall be maintained for a period of 22 months for elections in which a federal office appears on the ballot, and for 6 months for all other elections, or until there are no more pending contests or criminal actions, whichever is later.

21.307(2) Absentee ballot retrieval. Materials delivered to the ballot drop box shall be retrieved in an expeditious manner, but no less often than four times per day on days in which voters may deposit a voted ballot in the ballot drop box. The ballot drop box does not need to be checked on days in which voters are unable to deposit materials into the drop box.

21.307(3) Notice to voters regarding drop box availability. If a county is providing a ballot drop box for an election, the county shall include information regarding the ballot drop box’s availability, on a form prescribed by the state commissioner, with materials mailed to voters pursuant to Iowa Code section 53.8.

This rule is intended to implement Iowa Code section 53.17.

[ARC 6063C, IAB 12/1/21, effective 1/5/22]

721—21.320(53) Absentee voting by UOCAVA voters. This rule applies only to absentee voting by persons who are entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) and Iowa Code chapter 53, division II, “Absent Voting by Armed Forces.”

21.320(1) Definitions. The following definitions apply to this rule:

“Armed forces,” as used in this rule, is defined in Iowa Code section 53.37(3).

“FPCA” means the federal postcard absentee ballot application and voter registration form authorized for use in Iowa by Iowa Code section 53.38.

“UOCAVA voter” means any person who is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) and Iowa Code chapter 53, division II, “Absent Voting by Armed Forces.”

21.320(2) Requests for absentee ballots. All requests for absentee ballots shall be made in writing. Additional requirements for requesting absentee ballots and for processing the requests are set forth below.

a. Forms. UOCAVA voters may use the following official forms to request absentee ballots:

1. A federal postcard absentee ballot application and voter registration form (FPCA).
2. A state of Iowa official absentee ballot request form.
3. For general elections only, a proxy absentee ballot application prescribed by the state commissioner of elections and submitted pursuant to Iowa Code Supplement section 53.40(1) “b.”

b. Form not required. UOCAVA voters may request absentee ballots in writing without using an official form. The written request shall be honored if it includes all of the following information about the voter:

1. Name.
2. Age or date of birth.
3. Iowa residence, including street address (if any) and city.
4. Address to which the ballot shall be sent.
5. Township of residence, if applicable.
6. County of residence.
7. Party affiliation, if the request is for a ballot for a primary election.
8. Signature of voter.
9. Statement explaining why the voter is eligible to receive ballots under the provisions of Iowa Code chapter 53, division II. For example, “I am a U.S. citizen living in France.”

c. Methods for transmitting absentee ballot requests. UOCAVA voters may transmit absentee ballot requests by any of the following methods:

1. Mail.
2. Personal delivery by the voter or a person designated by the voter.
3. Facsimile machine.
4. Scanned application form or letter transmitted by email. Requests by email that do not include an image of the voter’s written signature as defined by Iowa Code section 39.3, subsection 17, shall not be accepted.

d. Original request not needed. If the request is sent by email or by fax, it is not necessary for the UOCAVA voter to send to the commissioner the original copy of the FPCA or other official form or written request for an absentee ballot.

e. Multiple requests from the same person. Before the ballot is ready to mail, if the commissioner receives more than one request for an absentee ballot for a particular election (or series of elections) by or on behalf of a UOCAVA voter, the last request received shall be the one honored. However, if one of the requests is for a general election ballot and is made using the proxy absentee ballot application process permitted by Iowa Code Supplement section 53.40(1) “b,” the request received from the voter shall be the one honored, not the proxy request.

f. Subsequent request after ballot has been sent. Not more than one ballot shall be transmitted by the commissioner to any UOCAVA voter for a particular election unless, after the ballot has been mailed or transmitted electronically pursuant to rule 721—21.320(53), the voter reports a change in the
address, email address or fax number to which the ballot should be sent. The commissioner shall void the original absentee ballot request and include a comment in the voter’s registration record, noting the I-Voters-sequence number of the original ballot and noting that a replacement ballot was sent to an updated address. If the original ballot is returned voted, it shall be counted only if the replacement ballot does not arrive before the deadline for receiving absentee ballots set forth in Iowa Code section 53.17.

g. Requests for absentee ballots through the end of the calendar year. Iowa Code section 53.40 permits UOCAV voters to request the commissioner to send absentee ballots for all elections as permitted by state law. In response to an absentee ballot request in which the UOCAV voter requests ballots for all elections, the commissioner shall send the applicant a ballot for each election held after the request is received through the end of the calendar year in which the request is received. If the applicant does not request ballots for all elections or does not specify which elections the request is for, the commissioner shall send the applicant a ballot only for federal elections through the end of the calendar year in which the request is received.

(1) When an absentee ballot for a UOCAV voter is returned as undeliverable by the United States Postal Service or an email server or a fax cannot be transmitted to the number provided by the voter, the commissioner shall do the following:

1. Verify that the commissioner’s office sent the absentee ballot to the address, email address or fax number requested by the UOCAV voter. If the absentee ballot was sent incorrectly, the commissioner shall correct the error and immediately transmit a new absentee ballot.

2. If the absentee ballot was sent to the correct mailing address, email address or fax number, the commissioner shall email the voter if the commissioner has an email address on file to inform the voter that the voter’s ballot was returned undeliverable, and the commissioner must be provided with a new FPCA containing a new mailing address if the voter wishes to continue to receive absentee ballots.

3. If the absentee ballot was sent to the correct mailing address, email address or fax number, the commissioner shall also attempt to contact the voter by sending a forwardable notice to both the voter’s residential address and the voter’s absentee mailing address informing the voter that the voter’s ballot was returned undeliverable, and the commissioner must be provided with a new FPCA containing a new mailing address, email address or fax number if the voter wishes to continue to receive absentee ballots.

4. If the absentee ballot was mailed, emailed or sent to the correct address or fax number, the commissioner shall terminate the voter’s current FPCA request and shall not send the voter any further ballots unless a new absentee ballot request is received from the voter.

(2) If the voter provides a new FPCA with a new mailing address, email address or fax number before election day, the commissioner shall enter a new absentee request on the voter’s registration record and transmit the ballot via the method requested by the voter. The voter may request that the commissioner transmit the ballot electronically pursuant to subrule 21.320(3).

21.320(3) Electronic transmission of absentee ballots to UOCAV voters.

a. Electronic transmission of absentee ballots by facsimile machine or by email is limited to UOCAV voters who specifically ask for this service. A UOCAV voter who asks for electronic transmission of an absentee ballot may request this service for all elections for which the person is qualified to vote or for specific elections either individually or for a specific period of time. The commissioner may employ FVAP’s secure transmission program to facilitate electronic transmission of absentee ballots to UOCAV voters.

b. Forms. The state commissioner shall provide the following forms and instructions for the electronic transmission of absentee ballots to UOCAV voters:

(1) Instructions to the county commissioners of elections for providing this service.

(2) Instructions to the voter for marking and returning the ballot.

(3) The envelope affidavit form, which can be printed by the voter on an envelope and used for the voter’s declaration of eligibility and voter registration application, if necessary.

(4) The return envelope form, which can be printed by the voter on an envelope and used to return the ballot, postage paid through the FPO/APO postal service.

21.320(4) Ballot return by electronic transmission.
a. Electronic transmission of a voted absentee ballot from the voter to the commissioner is permitted only for UOCA voters who are located in an area designated as an imminent danger pay area or for active members of the army, navy, marine corps, merchant marine, coast guard, air force or Iowa national guard who are located outside the United States or any of its territories, as provided in subrule 21.1(13). In addition, the absentee ballot may be returned via electronic transmission only if the voter waives the right to a secret ballot. In addition to signing the affidavit required by Iowa Code section 53.13, the voter shall sign a statement in substantially the following form: “I understand that by returning this ballot by electronic transmission, my voted ballot will not be secret. I hereby waive my right to a secret ballot.”

b. When an absentee ballot is received via electronic transmission, the person receiving the transmission shall examine it to determine that all pages have been received and are legible. The person receiving an electronic transmission shall not reveal how the voter voted.

c. The absentee ballot shall be sealed in an envelope marked with the voter’s name. The affidavit of the voter and the application for the ballot shall be attached to the envelope. These materials shall be stored with other returned absentee ballots.

d. The deadline for returning an absentee ballot pursuant to this subrule is the close of polls on election day, Central Standard Time.

21.320(5) Original signature for voter registration record. Voters must submit original signatures on voter registration applications unless otherwise provided by this subrule.

a. UOCA voters ineligible to return voted balloting materials electronically. UOCA voters who are not currently registered to vote in a county and are not eligible to return voted ballot materials electronically pursuant to this rule shall submit an original, signed application for voter registration. The application may be the Iowa voter registration application, the National Mail Voter Registration Form, a Federal Post Card Application, a declaration/affirmation accompanying a federal write-in absentee ballot or a signature on a voted UOCA absentee ballot affidavit. Ballots transmitted to UOCA voters who do not submit an original voter registration application shall not be counted, and the voter who requested the ballot shall be assigned a status of “Incomplete” with a status reason “No Signature” following the election for which the ballot was requested.

b. UOCA voters eligible to return voted balloting materials electronically. UOCA voters who are not currently registered to vote and are eligible to return voted ballot materials electronically pursuant to this rule shall submit a signed, scanned application for voter registration. The application may be the Iowa voter registration application, the National Mail Voter Registration Form, a Federal Post Card Application, a declaration/affirmation accompanying a federal write-in absentee ballot or a signature on a voted UOCA absentee ballot affidavit. Ballots transmitted to UOCA voters who do not submit signed, scanned voter registration applications shall not be counted, and the voter who requested the ballot shall be assigned a status of “Incomplete” with a status reason “No Signature” following the election for which the ballot was requested.

This rule is intended to implement Iowa Code sections 53.40 and 53.46.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 8777B, IAB 6/2/10, effective 5/7/10; ARC 9989B, IAB 2/8/12, effective 1/17/12; ARC 0107C, IAB 4/18/12, effective 3/30/12; ARC 1549C, IAB 7/23/14, effective 8/27/14; ARC 1831C, IAB 1/21/15, effective 2/25/15]


721—21.351(53) Receiving absentee ballots. The commissioner shall carefully account for and protect all absentee ballots returned to the office.

21.351(1) Note receipt. The commissioner shall write or file-stamp on the return carrier envelope the date that the ballot arrived in the commissioner’s office. The commissioner shall also record receipt of the ballot in I-Voters.
21.351(2) Temporary storage. If necessary, the commissioner shall immediately put the ballot into a secure container, such as a locked ballot box, until the ballots can be moved to the secure storage area.

21.351(3) Secure area. The commissioner shall deliver the ballots to a secure area where returned absentee ballots will be reviewed for completeness and defects.

[ARC 8779B, IAB 6/2/10, effective 7/1/10]


21.352(1) Personnel. The commissioner may assign staff members to complete the review of returned envelopes marked with affidavits. Only persons who have been trained for this responsibility shall be authorized to review envelopes marked with affidavits.

21.352(2) Review of envelopes marked with affidavits. The envelopes marked with affidavits of all absentee ballots returned to the commissioner’s office shall be reviewed, including those returned by the bipartisan team delivering absentee ballots to health care facilities, such as hospitals and nursing homes. If a reviewer finds that any absentee affidavits returned from any health care facility are incomplete or defective, the commissioner shall send the bipartisan delivery team back to assist voters as needed with completing affidavits or to deliver any replacement ballots.

21.352(3) Instructions. Each reviewer shall receive instructions in substantially the form prepared by the state commissioner of elections. The instructions shall provide basic security and procedural guidance and include a method for accounting for all returned absentee ballots. The prohibitions shall include:

a. Leaving unsecured ballots unattended.

b. Altering any information on any affidavit.

c. Adding any information to any affidavit, except as specifically required to comply with the requirements of the law.

d. Sealing any envelope marked with the affidavit that is found open.

e. Discarding any return carrier envelopes, ballots, or envelopes marked with affidavits that are returned by voters.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 8779B, IAB 6/2/10, effective 7/1/10; ARC 1549C, IAB 7/23/14, effective 8/27/14]

721—21.353(53) Opening the return carrier envelopes that are not marked with voters’ affidavits. If the commissioner is using return carrier envelopes that are not marked with voters’ affidavits, the commissioner may direct a staff member to open the return carrier envelopes either manually or with an automatic letter opener, if one is available. Only a trained reviewer may remove the contents of the return carrier envelope. The return carrier envelopes opened and emptied pursuant to this rule shall be stored for 22 months for federal elections and 6 months for local elections in a manner that will facilitate retrieval, if necessary.

[ARC 1549C, IAB 7/23/14, effective 8/27/14]


21.354(1) Examination of envelope marked with affidavit. The reviewer shall make sure that:

a. The envelope marked with the affidavit is sealed, apparently with the ballot inside.

b. The envelope marked with the affidavit has not been opened and resealed.

c. The affidavit includes the voter’s signature.

21.354(2) No defects or incomplete information. If the reviewer finds that the affidavit is signed and that there are no defects that would cause the absentee and special voters precinct board to reject the ballot, the reviewer shall put the envelope marked with the affidavit into a group of envelopes to be retained in the secure storage area with other ballots that require no further attention until they are delivered to the absentee and special voters precinct board.

21.354(3) Defective and incomplete affidavits. The commissioner shall contact the voter if the reviewer finds any of the following flaws in the affidavit or envelope marked with the affidavit:

a. The commissioner shall contact the voter immediately if the envelope marked with the affidavit is defective. An envelope marked with the affidavit is defective if:

(1) The absentee ballot is not enclosed in the envelope marked with the affidavit.
(2) The envelope marked with the affidavit is not sealed.
(3) The envelope marked with the affidavit has been opened and resealed.
(4) The voter submits a change of address in a new precinct after returning a voted absentee ballot.
   b. The commissioner shall contact the voter within 24 hours if the affidavit is not signed.
   c. If an envelope marked with the affidavit has flaws that are included in both paragraphs “a” and “b,” the commissioner shall follow the process in paragraph “a.”

21.354(4) Defective and incomplete affidavits stored separately. The commissioner shall store the defective and incomplete envelopes marked with affidavits separately from other returned absentee ballot envelopes marked with affidavits.
   a. Incomplete envelopes marked with affidavits requiring voter correction must be available for retrieval when the voter comes to make corrections.
   b. Defective envelopes marked with affidavits must be attached to the replacement ballot (if any) for review by the absentee and special voters precinct board.

721—21.355(53) Notice to voter. When the commissioner finds an incomplete absentee ballot affidavit or finds a defective envelope marked with the affidavit, the commissioner shall notify the voter in writing and, if possible, by telephone and by email. The commissioner shall keep a separate checklist for each voter showing the reasons for which the voter was contacted and the methods used to contact the voter.

21.355(1) Notice to voter—Incomplete ballot affidavit. Within 24 hours after receipt of an absentee ballot with an incomplete affidavit, the commissioner shall send a notice to the voter at the address where the voter is registered to vote, as well as to the address where the ballot was sent, if it is a different address. The notice shall include:
   a. Explanation that the voter’s absentee ballot affidavit is missing the voter’s signature.
   b. The voter’s options for completing the affidavit as follows:
      (1) Completing the affidavit at the commissioner’s office by 5 p.m. the day before the election;
      (2) Requesting a replacement ballot pursuant to Iowa Code section 53.18; or
      (3) Voting at the polls on election day.
   c. Address of commissioner’s office, business hours and contact information.

21.355(2) Notice to voter—Defective ballot affidavit. Immediately after determining that an absentee ballot envelope marked with the affidavit is defective, the commissioner shall send a notice to the voter at the address where the voter is registered to vote, as well as to the address where the ballot was sent, if it is a different address. The notice shall include the following information:
   a. Reason for defect.
   b. The voter’s options for correcting the defect as follows:
      (1) The voter may request a replacement ballot;
      (2) The voter may vote at the polls on election day; or
      (3) In the event an absentee ballot becomes defective because a voter reregisters to vote in a new precinct or county after casting an absentee ballot, the voter may correct the defect by reregistering to vote in the precinct in which the absentee ballot was cast, provided the voter can still claim residence for voter registration purposes in the precinct in which the absentee ballot was cast pursuant to Iowa Code sections 48A.5 and 48A.5A. If a voter reregisters after the voter registration deadline listed in Iowa Code section 48A.9 for a particular election, the voter shall be required to follow election day registration procedures as set forth in Iowa Code section 48A.7A, subsection 3.
   c. Process for requesting a replacement ballot.
   d. Address of commissioner’s office, business hours and contact information.

21.355(3) Telephone contact. If the voter has provided a telephone number, either on the absentee ballot application or on the voter’s registration record, the commissioner shall also attempt to contact the voter by telephone. The commissioner shall keep a written record of the telephone conversation. The written record shall include the following information:
   a. Name of the person making the call.
   b. Date and time of the call.
c. Whether the person making the call spoke to the voter.

21.355(4) Email contact. If the voter has provided an email address, either on the absentee ballot application or on the voter’s registration record, the commissioner shall also attempt to contact the voter by email. The email message shall be the same message that was mailed to the voter. A copy of the email message shall be attached to the checklist.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 8779B, IAB 6/2/10, effective 7/1/10; ARC 9989B, IAB 2/8/12, effective 1/17/12; ARC 1540C, IAB 7/23/14, effective 8/27/14]

Rules 721—21.351(53) through 721—21.355(53) are intended to implement Iowa Code sections 53.18 and 53.25 as amended by 2014 Iowa Acts, House File 2366, division II.


721—21.359(53) Processing absentee ballots before election day. The commissioner may only direct the absentee and special voters precinct board to open envelopes marked with affidavits on the Monday before election day under the following circumstances:

For any election, only if the commissioner has provided secrecy envelopes (or folders) pursuant to subrule 21.359(1) and the commissioner determines removing secrecy envelopes from envelopes marked with affidavits is necessary due to the quantity of voted absentee ballots received as set forth in Iowa Code section 53.23, subsection 3, paragraph “a.”

For general elections, if the commissioner convenes the absentee and special voters precinct board pursuant to Iowa Code section 53.23, subsection 3, paragraph “c.” to begin tabulation of absentee ballots. 21.359(1) The secrecy envelope shall completely cover the ballot. The envelope shall have the following message printed on it using at least 24-point type:

Secrecy Envelope
After you vote, put your ballot in here.

21.359(2) When the absentee and special voters precinct board convenes to begin processing absentee ballots, the board shall first review voters’ affidavits to determine which ballots will be accepted for counting and prepare the notices to those voters whose ballots have been rejected for the reasons set forth in Iowa Code section 53.25. Envelopes marked with affidavits containing ballots that are rejected shall be stored in the manner prescribed by Iowa Code section 53.26. The applications submitted for rejected ballots shall be stored in a secure location for the time period required by Iowa Code section 50.19.

21.359(3) Envelopes marked with affidavits containing ballots that have been accepted for counting by the absentee and special voters precinct board shall be stacked with the affidavits facing down. The envelopes shall be opened and the secrecy envelope containing the ballot shall be removed.

21.359(4) If a voter has not enclosed the ballot in a secrecy envelope and the ballot has not been folded in a manner that conceals all votes marked on the ballot, the officials shall put the ballot in a secrecy envelope without examining the ballot.

21.359(5) The following security procedures shall be followed:

a. The process shall be witnessed by observers appointed by the county chairperson of each of the political parties referred to in Iowa Code section 49.13, subsection 2. If, after receiving notice from the commissioner pursuant to Iowa Code section 53.23, subsection 3, paragraph “a,” any of the political parties fail to appoint observers, the commissioner may continue with the proceedings.

b. No ballots shall be counted or examined before election day except as provided in Iowa Code section 53.23, subsection 3, paragraph “c.”

c. When secrecy envelopes are removed from envelopes marked with affidavits on the day before an election and not tabulated as permitted by Iowa Code section 53.23, subsection 3, paragraph “c,” the number of secrecy envelopes shall be recorded before the ballots are stored and the number shall be
verified before any ballots are removed from the secrecy envelopes on election day. The ballots may be bundled and sealed in groups of a specified number to make counting easier.

This rule is intended to implement Iowa Code section 53.23 as amended by 2014 Iowa Acts, House File 2366, division II.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 8779B, IAB 6/2/10, effective 7/1/10; ARC 1549C, IAB 7/23/14, effective 8/27/14; ARC 3447C, IAB 11/8/17, effective 12/31/17]


721—21.361(53) Rejection of absentee ballot. The absentee and special voters precinct board shall reject absentee ballots without opening the envelope marked with the affidavit if any of the conditions cited in Iowa Code section 53.25 exist.

21.361(1) An absentee ballot shall be rejected if the affidavit lacks the voter’s signature.

21.361(2) An absentee ballot shall be rejected if the applicant is not a duly registered voter in the precinct in which the ballot is cast. “Precinct” means a precinct established pursuant to Iowa Code sections 49.3 through 49.5 or a consolidated precinct established by the commissioner pursuant to Iowa Code section 49.11, subsection 3, paragraph “a.”

21.361(3) An absentee ballot shall be rejected if the envelope marked with the affidavit is open.

21.361(4) An absentee ballot shall be rejected if the envelope marked with the affidavit has been opened and resealed.

21.361(5) An absentee ballot shall be rejected if the envelope marked with the affidavit contains more than one ballot of any kind.

21.361(6) An absentee ballot shall be rejected if the voter has voted in person at the polls.

This rule is intended to implement Iowa Code section 49.9 and section 53.25 as amended by 2014 Iowa Acts, House File 2366, division II.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 1549C, IAB 7/23/14, effective 8/27/14]


721—21.370(53) Training for absentee ballot couriers. Rescinded IAB 8/1/07, effective 7/1/07.


721—21.373(53) Registration of absentee ballot couriers. Rescinded IAB 8/1/07, effective 7/1/07.

721—21.374(53) County commissioner’s duties. Rescinded IAB 8/1/07, effective 7/1/07.

721—21.375(53) Absentee ballot courier training. Rescinded IAB 8/1/07, effective 7/1/07.


DIVISION IV
INSTRUCTIONS FOR SPECIFIC ELECTIONS

721—21.400(376) Signature requirements for certain cities. This rule applies to cities which have all of the following characteristics:

1. Nomination procedures under Iowa Code section 376.3 are used. (This includes cities with primary or runoff election provisions. It does not include cities with nominations under Iowa Code chapter 44 or 45.)

2. Some or all council members are voted upon by the electors of wards, rather than by the electors of the entire city.
3. Ward boundaries have been changed since the last regular city election at which the ward seat was on the ballot.
4. The number of wards has not changed.
Calculation of the number of signatures for ward seats shall use the vote totals from the wards as the wards were configured at the time of the last regular city election at which the ward seat was on the ballot.

This rule is intended to implement Iowa Code section 376.4.

721—21.401(376) Signature requirements in cities with primary or runoff election provisions. In cities using the provisions of Iowa Code section 376.4 for nomination of candidates and in which more than one council member was elected at-large at the last preceding regular city election, the number of signatures shall be calculated by the following formula:

\[ V = \frac{V}{E \times 0.02} \]

\[ = \text{number of signatures needed by each candidate in the next regular city election.} \]

This rule is intended to implement Iowa Code section 376.4.

721—21.402(372) Filing deadline for charter commission appointment petition. If a special election has been called by a city to present to the voters the question of adopting a different form of city government, receipt by the city council of a petition requesting appointment of a charter commission shall stay the special election if the petition is received no later than 5 p.m. on the Friday preceding the date of the special election.

This rule is intended to implement Iowa Code section 372.3.

721—21.403(372) Special elections to fill vacancies in elective city offices for cities that may be required to conduct primary elections.

21.403(1) Notice to the commissioner. At least 60 days before the proposed date of the special election, the city council shall give written notice to the commissioner who will be responsible for conducting the special election.

a. If the commissioner finds no conflict with other previously scheduled elections, or with other limitations on the dates of special elections, the commissioner shall immediately notify the council that the date has been approved.

b. No special city elections to fill vacancies for cities that may be required to conduct primary elections shall be held with the general election, with the primary election, or with the annual school election. To do so would be contrary to the provisions of Iowa Code section 39.2.

21.403(2) Election calendar. The election calendar shall be adjusted as follows:

a. The deadline for candidates to file nomination papers with the county commissioner shall be not later than 5 p.m. on the fifty-third day before the election.

b. A candidate who has filed nomination papers for the special election may withdraw by filing a written notice of withdrawal in the office of the county commissioner not later than 5 p.m. on the fiftieth day before the election.

c. A person who would have the right to vote for the office in question may file a written objection to the legal sufficiency of a candidate’s nomination papers or to the qualifications of the candidate for this special election with the county commissioner not later than 12 noon on the fiftieth day before the election.

d. The hearing on the objection must be held within 24 hours of receipt of the objection.

This rule is intended to implement Iowa Code section 372.13(2).

[ARC 1549C, IAB 7/23/14, effective 8/27/14; ARC 1831C, IAB 1/21/15, effective 2/25/15]
721—21.404(372) Special elections to fill vacancies in elective city offices for cities without primary election requirements. This rule applies to cities that have adopted by ordinance one of the following options: nominations under Iowa Code chapter 44 or chapter 45, or a runoff election requirement if no candidate in the special election receives a majority of the votes cast.

21.404(1) Notice to the commissioner. At least 32 days before the proposed date of the special election, the city council shall give written notice to the commissioner who will be responsible for conducting the special election. If the commissioner finds no conflict with other previously scheduled elections, or with other limitations on the dates of special elections, the commissioner shall immediately notify the council that the date has been approved.

21.404(2) Special elections to fill vacancies held in conjunction with the general election. If the proposed date of the special election coincides with the date of the general election, the council shall give notice of the proposed date of the special city election not later than 76 days before the date of the general election. Candidates shall file nomination papers with the county commissioner not later than 5 p.m. on the sixty-ninth day before the general election. Objection and withdrawal deadlines shall be 64 days before the general election. Hearings on objections shall be held as soon as possible in order to facilitate printing of the general election ballot.

21.404(3) Election calendar. If the special election date is not the same as the date of the general election, the election calendar shall be adjusted as follows:

a. The deadline for candidates to file nomination papers with the county commissioner shall be not later than 5 p.m. on the twenty-fifth day before the election.

b. A candidate who has filed nomination papers for the special election may withdraw by filing a written notice of withdrawal in the office of the county commissioner not later than 5 p.m. on the twenty-second day before the election.

c. A person who would have the right to vote for the office in question may file a written objection to the legal sufficiency of a candidate’s nomination papers or to the qualifications of the candidate for this special election with the county commissioner not later than 12 noon on the twenty-second day before the election.

d. The hearing on the objection must be held within 24 hours of receipt of the objection.

This rule is intended to implement Iowa Code section 372.13(2).

[ARC 1549C, IAB 7/23/14, effective 8/27/14; ARC 1831C, IAB 1/21/15, effective 2/25/15]

721—21.405(69) Special elections to fill a vacancy in the office of representative in Congress. This rule establishes the special election calendar in the event a vacancy occurs in the office of representative in Congress that must be filled by special election pursuant to Iowa Code section 69.14.

21.405(1) Notice of election. The governor shall provide not less than 76 days’ notice of a special election to fill a vacancy in the office of representative in Congress.

21.405(2) Political party convention deadline. A political party candidate to be voted on at a special election to fill a vacancy in the office of representative in Congress shall be nominated by a convention duly called by the district central committee not less than 62 days prior to the date set for the special election.

21.405(3) Candidate filing deadline. Nominations made pursuant to Iowa Code chapter 43, 44 or 45 shall be filed in the office of the state commissioner not later than 5 p.m. on the sixty-second day prior to the date set for the special election.

21.405(4) Candidate certification deadline. Names of candidates nominated for the special election shall be certified at the earliest practicable time to the appropriate commissionersons of election as required by Iowa Code section 43.88.

21.405(5) Candidate objection deadline. Written objections to the legal sufficiency of a nomination petition filed pursuant to Iowa Code chapter 45 or a certificate of nomination filed pursuant to Iowa Code chapter 43 or 44 shall be in writing and shall be filed with the state commissioner no later than 5 p.m. on the sixtieth day prior to the election.

21.405(6) Candidate withdrawal deadline. A person who has filed nomination papers with the state commissioner as a candidate for a special election to fill a vacancy in the office of representative in
Congress may withdraw by filing a written notice of withdrawal with the state commissioner no later than 5 p.m. on the sixtieth day prior to the election.

[ARC 0109C, IAB 5/2/12, effective 4/6/12]


721—21.500(277) Signature requirements for school director candidates. The number of signatures required to be filed by candidates for the office of director in the regular school election shall be calculated from the number of registered voters in the district on May 1 of the year in which the election will be held. If May 1 falls on a day when the commissioner’s office is closed for business, the commissioner shall use the number of registered voters in the district on the next day that the commissioner’s office is open for business to determine the number of required signatures. Candidates who are seeking election in districts with election plans as specified in Iowa Code section 275.12(2)”b” and “c,” where the candidate must reside in a specific director district, but is voted upon by all of the electors of the school district, shall be required to file a number of signatures calculated from the number of registered voters in the whole school district. Candidates who will be voted upon only by the electors of a director district shall be required to file a number of signatures calculated from the number of registered voters in the director district in which the candidate resides and seeks to represent.

If a special election is to be held to fill a vacancy on the school board, the number of registered voters on the date the commissioner receives notice of the special election shall be used to calculate the number of signatures required for the special election.

This rule is intended to implement Iowa Code sections 277.4 and 279.7.

[ARC 9466B, IAB 4/20/11, effective 3/31/11]


721—21.600(43) Primary election signatures—plan three supervisor candidates. Rescinded IAB 11/30/11, effective 1/4/12.

721—21.601(43) Plan III supervisor district candidate signatures after a change in the number of supervisors or method of election. After the number of supervisors has been increased or decreased pursuant to Iowa Code section 331.203 or 331.204 or the method of electing supervisors has been changed from plan I or plan II to plan III since the last general election, the signatures for candidates at the next primary and general elections shall be calculated as follows:

21.601(1) Primary election. Divide the total number of party votes cast in the county at the previous general election for the office of president or for governor, as applicable, by the number of supervisor districts and multiply the quotient by .02. If the result of the calculation is less than 100, the result shall be the minimum number of signatures required. If the result of the calculation is greater than or equal to 100, the minimum requirement shall be 100 signatures.

21.601(2) Nominations by petition. If the effective date of the change in the number of districts or method of election was later than the date specified in Iowa Code section 45.1(6), divide the total number of registered voters in the county on the date specified in Iowa Code section 45.1(6) by the number of supervisor districts and multiply the quotient by .01. If the result of the calculation is less than 150, the result shall be the minimum number of signatures required. If the result of the calculation is greater than or equal to 150, the minimum requirement shall be 150 signatures.

This rule is intended to implement Iowa Code chapters 43 and 45.

[ARC 9989B, IAB 2/8/12, effective 1/17/12]


721—21.800(423B) Local sales and services tax elections.
21.800(1) Petitions requesting imposition, rate change, use change, or repeal of local sales and services taxes shall be filed with the county board of supervisors.

a. Each person signing the petition shall include the person’s address (including street number, if any) and the date that the person signed the petition.

b. Within 30 days after receipt of the petition, the supervisors shall provide written notice to the county commissioner of elections directing that an election be held to present to the voters of the entire county the question of imposition, rate change, use change, or repeal of a local sales and services tax. In the notice the supervisors shall include the date of the election.

c. The election shall be held on the first possible special election date for counties set forth in Iowa Code section 39.2, subsection 4, paragraph “a,” but no sooner than 84 days after the date upon which notice is given to the commissioner.

21.800(2) As an alternative to the method of initiating a local option tax election described in subrule 21.800(1), governing bodies of cities and the county may initiate a local option tax election by filing motions with the county auditor pursuant to Iowa Code section 423B.1, subsection 4, paragraph “b,” requesting submission of a local option tax imposition, rate change, use change, or repeal to the qualified electors. Within 30 days of receiving a sufficient number of motions, the county commissioner shall notify affected jurisdictions of the local option tax election date. The election shall be held on the first possible special election date for counties set forth in Iowa Code section 39.2, subsection 4, paragraph “a,” but no sooner than 84 days after the date upon which the commissioner received the motion triggering the election.

21.800(3) Notice of local sales and services tax election.

a. Not less than 60 days before the date that a local sales and services tax election will be held, the county commissioner of elections shall publish notice of the ballot proposition. The notice does not need to include sample ballots, but shall include all of the information that will appear on the ballot for each city and for the voters in the unincorporated areas of the county.

b. The city councils and the supervisors shall provide to the county commissioner the following information to be included in the notice and on the ballots for imposition elections:

(1) The rate of the tax.

(2) The date the tax will be imposed (which shall be the next implementation date provided in Iowa Code section 423B.6 following the date of the election and at least 90 days after the date of the election, except that an election to impose a local option tax on a date immediately following the scheduled repeal date of an existing similar tax may be held at any time that otherwise complies with the requirements of Iowa Code chapter 423B). The imposition date shall be uniform in all areas of the county voting on the tax at the same election.

(3) The approximate amount of local option tax revenues that will be used for property tax relief in the jurisdiction.

(4) A statement of the specific purposes other than property tax relief for which revenues will be expended in the jurisdiction.

c. The information to be included in the notice shall be provided to the commissioner by the city councils of each city in the county not later than 67 days before the date of the election. If a jurisdiction fails to provide the information in subparagraphs 21.800(3)“b”(1), 21.800(3)“b”(3), and 21.800(3)“b”(4) above, the following information shall be substituted in the notice and on the ballot:

(1) One percent (1%) for the rate of the tax.

(2) Zero percent (0%) for property tax relief.

(3) The specific purpose for which the revenues will otherwise be expended is: Any lawful purpose of the city (or county).

d. The notice of election provided for in Iowa Code section 49.53 shall also be published at the time and in the manner specified in that section.

This rule is intended to implement Iowa Code section 423B.1.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 1831C, IAB 1/21/15, effective 2/25/15]
721—21.801(423B) Form of ballot for local option tax elections. If questions pertaining to more than one of the authorized local option taxes are submitted at a single election, all of the public measures shall be printed on the same ballot. The form of ballots to be used throughout the state of Iowa for the purpose of submitting questions pertaining to local option taxes shall be as follows:

21.801(1) Local sales and services tax propositions. Sales and services tax propositions shall be submitted to the voters of an entire county. If the election is being held for the voters to decide whether to impose the tax in a county where a local option sales and services tax has previously been approved for part of the county, the question of imposition shall be voted upon in all parts of the county where the tax has not been approved. If the election is being held for the voters to decide whether to repeal the tax in a county where a local option sales and services tax has previously been approved for part of the county, the question of repeal shall be voted upon in all parts of the county where the tax was previously imposed. If the election is being held for the voters to decide whether to change the rate or use of the tax in a county where a local option sales and services tax has previously been approved for part of the county, the question of rate or use change shall be voted upon in all parts of the county where the tax was previously imposed.

The ballot submitted to the voters of each incorporated area and the unincorporated area of the county shall show the intended uses for that jurisdiction. The ballot submitted to the voters in contiguous cities within a county shall show the intended uses and repeal dates, if not uniform, for each of the contiguous cities. The ballots shall be in substantially the following form:

a. Imposition question for voters in a single city or the unincorporated area of the county:

   (Insert letter to be assigned by the commissioner)

   SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED?     YES □

   NO □

   Summary: To authorize imposition of a local sales and services tax in the [city of _________] [unincorporated area of the county of _________], at the rate of ______ percent (_____%) to be effective on _____________ (month and day), ______ (year).

   (Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

   A local sales and services tax shall be imposed in the [city of _________] [unincorporated area of the county of _________] at the rate of ______ percent (_____%) to be effective on _____________ (month and day), ______ (year).

   Revenues from the sales and services tax shall be allocated as follows:
   (Choose one or more of the following):
   [___________ for property tax relief (insert percentage or dollar amount)]
   [___________ for property tax relief (insert percentage or dollar amount) in the unincorporated area of the county of _________]
   [___________ for property tax relief (insert percentage or dollar amount) in the county of _________]

   The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):
   (List specific purpose or purposes)

b. Imposition question for voters in contiguous cities:
SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES □ NO □

Summary: To authorize imposition of a local sales and services tax in the cities of ____________, ____________, ____________, (list additional cities, if applicable) at the rate of ____ percent (____ %) to be effective on _____________ (month and day), _______ (year).

A local sales and services tax shall be imposed in the cities of ____________, ____________, ____________, (list additional cities, if applicable) at the rate of ____ percent (____ %) to be effective on _____________ (month and day), _______ (year).

Revenues from the sales and services tax are to be allocated as follows:

FOR THE CITY OF ______________________________________________________________________:

_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF ______________________________________________________________________:

_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF ______________________________________________________________________:

_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

c. Imposition question with an automatic repeal date for voters in a single city or the unincorporated area of the county:

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES □ NO □

Summary: To authorize imposition of a local sales and services tax in the [city of ____________] [unincorporated area of the county of ____________], at the rate of ____ percent (____ %) to be effective from _____________ (month and day), _______ (year), until _____________ (month and day), _______ (year).
A local sales and services tax shall be imposed in the [city of ___________] [unincorporated area of the county of ___________] at the rate of ________ percent (______%) to be effective from __________ (month and day), ______ (year), until __________ (month and day), ______ (year).

Revenues from the sales and services tax shall be allocated as follows:

(Choose one or more of the following:)

[__________ for property tax relief (insert percentage or dollar amount)]
[__________ for property tax relief (insert percentage or dollar amount) in the unincorporated area of the county of ____________]
[__________ for property tax relief (insert percentage or dollar amount) in the county of ____________]

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

d. Imposition question with an automatic repeal date for voters in contiguous cities:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES □ NO □

Summary: To authorize imposition of a local sales and services tax in the cities of __________, __________, __________, (list additional cities, if applicable) at the rate of ______% (____%), if applicable) at the rate of ______ percent (______%) to be effective from __________ (month and day), ______ (year), until __________ (month and day), ______ (year).

Revenues from the sales and services tax are to be allocated as follows:

FOR THE CITY OF ________________________________:

[__________ for property tax relief (insert percentage or dollar amount)]

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF ________________________________:

[__________ for property tax relief (insert percentage or dollar amount)]
The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF ________________________:

_____________ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

e. Repeal question for voters in a single city or the unincorporated area of the county:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES □ NO □

Summary: To authorize repeal of the ___ percent (___%) local sales and services tax in the [city of ____________] [unincorporated area of the county of ___________] effective ____________ (month and day), ____ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

The _____ percent (_____%) local sales and services tax shall be repealed in the [city of ____________] [unincorporated area of the county of ___________] effective ____________ (month and day), ____ (year).

Revenues from the sales and services tax have been allocated as follows:
(Choose one or more of the following:)
[____________ for property tax relief (insert percentage or dollar amount)]
[____________ for property tax relief (insert percentage or dollar amount) in the unincorporated area of the county of ____________]
[____________ for property tax relief (insert percentage or dollar amount) in the county of ____________]

The specific purpose (or purposes) for which the revenues were otherwise expended was (were):

(List specific purpose or purposes)

f. Repeal question for voters in contiguous cities:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES □ NO □

Summary: To authorize repeal of the ___ percent (___%) local sales and services tax in the cities of ____________, ____________, ____________, (list additional cities, if applicable) effective ____________ (month and day), ____ (year).
(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

The _____ percent (_____%) local sales and services tax shall be repealed in the cities of ____________, ____________, ____________, (list additional cities, if applicable) effective ____________ (month and day), _____ (year).

Revenues from the sales and services tax have been allocated as follows:

FOR THE CITY OF ________________________________:

_________________ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues were otherwise expended was (were):

(List specific purpose or purposes)

FOR THE CITY OF ________________________________:

_________________ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues were otherwise expended was (were):

(List specific purpose or purposes)

FOR THE CITY OF ________________________________:

_________________ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues were otherwise expended was (were):

(List specific purpose or purposes)

g. Rate change question for voters in a single city or the unincorporated area of the county:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED?  YES □  NO □

Summary: To authorize an increase (or decrease) in the rate of the local sales and services tax to _____ percent (_____%) in the [city of _____________] [unincorporated area of the county of _____________] effective ____________ (month and day), _____ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

The rate of the local sales and services tax shall be increased (or decreased) to _____ percent (_____%) in the [city of _____________] [unincorporated area of the county of _____________] effective ____________ (month and day), _____ (year).

The current rate is _____ percent (_____%).

Revenues from the sales and services tax are allocated as follows:

(Choose one or more of the following):

[________________ for property tax relief (insert percentage or dollar amount)]
[___________ for property tax relief (insert percentage or dollar amount) in the unincorporated area of the county of ________________]
[___________ for property tax relief (insert percentage or dollar amount) in the county of ________________]

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

h. Rate change question for voters in contiguous cities:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED?  YES □  NO □

Summary: To authorize an increase (or decrease) in the rate of the local sales and services tax to _____ percent (_____ %) in the cities of ________________, ________________, ________________, (list additional cities, if applicable) effective ____________ (month and day), ____________ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

The rate of the local sales and services tax shall be increased (or decreased) to _____ percent (_____ %) in the cities of ________________, ________________, ________________, (list additional cities, if applicable) effective ____________ (month and day), ____________ (year).

Revenues from the sales and services tax are allocated as follows:

FOR THE CITY OF ________________________________:

[___________ for property tax relief (insert percentage or dollar amount)]

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF ________________________________:

[___________ for property tax relief (insert percentage or dollar amount)]

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF ________________________________:

[___________ for property tax relief (insert percentage or dollar amount)]

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

i. Use change question for voters in a single city or the unincorporated area of the county:

(Insert letter to be assigned by the commissioner)
SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES □ NO □

Summary: To authorize a change in the use of the _____ percent (____%) local sales and services tax in the [city of ____________] [unincorporated area of the county of ____________] effective ____________ (month and day), _____ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

The use of the _____ percent (____%) local sales and services tax shall be changed in the [city of ____________] [unincorporated area of the county of ____________] effective ____________ (month and day), _____ (year).

PROPOSED USES OF THE TAX:

If the change is approved, revenues from the sales and services tax shall be allocated as follows:

(Choose one or more of the following:)
- [__________ for property tax relief (insert percentage or dollar amount)]
- [__________ for property tax relief (insert percentage or dollar amount) in the unincorporated area of the county of ____________]
- [__________ for property tax relief (insert percentage or dollar amount) in the county of ____________]

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

CURRENT USES OF THE TAX:

Revenues from the sales and services tax are currently allocated as follows:

(Choose one or more of the following:)
- [__________ for property tax relief (insert percentage or dollar amount)]
- [__________ for property tax relief (insert percentage or dollar amount) in the unincorporated area of the county of ____________]
- [__________ for property tax relief (insert percentage or dollar amount) in the county of ____________]

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

j. Use change question for voters in contiguous cities:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES □ NO □
Summary: To authorize a change in the use of the _____ percent (_____%) local sales and services tax in the cities of __________, __________, __________, (list additional cities, if applicable) effective _____________ (month and day), _____ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

The use of the _____ percent (_____%) local sales and services tax shall be changed in the cities of __________, __________, __________, (list additional cities, if applicable) effective _____________ (month and day), _____ (year).

PROPOSED USES OF THE TAX:

If the change is approved, revenues from the sales and services tax are to be allocated as follows:

FOR THE CITY OF ______________________________________________________________________:

____________________________________________ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF ______________________________________________________________________:

__________________________ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF ______________________________________________________________________:

__________________________ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

CURRENT USES OF THE TAX:

FOR THE CITY OF ______________________________________________________________________:

____________________________________________ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF ______________________________________________________________________:

____________________________________________ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF ______________________________________________________________________:

____________________________________________ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)
The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

k. Imposition question with differing automatic repeal dates for voters in contiguous cities:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES □ NO □

Summary: To authorize imposition of a local sales and services tax in the cities of __________________, __________________, __________________, (list additional cities, if applicable) at the rate of __________ percent (_____%) to be effective from _____________ (month/day/year) until automatic repeal date specified.

A local sales and services tax shall be imposed in the following cities at the rate of __________ percent (_____%) to be effective from _____________ (month/day/year) until the date specified below and the revenues from the sales and services tax are to be allocated as follows:

FOR THE CITY OF ________________________________:
The tax shall be repealed on _____________ (month/day/year).
__________ for property tax relief (insert percentage or dollar amount)
The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

FOR THE CITY OF ________________________________:
The tax shall be repealed on _____________ (month/day/year).
__________ for property tax relief (insert percentage or dollar amount)
The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

FOR THE CITY OF ________________________________:
The tax shall be repealed on _____________ (month/day/year).
__________ for property tax relief (insert percentage or dollar amount)
The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

21.801(2) For a local vehicle tax:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES □ NO □

Summary: To authorize the county of (insert name of county) to impose a local vehicle tax at the rate of __________ dollars ($_____) per vehicle and to exempt the following classes from the tax:

The revenues are to be expended as set forth in the text of the public measure.
(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using optical scan ballots which are read by automatic tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

The county of ____________, Iowa shall be authorized to impose a local vehicle tax at the rate of ________ dollars ($______) per vehicle and to exempt the following classes of vehicles from the tax:

______________

_________ (insert percentage or dollar amount) of the revenues is/are to be used for property tax relief.
The balance of the revenues is to be expended for:
(List purposes for which remaining revenues will be used)

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 1831C, IAB 1/21/15, effective 2/25/15]

721—21.802(423B) Local vehicle tax elections.

21.802(1) Petitions requesting imposition of local vehicle taxes shall be filed with the county board of supervisors.

a. Each person signing the petition shall add the person’s address (including street number, if any) and the date that the person signed the petition.

b. Within 30 days after receipt of the petition, the supervisors shall provide written notice to the county commissioner of elections directing that an election be held to present to the voters of the entire county the question of imposition of a local vehicle tax. In the notice the supervisors shall include the date of the election.

c. The election shall be held on the first possible special election date for counties set forth in Iowa Code section 39.2, subsection 4, paragraph “c,” but no sooner than 84 days after the date upon which notice is given to the commissioner.

21.802(2) Notice of local vehicle tax election. Not less than 60 days before the date that a local vehicle tax election will be held, the county commissioner of elections shall publish notice of the ballot proposition. The notice does not need to include a sample ballot, but shall include all of the information that will appear on the ballot. The notice of election provided for in Iowa Code section 49.53 shall also be published at the time and in the manner specified in that section.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 1831C, IAB 1/21/15, effective 2/25/15]

721—21.803(423F) Revenue purpose statement ballots. When a school district wishes to adopt, amend or extend the revenue purpose statement specifying the uses of the funds received from the secure an advanced vision for education fund, which is also referred to as the “penny sales and services tax for schools,” the following ballot formats shall be used.

21.803(1) Ballot to propose a revenue purpose statement. The ballot for an election to propose a revenue purpose statement specifying the use of funds received from the secure an advanced vision for education fund shall be in substantially the following form:

(Insert letter to be assigned by the commissioner.)

Shall the following public measure be adopted?

- [ ] YES
- [ ] NO
Summary: To adopt a revenue purpose statement specifying the use of money from the penny sales and services tax for schools received by School District.

In the School District, the following revenue purpose statement, which specifies the use of the penny sales and services tax for schools (sales and services tax funds from the secure an advanced vision for education fund for school infrastructure) shall be adopted:

(Insert here the revenue purpose statement that was adopted by the school board and that states the intended uses of the funds by the school district. The use or uses must be among the approved uses of the tax that are authorized by Iowa Code chapter 423F.)

21.803(2) Ballot to amend a revenue purpose statement. The ballot for an election to decide a change in the revenue purpose statement specifying the use of funds received from the secure an advanced vision for education fund shall be in substantially the following form:

(Insert letter to be assigned by the commissioner.)

Shall the following public measure be adopted?

☐ YES
☐ NO

Summary: To authorize a change in the use of money from the penny sales and services tax for schools received by School District.

In the School District, the revenue purpose statement, which specifies the use of the penny sales and services tax for schools (sales and services tax funds from the secure an advanced vision for education fund for school infrastructure) shall be changed.

Proposed uses. If the change is approved, the revenue purpose statement shall read as follows:

(Insert here the revenue purpose statement that was adopted by the school board and that states the intended uses of the funds by the school district. The use or uses must be among the approved uses of the tax that are authorized by Iowa Code chapter 423F.)

Current uses. If the change is not approved, the funds shall continue to be used as follows:

(Insert here the current revenue purpose statement or list the current voter-approved uses of the funds by the school district, if the school infrastructure local option tax was adopted before the revenue purpose statement was required.)

21.803(3) Ballot to extend a revenue purpose statement. The ballot for an election to extend a revenue purpose statement specifying the use of funds received from the secure an advanced vision for education fund shall be in substantially the following form:

(Insert letter to be assigned by the commissioner.)

Shall the following public measure be adopted?

☐ YES
☐ NO

Summary: To authorize School District to continue to spend money from the penny sales and services tax for schools for the previously approved uses until (specify date or insert amended date).

School District is authorized to extend the current revenue purpose statement which specifies use of the penny sales and services tax for schools (sales and services tax funds from the secure an advanced vision for education fund for school infrastructure) received from (date) until (specify date or insert amended date). If an extension is not approved, the current revenue purpose statement will expire on (date). If an extension is approved, the revenue purpose statement will read as follows:
(Insert here the revenue purpose statement, including the new expiration date. If there is not a predicted expiration date, the ballot language must state that the revenue purpose statement will remain in effect until it is changed.)

This rule is intended to implement Iowa Code section 423F.3.

[ARC 1831C, IAB 1/21/15, effective 2/25/15]

721—21.804(423B) Local option sales and services tax elections in qualified counties.

21.804(1) For purposes of this rule, “qualified county” means a county with a population in excess of 400,000, a county with a population of at least 130,000 but not more than 131,000, or a county with a population of at least 60,000 but not more than 70,000, according to the 2010 federal decennial census. The treatment of contiguous cities as one incorporated area for the purpose of determining whether a majority of those voting favors imposition does not apply to elections on the question of imposition of a local sales and services tax in all or a portion of a county that is a qualified county if the election occurs on or after January 1, 2019.

21.804(2) As an alternative to the methods of initiating a local option sales and services tax election described in rule 721—21.800(423B), the governing body of a city located in a county that is a qualified county, or the governing body of a qualified county for the unincorporated area of the qualified county, may initiate a local option sales and services tax election by filing a motion with the county commissioner of elections pursuant to Iowa Code section 423B.1(4) “b” requesting submission of a local option sales and services tax imposition, rate change, use change, or repeal to the qualified electors. Within 30 days of receiving a motion, the county commissioner shall notify affected jurisdictions of the local option sales and services tax election date. The election shall be held on the first possible special election date for counties set forth in Iowa Code section 39.2(4) “a” but no sooner than 84 days after the date upon which the commissioner received the motion triggering the election.

21.804(3) Notice of local option sales and services tax election.

a. Not less than 60 days before the date that a local option sales and services tax election will be held, the county commissioner of elections shall publish notice of the ballot proposition. The notice does not need to include sample ballots but shall include all of the information that will appear on the ballot for each city and for the voters in the unincorporated areas of the county.

b. The city councils and the county supervisors, as applicable, shall provide to the county commissioner the following information to be included in the notice and on the ballots for imposition elections:

(1) The rate of the tax.
(2) The date the tax will be imposed, which shall be the next implementation date provided in Iowa Code section 423B.6 following the date of the election and at least 90 days after the date of the election, except that an election to impose a local option sales and services tax on a date immediately following the scheduled repeal date of an existing similar tax may be held at any time that otherwise complies with the requirements of Iowa Code chapter 423B. The imposition date shall be uniform in all areas of the county voting on the tax at the same election.
(3) The approximate amount of local option sales and services tax revenues that will be used for property tax relief in the jurisdiction.
(4) A statement of the specific purposes other than property tax relief for which revenues will be expended in the jurisdiction.

c. The information to be included in the notice shall be provided to the county commissioner of elections by the governing body of the city or the county for the unincorporated area of the county, as applicable, not later than 67 days before the date of the election. If a jurisdiction fails to provide the information in subparagraphs 21.804(3) “b”(1), 21.804(3) “b”(3), and 21.804(3) “b”(4), the following information shall be substituted in the notice and on the ballot:

(1) One percent (1%) for the rate of the tax.
(2) Fifty percent (50%) for property tax relief.
(3) The specific purpose for which the revenues will otherwise be expended is: Any lawful purpose of the city (or county).
d. The notice of election provided for in Iowa Code section 49.53 shall also be published at the time and in the manner specified in that section.

This rule is intended to implement Iowa Code section 423B.1.

[ARC 4146C, IAB 11/21/18, effective 12/26/18; ARC 4462C, IAB 5/22/19, effective 6/26/19]


721—21.810(34A) Referendum on enhanced 911 emergency telephone communication system funding.

21.810(1) Form of ballot. The ballot for the E911 referendum shall be in substantially the following form:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? Yes □

NO □

Enhanced 911 emergency telephone service shall be funded, in whole or in part, by a monthly surcharge of (an amount to be determined by the local joint E911 service board of up to one dollar) on each telephone access line collected as part of each telephone subscriber’s monthly phone bill if provided within (description of the proposed service area).

A map may be used to show the proposed E911 service area. If a map is used the public measure shall read as follows:

“Enhanced 911 emergency telephone service shall be funded, in whole or in part, by a monthly surcharge of (an amount to be determined by the local joint E911 service board of up to one dollar) on each telephone access line collected as part of each telephone subscriber’s monthly phone bill if provided within the proposed E911 service area shown on the map below.”

21.810(2) Cost of election. The E911 service board shall pay the costs of the referendum election.

21.810(3) Enhanced 911 emergency service funding referendum held in conjunction with a scheduled election.

a. Notice to commissioner. The joint E911 service board shall notify the commissioner in writing, no later than the last day upon which nomination papers may be filed, of their intention to conduct the referendum with the scheduled election. The notice shall contain the complete text of the referendum question including the description of the proposed E911 service area. If a map is to be used on the ballot to describe the proposed E911 service area, the map shall be included. If the E911 service area includes more than one county, the service board shall notify the commissioner of each of the counties.

b. Conduct of election. All qualified electors in a precinct which is to be served, in whole or in part, by the proposed E911 service area, shall be permitted to vote on the question. The results of the referendum shall be canvassed by the board of supervisors at the time of the canvass of the scheduled election. The commissioner shall immediately certify the results to the joint E911 board.

c. Service board duties. If subscribers from more than one county are included within the proposed service area, the E911 service board shall meet as a board of canvassers to compile the results from the counties. The canvass shall be held on the tenth day following the election at a time established by the E911 service board. The service board shall prepare an abstract showing in words and numbers the number of votes cast for and against the question and, if a simple majority of those voting on the question has voted in the affirmative, the board shall declare that the surcharge has been adopted. Votes cast and not counted as a vote for or against the question shall not be used in computing the total vote cast for and against the question.

21.810(4) Form of ballot for alternative surcharge. The ballot for elections conducted pursuant to Iowa Code section 34A.6A shall be in the following form:

(Insert letter to be assigned by the commissioner)
SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED?  

YES ☐  
NO ☐  

Enhanced 911 emergency telephone service shall be funded, in whole or in part, by a temporary monthly surcharge increase to (an amount between one dollar and two dollars and fifty cents to be determined by the local joint E911 service board) on each telephone access line collected as part of each telephone subscriber’s monthly phone bill if provided within (description of the proposed service area). The surcharge shall be collected for not more than 24 months, after which the surcharge shall revert to one dollar per month for each line.

A map may be used to show the proposed E911 service area. If a map is used the public measure shall read as follows:

“Enhanced 911 emergency telephone service shall be funded, in whole or in part, by a temporary monthly surcharge increase to (an amount between one dollar and two dollars and fifty cents to be determined by the local joint E911 service board) on each telephone access line collected as part of each telephone subscriber’s monthly phone bill if provided within the proposed E911 service area shown on the map below. The surcharge shall be collected for not more than 24 months, after which the surcharge shall revert to one dollar per month for each line.”

This rule is intended to implement Iowa Code sections 34A.6 and 34A.6A.


21.820(1) Petitions requesting elections to approve or disapprove the conduct of gambling games on an excursion gambling boat or at a gambling structure shall be filed with the county board of supervisors and shall be substantially in the form posted on the state commissioner’s website titled “Petition Requesting Special Election.”

a. Within 10 days after receipt of a valid petition, the supervisors shall provide written notice to the county commissioner of elections directing the commissioner to submit to the qualified electors of the county a proposition to approve or disapprove the conduct of gambling games on an excursion gambling boat or at a gambling structure in the county. The election shall be held on the next possible special election date pursuant to Iowa Code section 39.2, subsection 4, paragraph “a,” but no fewer than 46 days from the date notice is given to the county commissioner.

b. If a regularly scheduled or special election is to be held in the county on the date selected by the supervisors, notice shall be given to the commissioner no later than the last day upon which nomination papers may be filed for that election. If the excursion gambling boat or the gambling structure election is to be held with a local option tax election, the supervisors shall provide the commissioner at least 60 days’ written notice. Otherwise, the supervisors shall give at least 46 days’ written notice.

21.820(2) Form of ballot for election called by petition. Ballots shall be in substantially the following form:

(Insert letter to be assigned by the commissioner)

Shall the following public measure be adopted?

☐ YES  
☐ NO  

Gambling games on an excursion gambling boat or at a gambling structure in ________________ County are approved.

21.820(3) Form of ballot for elections to continue gambling games on an excursion gambling boat or at a gambling structure:

(Insert letter to be assigned by the commissioner)
Shall the following public measure be adopted?

☐ YES
☐ NO

Summary: Gambling games on an excursion gambling boat or at a gambling structure in ____________ County are approved. Gambling games, with no wager or loss limits, on an excursion gambling boat or at a gambling structure in ____________ County are approved. If approved by a majority of the voters, operation of gambling games with no wager or loss limits may continue until the question is voted upon again at the general election held in 2010. If disapproved by a majority of the voters, the operation of gambling games on an excursion gambling boat or at a gambling structure will end within 60 days of this election.

(Iowa Code section 99F.7(10)(c))

21.820(4) Ballot form to permit gambling games at existing pari-mutuel racetracks:
(Insert letter to be assigned by the commissioner)

Shall the following public measure be adopted?

☐ YES
☐ NO

The operation of gambling games at (name of pari-mutuel racetrack) in ____________ County is approved.

21.820(5) Abstract of votes. A copy of the abstract of votes of the election shall be sent to the state racing and gaming commission.

21.820(6) Ballot form for general election for continuing operation of gambling games at pari-mutuel racetracks:
(Insert letter to be assigned by the commissioner)

Shall the following public measure be adopted?

☐ YES
☐ NO

Summary: The continued operation of gambling games at (name of pari-mutuel racetrack) in ____________ County is approved.

The continued operation of gambling games at (name of pari-mutuel racetrack) in ____________ County is approved. If approved by a majority of the voters, operation of gambling games may continue at (name of pari-mutuel racetrack) in ____________ County until the question is voted on again at the general election in eight years. If disapproved by a majority of the voters, gambling games at (name of pari-mutuel racetrack) in ____________ County will end.

21.820(7) Ballot form for general election for continuing gambling games on an excursion gambling boat or at a gambling structure:
(Insert letter to be assigned by the commissioner)

Shall the following public measure be adopted?

☐ YES
☐ NO
Summary: The continued operation of gambling games on an excursion gambling boat or at a
gambling structure in __________ County is approved.

The continued operation of gambling games on an excursion gambling boat or at a gambling structure in __________ County is approved. If approved by a majority of the voters, operation of gambling games may continue on an excursion gambling boat or at a gambling structure in __________ County until the question is voted on again at the general election in eight years. If disapproved by a majority of voters, gambling games on an excursion gambling boat or at a gambling structure in __________ County will end nine years from the date of the original issue of the license to the current licensee.

This rule is intended to implement Iowa Code section 99F.7 and Iowa Code Supplement section 99F.4D.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 8779B, IAB 6/2/10, effective 7/1/10]


721—21.830(357E) Benefited recreational lake district elections. Elections for benefited recreational lake districts shall be conducted according to the following procedures.

21.830(1) Conduct of election. It is not mandatory for the county commissioner of elections to conduct elections for a benefited recreational lake district. However, if both a public measure and a candidate election will be held on the same day in a benefited recreational lake district, the same person shall be responsible for conducting both elections. All elections must be held on a Tuesday.

21.830(2) Ballots. Ballots for benefited recreational lake district trustee elections shall be printed on opaque white paper, 8 by 11 inches in size. The ballots for the initial election for the office of trustee shall be in substantially the following form:

OFFICIAL BALLOT
BENEFITED RECREATIONAL LAKE DISTRICT
Election date
(facsimile signature of person responsible for printing ballots)

FOR TRUSTEE:
To vote: Neatly print the names of at least three people you would like to see elected to the office of Trustee of the Benefited Recreational Lake District. You may vote for as many people as you wish, but you must vote for at least three.
(At the bottom of the ballot a space shall be included for the endorsement of the precinct election official, like this:)

Precinct official’s endorsement: _______________________

21.830(3) Canvass of votes. On the Monday following the election, the board of supervisors shall canvass the votes cast at the election. At the initial election the supervisors shall choose three trustees from among the five persons who received the most votes. The results of benefited recreational lake district elections shall be certified to the district board of trustees.

This rule is intended to implement Iowa Code section 357E.8.

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[Prior to 6/3/87, Transportation Department[820]—(07,F) Ch 2]

761—511.1(321E) Definitions. As used in this chapter, unless the context otherwise requires:

“Compacted rubbish vehicle” means any vehicle hauling rubbish that has been mechanically compacted with a hydraulic, electric, or air-operated ram.

“Department” means the Iowa department of transportation.

“Dimensions” or “size” means length, width or height limits.


“Fluid milk product” means the same as defined in Iowa Code section 321E.29B(3).

“Indivisible load” means any load or vehicle exceeding applicable length or weight limits which, if separated into smaller loads or vehicles, would:

1. Compromise the intended use of the vehicle, i.e., make it unable to perform the function for which it was intended;
2. Destroy the value of the load or vehicle, i.e., make it unusable for its intended purpose; or
3. Require more than eight work hours to dismantle using appropriate equipment. The applicant for an indivisible load permit has the burden of proof as to the number of work hours required to dismantle the load.

“Overdimensional” or “oversize” means the exceeding of statutory length, width or height limits.

“Permit” means a permit issued under Iowa Code chapter 321E for the movement of an overdimensional or overweight vehicle, combination of vehicles, or vehicle with load. The term includes any additions or supplements thereto issued by the permit-issuing authority.

“Permit-issuing authority” means the:

1. Department’s motor vehicle division for permits for movement on the primary road system.
2. Authority responsible for the maintenance of a nonprimary system of highways or streets for permits for movement on that system. However, the motor vehicle division may issue single-trip permits on primary road extensions in cities in conjunction with movement on the rural primary road system.

“Primary roads” or “primary road system” is defined in Iowa Code section 306.3. The primary road system includes the interstate road system.

“Raw forest products” means the same as defined in Iowa Code section 321E.26.

“Rubbish” means any unwanted or useless material that has no commercial or practical value or use and that would normally be discarded.

“Special or emergency situation” means one or more of the following:

1. Circumstances where the movement is necessary to cooperate with cities, counties, other state agencies or other states in response to a national or other disaster.
2. Circumstances where the movement is necessary to cooperate with national defense officials.
3. Circumstances where the movement is necessary to cooperate with public or private utilities in order to maintain their public services.
4. Circumstances where the movement is essential to ensure safety and protection of any person or property due to an event such as, but not limited to, pollution of natural resources, a potential fire or an explosion.
5. Circumstances where weather or transportation problems create an undue hardship for citizens of the state of Iowa.
6. Circumstances where the movement involves emergency-type vehicles.
7. Uncommon or extraordinary circumstances where the movement is essential to the existence of an Iowa business and the move may be accomplished without causing undue hazards to the safety of the traveling public or undue damage to private or public property.
8. Other unique circumstances that warrant the issuance of a permit as determined by the permit-issuing authority.


“Statutory” when used with size or weight limits refers to those limits found in Iowa Code chapter 321.

This rule is intended to implement Iowa Code sections 321E.9, 321E.15, 321E.26, 321E.29, 321E.29B as enacted by 2021 Iowa Acts, House File 382, 321E.30 and 321E.34.
[ARC 3193C, IAB 7/5/17, effective 8/9/17; ARC 4985C, IAB 3/11/20, effective 4/15/20; ARC 6061C, IAB 12/1/21, effective 1/5/22; ARC 6405C, IAB 7/13/22, effective 8/17/22]

761—511.2(321E) Location and general information.

511.2(1) Applications, forms, instructions and restrictions are available on the department’s website at www.iowadot.gov and by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)237-3264; or by facsimile at (515)237-3257. Permits may be obtained electronically upon making application to the motor vehicle division.

511.2(2) No overdimensional or overweight vehicle, combination of vehicles, or vehicle with load shall be moved on the highways of this state without permit except as provided in Iowa Code section 321.453.

511.2(3) Rescinded IAB 2/7/01, effective 3/14/01.

511.2(4) Except as provided in rule 761—511.17(321,321E), permits may be issued only for the transporting of a single article which exceeds statutory size or weight limits or both, and which cannot reasonably be divided or reduced to statutory size and weight limits. However, permits may be issued for the transporting of property consisting of more than one article when:
   a. The statutory weight limits are not exceeded,
   b. One of the articles exceeds the statutory size limits, and
   c. The inclusion of other articles does not cause the statutory size limits to be exceeded by an additional amount.

511.2(5) Nothing in the permit shall be construed as waiving any load limits which have been or which might be established on any bridge or any road which is posted with embargo signs, unless specifically stated on the permit.

511.2(6) The state of Iowa, the department, and any other permit-issuing authority assume no responsibility for the property of the permit holder. Permit holders shall hold permit-issuing authorities harmless of any damages that may be sustained by the traveling public, adjacent property owners or the highways of this state on account of movements made under permit.

This rule is intended to implement Iowa Code sections 17A.3 and 321E.2.
[ARC 3193C, IAB 7/5/17, effective 8/9/17; ARC 4985C, IAB 3/11/20, effective 4/15/20; ARC 5428C, IAB 2/10/21, effective 3/17/21; ARC 6061C, IAB 12/1/21, effective 1/5/22; ARC 6405C, IAB 7/13/22, effective 8/17/22]

761—511.3(321E) Movement under permit.

511.3(1) During the movement of a vehicle or object under permit, the permit holder shall comply with the terms and conditions of the permit and shall take all reasonable precautions to protect and safeguard the lives and property of the traveling public and adjacent property owners.

511.3(2) Movement shall be made only when roads are clear of ice and snow and visibility is at least one-quarter mile. Snow removal equipment operating under permit is exempt from this restriction while snow removal operations are conducted. EXCEPTION: Nothing in this subrule shall be construed to mean that the movement of a compacted rubbish vehicle permitted under rule 761—511.11(321E) shall be subject to this restriction.

511.3(3) Movement shall be permitted only during the hours from one-half hour before sunrise to one-half hour after sunset unless it is established by the permit-issuing authority that the movement can be better accomplished at another period of time because of traffic volume conditions.
511.3(4) Except as provided in Iowa Code section 321.457, no movement shall be permitted on the holidays of Memorial Day, Independence Day and Labor Day, after 12 noon on days preceding these holidays and holiday weekends, during holiday weekends, or during special events when abnormally high traffic volumes can be expected. A holiday weekend occurs when the holiday falls on Friday, Saturday, Sunday or Monday. No movement shall be permitted until one-half hour before sunrise on the day after the holiday or holiday weekend.

511.3(5) Continuous moves. Vehicles and loads may travel by permit between one-half hour after sunset and one-half hour before sunrise if, in addition to the general provisions and general requirements specified by the permit, the following conditions are met.
   a. Dimensions shall not exceed:
      (1) Width. 11 feet.
      (2) Height. 14 feet, 6 inches.
      (3) Length. 100 feet.
      (4) Weight. Legal axle limits.
   b. Travel must be on roadways with a minimum width of 22 feet and minimum lane width of 11 feet.
   c. Safety lighting shall be provided at the widest part of a load. The lamps may be placed at the outer ends of the load itself or on appurtenances which are equal in width to the widest part of the load and positioned at both the extreme front and rear of the vehicle or trailer as follows:
      (1) One lighted red lamp on each side at the rear of the load.
      (2) One lighted yellow or amber lamp on each side at the front of the load.
   This rule is intended to implement Iowa Code sections 321E.2 and 321E.11. [ARC 3193C, IAB 7/5/17, effective 8/9/17]

761—511.4(321E) Permits. Permits issued shall be in writing or in electronic format and may be either single-trip, multitrip, annual, annual oversize/overweight, annual raw forest products, compacted rubbish, emergency interstate, annual fluid milk products or all-systems permits.

511.4(1) Methods of issuance.
   a. Permits for movement on the primary road system may be obtained in person, by facsimile, online, or by mail at the address in subrule 511.2(1).
   b. Reserved.

511.4(2) Forms.
   a. Applications for permits for movement on the primary road system shall be made online or in the form and manner prescribed by the department.
   b. Any applications to other permit-issuing authorities made upon department forms shall be sufficient and accepted as properly made by these authorities.
   c. Subject to the preceding paragraph, permit-issuing authorities may adopt, amend or modify these forms provided that the amended or modified forms adequately identify the applicant, the hauling vehicle and load, the manner and extent that the vehicle with load exceeds the statutory size and weight limits, the route, and the authorization of the issuing authority. However, the load for a multitrip permit does not have to be identified but the vehicle and load cannot exceed either the weight per axle or the total weight identified on the multitrip permit. Axle spacings cannot change.

511.4(3) Validity.
   a. Annual, annual oversize/overweight, annual raw forest products, compacted rubbish, annual fluid milk products and all-systems permits shall expire one year from the date of issuance.
   b. A single-trip permit shall be effective for five days.
   c. The validity of a multitrip permit shall not exceed 60 calendar days.
   d. Emergency interstate permits issued under Iowa Code section 321E.29B as enacted by 2021 Iowa Acts, House File 382, shall be effective for 30 calendar days. However, the permit shall not exceed the expiration of the applicable governor’s proclamation of disaster emergency issued under Iowa Code section 29C.6 in conjunction with the presidential declaration allowing interstate travel under the Stafford Act or the expiration of the declaration of major disaster under the Stafford Act, whichever expires first.
511.4(4) **Duplicate permit.** If a permit is lost or destroyed before it has expired, a duplicate permit may be issued at the discretion of the permit-issuing authority. The expiration date on the duplicate permit shall be the same as on the original permit.

This rule is intended to implement Iowa Code sections 321E.2 and 321E.3 and section 321E.29B as enacted by 2021 Iowa Acts, House File 382.

[ARC 0136C, IAB 5/10/12, effective 7/4/12; ARC 3193C, IAB 7/5/17, effective 8/9/17; ARC 4985C, IAB 3/11/20, effective 4/15/20; ARC 5428C, IAB 2/10/21, effective 3/17/21; ARC 6061C, IAB 12/2/21, effective 1/5/22; ARC 6405C, IAB 7/13/22, effective 8/17/22]

761—511.5(321,321E) **Fees and charges.**

511.5(1) **Annual oversize permit.** A fee of $50 shall be charged for each annual permit issued pursuant to Iowa Code section 321E.8, payable prior to the issuance of the permit. Carriers purchasing annual permits in advance of use cannot return unused permits for refunds.

511.5(2) **Special or emergency oversize permit for certain divisible loads.** A fee of $25 may be charged for each single-trip permit issued pursuant to Iowa Code section 321E.29, payable prior to the issuance of the permit.

511.5(3) **Annual raw forest products permit.** A fee of $175 shall be charged for each annual permit issued pursuant to Iowa Code section 321E.26 for divisible loads of raw forest products, payable prior to the issuance of the permit.

511.5(4) **Annual oversize/overweight permit.** A fee of $400 shall be charged for each annual oversize/overweight permit, payable prior to the issuance of the permit. Transfer of current annual oversize/overweight permit to a replacement vehicle may be allowed when the original vehicle has been damaged in an accident, junked or sold.

511.5(5) **All-systems permit.** A fee of $160 shall be charged for each annual all-systems permit, payable prior to the issuance of the permit.

511.5(6) **Bridge-exempt permit.** A fee of $25 shall be charged for each bridge-exempt permit issued pursuant to Iowa Code section 321E.7, payable prior to the issuance of the permit.

511.5(7) **Multitrip permit.** A fee of $200 shall be charged for each multitrip permit, payable prior to the issuance of the permit.

511.5(8) **Raw milk permit.** A fee of $25 shall be charged for each raw milk permit issued pursuant to Iowa Code section 321E.29A, payable prior to the issuance of the permit.

511.5(9) **Single-trip permit.** A fee of $35 shall be charged for each single-trip permit, payable prior to the issuance of the permit.

511.5(10) **Special alternative energy multitrip permit.** A fee of $600 shall be charged for each special alternative energy multitrip permit issued pursuant to Iowa Code section 321E.9B, payable prior to the issuance of the permit.

511.5(11) **Compacted rubbish permit.** A fee of $100 shall be charged for each compacted rubbish permit, payable prior to the issuance of the permit.

511.5(12) **Annual fluid milk products permit.** A fee of $400 shall be charged for each annual fluid milk products permit issued pursuant to Iowa Code section 321E.29B, payable prior to issuance of the permit.

511.5(13) **Duplicate permit.** A fee of $2 shall be charged for each duplicate permit, payable prior to the issuance of the permit.

511.5(14) **Registration fee.** A registration fee shall be charged for vehicles transporting buildings, except mobile homes and factory-built structures, on a single-trip basis. The vehicle shall be registered for the combined gross weight of the vehicle and load. The fee shall be 5 cents per ton exceeding the weight registered under Iowa Code section 321.122 per mile of travel and shall be payable prior to the issuance of the permit. Fees shall not be prorated for fractions of miles.

511.5(15) **Fair and reasonable costs.** Permit-issuing authorities may charge any permit applicant:

a. A fair and reasonable cost for the removal and replacement of natural obstructions or official signs and signals.

b. A fair and reasonable cost for measures necessary to avoid damage to public property including structures and bridges.
511.5(16) Methods of payment. Fees and costs required under this chapter shall be paid in the form and manner prescribed by the department.

This rule is intended to implement Iowa Code sections 321.12, 321.122, 321E.14, 321E.29, 321E.29A, and 321E.30.

[ARC 3193C, IAB 7/5/17, effective 8/9/17; ARC 4985C, IAB 3/11/20, effective 4/15/20; ARC 5428C, IAB 2/10/21, effective 3/17/21; ARC 6405C, IAB 7/13/22, effective 8/17/22]

761—511.6(321E) Insurance and bonds.

511.6(1) Insurance.

a. Public liability insurance in the amounts of $100,000 bodily injury each person, $200,000 bodily injury each occurrence, and $50,000 property damage with an expiration date to cover the tenure of the annual, annual oversize/overweight, annual raw forest products, all-systems, multitrip, emergency interstate, annual fluid milk products or single-trip permit shall be required. In lieu of filing with the permit-issuing authority, a copy of the current certificate of public liability insurance in these amounts shall be carried in the vehicle for which the permit has been issued. Proof of liability insurance may be either in writing or in electronic format.

b. Notwithstanding paragraph “a” of this subrule, a carrier may act as a self-insurer if an application for self-insurance is filed with and approved by the department.

511.6(2) Bond.

a. The permit-issuing authority may require the applicant to file a bond, certified check or other assurance in an amount sufficient to cover the reasonably anticipated cost of damage or loss to private property, either real or personal, likely to be caused by or arising out of the movement of the vehicle and load or to ensure compliance with permit provisions.

b. The amount in the preceding paragraph may be reduced either in whole or in part by the applicant’s submission to the permit-issuing authority of written permission from an affected third party stating in substance that the third party either owns or has the right of exclusive possession and control over the affected property, does by the party’s signature consent to the move and that the applicant has in hand paid or secured the payment of the anticipated cost of loss or damage to the party’s property.

This rule is intended to implement Iowa Code section 321E.13 and section 321E.29B as enacted by 2021 Iowa Acts, House File 382.

[ARC 3193C, IAB 7/5/17, effective 8/9/17; ARC 4985C, IAB 3/11/20, effective 4/15/20; ARC 6061C, IAB 12/1/21, effective 1/5/22; ARC 6405C, IAB 7/13/22, effective 8/17/22]

761—511.7(321,321E) Annual permits. Annual permits are issued for indivisible vehicles or indivisible loads for travel when the dimensions of the vehicle or load exceed statutory limits but the weight is within statutory limits. Routing is subject to embargoed bridges and roads and posted speed limits. The owner or operator shall select a route using the vertical clearance map and road construction and travel restrictions map provided by the department. Route, detour and road embargo information may be found online at www.511ia.org or the department’s website for the embargo bridge maps.

Annual permits are issued for the following:

511.7(1) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

a. Width. 12 feet 5 inches including appurtenances.

b. Length. 120 feet 0 inches overall.

c. Height. 13 feet 10 inches.

d. Weight. See rule 761—511.16(321,321E).

e. Distance. Movement is allowed for unlimited distance; routing through the motor vehicle division is not required.

511.7(2) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

a. Width. 14 feet 6 inches.

b. Length. 120 feet 0 inches overall.

c. Height. 15 feet 5 inches.
d. **Weight.** See rule 761—511.16(321,321E).

e. **Distance.** Movement is restricted to 50 miles unless trip routes are obtained from the motor vehicle division or the route continues on at least four-lane roads. Trip routes are valid for five days.

**511.7(3)** Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

- **Width.** 16 feet 0 inches.
- **Length.** 120 feet 0 inches.
- **Height.** 15 feet 5 inches.
- **Weight.** See rule 761—511.16(321,321E).
- **Distance.** Trip routes must be obtained from the motor vehicle division.

**511.7(4)** Rescinded IAB 1/23/02, effective 2/27/02.

**511.7(5)** Truck trailers manufactured or assembled in the state of Iowa provided the following are met:

- **Width.** Not to exceed 10 feet 0 inches.
- **Length.** Overall combination length must comply with Iowa Code section 321.457.
- **Height.** Statutory: Not to exceed 13 feet 6 inches.
- **Weight.** See rule 761—511.16(321,321E).
- **Speed.** Rescinded IAB 2/7/01, effective 3/14/01.
- **Roadway width.** At least 24 feet 0 inches.
- **Limited movement.** Movement shall be solely for the purpose of delivery or transfer from the point of manufacture or assembly to another point of manufacture or assembly within the state or to a point outside the state and shall be on the most direct route necessary for the movement.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, 321E.8, 321E.10 and 321E.29A.

[ARC 3193C, IAB 7/5/17, effective 8/9/17; ARC 4985C, IAB 3/11/20, effective 4/15/20; ARC 5428C, IAB 2/10/21, effective 3/17/21; ARC 6061C, IAB 12/1/21, effective 1/5/22; ARC 6405C, IAB 7/13/22, effective 8/17/22]

**761—511.8(321,321E) Annual oversize/overweight permits.** Annual oversize/overweight permits are issued for indivisible vehicles or indivisible loads for travel when either the dimensions or the weight or both the dimensions and the weight exceed statutory limits. Travel is not allowed on the interstate. However, a carrier moving under this annual oversize/overweight permit may operate under the same restrictions as an annual permit under rule 511.7(321,321E) when the vehicle meets the dimensions required by that rule. Routing is subject to embargoed bridges and roads and posted speed limits. Annual oversize/overweight permits are issued for the following:

**511.8(1)** Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

- **Width.** 13 feet 5 inches.
- **Length.** 120 feet 0 inches.
- **Height.** 15 feet 5 inches.
- **Weight.** See rule 761—511.16(321,321E).
- **Routing.** The owner or operator shall select a route using a vertical clearance map, bridge embargo map, pavement restrictions map, and construction and travel restrictions map provided by the department. Route, detour and road embargo information may be found online at [www.511ia.org](http://www.511ia.org) or the department’s website for the embargo bridge maps.

**511.8(2)** Reserved.


[ARC 3193C, IAB 7/5/17, effective 8/9/17; ARC 4985C, IAB 3/11/20, effective 4/15/20; ARC 5428C, IAB 2/10/21, effective 3/17/21; ARC 6061C, IAB 12/1/21, effective 1/5/22; ARC 6405C, IAB 7/13/22, effective 8/17/22]

**761—511.9(321,321E) All-systems permits.** All-systems permits are issued by the motor vehicle division for indivisible vehicles or indivisible loads for travel on the primary road system and specified city streets and county roads when the dimensions of the vehicle or load exceed statutory limits but the
weight is within statutory limits. Routing is subject to embargoed bridges and roads and posted speed limits. The motor vehicle division will provide a list of the authorized city streets and county roads. Permit holders shall consult with local officials when traveling on county roads or city streets for bridge embargo, vertical clearance, detour, and road construction information. These permits are issued for the following:

511.9(1) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:
   a. **Width.** 12 feet 5 inches including appurtenances.
   b. **Length.** 120 feet 0 inches overall.
   c. **Height.** 13 feet 10 inches.
   d. **Weight.** See rule 761—511.16(321,321E).
   e. **Distance.** Movement is allowed for unlimited distance; routing through the motor vehicle division and city and county jurisdictions is not required.

511.9(2) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:
   a. **Width.** 14 feet 6 inches.
   b. **Length.** 120 feet 0 inches overall.
   c. **Height.** 15 feet 5 inches.
   d. **Weight.** See rule 761—511.16(321,321E).
   e. **Distance.** Movement is restricted to 50 miles unless trip routes are obtained from the motor vehicle division and city and county jurisdictions or the route continues on at least four-lane roads. Trip routes are valid for five days.

511.9(3) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:
   a. **Width.** 16 feet 0 inches.
   b. **Length.** 120 feet 0 inches.
   c. **Height.** 15 feet 5 inches.
   d. **Weight.** See rule 761—511.16(321,321E).
   e. **Distance.** Trip routes must be obtained from the motor vehicle division and city and county jurisdictions.

511.9(4) Rescinded IAB 1/23/02, effective 2/27/02.

511.9(5) Truck trailers manufactured or assembled in the state of Iowa provided the following are met:
   a. **Width.** Not to exceed 10 feet 0 inches.
   b. **Length.** Overall combination length must comply with Iowa Code section 321.457.
   c. **Height.** Statutory: Not to exceed 13 feet 6 inches.
   d. **Weight.** See rule 761—511.16(321,321E).
   e. **Speed.** Rescinded IAB 2/7/01, effective 3/14/01.
   f. **Roadway width.** At least 24 feet 0 inches.
   g. **Limited movement.** Movement shall be solely for the purpose of delivery or transfer from the point of manufacture or assembly to another point of manufacture or assembly within the state or to a point outside the state and shall be on the most direct route necessary for the movement.

511.9(6) Rescinded IAB 2/10/21, effective 3/17/21.

511.9(7) Necessary trip routes must be obtained from the appropriate city and county jurisdictions.


[ARC 3193C, IAB 7/5/17, effective 8/9/17; ARC 4985C, IAB 3/11/20, effective 4/15/20; ARC 5428C, IAB 2/10/21, effective 3/17/21; ARC 6061C, IAB 12/1/21, effective 1/5/22; ARC 6405C, IAB 7/13/22, effective 8/17/22]

761—511.10(321,321E) Multitrip permits. Multitrip permits are issued for indivisible vehicles or indivisible loads for travel when either the dimensions or the weight or both the dimensions and the weight exceed statutory limits. The permit shall be for unlimited trips along a specific route between
one point of origin and one point of destination. Additional routes will require a new permit. Multitrip
permits are issued for the following:

511.10(1) Multitrip permits may be issued for vehicles with indivisible loads, including special
mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:
   a. Width. 16 feet.
   b. Length. 120 feet.
   c. Height. 15 feet 5 inches.
   d. Weight. 156,000 pounds total gross weight.
   e. Distance. On routes specified by the permit-issuing authority.

511.10(2) Multitrip permits may be issued for all movements allowed under the single-trip permit
provisions of rule 761—511.12(321,321E) provided the movement is within the size and weight
limitations of subrule 511.10(1).

511.10(3) The dimensions listed on the permit are considered maximums. The movement is legal
as long as the vehicle and load do not exceed these dimensions and the movement meets all other
requirements of Iowa Code chapter 321E and this chapter of rules.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2,
321E.3 and 321E.9A.

761—511.11(321E) Compacted rubbish vehicle permits. All compacted rubbish vehicle permits
issued by the department shall be subject to the following:

511.11(1) Permits issued shall be in writing or in an electronic format, shall be carried in the
vehicle for which the permit has been issued and shall be available for inspection by any peace officer
or authorized agent of any permit-granting authority.

511.11(2) Movements by permit shall be allowed day and night, seven days a week including
holidays.

511.11(3) Vehicles traveling under permit shall be registered for the gross weight or combined gross
weight of the vehicle and load.

511.11(4) Vehicles under permit must be in compliance with posted bridge and road embargoes and
speed limits.

511.11(5) Maximum axle weight allowed on the interstate system shall be 20,000 pounds on a single
axle and 34,000 pounds on a tandem axle.

This rule is intended to implement Iowa Code section 321E.30.

761—511.12(321,321E) Single-trip permits. Single-trip permits are issued for indivisible vehicles or
indivisible loads for travel when either the dimensions or the weight or both the dimensions and the
weight exceed statutory limits. The permit shall be for a specific route between an origin and destination.
Single-trip permits are issued for the following:

511.12(1) Vehicles with indivisible loads, including special mobile equipment, mobile homes and
factory-built structures, provided the following are not exceeded:
   a. Width. Limited to the maximum physical limitations and clearances of the roadway and
      infrastructure along the intended route of travel.
   b. Length. Limited to the maximum physical limitations and clearances of the roadway along the
      intended route of travel.
   c. Height. Limited only to the height of underpasses, bridges, power lines, and other established
      height restrictions. The carrier shall be required to contact affected public utilities when the height of the
      vehicle with load exceeds 16 feet 0 inches. At the discretion of the permit-issuing authority, a written
      verification may be required from the affected utility.
   d. Weight. See rule 761—511.16(321,321E).
   e. Distance. Limited at the discretion of the permit-issuing authority. The following factors shall
      be considered:
Road conditions; road width; traffic volume; weather conditions; and roadside obstructions, including bridges, signs and overhead obstructions.

**511.12(2)** Reserved.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3 and 321E.9.

[ARC 3193C, IAB 7/5/17, effective 8/9/17; ARC 4985C, IAB 3/11/20, effective 4/15/20; ARC 5428C, IAB 2/10/21, effective 3/17/21; ARC 6061C, IAB 12/1/21, effective 1/5/22; ARC 6405C, IAB 7/13/22, effective 8/17/22]

**761—511.13(321,321E) Annual raw forest products permits.** Annual raw forest products permits are issued for vehicles transporting divisible loads of raw forest products when the weight exceeds statutory limits. Travel is not allowed on the interstate. The owner or operator shall select a route using the vertical clearance map, bridge embargo map, pavement restrictions map, and construction and travel restrictions map provided by the department. The owner or operator must contact the appropriate local authority for route approval to use this permit on county roads or city streets. Detour and road embargo information may be found online at: www.511ia.org. Routing is subject to embargoed bridges and roads and posted speed limits. Annual raw forest products permits are issued for the following:

**511.13(1)** Vehicles with divisible loads of raw forest products provided the following are not exceeded:

- **Width.** Statutory: 8 feet 6 inches.
- **Length.** Limited to the maximum dimensions in Iowa Code section 321.457.
- **Height.** Statutory: 13 feet 6 inches.
- **Weight.** See rule 761—511.16(321,321E).
- **Distance.** Unlimited.

**511.13(2)** Reserved.

This rule is intended to implement Iowa Code sections 321.463, 321E.2, 321E.3 and 321E.26.

[ARC 4985C, IAB 3/11/20, effective 4/15/20; ARC 6061C, IAB 12/1/21, effective 1/5/22; ARC 6405C, IAB 7/13/22, effective 8/17/22]

**761—511.14(29C,321,321E) Emergency interstate permit.** Emergency interstate permits are issued for vehicles transporting divisible loads of relief supplies when the weight exceeds statutory limits. Routing is subject to embargoed bridges and roads and posted speed limits. The owner or operator shall select a route using the vertical clearance map and road construction and travel restrictions map provided by the department. Route, detour, and road embargo information may be found online at www.511ia.org or the department’s website for the embargo bridge maps. The owner or operator must contact the appropriate local authority for route approval to determine if additional permits are necessary for county roads or city streets. Emergency interstate permits are issued for the following:

**511.14(1)** Vehicles with divisible loads of relief supplies, which may exceed the weight limits established under Iowa Code section 321.463 on the interstate highway system, provided the following are not exceeded:

- **Width.** Statutory: 8 feet 6 inches including appurtenances.
- **Length.** Limited to the maximum dimensions in Iowa Code section 321.457.
- **Height.** Statutory: 13 feet 6 inches.
- **Weight.** See rule 761—511.16(321,321E).
- **Distance.** Movement is allowed for unlimited distance on the interstate for 30 days not to exceed the expiration of the applicable governor’s proclamation issued in conjunction with the applicable declaration under the Stafford Act, or expiration of the applicable declaration under the Stafford Act, whichever expires sooner. In the event that more than one proclamation issued under Iowa Code section 29C.6 is in effect, only the proclamation issued in conjunction with the same event that caused the major disaster declaration under the Stafford Act shall govern the expiration date. Separate permits may be required for roads other than the interstate unless the governor, under the authority in Iowa Code section 29C.6, suspends applicable permitting provisions under proclamation for the same event.
511.14(2) Reserved.
This rule is intended to implement Iowa Code sections 29C.6, 321.457, and 321.463 and section 321E.29B as enacted by 2021 Iowa Acts, House File 382.
[ARC 6061C, IAB 12/1/21, effective 1/5/22; ARC 6405C, IAB 7/13/22, effective 8/17/22]

761—511.15(321,321E) Annual fluid milk products permits. Annual permits are issued for indivisible loads of fluid milk products for travel when the weight of the vehicle or load exceeds statutory limits. Routing is subject to embargoed bridges and roads and posted speed limits. The owner or operator shall select a route using the vertical clearance map and road construction and travel restrictions map provided by the department. Route, detour, road embargo and bridge embargo for fluid milk products information may be found online at www.511ia.org and the department’s website.

511.15(1) The following shall not be exceeded:
   a. Width. Statutory: 8 feet 6 inches including appurtenances.
   b. Length. Statutory: 75 feet 0 inches overall.
   c. Height. Statutory: 13 feet 6 inches.
   d. Weight. See rule 761—511.16(321,321E).
   e. Distance. Movement is allowed for unlimited distance on the primary road system, including the interstate, provided the vehicle is transporting fluid milk products to or from a milk plant, receiving station, or transfer station; routing through the motor vehicle division is not required.

511.15(2) Reserved.
This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, 321E.8, 321E.10 and 321E.29A.
[ARC 6405C, IAB 7/13/22, effective 8/17/22]

761—511.16(321,321E) Maximum axle weights and maximum gross weights for vehicles and loads moved under permit.

511.16(1) Annual and all-systems permits.
   a. For movement under an annual or all-systems permit, the axle weight and combined gross weight shall not exceed the limits found in Iowa Code section 321.463(3).
   b. See subrule 511.16(7) for exceptions for special mobile equipment.

511.16(2) Annual oversize/overweight permits or annual raw forest products permits.
   a. For movement under an annual oversize/overweight permit or an annual raw forest products permit, the gross weight on any axle shall not exceed 20,000 pounds, with a maximum of 156,000 pounds total gross weight.
   b. See subrule 511.16(7) for exceptions for special mobile equipment.

511.16(3) Multitrip permits.
   a. For movement under a multitrip permit, the gross weight on any axle shall not exceed 20,000 pounds with a maximum of 156,000 pounds total gross weight.
   b. See subrule 511.16(7) for exceptions for special mobile equipment.

511.16(4) Single-trip permits.
   a. For movement under a single-trip permit, the gross weight on any axle shall not exceed 20,000 pounds.
   b. If the combined gross weight exceeds 100,000 pounds, a single-trip permit may be issued for the movement only if the permit-issuing authority determines that it would not cause undue damage to the road and is in the best interest of the public.
   c. Cranes may have a maximum of 24,000 pounds per axle for movement under a single-trip permit. Routes must be reviewed by the permit-issuing authority prior to issuance.
   d. See subrule 511.16(7) for exceptions for special mobile equipment.

511.16(5) Emergency interstate permits.
   a. For movement under this permit, the gross weight on any axle shall not exceed 20,000 pounds with a maximum of 90,000 pounds total gross weight.
b. The maximum weight on any single axle shall not exceed by more than 12.5 percent the maximum axle weight limit in the nonprimary highway maximum gross weight table in Iowa Code section 321.463(6) “b” and must comply with posted limits on roads and bridges.

511.16(6) Annual fluid milk products permits. For movement under an annual fluid milk products permit, the gross weight on any axle shall not exceed 20,000 pounds with a maximum of 96,000 pounds total gross weight.

511.16(7) Special mobile equipment. Special mobile equipment may have a gross weight of 36,000 pounds on any single axle equipped with minimum size 26.5-inch by 25-inch flotation pneumatic tires and a maximum gross weight of 20,000 pounds on any single axle equipped with minimum size 18-inch by 25-inch flotation pneumatic tires, provided that the total gross weight of the vehicle or a combination of vehicles does not exceed a maximum of 80,000 pounds for movement under an annual or all-systems permit and 126,000 pounds for movement under a single-trip, multitrip or annual oversize/overweight permit.

For tire sizes and weights allowed between the maximum and minimum indicated, the following formula shall apply: Axle weight = 20,000 pounds + (tire width - 18) \times 1,882 pounds.

511.16(8) Permitted tandem axle weights.

a. Vehicles operating under an annual oversize permit, annual oversize/overweight permit, annual raw forest products permit, single-trip permit, or multitrip permit may have a gross weight not to exceed 46,000 pounds on a single-tandem axle of the truck tractor and a gross weight not to exceed 46,000 pounds on a single-tandem axle of the trailer or semitrailer if each axle of each tandem group has at least four tires.

b. The maximum weight of any single axle within a permitted tandem axle group shall be 24,000 pounds.

c. A permitted tandem axle shall not be a part of a larger group of axles whose centers are greater than 96 inches apart.

This rule is intended to implement Iowa Code sections 321.463, 321E.7, 321E.8, 321E.9, 321E.9A, 321E.26, 321E.29B and 321E.32.

[ARC 3193C, IAB 7/5/17, effective 8/9/17; ARC 4345C, IAB 3/13/19, effective 4/17/19; ARC 4985C, IAB 3/11/20, effective 4/15/20; ARC 6061C, IAB 12/1/21, effective 1/5/22; ARC 6405C, IAB 7/13/22, effective 8/17/22]

761—511.17(321,321E) Movement of vehicles with divisible loads exceeding statutory size or weight limits.

511.17(1) Vehicles with divisible loads exceeding statutory size or weight limits may be moved under a single-trip permit if the permit-issuing authority determines that a special or emergency situation warrants its issuance.

511.17(2) At the discretion of the permit-issuing authority, the combined gross weight may exceed the statutory weight, but the axle weights shall be subject to rule 761—511.16(321,321E).

511.17(3) Movement shall be subject to the routes established by the permit-issuing authority.

This rule is intended to implement Iowa Code sections 321.463 and 321E.29.

[ARC 3193C, IAB 7/5/17, effective 8/9/17; ARC 4985C, IAB 3/11/20, effective 4/15/20; ARC 5428C, IAB 2/10/21, effective 3/17/21; ARC 6061C, IAB 12/1/21, effective 1/5/22; ARC 6405C, IAB 7/13/22, effective 8/17/22]

761—511.18(321E) Towing units. The towing unit shall be a truck or truck tractor with dual wheels and with a gross vehicle weight rating of at least 10,000 pounds when towing mobile homes or loads exceeding 10,000 pounds.

This rule is intended to implement Iowa Code section 321.457.

[ARC 3193C, IAB 7/5/17, effective 8/9/17; ARC 4985C, IAB 3/11/20, effective 4/15/20; ARC 6061C, IAB 12/1/21, effective 1/5/22; ARC 6405C, IAB 7/13/22, effective 8/17/22]

761—511.19(321E) Escorting.

511.19(1) Escort qualification. An escort shall be a person aged 18 or over who possesses a valid driver’s license which allows driving unaccompanied and who carries proof of public liability insurance in the amounts of $100,000/$200,000/$50,000.

511.19(2) Escorting responsibilities.
a. The escorting vehicle shall be a mid-size automobile or motor truck with sufficient mobility to be able to assist in an emergency and designed to afford clear and unobstructed vision both front and rear. The escorting vehicle shall not be used to tow a trailer while performing escorting duties. In questionable cases the permit-issuing authority shall determine if a vehicle meets these conditions.

b. The escorting vehicle shall have a flashing or strobe amber light that is visible for at least 500 feet and provides 360° warning. While escorting a permit load, the light shall be mounted on top of the escort vehicle and shall be burning. Additional escort vehicle markings may be approved or required by the permit-issuing authority.

c. An 18-inch by 18-inch red or orange fluorescent flag shall be mounted on each corner of the front bumper of the escort vehicle.

d. The escort shall remain a distance of approximately 300 feet in front or to the rear of the load. However, when traveling within the corporate limits of a city, the escort shall maintain a reasonable and proper distance consistent with existing traffic conditions.

e. A separate escort shall be provided for each load hauled under escort.

f. All traffic laws and provisions of the oversize permit for the load shall be obeyed.

g. The escort shall not assume responsibility for stopping traffic. An on-duty peace officer, as defined in Iowa Code section 321.1, shall be contacted to provide any traffic control needed.

h. Immediately prior to an escorting trip, the escort shall determine that the escorting vehicle is in a safe operational condition and that the dimensions of the vehicle and load are in compliance with the permit issued.

i. Escort fees charged by state and local authorities shall not exceed $250 per day per escort vehicle.

j. A pole used for measuring vertical clearances shall be mounted on the front escort vehicle. The escort shall be required to measure all vertical clearances whenever the height of the permitted vehicle exceeds 14 feet 6 inches up to and including 20 feet.

511.19(3) Requirements for escorts, flags, signs and lights. The following chart explains the minimum escort and warning devices required for vehicles operating under permit.

| Minimum Warning Devices and Escort Requirements For Vehicles Operating Under Permit |
|-----------------------------------------------|-------------|-------------|
|                                               | Flags/Signs | Lights      | Escorts       |
| Length                                        |             |             |              |
| 75’½” up to and including 85’                 | yes         | not required| not required  |
| Over 85’ up to and including 120’             | yes         | yes         | not required  |
| Over 120’                                     | yes         | not required| rear          |
| Projections                                   |             |             |              |
| Front: over 25’                               | not required| yes         | not required  |
| Rear: over 4’ up to and including 10’         | flags only  | not required| not required  |
| Rear: over 10’                                | flags only  | yes         | not required  |
| Height                                        |             |             |              |
| Over 14’6” up to and including 20’            | yes         | not required| front with a height pole |
| Weight                                        |             |             | front with a height pole |

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761—511.20(321,321E) Permit violations. Permit violations are to be reported to the permit-issuing authority by the arresting officer and the permit holder. If a permit holder is found to have willfully violated permit provisions, the motor vehicle division may, after notice and hearing, suspend, modify or revoke the permit privileges of the permit holder consistent with Iowa Code section 321E.20. If the permit that is suspended, modified, or revoked is an emergency interstate permit that is issued for a fleet operating under the permit holder’s interstate or intrastate motor carrier number, the department may issue emergency interstate permits to individual vehicles operating under the interstate or intrastate motor carrier number.

This rule is intended to implement Iowa Code sections 321.492, 321E.16, and 321E.20 and section 321E.29B as enacted by 2021 Iowa Acts, House File 382.
[ARC 3193C, IAB 7/5/17, effective 8/9/17; ARC 4985C, IAB 3/11/20, effective 4/15/20; ARC 6061C, IAB 12/1/21, effective 1/5/22; ARC 6405C, IAB 7/13/22, effective 8/17/22]

761—511.21(321) Movement of combination vehicles on economic export corridors.
511.21(1) Designation of economic export corridors.

a. The department may in its discretion establish economic export corridors for the transportation of goods or products manufactured in Iowa to or through the state of South Dakota and for the return of unladen semitrailers or unladen full trailers used for the transportation of those goods or products. An economic export corridor shall not include any segment of the interstate system or any part of the national network of highways identified pursuant to 23 CFR Part 658. However, if appropriate, the department may petition the Federal Highway Administration to remove a road or road segment from the national network of highways for the purpose of including it in an economic export corridor.
b. The department may initiate designation of economic export corridors, or a request for economic export corridor designation may be submitted to the department by an interested party. If a proposed economic export corridor includes any roads or road segments that are under the jurisdiction of a city or a county, a resolution from all relevant local jurisdictions must be submitted to the department indicating their support for economic export corridor designation. The resolution must include a description of the proposed economic export corridor under local jurisdiction.

c. The department shall exercise due regard for the safety of the traveling public and the protection of the highway surfaces and structures when establishing an economic export corridor. Factors to be considered include ability of the proposed economic export corridor to safely accommodate combinations of vehicles described in subrule 511.21(2), taking into account physical configurations and restrictions and traffic demands and capacity, as well as connection to markets that will benefit from the established economic export corridor.

d. The department will post established economic export corridors on the department’s website.

511.21(2) Combination vehicles that may be operated on an economic export corridor:

a. In addition to combinations of vehicles lawful for operation on roads or road segments not designated as an economic export corridor, the following combinations of vehicles may be operated on an economic export corridor designated under subrule 511.21(1) if the combinations of vehicles meet the requirements in paragraph 511.21(2) "b":

1. A truck tractor-semi trailer-semi trailer converted to a full trailer by use of a dolly equipped with a fifth wheel which is considered a part of the trailer for all purposes, and not a separate unit; or
2. A truck tractor-semi trailer-full trailer; or
3. A truck tractor-semi trailer-semi trailer combination, where the semitrailers are connected by a rigid frame extension including a fifth wheel connection point attached to the rear frame of the first semi trailer.

b. The combination of vehicles shall meet all of the following requirements:

1. The length of the combination of vehicles, excluding the length of the truck tractor, shall not exceed 81 1/2 feet.
2. The length of either semitrailer or full trailer shall not exceed 45 feet.
3. The weight of the second semitrailer or full trailer shall not exceed the weight of the first semitrailer by more than 3,000 pounds.
4. The gross weight of the combination of vehicles shall not exceed 80,000 pounds and the combination of vehicles shall not exceed the gross axle weight limits of Iowa Code section 321.463(2).
5. The load on each semitrailer or full trailer in the combination shall be an indivisible load. For the purpose of issuing permits for height or width under Iowa Code chapter 321E, the combination of vehicles shall be considered an indivisible load so long as the load on each semitrailer or full trailer in the combination remains an indivisible load.

c. The length of the frame extension shall not be included when determining the overall length of the first semitrailer in a truck tractor-semi trailer-semi trailer combination in which the semitrailers are connected by a rigid frame extension including a fifth wheel connection point attached to the rear frame of the first semitrailer.

d. For purposes of this subrule, “full trailer” means as defined in 49 CFR Section 390.5.

This rule is intended to implement Iowa Code section 321.457(2) "n."

[ARC 3193C; IAB 7/5/17, effective 8/9/17; ARC 4985C; IAB 3/11/20, effective 4/15/20; ARC 6061C, IAB 12/1/21, effective 1/5/22; ARC 6405C, IAB 7/15/22, effective 8/17/22]

[Filed 5/26/76, Notice 4/5/76—published 6/14/76, effective 7/19/76]
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[Filed emergency 9/20/79—published 10/17/79, effective 9/20/79]
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[Filed emergency 2/14/80 after Notice 12/12/79—published 3/5/80, effective 3/26/80]
[Filed 6/2/81, Notice 4/15/81—published 6/24/81, effective 7/29/81]
[Filed 12/2/81, Notice 9/30/81—published 12/23/81, effective 1/27/82]
[Filed 12/16/82, Notice 10/27/82—published 1/5/83, effective 2/9/83]
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[Filed 1/16/01, Notice 11/29/00—published 2/7/01, effective 3/14/01]
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[Filed 9/11/02, Notice 7/10/02—published 10/2/02, effective 11/6/02]
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[Filed 12/13/06, Notice 11/8/06—published 1/3/07, effective 2/7/07]
[Filed 12/12/07, Notice 11/7/07—published 1/2/08, effective 2/6/08]
[Filed ARC 0136C (Notice ARC 0068C, IAB 4/4/12), IAB 5/30/12, effective 7/4/12]
[Filed ARC 3193C (Notice ARC 3045C, IAB 5/10/17), IAB 7/5/17, effective 8/9/17]
[Filed ARC 4345C (Notice ARC 4231C, IAB 1/16/19), IAB 3/13/19, effective 4/17/19]
[Filed ARC 4985C (Notice ARC 4869C, IAB 1/15/20), IAB 3/11/20, effective 4/15/20]
[Filed ARC 5428C (Notice ARC 5292C, IAB 12/2/20), IAB 2/10/21, effective 3/17/21]
[Filed ARC 6061C (Notice ARC 5923C, IAB 9/22/21), IAB 12/1/21, effective 1/5/22]
[Filed ARC 6405C (Notice ARC 6311C, IAB 5/4/22), IAB 7/13/22, effective 8/17/22]

1 Effective date of 511.2(1), 511.4(1) “a,” “b,” “c,” 511.5(6) “b” (3), 511.7, 511.8, 511.9(1) to 511.9(5), 511.14(2) “g” and “i,” 511.14(3) “e,” delayed 70 days by the Administrative Rules Review Committee at its meeting held May 12, 1993; delay lifted by this Committee June 8, 1993, effective June 9, 1993.
CHAPTER 1
DESCRIPTION OF ORGANIZATION AND DEFINITIONS
[Prior to 2/8/89, Veterinary Medicine, Board of[842] Ch 1]

811—1.1(17A,169) Organization and duties. The board of veterinary medicine shall consist of five members, three of whom shall be licensed veterinarians and two of whom shall not be licensed veterinarians and who shall represent the general public. One public member may be a graduate of an AVMA-accredited school of veterinary technology and be credentialed in Iowa as a veterinary technician. The state veterinarian shall serve as secretary. The board may administer examinations to applicants for a license or temporary permit to practice veterinary medicine and to applicants for licenses or certificates for auxiliary personnel. The board shall investigate and discipline, as necessary, persons for whom credentials have been issued or who are engaged in an activity regulated by the board.

811—1.2(17A,169) Headquarters of the board. The official mailing address of the board is: Iowa Board of Veterinary Medicine, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0053.

811—1.3(17A,169) Meetings. The board shall meet once a year at its headquarters and shall hold additional meetings as necessary for the purpose of administering examinations and conducting its duties. The organizational meeting shall be the first board meeting of the fiscal year. The fiscal year begins July 1. Three members shall constitute a quorum authorized to act in the name of the board.

811—1.4(17A,169) Definitions. As used in the rules of the board, unless the context otherwise requires:
   “AAVSB” means the American Association of Veterinary State Boards.
   “AVMA” means the American Veterinary Medical Association.
   “AVMA-accredited” means colleges in the United States and foreign colleges evaluated by the AVMA Council on Education and found to meet accreditation standards as published.
   “AVMA-listed” means a foreign college recognized by the World Health Organization or the government of its own country whose graduates are eligible to practice veterinary medicine in that country and whose graduates may qualify for entrance in the ECFVG certification program.
   “Board” means the Iowa board of veterinary medicine.
   “Certificate” means a credential issued by the board to practice on an animal as a certified veterinary student pursuant to 811—subrule 6.7(3).
   “Certificate holder” means a person issued a certificate by the board.
   “Client” means the patient’s owner, owner’s designee, or other person responsible for the patient.
   “Client consent” requires that the licensed veterinarian inform the client of the reasonable and usual diagnostic and treatment options available and provide an assessment of the risks and benefits of such choices, the prognosis and an estimate of the fees expected for the provision of services. The consent of the client shall be provided in verbal or written form prior to initiation of diagnostic and treatment procedures and shall be documented in the medical record by the licensed veterinarian or staff. The client shall indicate that the client’s questions have been answered to the client’s satisfaction and that the client consents to the recommended treatments or procedures.
   “Credential” means, as applicable, a certificate, license, or permit issued by the board.
   “Credential holder” means a person who holds a certificate, license, or permit issued by the board.
   “Department” means the Iowa department of agriculture and land stewardship.
   “Direct supervision” means that a licensed veterinarian is on the premises and is readily available.
   “ECFVG” means the Educational Commission for Foreign Veterinary Graduates.
   “Emergency” means that an animal has been placed in a life-threatening condition and immediate treatment is necessary to sustain life or that death is imminent, and action is necessary to relieve extreme pain or suffering.
   “License” means a credential issued by the board that permits a person to practice veterinary medicine.
   “Licensee” means a person holding a license issued by the board.
“NAVLE” means the North American Veterinary Licensing Examination.

“NBVME” means the National Board of Veterinary Medical Examiners.

“Patient” means an animal or group of animals examined or treated by a licensed veterinarian.

“PAVE” means the Program for the Assessment of Veterinary Education Equivalence.

“Permit” means a temporary educational permit or a temporary in-state practice permit issued by the board pursuant to rule 811—9.1(169).

“Permit holder” means a person holding a permit issued by the board.

“Physical examination” means a veterinarian is physically proximate, hands-on to the patient and subjectively and objectively evaluates the patient’s health status through the use of observation, auscultation, palpation, percussion or manipulations, or, for a group of patients, the veterinarian is physically proximate to the group of patients and has subjectively and objectively assessed a representative sample of the patients.

“Premises” means the land, buildings, enclosures, and facilities operated or owned by the client where the patient or representative patients are housed, kept, located, or grazed.

“Qualifying military service personnel” means a person, or the spouse of that person, who is currently or who has been during the past 12 months on federal active duty, state active duty, or national guard duty and has provided sufficient documentation to the board concerning the service and, if applicable, marriage.

“RACE” means the Registry of Approved Continuing Education, which is the national clearinghouse for approval of continuing education providers and their programs. All RACE-approved continuing education providers and programs are listed on the American Association of Veterinary State Boards website.

“Veterinarian” means a person who has received a doctor of veterinary medicine degree or its equivalent from an AVMA-accredited, approved or listed college of veterinary medicine.

“VTNE” means the Veterinary Technician National Examination.

[ARC 1465C, IAB 5/28/14, effective 7/2/14; ARC 1984C, IAB 4/29/15, effective 6/3/15; ARC 5638C, IAB 6/2/21, effective 7/7/21; ARC 6397C, IAB 7/13/22, effective 6/14/22]

These rules are intended to implement Iowa Code section 17A.3 and chapter 169.

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[Filed 12/2/83, Notice 10/26/83—published 12/21/83, effective 1/25/84]
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[Filed 1/20/89, Notice 11/16/88—published 2/8/89, effective 3/15/89]
[Filed 9/4/08, Notices 4/23/08, 6/18/08—published 9/24/08, effective 10/29/08]
[Filed ARC 1465C (Notice ARC 1377C, IAB 3/19/14), IAB 5/28/14, effective 7/2/14]
[Filed ARC 1984C (Notice ARC 1756C, IAB 12/10/14), IAB 4/29/15, effective 6/3/15]
[Filed ARC 5638C (Notice ARC 5434C, IAB 2/10/21), IAB 6/2/21, effective 7/7/21]
[Filed Emergency ARC 6397C, IAB 7/13/22, effective 6/14/22]
CHAPTER 12
STANDARDS OF PRACTICE
[Prior to 2/8/89, Veterinary Medicine, Board of[842] Ch 9]


12.1(1) The board shall determine, on a case-by-case basis, if a valid veterinarian/client/patient relationship exists. This relationship shall be deemed to exist when all of the following criteria have been met:

a. The licensed veterinarian has assumed the responsibility for making medical judgments regarding the health of the patient and the need for medical treatment, and the client has agreed to follow the instructions of the licensed veterinarian;

b. The licensed veterinarian has sufficient knowledge of the patient to initiate at least a general or preliminary diagnosis of the medical condition of the patient. Sufficient knowledge means that the licensed veterinarian has recently seen or is personally acquainted with the keeping and care of the patient by virtue of any of the following:

(1) A physical examination of the patient within the past 12 months;

(2) A professional visit within the past 12 months to the premises where the patient is kept or representative patients are kept; or

(3) The licensed veterinarian has been designated by a licensed veterinarian, who has a prior veterinarian/client/patient relationship, to provide reasonable and appropriate medical care. The veterinarian making the designation shall have met the requirements of either subparagraph 12.1(1)“a”(1) or 12.1(1)“a”(2) and the designated veterinarian must have access to the patient’s medical records.

The 12-month time period in paragraph 12.1(1)“a” shall not apply until June 14, 2023.

c. The licensed veterinarian is readily available or provides for follow-up care in case of adverse reactions or failure of the regimen of therapy, or, if unavailable, has designated another available licensed veterinarian who has access to the patient’s records to provide reasonable and appropriate medical care.

12.1(2) A valid veterinarian/client/patient relationship cannot be established by contact solely based on a telephonic or electronic communication.

12.1(3) In the absence of a veterinarian/client/patient relationship:

a. Any advice which is provided through electronic means must be general and not specific to a particular animal or its diagnosis or treatment.

b. Advice and recommendations may be provided via veterinary telephonic or electronic communication in an emergency, but only until the animal can be examined in person by a licensed veterinarian.

12.1(4) Both the licensed veterinarian and the client have the right to establish or decline a valid veterinarian/client/patient relationship. Once the licensed veterinarian and the client have agreed and entered into a relationship, and the licensed veterinarian has begun patient care, the licensed veterinarian may not neglect the patient and must continue to provide professional services related to the patient’s injury or illness within the previously agreed limits. As subsequent needs and costs for patient care are identified, the licensed veterinarian and the client must confer and reach agreement on the continued care and responsibility for fees. If the informed client declines future care or declines to assume responsibility for the fees, the relationship may be terminated by either party.

12.1(5) If no ongoing medical condition exists, a licensed veterinarian may terminate a valid veterinarian/client/patient relationship by notifying the client that the licensed veterinarian no longer wishes to serve that patient and client. However, if an ongoing medical or surgical condition exists, the patient should be referred to another licensed veterinarian for diagnosis, care, and treatment and the former attending licensed veterinarian should continue to provide care as needed during the transition.

12.1(6) Concerns about licensed veterinarian or staff safety may result in immediate termination of the veterinarian/client/patient relationship.

12.1(7) In emergencies, a veterinarian has an ethical responsibility to provide essential services for an animal when necessary to save the animal’s life or relieve extreme suffering, subsequent to a client
agreement (or until such agreement can be obtained when a client is not present or cannot be reached). Such emergency care may be limited to relieve extreme pain or suffering, or to stabilization of the patient for transport to another source of animal care or euthanasia when deemed necessary by the veterinarian. When a veterinarian cannot be available to provide services, the veterinarian should provide readily accessible information to assist a client in obtaining emergency services, consistent with the needs of the locality. In an emergency, if a veterinarian does not have the expertise or the necessary equipment and facilities to adequately diagnose or treat a patient, the veterinarian should advise the client that more qualified or specialized services are available elsewhere and offer to expedite referral to those services.

12.1(8) A licensed veterinarian who in good faith engages in the practice of veterinary medicine by rendering or attempting to render emergency or urgent care to a patient when a client cannot be identified, and a veterinarian/client/patient relationship is not established, shall not be subject to discipline based solely on the veterinarian’s inability to establish a veterinarian/client/patient relationship.

[ARC 1465C, IAB 5/28/14, effective 7/2/14; ARC 6171C, IAB 2/9/22, effective 4/1/22; see Delay note at end of chapter; ARC 6397C, IAB 7/13/22, effective 6/14/22]

811—12.2(169) Controlled substances, drugs, prescription medications and restricted immunization products. When state or federal law restricts a drug, medication or immunization product intended for use by or on the order of a licensed veterinarian, the licensed veterinarian shall sell, distribute, or order the drug or medication only in the course of the licensed veterinarian’s professional practice. A prescription veterinary drug, medication or immunization product shall not be deemed to be used “in the course of the licensed veterinarian’s professional practice” unless a valid veterinarian/client/patient relationship exists.

12.2(1) Prescriptions. The order for all such drugs, medications or immunization products shall be accompanied by the licensed veterinarian’s original prescription that shows the following:

a. Licensed veterinarian’s name, address and telephone number;
b. Client’s name;
c. Patient’s name or identification;
d. Date issued;
e. Drug, medication or product name, strength, and quantity;
f. Directions for use;
g. Number of times the prescription may be refilled;
h. Expiration date of the drug, medication or product; and
i. Applicable withdrawal period (paragraph 12.2(2)“d”) for livestock and poultry.

12.2(2) Extra-label use of veterinary drugs, medications, and immunization products. Any extra-label use of veterinary drugs, medications or immunization products shall be by or under the order of a licensed veterinarian only and shall be subject to the following criteria:

a. There shall be a veterinarian/client/patient relationship as defined in subrule 12.1(1).
b. For drugs or medications used in patients not intended for food, one of the following applies:
   (1) There are no marketed drugs, medications and immunization products specifically labeled for the condition(s) diagnosed;
   (2) The approved product is clinically ineffective; or
   (3) In the licensed veterinarian’s clinical judgment, the labeled dosage is inappropriate for the condition or the extra-label use should result in a better outcome for the patient.
c. The health of the treated patient is immediately threatened, or suffering or death would result from a failure to treat the affected patient.

d. Appropriate withdrawal period shall be specified when the drugs, medications or immunization products are used in animals intended as food. Extra-label drug use in food-producing animals must follow Food and Drug Administration - Animal Medicinal Drug Use Clarification Act regulations (21 Code of Federal Regulations 530). Licensed veterinarians are encouraged to consult the Food Animal Residue Avoidance Databank (FARAD) or public peer-reviewed documents when determining appropriate withdrawal period.

[ARC 1465C, IAB 5/28/14, effective 7/2/14]
811—12.3(169) Prescription drug or medication labeling and packaging. A licensed veterinarian shall comply with all of the following requirements for the storage, handling, dispensing, and administering of a drug or medication.

12.3(1) All prescription drugs, medications and controlled substances must be purchased, maintained, handled, prescribed and dispensed in compliance with state and federal requirements including but not limited to the requirements of the Iowa board of pharmacy, the U.S. Occupational Safety and Health Administration, the U.S. Department of Agriculture, the U.S. Food and Drug Administration, the U.S. Environmental Protection Agency and the U.S. Drug Enforcement Administration.

a. A valid veterinarian/client/patient relationship must be established before prescription drugs or medications may be dispensed or a prescription released. All drugs or medications administered, prescribed or dispensed must be documented in the patient’s medical record. The sale of veterinary prescription drugs or medications or the extra-label use of any drug, medication or product by a licensed veterinarian without a valid veterinarian/client/patient relationship is not permissible.

b. If a veterinarian prescribes a drug for the client’s animal, the veterinarian shall, upon request, provide the prescription to the client, unless prohibited by state or federal law or to prevent inappropriate use. The veterinarian may charge a fee for issuing the prescription. This paragraph does not apply to livestock as defined in Iowa Code section 717.1(4).

12.3(2) All drugs or medications dispensed shall be labeled with the following information:

a. Name, telephone number, and address of the veterinary clinic, hospital, or service facility.

b. Name of the prescribing licensed veterinarian.

c. Date on which the prescription is dispensed.

d. Directions for use, including any cautionary statements and withdrawal times when appropriate.

e. Species of the patient.

f. Name, or identification, or location of the patient.

g. Name of the owner.

h. Name, strength, and dosage form of the drug or medication. If the drug or medication is a compounded product, all active ingredients must be listed on the label, with corresponding strengths or concentrations of each ingredient.

i. Number of units dispensed.

j. Expiration date. If the drug or medication is a compounded product with no assigned expiration date, the licensed veterinarian shall determine a beyond-use date as supported by the literature or by the licensed veterinarian’s professional judgment when no such supportive information exists.

k. Appropriate withdrawal period for livestock or poultry, when the patient or its product is intended as food.

12.3(3) All drugs or medications dispensed in the original container shall retain the original label and, in addition, shall be labeled with the same information as required in subrule 12.3(2).

12.3(4) All drugs or medications that are dispensed in a container other than the original container shall be placed in a tamper-resistant container unless otherwise requested by the owner or unless the drug or medication is in a form or size that cannot be easily dispensed in a tamper-resistant container.

12.3(5) Drugs or medications which have expired shall be removed from current inventory and shall not be dispensed or sold. Expired drugs or medications shall be disposed of in accordance with local, state and federal regulations.

12.3(6) Drugs or medications shall be dispensed only for specific animals and for specific veterinary medical therapies with the exception of groups of similar animals and other groups such as pet fish, kennels, and catteries for which dispensing shall be done judiciously within a valid veterinarian/client/patient relationship.

[ARC 1465C, IAB 5/28/14, effective 7/2/14; ARC 5640C, IAB 6/2/21, effective 7/7/21]

811—12.4(169) Veterinary medical records.
12.4(1) Controlled substances records. The licensed veterinarian must maintain a controlled substance log which contains complete, accurate and readily retrievable records of all controlled substances possessed, administered, or dispensed.

a. Each record of a controlled substance which is dispensed must meet all U.S. Drug Enforcement Administration and Iowa board of pharmacy regulations for the controlled substances log.

b. Each log record must include the following information:
   (1) Name or identification of the patient.
   (2) Client’s name and address, if not readily available from the licensed veterinarian’s records.
   (3) Name, strength and quantity of the controlled substance dispensed.
   (4) Date on which the controlled substance was dispensed.
   (5) Initials of the dispensing licensed veterinarian or authorized auxiliary.
   (6) Name of the prescribing licensed veterinarian.

c. All controlled substances must be kept in a locked storage area, and access to the storage area must be restricted pursuant to state and federal laws and regulations.

d. Each package or container in which a controlled substance is stored or dispensed must be clearly labeled pursuant to the requirements set forth in state and federal laws and regulations.

e. Each package or container in which a controlled substance is stored or dispensed must comply with all state and federal packaging requirements and with rule 811—12.2(169).

12.4(2) Patient records. Veterinary medical records are an integral part of veterinary care. Medical records are the property of the veterinary practice. Each licensed veterinarian shall maintain for at least five years an easily retrievable record for each patient that receives veterinary services. The record must be available for inspection by the client during normal business hours. The information within veterinary medical records is privileged and confidential and shall not be released except by court order, a public health emergency, consent of the client, or as otherwise authorized by law. The licensed veterinarian in charge shall provide a copy of the complete record to the client not later than two business days after the licensed veterinarian or practice receives from the client a request for the record. A licensed veterinarian or veterinary practice may have an additional three business days to provide a copy of nondigital diagnostic images. The licensed veterinarian may charge reasonable and customary fees for the copying of records.

a. Records required for patients defined as “livestock” in Iowa Code section 717.1(4) include the following:
   (1) Name, address and telephone number of the client.
   (2) Name or identity of the patient, pen, herd, flock, or group, including the identification number, if any.
   (3) Date of service.
   (4) Documentation of client consent.
   (5) Diagnosis or condition at the beginning of treatment of the patient, including results of tests.
   (6) Procedures/indications.
   (7) Name of drug or medication and treatment administered indicating dosage, frequency and route of administration.
   (8) Withdrawal period.
   (9) Record of diagnostic images taken.
   (10) Name of attending licensed veterinarian.

b. Records required for other patients include the following:
   (1) Name, address and telephone number of the client.
   (2) Name and identity of the patient, including the identification number, if any.
   (3) Date of birth (or estimated age), sex, species and breed of patient.
   (4) Dates of care, custody or treatment of the patient.
   (5) A history of the patient’s condition as it pertains to the patient’s medical status.
   (6) Documentation of client consent.
   (7) Diagnosis or condition at the beginning of treatment of the patient, including results of tests and body weight.
(8) Surgery record, including preanesthesia medication, anesthesia, and the procedure performed.
(9) Name of drug or medication and treatment administered indicating dosage, frequency and route of administration.
(10) Progress and disposition of the case.
(11) Record of diagnostic images taken.
(12) Name of attending licensed veterinarian.

12.4(3) Stored diagnostic images.
   a. Each stored diagnostic image must be identified with the following information:
      (1) The name of the licensed veterinarian or facility that took the diagnostic image.
      (2) The name or identifying number, or both, of the patient.
      (3) The name of the client.
      (4) The date on which the diagnostic image was taken.
      (5) The anatomical orientation depicted by the diagnostic image.
   b. Stored diagnostic images must be retained for at least five years.
   c. A stored diagnostic image of the patient or a copy must be released, upon the written or verbal request, to another licensed veterinarian who has the authorization of the client. Original diagnostic images shall be returned in a reasonable time.

12.4(4) General anesthesia. General anesthesia is a condition caused by the administration of a drug or combination of drugs sufficient to produce a state of unconsciousness or dissociation and blocked response to a given pain or alarming stimulus. The following standards relating to general anesthesia must be adhered to:
   a. Within 12 hours prior to the administration of a general anesthetic, the patient must receive a physical examination, with the results noted in the patient’s medical records.
   b. The patient under general anesthesia must be under observation for a length of time appropriate to the species for the patient’s safe recovery.
   c. The licensed veterinarian must provide a method of respiratory monitoring that may include observing the patient’s chest movements, observing the rebreathing bag, or using a respirometer.
   d. The licensed veterinarian must provide a method of cardiac monitoring which may include the use of a stethoscope or electrocardiograph monitor.

[ARC 1465C, IAB 5/28/14, effective 7/2/14, ARC 5485C, IAB 2/24/21, effective 3/31/21]

811—12.5(169) Veterinary facilities.

12.5(1) Facility standards. The following standards shall apply to all facilities used by a licensed veterinarian to provide veterinary services.
   a. Facilities for treatment or hospitalization. In a facility where patients are examined and retained for treatment or hospitalization, the following must be provided:
      (1) An examination room, separate from the reception room or office, with sufficient size to accommodate the licensed veterinarian, assistant, patient and client.
      (2) Nonporous tabletops, countertops and floor coverings which can be adequately cleaned and disinfected.
      (3) The ability to house patients separately and maintain sanitary conditions.
      (4) Appropriate separation of patients with known or suspected infectious and contagious diseases from patients not known to have such diseases in a manner that reasonably guards against transmission of disease.
      (5) Provision for daily exercise of patients unless the primary enclosure is of sufficient size to provide exercise.
      (6) Exercise areas that are cleaned a minimum of once in each 24-hour period and more frequently as may be necessary to reduce disease hazards and odors.
      (7) A sanitary area for performing surgeries under sterile conditions. If sterile surgical procedures are performed on the premises, the licensed veterinarian must maintain the following at all times:
         1. Appropriate sterile surgical packs including drapes, sponges and instrumentation for use in each procedure.
2. For each sterile surgical procedure, equipment sterilized and surgical packs properly prepared for sterilization sufficient to kill microorganisms.
3. Clean attire, masks, and gloves for use in any sterile procedure.
   (8) Oxygen and equipment necessary to administer oxygen to the types of patients treated in the facility.
   (9) Capability to provide diagnostic radiological images in the facility or through an outside facility.
   (10) Provision for laboratory and pharmaceutical services in the facility or through another commercial facility.

b. Facilities for services. Veterinary service facilities where patients are only examined or provided vaccinations must provide the following:
   (1) An examination room, separate from the reception room or office, with sufficient size to accommodate the licensed veterinarian, assistant, patient and client.
   (2) Nonporous tabletops, countertops and floor coverings which can be adequately cleaned and disinfected.
   (3) A secure and sanitary area for the storage of instruments, drugs and medications.
   (4) Cooling/heating equipment for the storage of drugs, medications and immunization products.
   (5) Capability to provide diagnostic radiological images in the facility or through an outside facility.
   (6) Provision for laboratory and pharmaceutical services in the facility or through another commercial facility.

c. Mobile clinics. Mobile clinics are self-contained units for small animal, nonlivestock or nonpoultry patients and shall be equipped with the following:
   (1) Hot and cold water.
   (2) Nonporous tabletops, countertops and floor coverings which can be adequately cleaned and disinfected.
   (3) An adequate power source for diagnostic equipment.
   (4) A collecting tank for disposal of waste materials.
   (5) Adequate lighting.
   (6) Adequate heating, cooling and ventilation.
   (7) Sterile instrumentation which meets the requirements of the level of surgery to be performed.
   (8) Separate compartments for the transportation or holding of patients.
   (9) A secure and sanitary area for the storage of instruments, drugs and medications.
   (10) Cooling/heating equipment for the storage of drugs, medications and immunization products.

d. House/farm call units. House/farm call units are not self-contained units and must be equipped with or have access to all of the following:
   (1) Water.
   (2) Cooling/heating equipment for the storage of drugs, medications and immunization products.
   (3) A secure and sanitary area for the storage of instruments, drugs and medications.

e. Emergency veterinary hospitals. “Emergency veterinary hospital” means an animal hospital which provides emergency treatment to an ill or injured patient. Any facility advertising as an emergency facility shall have a licensed veterinarian and appropriate support staff on the premises during the hours of operation. Any facility which advertises using phrases similar or identical to “24-hour emergency veterinary hospital,” “Emergency,” “Open 24 hours,” or “Day or night care” must have treatment services continuously available.

12.5(2) Safety and sanitation standards. A veterinary facility must have a safe and sanitary environment that:

a. Protects the health of the patients and guards against the transmission of infection.

b. Provides for proper routine disposal of waste materials in compliance with all applicable local, state, and federal laws and regulations and for proper disposal of hypodermic devices, sharps and biomedical waste. Any person who is authorized to use hypodermic devices and sharps shall dispose of them in accordance with applicable local, state and federal regulations. Biomedical waste should be disposed of in accordance with applicable local, state and federal regulations.
c. Provides for proper sterilization or sanitation of all equipment used in diagnosis, treatment or surgery.

d. Ensures the maintenance of proper temperature and ventilation of the indoor facility.

e. Provides adequate lighting appropriate for the task being performed.

f. Includes legal and sanitary methods for the disposal or storage of deceased patients.

g. Meets the standards for radiological procedures as set by the Iowa department of public health.

12.5(3) Resources. A library of current journals or textbooks, or Internet access which provides readily accessible reference materials shall be available.

[ARC 1465C, IAB 5/28/14, effective 7/2/14]

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